

**OFFICE OF FOREIGN ASSETS CONTROL
BIENNIAL REPORT OF LICENSING ACTIVITIES PURSUANT TO
THE TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT
ACT OF 2000**

October 2008 - September 2010

I. Overview

This report is submitted pursuant to Section 906(c) 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 TSRA from October 2008 through September 2010. Under the procedures established in its TSRA-related regulations, OFAC processes license applications requesting authorization to export agricultural commodities, medicine, and medical devices to Iran and Sudan under the specific licensing regime set forth in Section 906 of TSRA.

There was a 54.2 percent increase in the number of license applications received during this reporting period compared to the prior period (1,854 for Oct. 2006 – Sept. 2008, 2,859 for Oct. 2008 – Sep. 2010). OFAC was able to issue licensing determinations¹ on 76.8 percent of all the license applications received during the October 2008 – September 2010 period (compared to 79.1 percent for the Oct. 2006 – Sept. 2008 period), and issued additional determinations after the two-year period ended. The average processing time for issuing licenses increased slightly to 88 business days in this reporting period (compared to 83 days in the Oct. 2006 – Sept. 2008 period), and the average time for issuing licensing determinations decreased to 73 business days during the October 2008 – September 2010 reporting period, versus 80 business days in the preceding reporting period.

The increased complexity, volume, 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 reporting period (**See Graph 1**). 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, missiles, or weapons of mass destruction as provided in section 904(2)(C) of TSRA.

II. Program Operation

From October 1, 2008 to September 30, 2010, OFAC’s Licensing Division received a total of 2,859 license applications pursuant to Section 906(a)(1) of the TSRA. During this period, OFAC issued licensing determinations on 2,198 of the 2,859 license applications. A total of 1,795

¹A 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 license amendment, a “return-without-action” letter, a general information letter, an interpretative letter, a denial letter, a telephone call, a fax, or an e-mail.

licenses and 278 license amendments²³ were issued from October 1, 2008, through September 30, 2010 (**See Charts 1 and 2**). On average, licenses were issued within 88 business days and license amendments were issued within 20 business days of receipt of the application. In addition, OFAC issued 187 “return-without-action” letters (“RWA letters”) (average turnaround: 37 business days), and 25 denial letters (average turnaround: 105 business days) (**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 73 business days. The total of licenses/license amendments, RWA letters, and denial letters issued does not equal the number of license applications received because: 1) not all license applications received during this reporting period were closed in this reporting period; 2) in some instances multiple applications from the same license applicant were combined into one license; and 3) some license applications were handled via telephone, fax, or e-mail.

As in the preceding reporting period, the preponderance of license applications submitted and licenses/license amendments issued was for Iran (**See Chart 3**). OFAC received a total of 2,661 license applications (93.1%) for Iran, in contrast to 198 (6.9%) for Sudan. Likewise, 1,903 licenses/license amendments (91.8%) were issued for the sale of agricultural commodities, medicine, and medical devices to Iran, versus 170 (8.2%) for Sudan. In keeping with the program’s trend, over half of the 2,859 license applications (55.5%) and over half of the 2,073 licenses/license amendments (51.7%) were for the export of medical devices to Iran and Sudan. Of the 2661 license applications for Iran, 928 (34.9%) were for agricultural commodities, 225 (8.5%) for medicine, and 1508 (56.7%) for medical devices. Of the 1,903 licenses/license amendments issued for Iran, 746 (39.2%) were for agricultural commodities, 150 (7.9%) for medicine, and 1,007 (52.9%) for medical devices. The percentage breakdown of the 198 license applications for Sudan is: 100 (50.5%) for agricultural commodities, 20 (10.1%) for medicine, and 78 (39.4%) for medical devices. Of the 170 licenses/license amendments issued for Sudan, 95 (55.9%) were for agricultural commodities, 11 (6.5%) for medicine, and 64 (37.6%) for medical devices.

On October 22, 2008, the Export Development Bank of Iran and certain additional entities were designated pursuant to Executive Order 13382 of June 28, 2005, “Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters.” On June 16, 2010, Iran Overseas Investment Bank Limited and additional entities were designated pursuant to Executive Order 13224 of September 23, 2001, “Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism.” That same day, Post Bank of Iran was also designated pursuant to Executive Order 13382. Shortly after, on September 7, 2010, Europaisch-Iranische Handelsbank was designated pursuant to Executive Order 13382. These designations blocked all property and interests in property of those persons that were added to OFAC’s Specially Designated Nationals and Blocked Persons list, as well as any entity in which any such person owns, directly or indirectly, a 50% or greater interest, and further prohibited U.S. persons from engaging in any transactions, directly or

² A “license amendment” is an amendment to an existing license previously issued by OFAC. Some license amendment applications require interagency review, such as adding additional commodities to an existing license.

³ OFAC received 7 license applications for Syria in the Oct. 2008 – Sept. 2010 period. 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.

indirectly with such persons. TSRA licensees are not authorized to engage in any transactions with these designated entities.

In order to address the concerns raised in the public comments for the October 2006 – September 2008 reporting period, OFAC updated on November 3, 2008, its guidelines for submitting TSRA applications and also posted guidance on the export or reexport of replacement parts to Iran or Sudan pursuant to TSRA on October 7, 2009.

OFAC amended the Sudanese Sanctions Regulations on September 9, 2009, by issuing a general license that authorizes the exportation or reexportation of agricultural commodities, medicine, and medical devices to the Specified Areas of Sudan, as well as the conduct of related transactions, provided that certain conditions are met. 74 Fed. Reg. 46361 (Sept. 9, 2009). The Specified Areas of Sudan are defined as Southern Sudan (now the Republic of South Sudan), Southern Kordofan/Nuba Mountains State, Blue Nile State, Abyei, Darfur, and marginalized areas in and around Khartoum. 31 C.F.R. § 538.320.

CHART 1
Number of License Applications and Licenses Issued by Product

	Agricultural Commodities	Medicine	Medical Devices	TOTAL
License Applications	1028	245	1586	2859
Licenses Issued	716	140	939	1795
License Amendments Issued	125	21	132	278
Applications Denied	4	5	16	25

CHART 2
Number of License Applications and Licenses Issued by Country

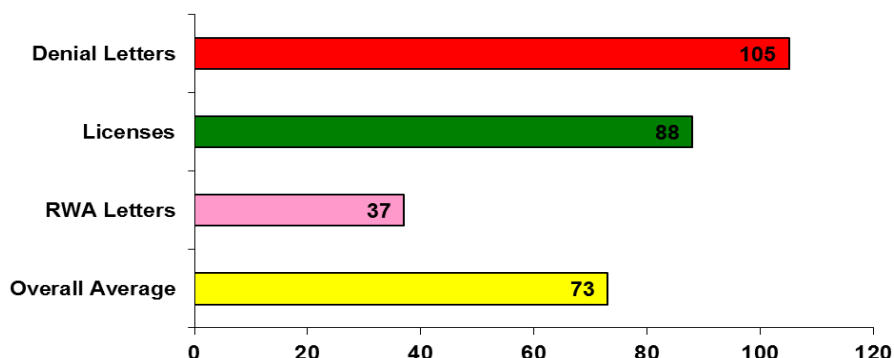
	Iran	Sudan	TOTAL
License Applications	2661	198	2859
Licenses Issued	1634	161	1795
License Amendments Issued	269	9	278
Applications Denied	24	1	25

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

	Agricultural Commodities	Medicine	Medical Devices	TOTAL
IRAN				
License Applications	928	225	1508	2661
Licenses and License Amendments Issued	746	150	1007	1903
SUDAN				
License Applications	100	20	78	198
Licenses and License Amendments Issued	95	11	64	170

GRAPH 1

**Average Processing Time for Issuing
Licensing Determinations (Business Days)**



III. Public Comments

In accordance with Section 906(c)(5) of the TSRA, OFAC published in the *Federal Register* a request for comments on the effectiveness of OFAC's TSRA licensing procedures on April 21, 2011. For the October 2008 – September 2010 reporting period, OFAC received three (3) comments, two (2) from trade associations and one (1) from a private company. All the comments received expressed concern about the delays, developments, and trends within the licensing procedures.

Among the perceived concerns that commentators requested that OFAC redress were:

- The need for more outreach by OFAC with the business community;
- The need for certain enhancements to the TSRA online application system and for a streamlined process for servicing previously licensed medical devices;
- Delays in the licensing process;
- Broadening the scope of activities considered authorized as “ordinarily incident” to issued licenses;
- Difficulty in obtaining meaningful information concerning the status of pending license applications and clarification concerning the scope of licenses that have been issued;
- Failure to issue required biennial reports to Congress in a timely fashion and to publish quarterly reports on OFAC's web site; and
- Difficulty of securing third country financing for a licensed export to Iran.

Among the suggestions submitted for improving the licensing procedures were the following:

- Process and issue one-year TSRA licenses on a more expedited schedule possibly through an established maximum review period;
- OFAC should be granted more resources to license application processing;
- Enhance the online application process;
- Issue a general license for the export of replacement parts for medical devices previously exported pursuant to an OFAC license;

- Examine process and procedures relating to the renewal of previously issued licenses;
- Develop and implement an industry outreach type of program;
- Issue a statement of licensing policy regarding agricultural exports to Iran and corresponding payments processed by third country financial institutions; and
- Publish quarterly TSRA reports on OFAC's web site.

In order to ensure the continued efficient and effective operation of the TSRA licensing procedures, OFAC is undertaking a review of its licensing procedures to better meet the needs of license applicants. All comments made will be considered in the process of this review.