

US-EU Export Controls and Sanctions Alert

Partial Government Shutdown in the US Affects Weapons Sales Abroad

January 2019

The effects of the cessation of certain US government operations are now creeping beyond the 800,000 furloughed federal employees to the private sector. As the political stalemate to fund the government continues in Washington DC – now for more than 20 days – we are shifting our focus to the realistic impacts of the partial shutdown to businesses, such as those involved in the sale of US weapons abroad.

Export licenses, which are required for the sale of US weapons overseas, are mostly blocked from processing, as certain functions of the Departments of State and Commerce, agencies tasked with reviewing and approving such licenses, are impacted by the shutdown. Due to the lapse in funding, only government functions deemed “essential” are operational at these agencies, yet export licensing services are excluded. Most contractors have been unable to apply for new export licenses since the partial shutdown began on December 22, 2018. The Department of State, Directorate of Defense Trade Controls (DDTC) issued an [Industry Notice](#), in which it indicated that services are “significantly curtailed” due to the funding lapse. Below is the full text of the Industry Notice posted to the DDTC website on December 22, 2018, at 12:01 EST.

The longer the political impasse between the Administration and Congress continues, the more defense contractors will fall victims to lost access to export markets and revenue. Per reporting by *CQ*, a spokesperson for the Aerospace Industries Association (AIA) cautioned about the potential harm a protracted shutdown could impose on the aerospace and defense industry due to the inability for contractors to meet their deliverables. The AIA spokesperson also quantified the export revenue generating power of the industry, which amounted to US\$143 billion in 2017 (figures compiled by AIA). Yet, during the shutdown, *Bloomberg* [estimates](#) that some government contractors could be losing as much as US\$200 million per day.

Please contact a member of our team if you have any questions or need assistance or advice to help assess your options, such as applying for an Emergency License, during the government shutdown.

Industry Notice: Lapse in Funding

Due to the lapse in funding affecting the Department of State that occurred at 12:01am on Saturday, December 22, 2018, services at the Directorate of Defense Trade Controls are significantly curtailed, including requests for licenses, advisory opinions, and retransfers except for those that provide direct support to the military, humanitarian aid, or other similar emergencies. In addition, the 3pm daily pick-up and drop-off service is cancelled. All D-Trade electronic submissions will be rejected by the system and returned to the applicant. Requests that are currently in process at DDTC as of December 21, 2018, will remain in that status however; further review actions will be delayed until after restoration of funding. If industry applicants believe they have a case (either “In-Review” or new submission required) involving direct support to the military, humanitarian aid, or other similar emergencies, please email the DDTC Response Team (DDTCResponseTeam@state.gov). The subject line of your email MUST read “Request for Emergency License” and the message must include the license number (if already pending with DDTC) the applicant name and registration code, the end-use/end-user, justification for needing an emergency license, and a point of contact. The Directorate will contact the requestor with guidance on how to proceed if the request will be honored. (12.22.19)

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About Us

Our International Trade Practice offers global trade compliance solutions, national security legal counsel and public policy advice. The core team is transatlantic, operating from Washington DC, Brussels and London. Our global team is conveniently located in key government hubs and deeply experienced in advising businesses and governments on adapting to the shifting regulatory frameworks and policy agendas concerning export controls, sanctions, foreign investment reviews, customs enforcement and tariffs, among many other topics. We provide a “one-stop shop” solution, leveraging expertise in multiple regions and jurisdictions around the world, to assist a myriad of organizations in assessing their global trade compliance procedures and to mitigate their national security concerns. Our service is rapid, professional and tailored, and our compliance tools are designed to fit unique business needs and processes. If you have any questions relating to our capabilities, please contact a member of our team listed herein, or email 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 national security-focused investment screenings, as well as other international trade regulatory and policy topics. To our knowledge, *The Trade Practitioner* houses the largest database of publicly known Committee on Foreign Investments in the United States (CFIUS) filings and their statuses. We also offer a CFIUS handbook with helpful guidelines on navigating the evolving CFIUS process, upon request. 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 and the US Department of Commerce “600 Series.”

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations, nor should they be considered a substitute for taking legal advice.

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