

ENFORCEMENT INFORMATION FOR SEPTEMBER 13, 2016

Information concerning the civil penalties process can be found in the Office of Foreign Assets Control (OFAC) regulations governing each sanctions program; the Reporting, Procedures, and Penalties Regulations, 31 C.F.R. part 501; and the Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A. These references, as well as recent final civil penalties and enforcement information, can be found on OFAC's Web site at www.treasury.gov/ofac/enforcement.

ENTITIES – 31 CFR 501.805(d)(1)(i)

PanAmerican Seed Company Settles Potential Civil Liability for Alleged Violations of the Iranian Transactions and Sanctions Regulations: PanAmerican Seed Company (“PanAm Seed”), West Chicago, Illinois, a division of Ball Horticultural Company (“Ball Horticultural”), has agreed to pay \$4,320,000 to settle potential civil liability for alleged violations of the Iranian Transactions and Sanctions Regulations, 31 C.F.R. part 560 (ITSR).¹ Specifically, OFAC alleged that from on or about May 5, 2009 to on or about March 2, 2012, PanAm Seed violated § 560.204 of the ITSR by indirectly exporting seeds, primarily of flowers, to two Iranian distributors on 48 occasions (collectively referred to hereafter as the “Alleged Violations”).

OFAC determined that PanAm Seed did not voluntarily self-disclose the Alleged Violations to OFAC, and that the Alleged Violations constitute an egregious case. Both the statutory maximum and base penalty civil monetary penalty amounts for the Alleged Violations were \$12,000,000.

For a number of years, up to and including 2012, PanAm Seed made 48 indirect sales of seeds to two Iranian distributors. PanAm Seed shipped the seeds to consignees based in two third-countries located in Europe or the Middle East, and PanAm Seed's customers arranged for the re-exportation of the seeds to Iran. Personnel (including several mid-level managers) from various business units within PanAm Seed and/or Ball Horticultural were aware of U.S. economic sanctions programs involving Iran and the need to apply for and obtain a specific license from OFAC in order to export the seeds in question. Despite this knowledge, PanAm Seed engaged in a pattern or practice designed to conceal the involvement of Iran and/or obfuscated the fact that the seeds were ultimately destined for distributors located in Iran.

The settlement amount reflects OFAC's consideration of the following facts and circumstances, pursuant to the General Factors under OFAC's Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A. OFAC considered the following to be aggravating factors: (1) PanAm Seed willfully violated U.S. sanctions on Iran by engaging in, and systematically obfuscating, conduct it knew to be prohibited; (2) PanAm Seed demonstrated recklessness with respect to U.S. sanctions requirements by ignoring its OFAC compliance responsibilities, despite

¹ On October 22, 2012, OFAC changed the heading of 31 C.F.R. part 560 from the Iranian Transactions Regulations to the ITSR, amended the renamed ITSR, and reissued them in their entirety. *See* 77 Fed. Reg. 64,664 (Oct. 22, 2012). For the sake of clarity, all references herein to the ITSR shall mean the regulations in 31 C.F.R. part 560 in effect at the time of the activity, regardless of whether such activity occurred before or after the regulations were renamed and reissued.

substantial international sales and warnings that OFAC sanctions could be implicated; (3) multiple PanAm Seed and Ball Horticultural employees, including mid-level managers, had contemporaneous knowledge of the transactions giving rise to the Alleged Violations and that the seeds were intended for reexportation to Iran, and PanAm Seed continued sales to its Iranian distributors for nearly eight months after its Director of Finance learned of OFAC's investigation; (4) PanAm Seed engaged in this pattern of conduct over a period of years, providing over \$770,000 in economic benefit to Iran; (5) PanAm Seed did not initially cooperate with OFAC's investigation, providing some information that was inaccurate, misleading, or incomplete; and (6) PanAm Seed is a division of Ball Horticultural, a commercially sophisticated, international corporation.

OFAC considered the following to be mitigating factors: (1) PanAm Seed has not received a Penalty Notice or Finding of Violation from OFAC in the five years preceding the earliest date of the transactions giving rise to the Alleged Violations, making it eligible for "first offense" mitigation of up to 25 percent; (2) the exports at issue were likely eligible for an OFAC license under the Trade Sanctions Reform and Export Enhancement Act of 2000; (3) PanAm Seed took remedial steps to ensure future compliance with OFAC sanctions, including stopping all exports to Iran, implementing a compliance program, and training at least some of its employees on OFAC sanctions; and (4) PanAm Seed cooperated with OFAC by agreeing to toll the statute of limitations for a total of 882 days.

For more information regarding OFAC regulations, please go to: www.treasury.gov/ofac.