

## US

### BIS Announces Former Florida CEO Pleads Guilty to Export Violations

On December 14, 2018, the Bureau of Industry and Security (BIS) [announced](#) that Eric Baird, former Chief Executive Officer for a Florida-based package consolidation and shipping service, pleaded guilty to a single count of felony smuggling and 166 violations of US export control laws. On December 12, 2018, BIS imposed civil penalties of US\$17 million and a five-year denial of export privileges.

### OFAC Issues Venezuela-related General License 6

On January 8, 2019, the Department of the Treasury's Office of Foreign Assets Control (OFAC) [issued Venezuela-related General License 6](#), which authorizes the winding down of certain specified transactions with Globovision Tele C.A. and Globovision Tele CA, Corp. until January 8, 2020. Additionally, OFAC issued new FAQs for General License 6, and also added several new individuals and entities to its Specially Designated Nationals and Blocked Persons (SDN) list.

### OFAC Temporarily Extends Ukraine-related General Licenses

On January 16, 2019, OFAC [announced](#) that it was extending the expiration dates for the following general licenses related to EN+ Group PLC, JSC EuroSibEnergO and United Company RUSAL PLC: General License 13J, General License 14E and General License 16E.

### OFAC Adds Iran-related Designations to SDN List

On January 24, 2019, OFAC [announced](#) that it has added several individuals and aircraft to its SDN list. It also updated information relating to the Islamic Revolutionary Guard Corps.

### OFAC Removes Ukraine- and Russia-related Designations From SDN List

On January 27, 2019, OFAC [announced](#) that it has removed from its SDN list certain information for EN+ Group PLC, JSC EuroSibEnergO and United Company RUSAL PLC.

### OFAC Issues New Venezuela-related Executive Order and General Licenses

On January 28, 2019, OFAC [announced](#) that it has designated Petroleos de Venezuela, S.A. (PdVSA) following Executive Order (E.O.) 13850, after a determination by Treasury Secretary Steven T. Mnuchin and Secretary of State Michael Pompeo that PdVSA was operating in the Venezuelan oil sector. Additionally, OFAC has amended General License 3 and it has issued the new Venezuela-related General Licenses 7 – 14.

### OFAC Reaches Settlement Agreement With e.l.f. Cosmetics, Inc

On January 31, 2019, OFAC [announced](#) that it has reached a settlement agreement with e.l.f. Cosmetics, Inc. in the amount of US\$996,080 for potential civil liability relating to 156 apparent violations of North Korea Sanctions Regulations. The potential violations stem from importation of false eyelash kits from the People's Republic of China, which contained materials sourced from the Democratic People's Republic of Korea.

### DDTC Goes Paperless for Advisory Opinion Submission

On February 4, 2019, US Department of State's Directorate of Defense Trade Controls (DDTC) released a new electronic submission software for Advisory Opinions, called Defense Export Control and Compliance System (DECCS). Persons requesting an Advisory Opinion (Applicants) can [apply for an account in DECCS](#). Applicants that are currently DTrade Super Users with a valid email address on file with DDTC will automatically be enrolled in DECCS as Corporate Administrators. These Super Users should have received a DECCS activation email in February 2019. Applicants can submit Advisory Opinions for Sections 126.9 (a), 126.9 (c) and 129.9 of the International Traffic in Arms Regulations (ITAR). All other requests should be submitted to DDTC via mail.

Advisory Opinion requests submitted to the DDTC receive one of the following:

- Indication of whether or not a particular license for export of defense articles or defense services to a specific country will likely be approved, (ITAR Section 126.9 (a))
- Interpretation of the ITAR (ITAR Section 126.9 (c))
- Guidance on whether an activity constitutes a brokering activity under the ITAR (ITAR Section 129.9)

Although a good indication of how DDTC will act on a future request, responses to Advisory Opinions requests are not binding on the US State Department and may not be used in future matters before the Department. The future of DDTC lives in DECCS. DDTC plans to allow Applicants to apply for licenses, update registrations, submit Commodity Jurisdictions (CJ) requests and submit disclosures with DECCS. These other functions should go live later in 2019. For more information about DECCS, refer to DDTC's [webpage](#).

## **DDTC Fines Alleged Violations of ITAR and Failure to Appoint Qualified Empowered Official**

On February 28, 2019, with a civil penalty of US\$400,000, Darling Industries, Inc. of Tucson, Arizona [settled](#) allegations for violating six counts of the Arms Export Control Act (AECA), as well as the ITAR, in connection with unauthorized exports of defense articles, provisions of defense services and failure to appoint a qualified Empowered Official. Per Department of State's Media Note, "The settlement demonstrates the Department's role in strengthening U.S. industry by protecting U.S.-origin defense articles, including technical data, from unauthorized exports. The settlement also highlights the importance of obtaining appropriate authorization from the Department for exporting controlled articles."

## **US Imposes Venezuela-related Visa Restrictions and Sanctions**

On February 28, 2019, the US [imposed](#) visa restrictions on individuals responsible for undermining Venezuela's democracy. The policy was applied to Maduro-aligned officials and their families, which resulted in the revocation of visas for 49 individuals. On March 1, 2019, OFAC [designated](#) six Venezuelan government officials who are aligned with illegitimate former President Nicolas Maduro and associated with the obstruction of humanitarian aid deliveries into Venezuela on February 23, 2019. In announcing the new designations, Secretary Mnuchin said, "The United States strongly supports the efforts of Interim President Juan Guaidó, and Treasury will continue to target Maduro loyalists prolonging the suffering of the victims of this man-made humanitarian crisis."

## **US Designates Kurdistan and Iran Entities as Terrorists**

On March 1, 2019, the Department of State [reviewed and maintained](#) the Foreign Terrorist Organization (FTO) designation of the Kurdistan Workers' Party (PKK). On March 5, 2019, the Department of State [designated](#) the Iranian proxy group Harakat al-Nujaba and its leader, Akram 'Abbas al-Kabi, as Specially Designated Global Terrorists (SDGTs) under E.O. 13224. Terrorist designations expose and isolate organizations and individuals, and deny them access to the US financial system.

## **Trump Administration Removes India and Turkey From GSP Program**

On March 4, 2019, the Trump Administration [announced](#) Turkey and India will be terminated from the US Generalized System of Preferences (GSP) program, which allows developing countries to export goods to the US without paying duties. The Office of the US Trade Representative (USTR) explained that Turkey's removal from the program is because it is sufficiently economically developed and should no longer benefit from preferential market access to the US; and India was terminated because of the country's failure to provide the US with assurances that it would give equitable and reasonable access to its markets in numerous sectors. By statute, these changes may not take effect until at least 60 days after the notifications to Congress and the governments of India and Turkey, and will be enacted by a Presidential Proclamation.

## **OFAC Announces Creation of Foreign Financial Institutions (FFI) List**

On March 14, 2019, OFAC [announced](#) the creation of a new list specifically sanctioning foreign financial institutions (FFIs). Notably, the Correspondent Account of Payable-Through Account Sanctions (the CAPTA List) identifies FFIs that are prohibited or severely restricted from opening or maintaining a US correspondent account. US financial institutions that provide US dollar-clearing services for foreign banks should pay close attention to the new list, as FFIs will be subject to heightened scrutiny and could face additional consequences for engaging with sanctioned countries and parties. For more information about the FFI list, read [this post on The Anticorruption Blog](#).

## **Deadline Approaches for Certain Transitioning USML Category Items to CCL**

Due to the Export Control Reform (ECR) that began nearly six years ago, the DDTC has updated 18 of the 21 categories in the United States Munitions List (USML), and most of these categories had items transition to the Commerce Control List (CCL) of the Export Administration Regulations (EAR) by respective designated transition deadlines. In accordance with DDTC Guidance published October 13, 2015, any Technical Assistance Agreement (TAA) or Manufacturing License Agreement (MLA) submitted prior to the transitioning date for the USML category described in the TAA or MLA is set to expire three years from that transitioning date. TAAs or MLAs that referred to more than one USML category expire three years from the latest transition date of any of the USML categories described in the TAA or MLA.

Three years have passed since most of the transition deadlines, however, any TAAs or MLAs referring to USML Category XII (Fire Control, Laser, Imaging, and Guidance Equipment), USML Category XIV (Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment), and USML Category XVIII (Directed Energy Weapons) have until December 31, 2019 before they expire.

Any TAA containing these transitioning USML categories should be amended to properly identify the relevant USML categories. Any TAAs that contain the other transitioning USML categories may already have expired, if not properly amended.

We recommend a thorough review of all approved TAAs and MLAs to ensure they did not unwittingly expire. Refer to Section 20 of the Guidelines for Preparing Agreements published by DDTC for more guidance on transitioning items and expiration dates. Please contact us with any further questions.

## EU

### EU Sets Rules for Trade in Controlled Goods and Technologies With UK In Case of Hard Brexit

Due to the vacillating political developments in the UK, a “hard Brexit” scenario (meaning no withdrawal agreement is reached between the EU and UK by the withdrawal date of March 30, 2019) is likely to happen. In preparation for a no-deal withdrawal, which would affect the trade of dual-use items between the EU and the UK, the European Commission proposed an [amendment](#) to the EU Dual-Use Regulation – [Council Regulation \(EC\) No 428/2009](#) – to allow the inclusion of the UK in the list of destinations covered by the Union General Export Authorization No. EU001 in the event of a hard Brexit. This general authorization permits the export of most dual-use goods to “safe” countries, like the US or Canada. The amendment is subject to the normal legislative process and is currently being processed by the European Parliament.

### European Countries Launch Their Own Facility to Settle Payments With Iran

On January 30, 2019, France, Germany and the UK [announced](#) INSTEX SAS (Instrument for Supporting Trade Exchanges) – the special purpose vehicle established in France that will facilitate legitimate trade with Iran. The details of INSTEX operations have not yet been revealed. In the initial stage of its activity, INSTEX will focus on pharmaceutical, medical devices and agricultural sectors, but is intended as a long-term solution. INSTEX will work with a corresponding institution in Iran and will comply with all European and international anti-money laundering and counterterrorism financing standards. In addition, it will comply with all EU and UN sanctions.

### EU Publishes Codification of Regulation on Trade in Goods Used for Torture

On January 31, 2019, the EU published a new [regulation](#) concerning trade in certain goods that could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. The regulation is the codification of an earlier regulation from 2005 that was amended multiple times. In terms of substance, the new regulation does not alter EU trade restrictions on trade in goods that could be used for capital punishment or torture.

### EU Alters Lists of Sanctioned Persons and Entities

Recently, the EU updated its own sanctions regimes targeting certain individuals and entities due to the circumstances in [Tunisia](#), [North Korea](#), [Ukraine](#), [Syria](#), [Iraq](#), [Burundi](#), [Mali](#), [Zimbabwe](#) and [Afghanistan](#), and [sanctions due to terrorism](#) or [engagement with the Islamic State and/or Al-Qaeda](#). The EU also altered its list of entities and individuals sanctioned against the [proliferation and use of chemical weapons](#).

### EU Suspends Trade Benefits of Cambodia

On February 11, 2019, the EU [began the process](#) of removing Cambodia from the list of countries that enjoy preferential access to the EU market within the Everything But Arms (EBA) trade scheme. This scheme offers least developed countries (LDCs) full duty free and quota free access to the EU market for all types of goods except arms and armaments. The procedure the EU has started is related to concerns over human rights and the rule of law in Cambodia. It does not entail an immediate removal of tariff preferences, but opens a period of intensive monitoring. The removal of duties will be the next step if the EU and Cambodia cannot conclude an agreement.

### EU Extends Sanctions Against Zimbabwe

The Council of the EU [decided](#) on February 18, 2019 to extend the EU sanctions targeting Zimbabwe for next year. They will be in force until at least February 20, 2020.

### EU Extends Sanctions Against Belarus

The Council of the EU [decided](#) on February 25, 2019 to extend the EU sanctions targeting Belarus for next year. They will be in force until at least February 28, 2020.

### EU Extends Sanctions Against Ukraine

The Council of the EU [decided](#) on March 4, 2019 to extend the EU sanctions targeting certain individuals and entities in relation to misappropriation of Ukrainian State funds and human rights violations in Ukraine until at least March 6, 2020.

### EU Finally Approves Foreign Direct Investment Screening Mechanism

On March 5, 2019, the Council of the EU approved a regulation (the Regulation) establishing a framework for screening of foreign direct investments into the EU. The final text of [the Regulation](#) was agreed by all three major EU institutions (i.e., the European Parliament, European Commission and Council of the EU representing governments of all EU member states) during inter-institutional negotiations in November 2018. The new regulation provides for the enhanced cooperation and exchange of information between EU member states and the European Commission. It could affect businesses and investors, as well as their interactions with government entities at the EU- and member state-levels because all foreign investment undergoing screening in any EU member states could be opinioned by other EU member states and the Commission. We explained details of the Regulation in our [Foreign Investment Review Alert](#). The Regulation is expected to be operational by the end of 2020.

## UK

### UK to Introduce a New Open General Export License for the EU

In light of the recent Brexit negotiation fallout, the Department for International Trade (DIT) has announced that it will publish a new open general export license (OGEL) which will come into force at 11 p.m. UK time on March 29, 2019 if the UK leaves the EU without a deal.

The UK government is keen to ensure that there is a seamless transition for exporters once Brexit is implemented. Although licenses are not currently required to export dual-use items (with both a civilian and military application) into EU member states, from March 29, 2019 onwards such licenses will be required in the event of a no-deal Brexit. The UK government has updated its [guidance](#) on exporting to, and doing business in, the EU post-Brexit.

### ECJU Updates the EU Dual-use List

The Export Control Joint Unit (ECJU) has updated its [consolidated list](#) of strategic military and dual-use items that require export authorization. As a consequence of this update, there have also been changes to the [dual-use open license guidance](#), which came into effect from January 4, 2019. The Export Control Organisation (ECO) has updated and amended seven OGELs and one open general transshipment license.

### HMRC Issues Compound Penalties

Over the last seven months, HM Revenue & Customs (HMRC), the enforcement body for UK export controls, has issued compound penalties ranging between £1,000 and £4,000 to three separate UK exporters. These related to unlicensed exports of dual-use goods and export breaches controlled by The Export Control Order 2008.

## OFSI Updates Financial Sanctions

The Office of Financial Sanctions Implementation (OFSI), part of the HM Treasury, working towards ensuring that financial sanctions are properly implemented and enforced in the UK, has updated a number of financial sanctions that are currently in force. The recent updates are for financial sanctions in the following regions and industries: [Iraq](#), [Tunisia](#), [North Korea/Democratic People's Republic of Korea](#), [Ukraine - Sovereignty and Territorial Integrity](#), [Syria](#), [Chemical Weapons](#), [Burundi](#), [Libya](#), [Mali](#), [Burma](#), [Eritrea](#), [Democratic Republic of the Congo](#), [South Sudan](#), [ISIL/Da'esh and Al-Qaida Organizations](#) and [Venezuela](#).

### UK Publishes Emergency Tariff Regime In Case of No-deal Brexit

The UK Government issued a temporary plan to cut tariffs to zero on 87% of imports in the event of a no-deal Brexit in order to avoid "potential price spikes" hitting consumers, according to a [government briefing](#) issued on March 13, 2019. The 13% of goods that are still subjected to tariffs under the regime include foods, such as beef, lamb, pork, poultry and some dairy; finished vehicles (excluding car parts imported from the EU); sectors prone to unfair global trading practices, such as certain ceramics, fertilizer and fuel; and imported goods currently receiving preferential treatment from developing countries, such as bananas, raw cane sugar and certain kinds of fish. The emergency tariff regime would apply for up to 12 months while the UK conducts full consultation and review on a permanent approach to tariffs.

## Upcoming Event

### Webinar on Anticorruption, Sanctions and Compliance for Companies Doing Business Between US and Russia – Mid-May 2019.

We will soon host a webinar with Lexology to discuss the evolving anticorruption, sanctions landscapes with respect to the US and Russia and resources for companies to strengthen compliance. Forthcoming announcement will provide more details, including date and time.

## About Us

Our export controls and sanctions lawyers have the ability to provide advice on the shifting regulatory framework on both sides of the Atlantic. We have extensive experience in advising and representing a wide range of companies and financial institutions in Europe, the US and other jurisdictions on export control and sanctions from a multijurisdictional perspective. Our team is part of our overall International Trade Practice, providing a “one-stop shop” solution to global trade compliance through rapid, professional and tailored advice and compliance tools to fit your business needs and processes. If you have any questions relating to sanctions, please contact a member of our EU or US sanctions team listed herein, or email [InternationalTradeCompliance@squirepb.com](mailto:InternationalTradeCompliance@squirepb.com) for assistance.

## Resources to Strengthen Compliance

We encourage you to visit our blog, [The Trade Practitioner](#), where you will find additional updates and information on export controls, sanctions and other international trade topics. In addition, organizations engaged in the trade of items specially designed for military or space applications are encouraged to download our complimentary [ITAR Practitioner's Handbook](#), which covers the International Traffic in Arms Regulations (ITAR) and the US Department of Commerce “600 Series”.

## Contacts

### US

**George Grammas**

Washington DC/London  
T +1 202 626 6234  
T +44 20 7655 1301  
E [george.grammas@squirepb.com](mailto:george.grammas@squirepb.com)

**Daniel Waltz**

Washington DC  
T +1 202 457 5651  
E [daniel.waltz@squirepb.com](mailto:daniel.waltz@squirepb.com)

**Christopher Skinner**

Washington DC  
T +1 202 626 6226  
E [christopher.skinner@squirepb.com](mailto:christopher.skinner@squirepb.com)

**Karen Harbaugh**

Washington DC  
T +1 202 457 6485  
E [karen.harbaugh@squirepb.com](mailto:karen.harbaugh@squirepb.com)

### EU

**Robert MacLean**

Brussels  
T +32 2 627 7619  
E [robert.maclean@squirepb.com](mailto:robert.maclean@squirepb.com)

**Wojciech Maciejewski**

Brussels  
T +32 2 627 7612  
E [wojciech.maciejewski@squirepb.com](mailto:wojciech.maciejewski@squirepb.com)

**Matthew Kirk**

London  
T +44 207 655 1389  
E [matthew.kirk@squirepb.com](mailto:matthew.kirk@squirepb.com)

**Simon Lucas**

Leeds  
T +44 113 284 7208  
E [simon.lucas@squirepb.com](mailto:simon.lucas@squirepb.com)

International Trade Practice co-leaders: Frank Samolis (partner, Washington DC) and George Grammas

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