

OFFICE OF FOREIGN ASSETS CONTROL

REPORT OF LICENSING ACTIVITIES

PURSUANT TO

THE TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT OF 2000

October - December 2001

I. Overview

This report covers activities undertaken by the Treasury Department's Office of Foreign Assets Control ("OFAC") under Section 906(a)(1) of the Trade Sanctions Reform and Export Enhancement Act of 2000 ("TSRA") from October through December 2001. 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.

Despite a marked slowdown in the processing of license applications since September 11, OFAC was able to process most license applications within the established time limits governing license application review.¹ Although the volume of license applications held steady (143 for July-Sept. 2001, 138 for Oct.-Dec. 2001), licensing determinations² took longer during the first quarter of fiscal 2002). OFAC was able to issue licensing determinations on over 95 percent of the license applications during the program's first quarter of operation, but it issued licensing determinations on only 43 percent of the license applications during the second quarter.

While the general disruption in the U.S. mail service in Fall 2001 and the increased complexity of license applications undercut the efficiency of the licensing process, the events of September 11 have also led to more protracted scrutiny on the part of reviewing agencies. The 30-day extension of the nine-business day review period has become the rule rather than the exception as originally anticipated, and is now routinely requested in the majority of cases. Conclusion of the interagency review process occurs on average 7 business days after the expiration of the 30-day extension in 40 percent of the cases.

¹ *Federal Register/Vol. 66, No. 134/Thursday, July 12, 2001/Rules and Regulations, 36685, provides as follows:* 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.

² 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, or in rare instances, a phone call.

This review is often further complicated since these cases are evaluated 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, further delaying the review process.

II. Program Operation

From October 1 to December 31, 2001, OFAC’s Licensing Division received a total of 138 license applications pursuant to Section 906(a)(1) of the TSRA. During this period, OFAC issued licensing determinations on 60 of the 138 license applications. A total of 50 licenses were issued from October through December (**See Charts 1 and 2**). On average, licenses were issued within 30 business days of receipt of the application. Upon completion, 80 percent (40 in total) of the licenses issued were sent via e-mail in Adobe Acrobat PDF format to licensees, a service which was greatly lauded by the licensees. In addition, OFAC issued 11 general information letters (average turnaround: four business days), 26 “return-without-action” letters (“RWA letters”) (average turnaround: 2.1 business days), and six denial letters (average turnaround: 20 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 19.9 business days. The total of licenses issued, general information letters, “return-without-action” letters, and denial letters is fewer than the number of license applications received because not all the license applications were closed out in the second quarter of the program’s operation, and in some instances multiple applications from the same license applicant were combined into one license, and a few cases were handled via telephone.

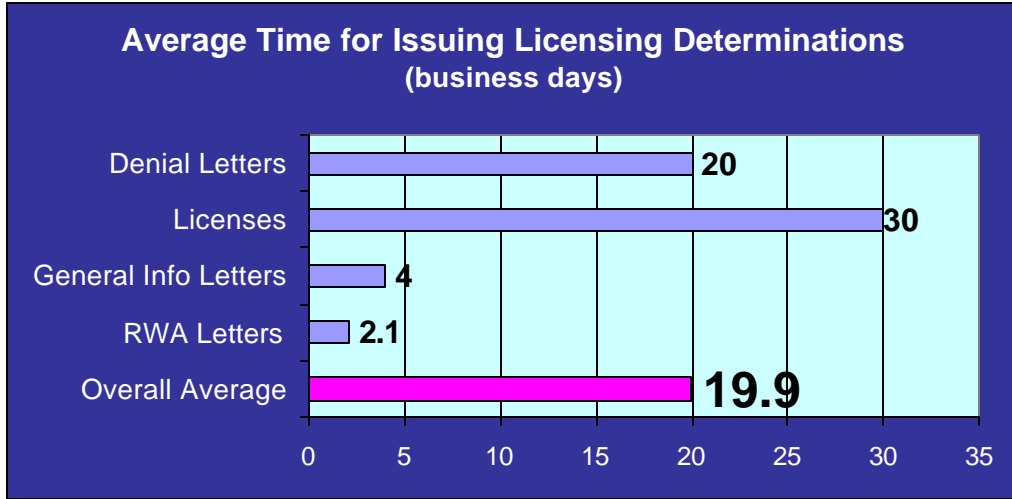
CHART 1
Number of License Applications and Licenses Issued by Product

	Agricultural Commodities	Medicine	Medical Devices	TOTAL
License Applications	68	11	59	138
Licenses Issued	31	6	13	50
Applications Denied	0	5	1	6

CHART 2
Number of License Applications and Licenses Issued by Country

	Iran	Libya	Sudan	TOTAL
License Applications	107	10	21	138
Licenses Issued	34	6	10	50
Applications Denied	6	0	0	6

GRAPH 1



III. Conclusion

Although the volume of license applications held steady during the second quarter of operation, the complexity of the license applications has increased. The average license application is now 23 pages long. OFAC's success in administering the TSRA is due in large part to the efficient and innovative electronic processing procedures that were established by OFAC in order to process license applications and forward them when appropriate for interagency review.³ The average processing time for issuing licenses rose to 30 business days in the program's second quarter of operation from 12.8 days previously, and the average time for issuing licensing determinations rose to 19.9 business days versus eight (8) business days in the first quarter of operation.

³OFAC's Licensing Division only forwards complete and eligible applications for interagency review.