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General Accounting Office  
Washington, D.C. 20548

National Security and  
International Affairs Division

B-274902

October 28, 1996

The Honorable Spencer T. Bachus  
Chairman, Subcommittee on General Oversight  
and Investigations  
Committee on Banking and Financial Services  
House of Representatives

Dear Mr. Chairman:

This letter responds to your request that we review the management of the Department of the Treasury's Office of Foreign Assets Control (OFAC). You requested that we review the Treasury's handling of its Inspector General's (IG) 1995 Report of Investigation that examined allegations of misconduct by the Director of OFAC. The Office of the IG reviewed several of the allegations with an Assistant U.S. Attorney, who concluded that the Director's conduct did not constitute violations of federal law.

You asked that we determine the reasons for the Treasury's 5-month delay in responding to the report and the grounds upon which Treasury officials concluded that the actions of the Director were neither illegal nor unethical. You asked that we determine whether OFAC has adopted standard operating procedures that implement its nine foreign sanctions programs, including coordination of its activities with other federal agencies; what response the Treasury has made to any prior IG managerial audits of OFAC; and whether the Treasury plans any additional oversight of OFAC.

To respond to your question related to the Treasury's handling of the IG report, we analyzed the report and interviewed the current Assistant Secretary of Enforcement; the former Under Secretary for Enforcement, who was responsible for preparing Treasury's response to the IG report; one other former official initially charged with reviewing the IG report; and the Deputy Assistant Secretary (Regulatory, Tariff, and Trade Enforcement), who authored the February 8, 1996, Treasury response to the report.

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Based on our efforts, we found that the 5 months that elapsed between the September 8, 1995, transmittal of the IG report and the February 8, 1996, Treasury response was due largely to bureaucratic delay. One staff initially charged with reviewing the report left it on his desk for about 6 weeks before recusing himself and returning it to the Under Secretary for Enforcement. The Deputy Assistant Secretary who was subsequently assigned to review the report delayed his review due to his travel schedule and the holidays.

The OFAC Director's attorney raised questions about the accuracy of the February 8, 1996, memorandum, and the Assistant Secretary for Enforcement agreed to review the memorandum, the IG report, and its supporting documents. He concluded that the memorandum contained some factual inaccuracies and wrote a letter of clarification to the OFAC Director's attorney on August 2, 1996. In his letter, the Assistant Secretary reaffirmed that he and his counsel had concluded that the conduct cited in the IG report was neither illegal nor unethical. According to his counsel, the evidence in the IG report supported a conclusion that the OFAC Director's conduct did not violate any criminal, civil, or ethical standards. The Assistant Secretary also informed the Director in his August 2, 1996, letter that he holds himself to a high standard of conduct as a public servant and expects his staff serving in senior policy positions to adhere to the same high standard. The Assistant Secretary's letter supersedes the Deputy Assistant Secretary's February 8, 1996, memorandum to the OFAC Director and now constitutes the official Treasury response concerning the allegations against the Director of OFAC.

To respond to your question about standard operating procedures at OFAC, we examined OFAC documents, manuals, laws, and regulations that apply to the nine foreign sanctions programs. We also interviewed 15 of OFAC's 28 professional staff and officials of U.S. government agencies with whom OFAC officials coordinate. These included the Departments of State and Justice, the Federal Bureau of Investigation (FBI), and the U.S. Customs Service.

We found that OFAC has operating procedures to guide its implementation of the nine foreign sanctions programs. Because the sanctions vary in substantive requirements and in their complexity, OFAC tailored the procedures to each sanctions program, with instructions to client communities. For example, it provides guidance separately to the financial community, the securities industry, and to exporters and importers. In addition, it developed specific procedures to cover particular situations as they arise. For example, OFAC developed guidelines for permitted exports by departing Olympic delegations from sanctioned countries. These procedures were developed in response to questions that were directed to OFAC during the Olympics. OFAC also has a manual including its standardized procedures for assessing civil penalties for violations of sanctions.

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Within the last 5 years, the IG has performed two management audits. The IG made recommendations for additional procedures for the implementation of the foreign sanctions program, and OFAC complied. In the other audit of the physical security of the OFAC office, the IG made several recommendations; the Treasury has implemented only one of them. The IG told us it plans to follow up soon on the Treasury's lack of implementation of its recommendations.

Although we did not interview officials from every agency involved in coordination with OFAC, we did speak with officials from four U.S. agencies (State, Justice, the FBI, and Customs). These officials reported satisfaction with the OFAC Director's coordination. This coordination includes discussing issues arising from particular circumstances of specific sanctions and resolving conflicts that may occur when the agencies' missions are not consonant with each other.

Regarding your question about additional oversight of OFAC, we found that Treasury management is taking steps to better manage OFAC. In a separate memorandum dated August 9, 1996, to the Secretary of the Treasury, the Deputy Secretary of the Treasury stated that (1) the Director of OFAC will report directly to the Assistant Secretary of Enforcement, (2) the Director will prepare a monthly written report for the Deputy Secretary, (3) a mechanism will be developed to bring OFAC's Chief Counsel into earlier consultation in all major internal and external deliberations, and (4) the Treasury's General Counsel will task OFAC's Chief Counsel with developing a set of internal protocols for contacts with officials and representatives of entities or persons under investigation at OFAC.

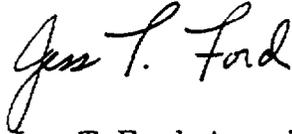
We discussed this letter with Treasury officials, who generally agreed with its contents.

As agreed, unless you publicly announce its contents earlier, we will make no further distribution of this letter until 30 days from its issue date. At that time, we will send copies to the Department of the Treasury. We will also make copies available to others upon request.

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The information in this letter was developed by Virginia Hughes and Judith K. Knepper. If you or your staff have any questions, please contact me on (202) 512-4268.

Sincerely yours,

A handwritten signature in cursive script that reads "Jess T. Ford".

Jess T. Ford, Associate Director  
International Relations and Trade Issues

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