

OFFICE OF FOREIGN ASSETS CONTROL

REPORT OF LICENSING ACTIVITIES

PURSUANT TO

THE TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT OF 2000

January - March 2005

I. Overview

This report is submitted pursuant to Section 906(b) of the Trade Sanctions Reform and Export Enhancement Act of 2000 ("TSRA") and covers activities undertaken by the Treasury Department's Office of Foreign Assets Control ("OFAC") under Section 906(a)(1) of the TSRA from January through March 2005. On July 12, 2001, OFAC issued regulations with a request for public comment, implementing the TSRA. The regulations went into effect on July 26, 2001. Under these procedures, OFAC processes license applications requesting authorization to export agricultural commodities, medicine, and medical devices to Iran and Sudan under the one-year specific licensing regime set forth in Section 906 of the TSRA.

There was a 15.2 percent decrease in the number of license applications received during this reporting quarter from the prior quarter (211 for Jan.-Mar. 2005, 249 for Oct.-Dec. 2004¹). A majority of the complete and eligible license applications² processed in this quarter were processed within the established time guidelines for license application review.³ OFAC consistently operated within its internal time guidelines by using no more than *2.0 business days on average* in both forwarding complete and eligible license applications to other agencies for review, and processing complete and eligible license applications following receipt of an approval or denial memorandum from other agencies. OFAC was able to issue licensing determinations⁴ on 56.4 percent of all the license applications received during the January - March 2005 period (compared to 69 percent for the Oct.-Dec. 2004 period).

¹ The Oct.-Dec. 2004 figure reported here reflects a total higher than previously reported for that period because OFAC received applications dated within that period subsequent to the completion of the report.

² OFAC's Licensing Division forwards only complete and eligible license applications to the State Department.

³ *Federal Register/Vol. 66, No. 134/Thursday, July 12, 2001/Rules and Regulations, 36685, provides the following guidelines:* The expedited process will include, when appropriate, referral of the one-year license request to other government agencies for guidance in evaluating the request. If no government agency raises an objection to or concern with the application within nine business days from the date of any such referral, OFAC will issue the one-year license, provided that the request otherwise meets the requirements set forth in this rule. If any government agency raises an objection to the request within nine business days from the date of referral, OFAC will deny the request for the one-year license. If any government agency raises a concern short of an objection with the request within nine business days from the date of referral, OFAC will delay its response to the license request for no more than thirty additional days to allow for further review of the request.

⁴ A licensing determination is defined as any action, either intermediate or final, that OFAC takes on a license application. It may take the form of a license, a "return-without-action" letter, a general information letter, an interpretative letter, a denial letter, a telephone call, a fax, or an e-mail.

The increased complexity and length of license applications (the majority of applications pertain to the export of medical devices to Iran) coupled with the more protracted scrutiny on the part of other reviewing agencies continued to affect processing time of license applications in this quarter. A 30-day extension of the nine-business day review period by other agencies occurs in nearly all cases. Interagency review exceeded the 30-day extension period in 16.9 percent of licensed cases (compared to 21.3 percent for Oct.–Dec. 2004). Of these cases, the review period exceeded the 30-day extended period by an average of 30.2 business days (compared to 36.2 business days for Oct.-Dec. 2004).

These cases are evaluated by other agencies both in terms of whether the foreign entities involved in the transaction “promote international terrorism,” as required in section 906 of the TSRA, and in terms of whether the commodities at issue implicate independent export control regimes involving chemical or biological weapons or weapons of mass destruction as provided in section 904(2)(C) of the TSRA. Scrutiny of these cases on these grounds often results in requests for additional information by the reviewing agency, which neither the applicant nor OFAC can anticipate, causing additional delays in the review process.

II. Program Operation

From January 1 to March 31, 2005, OFAC’s Licensing Division received a total of 211 license applications pursuant to Section 906(a)(1) of the TSRA. During this period, OFAC issued licensing determinations on 119 of the 211 license applications. A total of 135 licenses and seven license amendments⁵ were issued from January through March (**See Charts 1 and 2**). On average, licenses and license amendments were issued within 24.5 business days of receipt of the application. Upon completion, 95.8 percent (136 in total)⁶ of the licenses and license amendments issued were sent via e-mail in Adobe Acrobat PDF format to licensees, a service that generated very favorable comment by licensees. In addition, OFAC issued three general information letters (average turnaround: two business days), 31 “return-without-action” letters (“RWA letters”) (average turnaround: 3.5 business day), and four denial letters (average turnaround: 58.5 business days – also subject to interagency review) (**See Graph 1**). The average number of business days for the Licensing Division to issue a licensing determination in response to submissions to OFAC on any license application under the TSRA regulations was 21.4 business days, a decrease of one percent compared with last quarter’s average of 21.6 business days. The total licenses issued, general information letters, RWA letters, and denial letters does not equal the number of license applications received because: (1) not all license applications received during this quarter were closed in this quarter; (2) some license applications pending from prior quarters of operation were closed in this quarter; (3) in some instances multiple applications from the same license applicant were combined into one license; and (4) a few license applications were handled via telephone, fax, or e-mail.

As in past quarters, the preponderance of license applications submitted and licenses/license amendments issued was for Iran (**See Chart 3**). A total of 186 license applications (88.2%) was received for Iran, in contrast to 23 (10.9%) for Sudan. Likewise, 124 licenses/license

⁵ A “license amendment” is an amendment to an existing license previously issued by OFAC. Some license amendment applications require interagency review, such as those adding an additional end-user or additional commodities to an existing license.

⁶ Compared with 96.3 percent (231 in total) for Oct.-Dec. 2004.

amendments (87.3%) were issued for the sale of agricultural commodities, medicine, and medical devices to Iran, versus 18 (12.7%) for Sudan. In keeping with the program's trend, the majority of license applications (56.4%) and half of the licenses/license amendments were for the export of medical devices to Iran and Sudan. Of the 186 license applications for Iran, 51 (27.4%) were for agricultural commodities, 26 (14.0%) for medicine, and 109 (58.6%) for medical devices. Of the 124 licenses/license amendments issued for Iran, 35 (28.2%) were for agricultural commodities, 25 (20.2%) for medicine, and 64 (51.6%) for medical devices. Although fewer in number, the percentage breakdown of the 23 license applications for Sudan is analogous: 7 (30.4%) for agricultural commodities 6 (26.1%) for medicine, and 10 (43.5%) for medical devices. Of the 18 licenses/license amendments issued for Sudan, 6 (33.3%) were for agricultural commodities, 5 (27.8%) for medicine, and 7 (38.9%) for medical devices. The disparity in the number of license applications and licenses/license amendments for the two countries reflects their respective economic development and political situation.

CHART 1
Number of License Applications and Licenses Issued by Product

	Agricultural Commodities	Medicine	Medical Devices	TOTAL
License Applications	60	32	119	211
Licenses Issued	39	28	68	135
License Amendments Issued	2	2	3	7
Applications Denied	1	0	3	4

CHART 2
Number of License Applications and Licenses Issued by Country

	Iran	Libya⁷	Sudan	TOTAL
License Applications⁸	186	1	23	211⁸
Licenses Issued	117	0	18	135
License Amendments Issued	7	0	0	7
Applications Denied	4	0	0	4

⁷ Effective September 21, 2004, Executive Order 13357 terminated the emergency declared in Executive Order 12543 with respect to the policies and actions of the Government of Libya and revoked related Executive Orders. Accordingly, no OFAC license is required for exports to Libya. Executive Order 13357 does not, however, eliminate the need to comply with the licensing provisions of the Export Administration Regulations, 15 C.F.R. Parts 730 et seq.

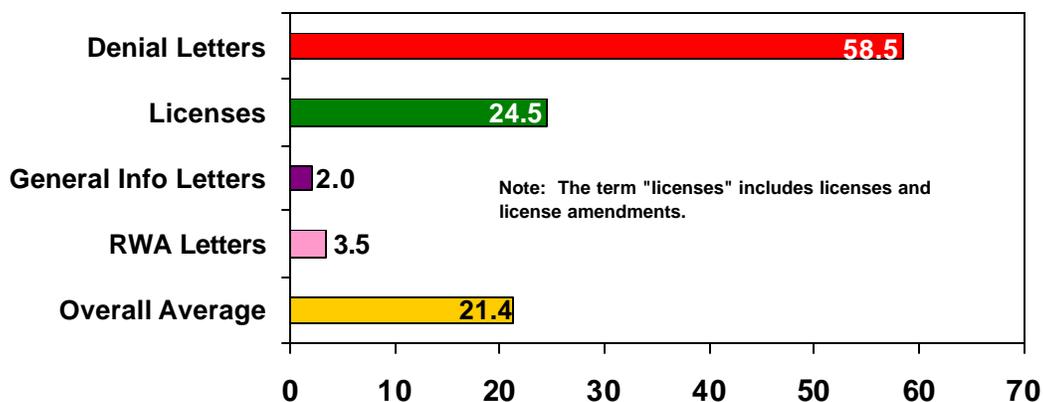
⁸ OFAC received one license application for Syria in this quarter of operation. On December 12, 2003, President Bush signed the Syria Accountability and Lebanese Sovereignty Restoration Act ("SAA") (Public Law 108-175). On May 11, 2004, President Bush issued Executive Order 13338 to implement §§ 5(a)(1), 5(a)(2)(A), and 5(a)(2)(D) of the SAA. Section 5(a)(1) of the SAA requires a prohibition on the export to Syria of all items on the Commerce Control List. Section 5(a)(2)(A) prohibits the export or reexport to Syria of all products of the United States, with the exception of food and medicine. The result of the implementation of §§ 5(a)(1) and 5(a)(2)(A) of the SAA is to restrict the export and reexport of all items subject to the Export Administration Regulations to Syria. The Department of Commerce's Bureau of Industry and Security is responsible for licensing exports and reexports, including food and medicine, to Syria.

CHART 3
Number of License Applications and Licenses Issued by Country and Product

	Agricultural Commodities	Medicine	Medical Devices	TOTAL
IRAN				
License Applications	51	26	109	186
Licenses and License Amendments Issued	35	25	64	124
SUDAN				
License Applications	7	6	10	23
Licenses and License Amendments Issued	6	5	7	18

GRAPH 1

Average Time for Issuing Licensing Determinations
(business days)



III. Conclusion

OFAC continues to administer the TSRA successfully by using no more than two business days on average in both forwarding license applications to other agencies for review and processing license applications following receipt of an approval or denial memorandum from other agencies. The average processing time for issuing licenses remained steady at 24.5 business days in this quarter of operation, and the average time for issuing licensing determinations decreased by one percent to 21.4 business days versus 21.6 business days in the preceding quarter.

In August 2003, in consultation with the State Department, OFAC implemented a process that permits OFAC to issue agricultural commodities licenses without interagency review where the commodity and the end-user had been approved through the interagency review process within the past twelve months. During this quarter, seven licenses were issued under this exception to the interagency review process, enabling OFAC to issue these agricultural commodities licenses on average within a day of receipt of the license application.