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Decided: November 15, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 00-29731 Filed 11-21-00; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service; Meeting

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces the date, time, and location for the first meeting of the renewed term of the Treasury Advisory Committee on Commercial Operations (COAC), and the provisional agenda for consideration by the Committee.

DATES: The next meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service will be held on Friday, December 1, 2000 at 9 a.m. at the Department of the Treasury, Secretary's Conference Room (Rm. 3327), located at 15th Street and Pennsylvania Avenue, NW., Washington, DC. The duration of the meeting will be approximately four hours, starting at 9 a.m.

FOR FURTHER INFORMATION CONTACT: John P. Simpson, Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement), Office of the Under Secretary (Enforcement), telephone—(202) 622-0230.

At this meeting, the Advisory Committee is expected to pursue the following agenda. The agenda may be modified prior to the meeting.

Agenda

(1) Merchandise Processing Fee (MPF) (Legislative Principles and Conditions for Renewal of MPF)

(2) Office of Regulations and Rulings (OR&R) (Proposed Prototype for 3rd Party (HQ) Rulings)

(3) Compliance Assessment Team (CAT): (Status of Discussions Between the Trade and Customs on Issues Raised by the Subcommittee's Position Paper)

(4) Treasury Study on Customs Data and Record Keeping Requirements

(5) Current or Proposed Customs Programs (Publication of 592 Violators; Entry Revisions Project "ERP-2"; Resource Allocation Model "RAM"; Post Entry Amendment Process "PEAP"; Importer Compliance

Measurement Project "ICMP"; Commissioner's Trade Symposium Proposals)

(6) G-7 Customs Automated Reporting Standardization and Simplification Initiative

(7) Future Meeting Dates and Venues for 7th Term

(8). Agenda Items for Next Meeting

SUPPLEMENTARY INFORMATION: The meeting is open to the public; however, participation in the Committee's deliberations is limited to Committee members, Customs and Treasury Department staff, and persons invited to attend the meeting for special presentations. A person other than an Advisory Committee member who wishes to attend the meeting should contact Theresa Manning at (202) 622-0220 or Helen Belt at (202) 622-0230 for pre-clearance.

Dated: November 16, 2000.

Timothy E. Skud,

Acting Deputy Assistant Secretary (Regulatory, Tariff, and Trade Enforcement).

[FR Doc. 00-29816 Filed 11-21-00; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Payments to Persons Who Hold Certain Categories of Judgments Against Cuba or Iran

AGENCY: Department of the Treasury; Office of Foreign Assets Control.

ACTION: Notice.

SUMMARY: This notice specifies the procedures necessary for persons to establish eligibility for payments authorized by section 2002 of the Victims of Trafficking and Violence Protection Act of 2000 (Act), Public Law No. 106-386 ("Section 2002"). Section 2002 directs the Secretary of the Treasury to make payments to persons who hold certain categories of judgments against Cuba or Iran in suits brought under 28 U.S.C. 1605(a)(7).

DATES: This Notice is effective November 20, 2000.

FOR FURTHER INFORMATION CONTACT: For questions regarding submission of applications, Rochelle E. Stern, Transactions Analysis Officer, Office of Foreign Assets Control. For legal questions, Brett D. Barkey, Attorney-Advisor, Office of the Chief Counsel (Foreign Assets Control). Both individuals can be reached at 202-622-2671 (not a toll free call).

Part 1. Availability of Funds

Section 2002 specifies the source and amount of funds available for the payments authorized by that Section. See section 2002(b). The Department of the Treasury will make a payment to an applicant promptly after determining (a) that an application for payment, containing all necessary information and documentation specified in Part 2 below, has been received by the Department of the Treasury, and (b) that sufficient funds are available from the sources identified in section 2002(b).

For purposes of funding payments in connection with judgments and sanctions against Cuba, section 2002 provides that the President shall vest and liquidate up to and not exceeding the amount of property of the Government of Cuba and sanctioned entities in the United States or any commonwealth, territory, or possession thereof that has been blocked pursuant to section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701-1702), or any other proclamation, order, or regulation issued thereunder. It further provides that for the purposes of paying amounts for judicial sanctions, payment shall be made from funds or accounts subject to sanctions as of April 18, 2000, or from blocked assets of the Government of Cuba. See section 2002(b)(1).

For purposes of funding payments in connection with judgments against Iran, Section 2002 provides that the Department of the Treasury shall make payments from amounts paid and liquidated from (a) rental proceeds accrued on the date of the enactment of the Act from Iranian diplomatic and consular property located in the United States, and (b) funds not otherwise made available in an amount not to exceed the total of the amount in the Iran Foreign Military Sales Program account within the Foreign Military Sales Fund on the date of the enactment of the Act. See section 2002(b)(2). The amount of funds made available by (a), above, will be determined based in part on information provided by the Department of State. The amount of funds made available by (b), above, will be determined based on information provided by the Department of Defense.

Part 2. Applications for Payment

Applications for payment under section 2002 must be sent to Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex, Second Floor,

Washington, DC 20220, Attn: Rochelle E. Stern. Applications must contain all of the information and documentation as specified in this Part 2.

APPLICATIONS MUST BE SENT BY U.S. POSTAL SERVICE REGISTERED MAIL. Applications sent electronically or by facsimile or delivered by hand, courier service, certified mail or any mail service other than registered mail shall not be deemed valid. All information required by paragraphs (a) through (f) below must be submitted to the noted address by U.S. Postal Service registered mail.

If an applicant is currently represented by counsel, his or her application must be submitted through that counsel.

(a) Information Regarding Applicant and Payment

(1) Information Regarding Applicant: An applicant shall submit the following information:

(A) Name, address, telephone number, and, if available, facsimile number of applicant; and

(B) If the applicant is represented by counsel, name(s), address(es), telephone number(s), and facsimile number(s) of applicant's counsel.

(2) Payment Information: Payments will be made by electronic funds transfer. Payments will be made only to the applicant or the applicant's counsel. The application shall designate which of these parties is to receive the payment. An applicant shall submit the following information:

(A) Name of person or entity to whom payment is to be made (payee);

(B) American Bankers Association Routing and Transit Code number of the bank holding payee's account (copy of canceled check or savings deposit slip);

(C) Name and address of payee's bank;

(D) Payee's bank account number;

(E) Type of account (checking or savings); and

(F) Social security number or taxpayer identification number of payee.

(b) Documentation on Compensatory Damages

An applicant shall submit a copy of the judgment awarding the applicant compensatory damages on a claim or claims brought by the applicant under 28 U.S.C. 1605(a)(7). This copy must be certified by the clerk of the court that awarded the judgment.

(c) Documentation on Punitive Damages

An applicant who elects to receive 110 percent of compensatory damages, as allowed under Section 2002(a)(1)(A), shall submit a copy of the judgment awarding the applicant punitive

damages on a claim or claims brought by the applicant under 28 U.S.C. 1605(a)(7). This copy must be certified by the clerk of the court that awarded the judgment.

(d) Documentation on Sanctions

(1) An applicant seeking payment of amounts awarded as sanctions by judicial order on April 18, 2000 (as corrected on June 2, 2000) in connection with a claim or claims brought by the applicant under 28 U.S.C. 1605(a)(7) shall submit a copy of the judicial order of April 18, 2000 (as corrected on June 2, 2000) awarding the applicant sanctions. The copy must be certified by the clerk of the court that issued the order.

(2) The applicant must also establish that this order is final and not subject to further appellate review. The applicant can so establish by providing one of the following:

(A) A copy of a judgment of dismissal by the U.S. Court of Appeals of any pending appeal from the sanctions order, which copy must be certified by the clerk of the court of appeals;

(B) A signed statement that the time to appeal the sanctions order has expired without a notice of appeal having been filed, or a signed written waiver of the right to seek any further review of any adverse aspect of the sanctions order from any party that would have a basis for seeking review of that decision;

(C)(i) A copy of a final decision by the U.S. Court of Appeals on the sanctions order that affirms or otherwise leaves intact the sanctions order, in whole or in part, and that has been certified by the clerk of the Court of Appeals and, (ii)(I) a citation to the order of the U.S. Supreme Court denying certiorari or dismissing any pending petition for a writ of certiorari;

(II) a signed statement that the time to petition for a writ of certiorari has expired, without such a petition having been filed; or

(III) if the time to petition for a writ of certiorari has not expired, a signed written waiver from all unsuccessful appellants of their right to petition for a writ of certiorari; or

(D) A copy of a final decision by the U.S. Supreme Court on the sanctions order that affirms or otherwise leaves intact the sanctions order, in whole or in part.

(e) Documentation on Final Judgment or Date Suit Commenced

In order to receive payment, an applicant must meet one of the following two requirements documenting the final judgment and,

where applicable, the date on which the applicant's suit commenced.

(1) To meet the first requirement, the applicant must establish that he or she had, as of July 20, 2000, a final judgment for a claim or claims brought under 28 U.S.C. 1605(a)(7) or the right to payment of an amount awarded as a judicial sanction with respect to such claim or claims. The applicant can establish that he or she had a final judgment for a claim or claims brought under 28 U.S.C. 1605(a)(7) as of July 20, 2000 by submitting the judgment specified in Part 2(b) above, which must be dated July 20, 2000 or earlier, along with all appellate orders on that judgment, if any, and a signed statement demonstrating why further appellate review is unavailable. The applicant can establish that he or she had a right to payment of an amount awarded as a judicial sanction by submitting the order specified in Part 2(d) above, which must be dated July 20, 2000 or earlier, along with proof that this order is final and not subject to further appellate review.

(2) If an applicant does not satisfy paragraph (1) above, the applicant shall submit satisfactory proof of the date on which the applicant filed a suit against Iran or Cuba under 28 U.S.C. 1605(a)(7). This proof shall be in the form of a docket sheet or other document that has been certified by the clerk of the court in which the suit was filed. Applicants proceeding under this paragraph shall be eligible for payment only if suit was filed on February 17, 1999, December 13, 1999, January 28, 2000, March 15, 2000, or July 27, 2000. The applicant must also establish that he or she has a final judgment in this suit by submitting the judgment specified in Part 2(b) above, along with all appellate orders on that judgment, if any, and a signed statement demonstrating why further appellate review is unavailable.

(f) Election of Payment Option and Associated Relinquishment

(1) The applicant shall elect a payment option established by Section 2002. To make an election, the applicant must submit two declarations as set forth in Parts 2(f)(3)-(4) below. All declarations submitted must be completed in full, without modification or alteration. Any modification or alteration of any statement will render the application noncomplying. It is not within the Department of the Treasury's purview to advise applicants on which option they should select.

If the applicant has received an award of punitive damages, the applicant shall elect to receive either 110 percent or 100 percent of the compensatory damages,

amounts necessary to pay post-judgment interest under 28 U.S.C. 1961, and, where applicable, the amount awarded as sanctions on or in connection with a claim or claims brought under 28 U.S.C. 1605(a)(7).

If the applicant has not received an award of punitive damages, the applicant shall elect to receive 100 percent of the compensatory damages, amounts necessary to pay post-judgment interest under 28 U.S.C. 1961, and, where applicable, the amount awarded as sanctions on or in connection with a claim or claims brought under 28 U.S.C. 1605(a)(7).

By electing one of these options, the applicant relinquishes certain claims and rights, as specified in section 2002. See section 2002(a)(2)(B)–(D).

(2) If an applicant elects to receive 100 percent of the compensatory damages, amounts necessary to pay post-judgment interest under 28 U.S.C. 1961, and, where applicable, the amount awarded as sanctions on or in connection with a claim or claims brought under 28 U.S.C. 1605(a)(7) (100 percent option), and to preserve the right to collect his or her punitive damage award from Cuba or Iran, the applicant must relinquish, *inter alia*, “all rights to execute against or attach property that is at issue in claims against the United States before an international tribunal, that is the subject of awards rendered by such tribunal, or that is subject to section 1610(f)(1)(A) of title 28, United States Code.” Section 2002(a)(2)(D). Title 28 U.S.C. 1610(f)(1)(A), in turn, applies to “any property with respect to which financial transactions are prohibited or regulated pursuant to section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)) (TWEA), section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701–1702) (IEEPA), or any other proclamation, order, regulation, or license issued pursuant thereto.” 28 U.S.C. 1610(f)(1)(A). Because of the comprehensive sanctions programs in place against Iran pursuant to IEEPA and against Cuba pursuant to TWEA, *see* 31 C.F.R. Parts 515, 535, and 560, virtually every transaction involving Iranian or Cuban property within the jurisdiction of the United States is either “prohibited” or “regulated,” *i.e.*, permitted only by a general license in regulations promulgated by the Office of Foreign Assets Control (OFAC), Department of the Treasury, or by a specific license issued by OFAC. See *Regan v. Wald*, 468 U.S. 222, 232–234 (1984). Thus, virtually all Iranian or

Cuban property within the jurisdiction of the United States is “property with respect to which financial transactions are prohibited or regulated pursuant to” IEEPA or TWEA. Section 2002(a)(2)(D) therefore prohibits an applicant who elects the 100 percent option from seeking to execute his or her punitive damage award against, or from seeking to attach, virtually all Iranian or Cuban assets within the jurisdiction of the United States.

(3) To make the election, the applicant shall submit one of the two declarations set forth in (A) and (B) below. The applicant must sign this declaration pursuant to 28 U.S.C. 1746.

(A) “I, _____ (insert name of applicant), elect to receive 110 percent of the amount awarded to me as compensatory damages, amounts necessary to pay post-judgment interest under 28 U.S.C. 1961, and, where applicable, amounts awarded as judicial sanctions on or in connection with the claim or claims I brought under 28 U.S.C. 1605(a)(7). By so electing, I state that I have been awarded a judgment that includes an award of punitive damages. I further state, as required by Section 2002 of P.L. No. 106–386, that I relinquish (a) all claims and rights to compensatory damages and amounts awarded as judicial sanctions under such judgments and any related interest, costs, and attorneys fees, and (b) all claims and rights to punitive damages awarded in connection with such claim or claims and any related interest, costs, and attorneys fees. In relinquishing these above-mentioned claims and rights, I recognize that I relinquish any rights to seek writs of attachment, execution, or garnishment, or any other form of post-judgment process intended to obtain partial or complete satisfaction of any amounts awarded in connection with the claim or claims under 28 U.S.C. 1605(a)(7) for which I have elected to receive payment.

“I understand that this relinquishment is irrevocable once the payment is credited to the bank account I have identified in this application. I understand that this is true even if, pursuant to my election under Part 3(b) of the **Federal Register** Notice published on November 22, 2000, the payment that is credited to the bank account I have identified in this application is less than the amount for which I applied.

“I further agree and acknowledge that, pursuant to Section 2002(c), once the payment is credited to the bank account I have identified in this application, and to the extent such payment is made under Section 2002(b)(2)(B), the United States shall be fully subrogated and assigned to all of my rights as a judgment creditor, and to the rights, if any, of any other person or entity to whom payments are made (collectively ‘payees’), against the debtor foreign state. Such subrogation and assignment of payees’ rights as judgment creditors is binding on their guardians, heirs, executors, administrators or assigns.

“I declare under penalty of perjury that the foregoing is true and correct. Executed on (insert date).”

(B) “I, _____ (insert name of applicant), elect to receive 100 percent of the amount awarded to me as compensatory damages, amounts necessary to pay post-judgment interest under 28 U.S.C. 1961, and, where applicable, amounts awarded as judicial sanctions on or in connection with the claim or claims I brought under 28 U.S.C. 1605(a)(7). By so electing, as required by Section 2002 of P.L. No. 106–386, I relinquish (a) all claims and rights to compensatory damages and amounts awarded as judicial sanctions under such judgments and any related interest, costs, and attorneys fees, and (b) all rights to execute against or attach property that is at issue in claims against the United States before an international tribunal, that is the subject of awards rendered by such tribunal, or that is subject to 28 U.S.C. 1610(f)(1)(A). In relinquishing these above-mentioned claims and rights, I recognize that I relinquish any rights to seek writs of attachment, execution, or garnishment, or any other form of post-judgment process directed against property that is at issue in claims against the United States before an international tribunal, that is the subject of awards rendered by such tribunal, or that is subject to 28 U.S.C. 1610(f)(1)(A) and intended to obtain partial or complete satisfaction of any amounts awarded in connection with the claim or claims under 28 U.S.C. 1605(a)(7) for which I have elected to receive payment.

“I understand that this relinquishment is irrevocable once the payment is credited to the bank account I have identified in this application. I understand that this is true even if, pursuant to my election under Part 3(b) of the **Federal Register** Notice published on November 22, 2000, the payment that is credited to the bank account I have identified in this application is less than the amount for which I applied.

“I further agree and acknowledge that, pursuant to Section 2002(c), once the payment is credited to the bank account I have identified in this application, and to the extent such payment is made under Section 2002(b)(2)(B), the United States shall be fully subrogated and assigned to all of my rights as a judgment creditor, and to the rights, if any, of any other person or entity to whom payments are made (collectively ‘payees’), against the debtor foreign state. Such subrogation and assignment of payees’ rights as judgment creditors is binding on their guardians, heirs, executors, administrators or assigns.

“I declare under penalty of perjury that the foregoing is true and correct. Executed on (insert date).”

(4) In addition, all applicants shall submit the following declaration, which, pursuant to 28 U.S.C. 1746, must be signed by the applicant and, if the payee is different from the applicant, the payee.

“I/We, _____ (insert name of applicant) and _____ (insert name of payee, if different from applicant) am/are entitled to the entire amount to be paid in this application. No other person, corporation, law firm, or other entity whatsoever either claims or is otherwise entitled to receive any portion of this payment from the United States of America.

If any other person, corporation, law firm, or other entity (a "Third Party") is ever determined by a final judgment of a court of the United States to be entitled to all or part of the payment made to the applicant and payee (as named above), we (the applicant and payee) promise immediately to reimburse, with interest, the United States for whatever amount of money is paid by it to a Third Party, and agree further to indemnify and hold harmless the United States for any such claims for payment asserted by a Third Party against the United States.

"I/we declare under penalty of perjury that the foregoing is true and correct. Executed on (insert date)."

(g) Supplementary Information and Documentation

The Department of the Treasury may require applicants to submit additional information and documentation, including additional statements of relinquishment, as it deems appropriate on a case-by-case basis. The above-mentioned additional statements of relinquishment may include, but are not limited to, statements of relinquishment by counsel that currently represent or have represented applicants in pursuit of the claims under 28 U.S.C. 1605(a)(7) in connection with which the applicant seeks payment.

Part 3. Order of Payment of Applications

(a) For so long as sufficient funds are available from the sources identified in Section 2002(b), the Department of the Treasury will make payments on applications in the order in which each complying application (as hereinafter defined) is dated by the U.S. Postal Service as having been received by the U.S. Postal Service for delivery by registered mail. An application will be determined to be complying if the Department of the Treasury determines that it has received, for its review, all the information and documentation specified in Part 2(a)–(f) above. If the Department of the Treasury receives a noncomplying application, it will notify the applicant of the deficiencies. Treasury will determine such applications to be complying only when those deficiencies are corrected and will deem them complying as of the date indicated by the U.S. Postal Service as the date on which the last required item of information or documentation was received by the U.S. Postal Service for delivery by registered mail. If an application includes all the information and documentation specified in Part 2(a)–(f), it will be deemed complying for purposes of this Part, even if the Department of the Treasury requests supplementary information pursuant to Part 2(g) above. If two or more

complying applications are dated by the U.S. Postal Service as having been received by the U.S. Postal Service on the same day for delivery by registered mail, or if the last required items of information or documentation for two or more noncomplying applications are received by the U.S. Postal Service on the same day for delivery by registered mail, the Department of the Treasury will give them the same priority for payment.

(b) If the funds specified in section 2002(b) are insufficient to pay an applicant the full amount the applicant has elected to receive, the Department of the Treasury will notify the applicant in writing. If there are sufficient funds available for a partial payment, the Department of the Treasury will specify an office to which the applicant shall reply, and the applicant will have two options: (1) To withdraw his or her application, or (2) to maintain the application and accept partial payment. The applicant shall notify the specified Treasury office in writing of his or her choice. If the applicant chooses to maintain the application and accept partial payment, the relinquishment made pursuant to section 2002(a)(2)(B)–(D), as specified in Part 2(f) above, is irrevocable and applies to the same extent as if full payment were made by the Department of the Treasury. If available funds are sufficient to make only partial payments to two or more applicants who have the same priority, the Department of the Treasury will give each of these applicants the option of a pro rata payment. For each applicant, the pro rata payment will be an identical fixed percentage of the payment for which the applicant is eligible. The fixed percentage will be set at the maximum amount allowed by available funds.

Part 4. Competing Applications

In the event two or more applications for payment are submitted for amounts arising from the same judgment, the Department of the Treasury may take such further action as it deems appropriate to resolve any competing applications, including, but not limited to, staying applications that have been submitted and/or initiating judicial action. The Department of the Treasury will have this authority even if one or more of these competing applications does not contain all the information and documentation required by Part 2(a)–(f).

Part 5. Notice Requirements Inapplicable

This Notice advises applicants of the availability of funds pursuant to Section 2002 and explains the nature of the

information and documentation requirements established by that section. Accordingly, it has been determined that notice and public procedure are not required pursuant to 5 U.S.C. 553(a). Moreover, notice and public procedure are unnecessary pursuant to 5 U.S.C. 553(b)(B) because this Notice merely explains the requirements of section 2002 and does not affect the substantive rights of applicants under that section. Notice and public procedure are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(B) because section 2002 requires that payments be made "promptly," see section 2002(a)(1), and it is in the public interest to establish the procedures to request payments without delay.

Part 6. Paperwork Reduction Act

The collection of information contained in this notice has been reviewed and approved by the Office of Management and Budget (OMB) pursuant to section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and assigned OMB Control Number 1505–0177. An agency may not conduct or sponsor, and a person is not required to respond to, an information collection that does not display a currently valid OMB control number. The collection of information specified in this notice is required to enable the Department of the Treasury to determine the eligibility of an applicant under section 2002 of Public Law No. 106–386. The collection of information is voluntary, but it is required to obtain a payment authorized by Section 2002. The estimated average burden per applicant is 3 hours. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the agency contact specified earlier in this notice and to OMB, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Dated: November 17, 2000.

R. Richard Newcomb,
Director, Office of Foreign Assets Control.

Approved: November 17, 2000.

Elisabeth A. Bresee,
*Assistant Secretary (Enforcement),
Department of the Treasury.*

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