



UNITED STATES DEPARTMENT OF COMMERCE
Under Secretary for Industry and Security
Washington, D.C. 20230

OCT 28 2016

The Honorable Richard C. Shelby
Chairman, Committee on
Banking, Housing and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I hereby report to the Congress the export licensing actions taken by the Department of Commerce's Bureau of Industry and Security relating to exports and reexports of agricultural commodities to Cuba during the preceding two-year period of October 1, 2014, through September 30, 2016, as required by Section 906(c) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) (Title IX of Pub. L. 106-387), as amended.

Sincerely,

Eric L. Hirschhorn

Enclosure



DEPARTMENT OF COMMERCE REPORT

ACTIONS TAKEN PURSUANT TO SECTION 906(a)(1) OF THE TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT OF 2000, AS AMENDED

Section 906(c) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) (Title IX of Pub. L. 106-387), as amended, requires that the appropriate federal government department or agency submit a report to the Congress, not later than two years from the date of enactment of TSRA, and every two years thereafter, on the operation of the licensing system under Section 906(a)(1) for the preceding two-year period. Specifically, TSRA requires that the report include the following information: (1) the number and types of licenses applied for; (2) the number and types of licenses approved; (3) the average amount of time elapsed from the date of filing a license application until the date of its approval; (4) the extent to which the licensing procedures were effectively implemented; and (5) a description of comments received from interested parties about the extent to which the licensing procedures were effective, after the applicable department or agency holds a public 30-day comment period.

To implement the TSRA requirements for exports of agricultural commodities to Cuba, the Department of Commerce created License Exception Agricultural Commodities (AGR). Under License Exception AGR, an exporter must submit notification of a proposed transaction to BIS. The exporter may proceed with the shipment once BIS confirms that no reviewing agency has raised an objection to the transaction (confirmation is generally provided within 12 business days), provided the transaction meets all of the other requirements of the License Exception. This expedited review process includes screening the ultimate recipient of the commodities to ensure that it does not promote international terrorism. Exports of medicines and medical devices to Cuba are not eligible for License Exception AGR and continue to be subject to the license application and review requirements of Section 1705(c) of the Cuban Democracy Act of 1992.

Pursuant to Section 906(c) of TSRA, BIS is submitting this report on License Exception AGR activity involving exports to Cuba for the preceding two-year period since submission of its last biennial report to the Congress, in November 2014. The data covers all License Exception AGR notifications and licensing activity for AGR-eligible commodities to Cuba from October 1, 2014, through September 30, 2016.

BIS received 194 notifications of proposed transactions pursuant to License Exception AGR during the reporting period. Of those, 166 were approved in an average of 12 days. BIS returned 27 notifications without action in an average of three days due to errors and technical deficiencies or upon the request of the applicants. BIS also converted one of these notifications into an export license application due to the commodities' ineligibility under License Exception AGR and approved this application in an average of 15 days.

BIS also received 56 license applications for AGR-eligible items. The processing of those cases followed licensing procedures defined by Section 10 of the Export Administration

Act of 1979, as amended (EAA)¹, and Executive Order 12981, as amended. BIS approved 25 of the license applications in an average of 28 days. BIS returned the remaining 31 license applications without action in an average of six days, either for resubmission as License Exception AGR notifications, or to address errors and technical deficiencies. No license applications for AGR-eligible items were denied from October 1, 2014, through September 30, 2016. Please note that this report entails reconciliation of numbers included on all previous quarterly reports.

During the reporting period, BIS effectively implemented licensing procedures required by TSRA. The reviewing agencies adequately screened the transactions, thereby effectuating the goals of the legislation, while maintaining the ability to deny license applications to entities that promote international terrorism. Simultaneously, the AGR notifications were consistently processed within the 12 business day cycle created as part of License Exception AGR. Thus, BIS procedures are consistent with the requirements of Section 906(a)(1) of TSRA.

In accordance with the requirement set forth in Section 906(c)(5) of TSRA, BIS published a *Federal Register* notice (81 FR 62079) on September 8, 2016, requesting public comments on the effectiveness of its licensing procedures for the export of agricultural commodities to Cuba. BIS did not receive any comments during the 30-day comment period.

¹ 50 U.S.C. §§ 4601-4623 (Supp. III 2015). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 4, 2016 (81 Fed. Reg. 52587 (Aug. 8, 2016)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 & Supp. IV 2010)).