

MARVEL

# GUARDIANS OF THE GALAXY

**The ASA-vengers:  
Exporters of the Galaxy**

ASA 2015 Conference  
Workshop I

# Some Export Regulators

- **BIS – Bureau of Industry and Security**
  - Commerce Department office responsible for the regulation of most exports
- **DDTC – Directorate of Defense Trade Controls**
  - State Department office responsible for the regulation of exports of defense-related articles
- **OFAC - Office of Foreign Asset Control**
  - Treasury Department office responsible for certain additional export controls meant to advance particular interests of the United States

# Sample Penalties for Violations

- Civil/Administrative Penalties
  - Up to \$250,000 or twice the amount of the transaction
- Criminal Penalties
  - Up to \$1,000,000 in fines and 20 years in prison
- Other Penalties
  - Removal of license
  - Denial of export privileges



# Definitions: Export

*What is an export?*

- Actual shipment or transmission of items out of the U.S.
  - Includes software
  - Includes technology
  - Can include technical documents in some cases
  - Includes repaired items!

# Six Steps to Compliance

- Look at Treasury restrictions
- Identify whether the article is State or Commerce restricted and examine appropriate restrictions
- Check party-level restrictions
- Identify other regulatory issues
- Obtain licenses as necessary
- Document the transaction

# First, Can I Transact Business Here At All?

Are there General Treasury  
Restrictions that Regulate  
Transfer of Assets?

# Consolidated Screening List

- Commerce, State, and Treasury lists
- [http://export.gov/ecr/eg\\_main\\_023148.asp](http://export.gov/ecr/eg_main_023148.asp)

*Please note that lists and regulations are updated frequently by the government, and should be checked for each transaction*

# OFAC Lists

- **Sanctions Program List:**

- <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>

- **Specially Designated Nationals List:**

- <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>



# Sample SDN Parties

as of June 1, 2015

- Aero Caribbean Airlines
- Aero Continente
- Airline of the Islamic Republic of Iran
- Butembo Airlines
- Centraafrican Airlines
- Cubana Airlines
- Empresa Cubana de Aviacion
- Gambia Millenium Airline
- Intercontinental de Aviacion
- International Airline Consulting
- Iran Air
- Iran Airtour Airline
- National Iranian Airlines
- Pouya Airlines
- Santa Cruz Imperial Airlines
- Syrian Arab Airlines
- Yasair Cargo Airline

# Nations Restricted by OFAC Sanctions

*Current as of June 1, 2015*

- Balkans
- Belarus
- Burma (Myanmar)
- Central African republic
- Cote D'Ivoire
- Congo (Dem.Rep.)
- Cuba
- Iran \*\*
- Iraq
- Lebanon
- Liberia
- Libya
- North Korea
- Russia (Magnitsky)
- Somalia
- South Sudan
- Sudan
- Syria
- Ukraine/Crimea/Russia
- Venezuela
- Yemen
- Zimbabwe

# Iran?

- There is a special agreement that addresses shipping aircraft parts to Iran
  - You must get an OFAC license
    - You DO NOT need a separate BIS license
    - OFAC has pledged to consider Iran export license applications in light of the US-Iran Agreement
  - No SDNs *except* Iran Air
  - Limited Time: Currently through June 30, 2015
- Covers parts and repairs to ensure the safe operation of Iranian commercial passenger aircraft

# Exception: Treasury Licenses

- A general OFAC license authorizes certain transactions without the filing of an application with OFAC
  - Example: Syria General License 13 stated that payments to Syria for overflights and emergency landings are permitted, so long as no blocked party has an interest in that transaction. [*removed May 2, 2014*]
- A specific OFAC license is issued on a case-by-case basis, and authorizes an activity that would otherwise be prohibited by the embargo or sanctions program
  - Example: 31 C.F.R. § 560.528 permits licenses on a case-by-case basis for export / reexport to Iran to support safety of civil aviation and safe operation of U.S.-origin commercial passenger aircraft

# Exception: Treasury Licenses

- You may also need to apply for release of blocked funds
- Online summary of OFAC laws and regulations:
  - <http://www.treasury.gov/resource-center/sanctions/Documents/facei.pdf>

# A Structured Approach to Exporting: Second Step

- Distinguish the U.S. Department with jurisdiction
  - Is it a US Munitions List Item?
    - Defense articles (many dual-use items have been removed from the USML!!)
    - Check ITARs
    - State has export jurisdiction
  - Otherwise subject to BIS restrictions
    - Check the ECCN and the BIS regulations
    - Commerce has export jurisdiction



# ITAR Change!

- As of October 15, 2013 a significant change to the export regulations removed many articles from the ITARs and move them to the Commerce Department's regulations
  - Most dual use items are transferred to Commerce
  - Non-aviation items may not be affected by this change

# US Munitions List Categories

- Category I-Firearms
- Category II-Artillery Projectors
- Category III-Ammunition
- Category IV-Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines
- Category V-Explosives, Propellants, Incendiary Agents, and Their Constituents
- Category VI-Vessels of War and Special Naval Equipment
- Category VII-Tanks and Military Vehicles
- **Category VIII-Aircraft, [Spacecraft] and Associated Equipment**
- **Category IX-Military Training Equipment**
- Category X-Protective Personnel Equipment
- Category XI-Military [and Space] Electronics
- *Category XII-Fire Control, Range Finder, Optical and Guidance and Control Equipment*
- Category XIII-Auxiliary Military Equipment
- Category XIV-Toxicological Agents and Equipment and Radiological Equipment
- Category XV-Spacecraft Systems and Associated Equipment
- Category XVI-Nuclear Weapons Design and Test Equipment
- Category XVII-Classified Articles, Technical Data and Defense Services Not Otherwise Enumerated
- *Category XIX-Gas Turbine Engines*
- Category XX-Submersible Vessels, Oceanographic and Associated Equipment
- Category XXI-Miscellaneous Articles

[https://www.pmddtc.state.gov/regulations\\_laws/documents/official\\_itar/ITAR\\_Part\\_121.pdf](https://www.pmddtc.state.gov/regulations_laws/documents/official_itar/ITAR_Part_121.pdf)

# Examples of USML Aircraft Articles

- Certain articles (and their subcomponents) that are specially designed for controlled aircraft:
  - Inertial Navigation Systems (INS)
  - Inertial Measurement Units (IMUs)
  - Attitude and Heading Reference Systems (AHRS)
- Parts for DoD-funded developmental aircraft
- Parts for B-1B, B-2, F-15SE, F/A-18E/F/G [*parts for earlier models are subject to the EAR*], F-22, F-35, F-117
- Parts found in a positive list
  - Published at 22 C.F.R. 121.1 - VIII(h)
  - Articles with defense-specific purposes, like threat-adaptive flight control systems, wing folding systems, etc.

# Defense Item Analysis: What Next?

- If it is regulated by State Department
  - Assess whether particular State Department Restrictions apply
  - Register with State Department
  - Obtain appropriate licenses

# Defense Items: Can I Do Business With this Country?

- Identify whether your customer is in an embargoed country
  - There is a license denial policy for most embargoed countries
  - Some embargoed countries may feature exceptions
- Consult the **Department of State's Embargo Reference Chart:**
  - [http://www.pmddtc.state.gov/embargoed\\_countries](http://www.pmddtc.state.gov/embargoed_countries)

# Defense Items: Embargo Reference Chart

*Current as of June 1, 2015*

- Afghanistan
  - (except gov't/coalition)
- Belarus
- Burma
- Central African Republic
- China (People's Republic)
- Congo (Dem. Rep.)
- Côte d'Ivoire
- Cuba
- Cyprus
- Eritrea
- Fiji
- Haiti
- Iran
- Iraq
- Lebanon
- Liberia
- Libya
- North Korea
- Somalia
- Sri Lanka
- Sudan
- Syria
- Venezuela
- Vietnam
- Zimbabwe

# Defense Items: Notices of Delay

*Current as of March 20, 2014*

- Kyrgyzstan (2010)
- Guinea (2009-2013) has been removed from the Notice of Delay list

# Defense Items: Forbidden Persons or Entities

- Identify whether your customer is debarred from trade
- Consult the Department of State's **Statutorily and Administratively Debarred Parties List:**
  - <http://www.pmddtc.state.gov/compliance/debar.html>
  - [http://www.pmddtc.state.gov/compliance/debar\\_admin.html](http://www.pmddtc.state.gov/compliance/debar_admin.html)
  - Provides listing of individuals and corporations with whom trade is barred

# Defense Items: Registration

- If what you want to export is on the Munitions List, then you must be registered with DDTC:
  - <http://www.pmddtc.state.gov/registration/index.html>
- Registration requirement applies to all U.S. persons that
  - Manufacture ...
  - Export ...
  - Broker ...

... defense articles, defense services, etc.; it also applies to US and foreign arms brokers
- Registration does not confer any export privileges, but is a prerequisite to export licensing approval

# Defense Items: Licensing

- After you are registered, you must apply for an export license (unless there is an exception).
  - Any person or company who intends to export or to temporarily import a defense article must obtain the approval of DDTC prior to the export or temporary import
- D-Trade is a convenient mechanism for applying for an export license for Munitions List items:
  - <http://www.pmddtc.state.gov/DTRADE/index.html>

# Brokering License

- In many cases, you must be registered and licensed before you can broker a transaction
- This can mean that you need a license before you even begin negotiations!
- **The rules in this area have changed ....**

# Brokering Rule Revisions

- Final Rule Issued October 25, 2013
- Clarified vague definitions of “broker” and “brokering activities”
- Changed registration requirements
- Narrowed prior approval requirements

# Broker and Brokering Activities

- Formerly applied to “any person who acts as an agent for others” with respect to a defense transaction
- Broker is now limited to:
  - U.S. person
  - Foreign person in the U.S.
  - Foreign person outside the U.S. controlled by a U.S. person

# Registration

- Manufacturers and Exporters may register as Brokers in a single registration
  - List as Broker on Exporter/Manufacturer Registration
- Affiliates may also be listed as Brokers on the parent company's Registration
- No separate registration fee required

# Prior Approval Requirements

- Prior approval is required when brokering:
  - Foreign defense articles or services
  - Certain enumerated U.S. origin defense articles (such as aircraft, UAVs, and missile systems)
- There is an exception for foreign defense articles / defense services intended to go to NATO members, Australia, Israel, Japan, New Zealand, or the Republic of Korea
  - But the exception does not apply to aircraft

# Maintenance-Returned Items

- An unclassified U.S.-origin defense item may be imported and then exported without a license if it is imported for the purpose of service, in accordance with regulatory limits
- Customs (import) form must be annotated:  
“This shipment is being imported in accordance with and under the authority of 22 C.F.R. § 123.4(a)(1).”

# Selling to Foreign Distributors

- ITAR-controlled items may only be sold to distributors pursuant to a DDTC-approved Agreement
- Transactions fully described in the approved agreement are exempt from additional licensing (*pre-licensed by the agreement*)
  - State “22 CFR 123.16(b)(1) applicable” and the agreement number on the documentation

# Resale Limits on Defense-Related Articles

- Exporters must state on shipping documents that the defense export cannot be resold or retransferred without prior U.S. Government authorization
  - This is a licensing requirement
  - When you sell to a foreign distributor under contract, you must still make the resale statement on the shipping documents

# DDTC Disclosure Concerns

*Even if a DDTC license exception applies...*

- All exports of *defense articles* must be documented with a U.S. Shippers Export Declaration (Electronic Export Information)
- This is accomplished through online filing at <http://www.aesdirect.gov>

Questions?

# But What if it is Not a Munitions List Item?

If State Doesn't Regulate It, Then  
Commerce Might

Most Civil Aircraft Articles will Fall Within  
Commerce's Jurisdiction

# Is it Regulated by the Commerce Department?

- What am I exporting? Is it classified under the Commerce Control List (CCL)?
  - <http://beta-www.bis.doc.gov/index.php/regulations/commerce-control-list-ccl>
- Examples:
  - *CCL 2 - Material processing (e.g. bearings)*
  - *CCL 3 - Electronics*
  - *CCL 7 - Avionics*
  - *CCL 9 – Aerospace and Propulsion*

# Export Commodity Classification Numbers (for items on the CCL)

- Determine ECCN
  - Peruse the CCLs for ECCNs that describe your export
  - Alphabetical index to the CCL provides some help:  
[http://www.bis.doc.gov/policiesandregulations/ear/ccl\\_index.pdf](http://www.bis.doc.gov/policiesandregulations/ear/ccl_index.pdf)
  - Ask the manufacturer
  - Online via the Simplified Network Application Process:  
<http://www.bis.doc.gov/snap/index.htm>

# General Aircraft Parts ECCN

- **Other aircraft parts/equipment not covered under another ECCN are ECCN 9A991**
- Demilitarized items are restricted from export to Iraq, North Korea and Rwanda due to UN embargos
- Such items are restricted from export to some countries under anti-terrorism restrictions
  - Column AT1 on the CCL country chart
  - Current restrictions include: Sudan (by chart) and Cuba, Iran, North Korea, and Syria (by rule)

# Examples of Avionics ECCNs

Item	ECCN
• Avionics software	— 7D994
• GPS	— 7A005, 7A105
• Gyros	— 7A002, 7A102
• INS and other inertial systems	— 7A003
• Non-INS navigation instruments	— 7A103
• Nav-Comm Systems <u>Technology</u>	— 7E994
• Other nav/comm equipment not covered under another ECCN	— 7A994

# New “600 Series” ECCNs

Item	ECCN
• Military gas turbine engines	—9A619
• Post-1946 aircraft designed for military use but not ITAR controlled	—9A610
• Articles specially designed for controlled aircraft	—9A610
• Military commodities outside the US that are derived from “600 series” controlled content	—0A919

b. Off highway wheel tractors of carriage capacity 9 mt (20,000 lbs) or more; and parts and accessories, n.e.s.

c. On-Highway tractors, with single or tandem rear axles rated for 9 mt per axel (20,000 lbs.) or greater and specially designed parts.

**9A991 “Aircraft”, n.e.s., and gas turbine engines not controlled by 9A001 or 9A101 and parts and components, n.e.s.**

**License Requirements**

*Reason for Control:* AT, UN

*Control(s)* Country Chart

AT applies to entire entry AT Column 1

UN applies to 9A991.a See § 746.1(b) for UN controls.

*License Requirement Notes:* There is no de minimis level for foreign-made aircraft described by this entry that incorporate commercial primary or standby instrument systems that integrate QRS11-00100-100/101 or commercial automatic flight control systems that integrate QRS11-00050-443/569 Micromachined Angular Rate Sensors (see §734.4(a) of the EAR).

**License Exceptions**

LVS: N/A  
GBS: N/A  
CIV: N/A

**List of Items Controlled**

*Unit:* Number  
*Related Controls:* QRS11 Micromachined Angular Rate Sensors are subject to the export licensing jurisdiction of the U.S. Department of State, Directorate of Defense Trade Controls, unless the

QRS11-00100-100/101 is integrated into and included as an integral part of a commercial primary or standby instrument system of the type described in ECCN 7A994, or aircraft of the type described in ECCN 9A991 that incorporates such a system, or is exported solely for integration into such a system; or the QRS11-00050-443/569 is integrated into an automatic flight control system of the type described in ECCN 7A994, or aircraft of the type described in ECCN 9A991 that incorporates such a system, or are exported solely for integration into such a system. (See Commodity Jurisdiction requirements in 22 CFR Part 121; Category VIII(e), Note(1)) In the latter case, such items are subject to the licensing jurisdiction of the Department of Commerce. Technology specific to the development and production of QRS11 sensors remains subject to the licensing jurisdiction of the Department of State.

*Related Definitions:* N/A  
*Items:*

a. Military aircraft, demilitarized (not specifically equipped or modified for military operation), as follows:

a.1 Cargo aircraft bearing “C” designations and numbered C-45 through C-118 inclusive, C-121 through C-125 inclusive, and C-131, using reciprocating engines only.

a.2 Trainer aircraft bearing “T” designations and using reciprocating engines or turboprop engines with less than 600 horsepower (s.h.p.).

a.3 Utility aircraft bearing “U” designations and using reciprocating engines only.

a.4 All liaison aircraft bearing an “L” designation.

a.5 All observation aircraft bearing “O” designations and using reciprocating engines.

b. “Civil aircraft”;

*Note:* Specify make and model of aircraft and type of avionics equipment on aircraft.

c. Aero gas turbine engines, and specially designed parts therefor.

*Note:* 9A991.c does not control aero gas turbine engines that are destined for use in civil “aircraft” and that have been in use in bona fide civil “aircraft” for more than eight years. If they have been in use in bona fide civil “aircraft” for more than eight years, such engines are controlled under 9A991.d.

d. Aircraft parts and components, n.e.s.

e. Pressurized aircraft breathing equipment, n.e.s.; and specially designed parts therefor, n.e.s.

**9A992 Complete canopies, harnesses, and platforms and electronic release mechanisms therefor, except such types as are in normal sporting use.**

**License Requirements**

*Reason for Control:* AT

*Control(s)* Country Chart

AT applies to entire entry AT Column 1

**License Exceptions**

LVS: N/A  
GBS: N/A  
CIV: N/A

**List of Items Controlled**

*Unit:* Number  
*Related Controls:* N/A  
*Related Definitions:* N/A  
*Items:*

The list of items controlled is contained in the ECCN heading.

**B. TEST, INSPECTION AND PRODUCTION EQUIPMENT**

**9B001 Equipment, tooling and fixtures, specially designed for manufacturing gas turbine blades, vanes or “tip shroud” castings, as follows (see List of Items Controlled).**

**License Requirements**

*Reason for Control:* NS, MT, AT

*Control(s)* Country Chart

NS applies to entire entry NS Column 1

MT applies only to equipment for engines that meet the characteristics described in 9A001

AT applies to entire entry AT Column 1

*License Requirement Notes:* See §743.1 of the EAR for reporting requirements for exports under License Exceptions.

**License Exceptions**

LVS: \$5000, except N/A for MT  
GBS: Yes, except N/A for MT  
CIV: Yes, except N/A for MT  
STA: License Exception STA may not be used to ship commodities in 9B001.b to any of the eight destinations listed in § 740.20(c)(2) of the EAR.

**List of Items Controlled**

*Unit:* \$ value  
*Related Controls:* For specially designed

**9A991 “Aircraft”, n.e.s., and gas turbine engines not controlled by 9A001 or 9A101 and parts and components, n.e.s.**

**License Requirements**

*Reason for Control:* AT, UN

<i>Control(s)</i>	<i>Country Chart</i>
AT applies to entire entry	AT Column 1
UN applies to 9A991.a	See § 746.1(b) for UN controls.

***License Requirement Notes:*** *There is no de minimis level for foreign-made aircraft described by this entry that incorporate commercial primary or standby instrument systems that integrate QRS11-00100-100/101 or commercial automatic flight control systems that integrate QRS11-00050-443/569 Micromachined Angular Rate Sensors (see §734.4(a) of the EAR).*

# Do You Need a Commerce Department License?

- Check the specific reasons for control in CCL
- Check the Export Control Country Chart (cross reference country and reason for control):
  - [http://www.bis.doc.gov/policiesandregulations/ear/738\\_sup1.pdf](http://www.bis.doc.gov/policiesandregulations/ear/738_sup1.pdf)
- If there is an “X” in the cross-reference, then you need a Commerce license for export

### Commerce Country Chart

#### Reason for Control

Countries	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Firearms Convention	Crime Control			Anti-Terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
Spain <sup>3</sup>	X					X		X	X							
Sri Lanka	X	X		X		X	X	X	X	X		X		X		
Sudan <sup>1</sup>	X	X		X		X	X	X	X	X		X		X	X	X
Suriname	X	X		X		X	X	X	X	X	X	X		X		
Swaziland	X	X		X		X	X	X	X	X		X		X		
Sweden <sup>3,4</sup>	X					X		X	X			X		X		
Switzerland <sup>3,4</sup>	X					X		X	X			X		X		
Syria	See § 746.9 of the EAR to determine whether a license is required in order to export or reexport to this destination.															
Taiwan	X	X	X	X		X	X	X	X	X		X		X		
Tajikistan	X	X	X	X		X	X	X	X	X		X	X			
Tanzania	X	X		X		X	X	X	X	X		X		X		
Thailand	X	X		X		X	X	X	X	X		X		X		
Timor-Leste	X	X		X		X	X	X	X	X		X		X		

# Do You Need a Commerce Department License?

- What will the importer do with it? Certain end-uses are restricted:
  - <http://www.bis.doc.gov/policiesandregulations/ear/744.pdf>
  - Rocket systems and unmanned air vehicles may require licensing
  - These restrictions may drive a need to check third party country of registry and control (see “where is it going”)
- What else does the receiver do? Certain types of conduct are prohibited without BIS license
  - Supporting design, development or production of missiles or nuclear explosive devices or chemical weapons or biological weapons
  - Supporting (through financing or logistics) a transaction that would violate the licensing provisions if performed, directly
- Who will receive it? Check the BIS prohibition lists ...

# Denied Parties

- Department of Commerce's Bureau of Industry and Security (BIS) lists:
  - Denied Persons List
    - <http://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern/denied-persons-list>
  - Denied Entities List
    - <http://http://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern/entity-list>



# Bureau of Industry and Security

U.S. Department of Commerce

Where Industry and Security Intersect

Search...

Search

Home

About BIS

Regulations

Licensing

Enforcement

Compliance & Training

Policy Guidance

Add'l Programs

Reform

## Lists of Parties of Concern

Lists of Parties of Concern

Denied Persons List

Entity List

Unverified List

Consolidated Screening List

## The Denied Persons List

Note: Where the Expiration Date is blank the denial order has no expiration.

[Recent Changes Page](#) | [Return to Previous Page](#)

Last Modified: May 21, 2015

Name and Address	Effective Date	Expiration Date	Type of Denial
	11/30/-0001		Non Standard

Appropriate *Federal Register* Citations:

A. ROSENTHAL (PTY) LTD.  
P.O. BOX 44198, 65 7TH STREET, DENMYR BUILDING, LINDEN, ZA, 2104

08/08/1997 08/08/2017 Standard

Appropriate *Federal Register* Citations: 62 F.R. 43503 8/14/97

A. ROSENTHAL (PTY) LTD.  
P.O. BOX 97 292 INDEPENDENCE AVENUE, WINDHOEK, NA

05/20/1997 05/29/2017 Standard

FOIA | Disclaimer | Privacy Policy | Information Quality | Open Government Plan | Strategic Plan | Annual Performance Plan

111

Department of Commerce | BIS Jobs | No FEAR ACT | USA.gov | ExpectMore.gov | Contact Us |

# What Is Denied?

- Denied Persons may NOT participate in any way in any transaction involving the export from the United States of any commodity, software or technology subject to Export Administration Regulations (EAR)
  - No license transactions
  - No negotiations
  - No benefit from any export transaction
  - May not be the principal nor the agent in an export transaction
  - No facilitation of exports
  - No facilitation of acquisition of an export item
  - No procurement of items from the US for servicing

# IDENTIFY “RED FLAGS”

- ‘Red flags’ have been designated by the BIS to illustrate the types of circumstances that should cause reasonable suspicion that a transaction will violate export regulations
- Examples of ‘Red flag’ situations:
  - The customer or its address is similar to one of the parties found on the Commerce Department's [BIS's] list of denied persons
  - Unusual fact pattern leads to a suspicion of illegal conduct

# Unverified Persons or Entities

- Consult the Department of Commerce's Bureau of Industry and Security (BIS) lists:
  - **Unverified List** (foreign persons who raise automatic “red flags” because of past verification issues)
    - <http://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern/unverified-list>

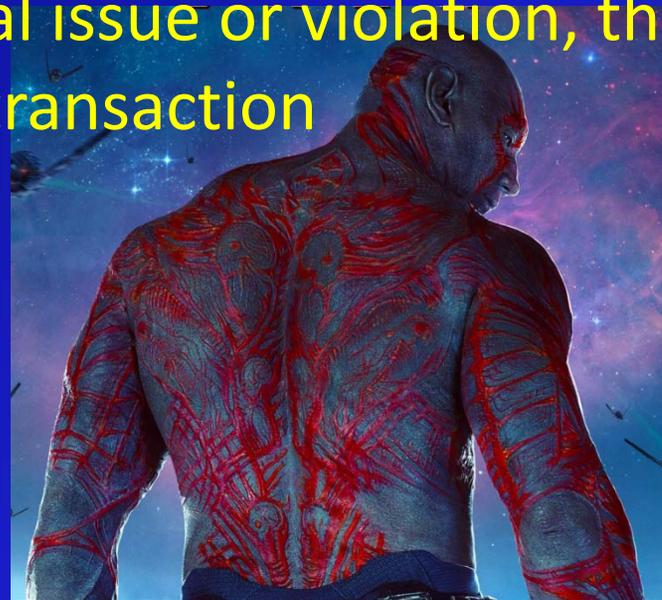


# What to Do if there is a Red Flag

- The exporter MUST inquire about the end-use or end-user or ultimate country of destination
- If you encounter a piece of information in the course of your dealings with the customer that raises a red flag:
  - Refrain from the transaction, OR,
  - Contact a regional BIS enforcement office. Office addresses & phone #s provided at:  
<http://www.bis.doc.gov/about/programoffices.htm>

# What to Do if there is a Red Flag

- Voluntary anonymous reports of export issues may be made to:
  - <https://www.bis.doc.gov/forms/eeleadsntips.html>
- If you can adequately confirm that the red flag does not represent an actual legal issue or violation, then you may proceed with the transaction
  - Use documents and keep them on file
  - Do not turn your back or become “willfully blind” to issues



# Do You Need a BIS License?

- BIS Licenses:
  - A relatively small percentage of total US exports and re-exports require a BIS license
  - Licenses can be used to overcome exclusions
- Apply for licenses using SNAP-R

# Re-Export Concerns

- If a customer intends to re-export a licensed product, the customer may need a license
  - Commerce
    - The *de minimis* rule excepts anything with less than 25% US content (10% to category D:1 nations) - Otherwise, re-export is subject to US export rules
    - Further limits may apply to Series 600 items
  - State
    - Defense-related articles from the USML must always be licensed for re-export

# Short-Circuiting the License Process

- Obtaining a license takes time
- This is inconsistent with AOG service
- There are certain exceptions that can sidestep licensing requirements and can be very useful for AOG situations



# BIS License Exceptions: Replacement of Parts (RPL)

- One-for one replacement of parts or servicing and replacement of equipment, e.g. exchange agreements.
  - Aircraft must have been legally exported in the first place - you must confirm the appropriate authority for the original transaction if you were not the aircraft exporter
    - Check the original license to make sure that there are no restrictions on replacement parts exports!
  - SAME part number – no improvements/upgrades
  - Obtain the core or confirm its destruction

# BIS License Exceptions: Servicing (RPL)

- If an item is returned to the US for inspection, testing, calibration or repair (including overhaul and reconditioning)
  - No improvements or changes to basic characteristics
  - Only applies to group D:1 nations if you were the original licensed exporter and end-use has not changed
  - Does not apply to group E:1 nations
  - See country group listings at:  
[http://www.bis.doc.gov/policiesandregulations/ear/740\\_supp1.pdf](http://www.bis.doc.gov/policiesandregulations/ear/740_supp1.pdf)

# BIS License Exceptions: Civil Aircraft (AVS)

- If the aircraft on which the part is to be installed is identified, then you should consider the following:
  - The country in which the aircraft is located, and
  - The country in which the aircraft is registered, or will be registered in the case of an aircraft being manufactured, and
  - The country, including a national thereof, which currently owns, controls, leases, and/or charters the aircraft

# BIS License Exceptions: Civil Aircraft (AVS)

## *No License Required!*

- Exports of equipment and spare parts for
  - Permanent use on an aircraft of any registry
    - Except an aircraft registered in a forbidden country, or owned or controlled by, or under charter or lease to, a forbidden country or a national of a forbidden country
    - The specific aircraft must be identified so you can verify its eligibility
    - Forbidden countries are Cuba and those in group D:1

# BIS License Exceptions (AVS)

## *No License Required!*

- Exports of equipment and spare parts to U.S. or Canadian airlines' installations or agents
  - Intended for maintenance, repair, or operation of US/Canadian-registered aircraft (but the specific aircraft need not be identified at the time of order)
  - Must not be located in (category D1) forbidden country
  - Ordered by the airline and sent to its own installation or agent

# BIS License Exceptions (AVS)

## *No License Required!*

- Exports to a specific U.S. or Canadian registered aircraft for AOG
  - Intended for maintenance, repair, or operation of US/Canadian-registered aircraft *in extreme need*
  - Aircraft must be at an airport NOT in Cuba nor a category D:1 forbidden country (except China)
  - AES record must be filed **unless** article exported by a US air carrier for their own use
- Includes foreign air carrier aircraft of US or Canadian registry

# Don't Forget the "Paperwork"

- Electronic Export Information
  - Must be filed on-line: <http://www.aesdirect.gov>
  - Keep copies of your documents for at least five years
    - Shipping document with the ITN
    - All other related transactional documents
  - There is a limited exception for non-licensed commodities valued at less than \$2,500 (*per schedule B number*)



Questions?

Please feel free to ask questions

# Thank You

Jason Dickstein, ASA Counsel  
Washington Aviation Group, PC  
2233 Wisconsin Avenue, Suite 503  
Washington, DC 20007

Tel: (202) 628-6777 – Fax: (202) 628-8948

[Jason@WashingtonAviation.com](mailto:Jason@WashingtonAviation.com)