

OFFICE OF FOREIGN ASSETS CONTROL

REPORT OF LICENSING ACTIVITIES

PURSUANT TO

THE TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT OF 2000

July – September 2003

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 July through September 2003. On July 12, 2001, OFAC issued interim 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, Libya, and Sudan under the one-year specific licensing regime set forth in Section 906 of the TSRA.

There was a 14.3 percent increase in the number of license applications received during this reporting quarter from the prior quarter (147 for Apr.-Jun. 2003, 168 for Jul.-Sep. 2003). A majority of the complete and eligible license applications¹ processed in this quarter were processed within the established time guidelines for license application review.² OFAC was able to issue licensing determinations³ on 53 percent of the license applications received during the July – September 2003 period (compared to 32.7 percent for the Apr.-Jun. 2003 period).

The increased complexity and length of license applications (the majority of applications pertain to the export of medical devices to Iran) coupled with the scrutiny on the part of other reviewing agencies continued to affect processing time of license applications in this quarter of operation. The 30-day extension of the nine-business day review period by other agencies is now taken for virtually all cases. Interagency review exceeded the 30-day extension period in 37.3 percent of licensed cases (compared to 50.3 percent for Apr.-Jun. 2003). Of these cases, the review

¹ OFAC’s Licensing Division forwards only complete and eligible license applications to the State Department.

² *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.

³ 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 interpretation letter, a denial letter, a telephone call, a fax, or an e-mail.

period exceeded the 30-day extended period by an average of 47.5 business days (compared to 55.4 business days for Apr.-Jun. 2003).

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 on these grounds may often result 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 July 1 to September 30, 2003, OFAC’s Licensing Division received a total of 168 license applications pursuant to Section 906(a)(1) of the TSRA. During this period, OFAC issued licensing determinations on 89 of the 168 license applications. In all, a total of 158 licenses and 10 license amendments⁴ were issued from July through September (**See Charts 1 and 2**). On average, licenses and license amendments were issued within 42.3 business days of receipt of the application. Upon completion, 76.2 percent (128 in total)⁵ of the licenses and license amendments issued were sent via e-mail in Adobe Acrobat PDF format to licensees, a service greatly appreciated by licensees. In addition, OFAC issued five general information letters (average turnaround: 9.8 business days), 16 “return-without-action” letters (“RWA letters”) (average turnaround: 5.5 business days), and 20 denial letters (average turnaround: 85 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 42.8 business days, a decrease of 41.9 percent compared with last quarter’s average of 73.7 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.

CHART 1
Number of License Applications and Licenses Issued by Product

	Agricultural Commodities	Medicine	Medical Devices	TOTAL
License Applications	67	40	61	168
Licenses Issued	76	20	62	158
License Amendments Issued	1	2	7	10
Applications Denied	7	7	6	20

⁴ A “license amendment” is an amendment to an existing license previously issued by OFAC. Some license amendment applications require interagency review, such as adding an additional end-user or additional commodities to an existing license.

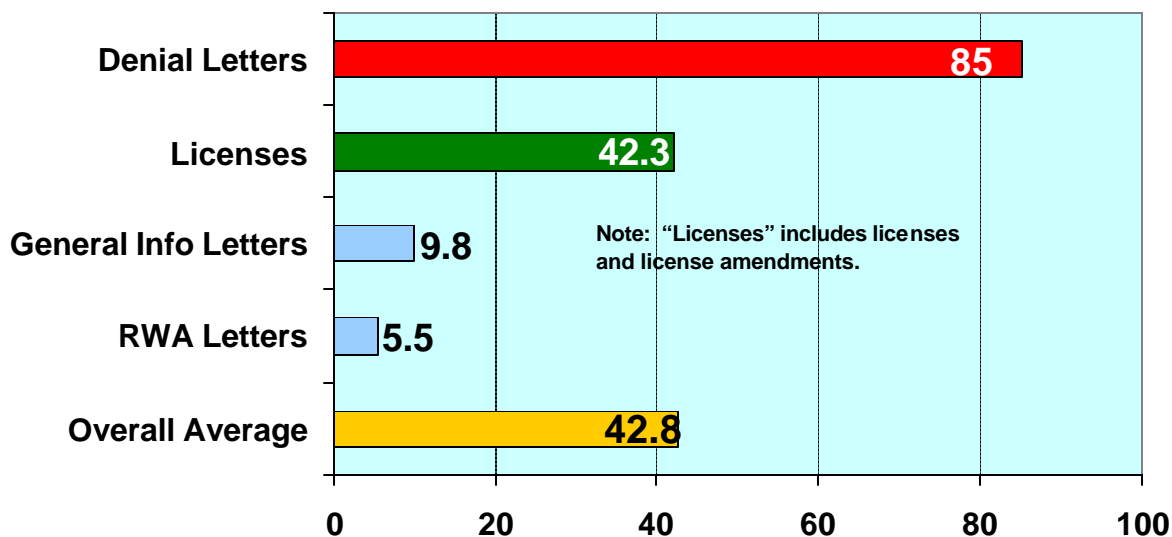
⁵ Compared with 31.1 percent (47 in total) for Apr.-Jun. 2003.

CHART 2
Number of License Applications and Licenses Issued by Country

	Iran	Libya	Sudan	TOTAL
License Applications	150	10	8	168
Licenses Issued	139	10	9	158
License Amendments Issued	10	0	0	10
Applications Denied	14	4	2	20

GRAPH 1

Average Time for Issuing Licensing Determinations (business days)



III. Conclusion

The average processing time for issuing licenses decreased by 44.2 percent to 42.3 business days in this quarter of operation from 75.8 business days previously, and the average time for issuing licensing determinations decreased by 41.9 percent to 42.8 business days versus 73.7 business days in the preceding quarter.

In consultation with the State Department, OFAC has implemented a new process that would permit 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. As of September 30, 2003, seven licenses have been issued under this exception to the interagency review process, enabling OFAC to issue these agricultural commodities licenses within a day of receipt of the license application. Furthermore, toward the

end of the preceding quarter, OFAC regained its ability to provide immediate one-day turnaround of most license application referrals to the State Department and of most licenses issued upon receipt of a positive recommendation from that agency.