

# OFFICE OF FOREIGN ASSETS CONTROL

## REPORT OF LICENSING ACTIVITIES

### PURSUANT TO

### THE TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT OF 2000

July - September 2004

## 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 2004. 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 4.2 percent increase in the number of license applications received during this reporting quarter from the prior quarter (247 for Jul.-Sep. 2004, 237 for Apr.-Jun. 2004<sup>1</sup>). A majority of the complete and eligible license applications<sup>2</sup> processed in this quarter were processed within the established time guidelines for license application review.<sup>3</sup> OFAC consistently operated within its internal time guidelines by using no more than **one business day 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 determinations<sup>4</sup> on 55.5 percent of the license applications received during the July - September 2004 period (compared to 69 percent for the Apr.-Jun. 2004 period).

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<sup>1</sup> The Apr.-Jun. 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.

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

<sup>3</sup> *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.

<sup>4</sup> 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.

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 of operation. The 30-day extension of the nine-business day review period by other agencies is taken for nearly all cases. Interagency review exceeded the 30-day extension period in 35.9 percent of licensed cases (compared to 31.9 percent for Apr.-Jun. 2004). Of these cases, the review period exceeded the 30-day extended period by an average of 18.7 business days (compared to 24.7 business days for Apr.-Jun. 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 July 1 to September 30, 2004, OFAC’s Licensing Division received a total of 247 license applications pursuant to Section 906(a)(1) of the TSRA. During this period, OFAC issued licensing determinations on 137 of the 247 license applications. A total of 111 licenses and six license amendments<sup>5</sup> were issued from July through September (**See Charts 1 and 2**). On average, licenses and license amendments were issued within 27.3 business days of receipt of the application. Upon completion, 96.7 percent (113 in total)<sup>6</sup> 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 ten general information letters (average turnaround: 1.6 business days), 46 “return-without-action” letters (“RWA letters”) (average turnaround: 1.5 business days), and six denial letters (average turnaround: 31.2 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 19.4 business days, a decrease of 18.8 percent compared with last quarter’s average of 23.9 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.

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<sup>5</sup> 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.

<sup>6</sup> Compared with 93.4 percent (127 in total) for Apr.-Jun. 2004.

**CHART 1**  
**Number of License Applications and Licenses Issued by Product**

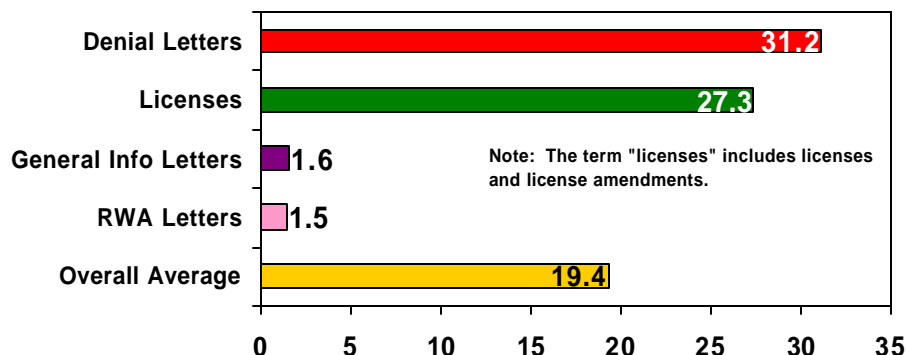
	Agricultural Commodities	Medicine	Medical Devices	TOTAL
License Applications	75	59	113	247
Licenses Issued	49	10	52	111
License Amendments Issued	3	0	3	6
Applications Denied	1	0	5	6

**CHART 2**  
**Number of License Applications and Licenses Issued by Country**

	Iran	Libya <sup>7</sup>	Sudan	TOTAL <sup>8</sup>
License Applications <sup>8</sup>	217	2	27	247
Licenses Issued	106	0	5	111
License Amendments Issued	6	0	0	6
Applications Denied	6	0	0	6

**GRAPH 1**

**Average Time for Issuing Licensing Determinations**  
 (business days)



<sup>7</sup> On April 23, 2004, the White House Office of the Press Secretary issued a statement announcing the modification of economic sanctions against Libya. Accordingly, OFAC issued a general license authorizing, as of the effective date of the general license, most transactions otherwise prohibited by the Libya Sanctions Regulations, 31 C.F.R. Part 550 ("LSR"). As of April 29, 2004, specific licenses issued by OFAC for the export of agricultural commodities, medicine, and medical devices to Libya are no longer required under the LSR.

<sup>8</sup> 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 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 ("EAR") to Syria. The Department of Commerce's Bureau of Industry and Security ("BIS") is responsible for licensing exports and reexports, including food and medicine, to Syria.

### **III. Conclusion**

Despite the slowdown in the processing of license applications, OFAC continues to administer the TSRA successfully by using no more than one business day 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 decreased by 3.2 percent to 27.3 business days in this quarter of operation from 28.2 business days previously, and the average time for issuing licensing determinations decreased by 18.8 percent to 19.4 business days versus 23.9 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 of operation, 14 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.