

Trade & Customs - USA

The timing of LNG approvals remains uncertain, even after *Freeport*

Contributed by **Sidley Austin LLP**

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Although the US Department of Energy has conditionally approved Freeport LNG Expansion's application to export liquefied natural gas (LNG) to countries without a free trade agreement, it remains uncertain when further approvals will be forthcoming.

Freeport is the second project that the department has approved after it imposed a two-year moratorium on reviewing applications. However, statements by the new secretary, Ernest Moniz, indicated that the review of the 19 pending applications may be delayed further, as no other applications will go forward until he has personally reviewed the criteria that the department is using to determine whether LNG exports are in the national interest. Moniz stated that the department would not perform new studies, but would review the data underlying its macroeconomic study and implied that the national interest criteria could be adjusted. In addition, despite the department's policy of deferring to the Federal Energy Regulatory Commission's findings on the potential environmental impacts of individual projects, in its *Freeport* decision the Department of Energy stated that it would be looking at potential cumulative effects. Some have interpreted this to mean that later-filed applications would face a more difficult approval process.

By contrast, the acting head of the Department of Energy's Office of Fossil Energy, Christopher Smith, testified before Congress that the department's goal is to process applications expeditiously, suggesting two months as the typical time that he would expect for approval.

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