





For Immediate Release

March 3, 2004

## Letter from Rep. Berman to Richard Newcomb, Director of OFAC

Mr. R. Richard Newcomb  
Director  
Office of Foreign Assets Control  
U.S. Department of the Treasury  
Treasury Building Annex  
Pennsylvania Ave. and Madison Pl., N.W.  
Washington, DC 20220

Dear Director Newcomb:

We have had, over the years, many conversations and exchanges regarding the correct interpretation of the amendment I authored to exempt information and informational materials from economic embargoes (Section 203(b) of the International Emergency Economic Powers Act (IEEPA)) and I have been greatly appreciative of the excellent relationship we have enjoyed. It is in that spirit that I am writing to take strong exception to OFAC's interpretation of that provision as it applies to activities related to the publication of manuscripts written by nationals of Iran (and other countries sanctioned under IEEPA) in scholarly journals in the United States. In my view, the guidance issued by OFAC on this matter – and the underlying regulations on which it is based – are clearly inconsistent with both the letter and spirit of the law.

As you know, my amendment prohibits the President from regulating or prohibiting, either directly or indirectly, "the importation from any country, or the exportation to any country, whether commercial or otherwise, regardless of format or medium of transmission, of any information or informational materials..." This provision is premised on the belief that it is in our national interest to support the dissemination of American ideas and values, especially in nations with oppressive regimes. At the same time, it is intended to ensure the right of American citizens to have access to a wide range of information and satisfy their curiosity about the world around them.

In addition to these important considerations, the free flow of information is an essential prerequisite for the advancement of human knowledge. In the realm of science, a robust peer review process – which requires scientists to share data, exchange ideas and challenge assumptions – helps ensure the integrity of scientific research. Publishing the results of such research in scholarly journals is an integral part of the scientific process.

In this context, OFAC's recent interpretation of Section 203(b) – as reflected in your September 30, 2003 letter regarding permissible publishing activities by the Institute of Electrical and Electronics Engineers (IEEE) – is patently absurd. Specifically, I take strong exception with OFAC's position that, with regard to manuscripts from authors that reside in countries subject to U.S. sanctions under IEEPA, "activities such as the reordering of paragraphs or sentences, correction of syntax, grammar, and replacement of inappropriate words by U.S. persons, prior to publication" of a manuscripts constitutes a "prohibited service" that requires an OFAC license.

These activities are an integral part of the peer review process that all reputable journals have established to ensure the quality of the manuscripts they publish. As such, they should be considered incidental to the publication of the manuscript, and thus covered by the information and informational materials exemption.

On a similar note, I believe the exemption should apply to activities related to the publication of literary works produced in embargoed countries, including translation and editing required to make them accessible to American readers. It is my understanding that OFAC's narrow and misguided interpretation of the law has threatened the publication of a number of worthy manuscripts, including a book of poems written by Iranian dissidents. I fail to see how this serves the interests of the United States in any way, shape or form.

In this age of rapid globalization, no country has a monopoly on scientific innovation. This reality is reflected in the fact that American publishers of scholarly journals derive a substantial portion of their content from foreign authors, including nationals of Iran and other countries subject to U.S. sanctions. Our government should not place publishers in the untenable position of having to choose between publishing manuscripts from embargoed countries "as is" without appropriate peer review or not publishing them at all, even if they have great merit.

An accurate and reasonable interpretation of Section 203(b) -- as well as common sense about America's national interests -- should compel OFAC to reconsider its decision to require a specific license for these activities and I look forward to hearing the results of such a review.

Sincerely,

HOWARD L. BERMAN  
Member of Congress

Cc: Dr. John H. Marburger III  
Science Advisor to the President