



# EXPORTS: FAR FROM HOME

2019 ASA Annual Conference

Workshop S

July 16, 2019

1:30 pm – 3:00 pm



This class focusses on export licensing philosophy and exceptions

If you need a basic introduction to export then please be sure to attend an  
ASA workshop this Fall

2019 ASA Workshops are expected to be scheduled in:

Los Angeles – Sept 20

South Florida – Nov 19

Singapore – Sept 24

Chicago – Dec 3

London – Oct 23

Dallas – Dec 5

# Review of Aircraft Parts Export Standards

You must comply with

- Treasury Department Export Regulations

AND

- Either

- **Commerce Department Regulations (EARs – for most aircraft parts exports)**

OR

- State Department Regulations (ITARs – for certain defense aircraft parts)

Today's focus is on the  
EAR license provisions  
and exceptions

# Review of Aircraft Parts Export Standards

## For Commerce Department Compliance

- Typically exporters must identify the Export Commodity Control Number (ECCN) for the article being exported
- Using the ECCN, the exporter must identify the reasons for control
- The exporter must cross reference the reasons for control against the destination in order to identify whether a license is required based on destination
- If a license is required for the export transaction, then it may be possible to identify an applicable license exception

# What Makes Aircraft Parts Complicated?

- You cannot export an aircraft part intended for installation in a particular aircraft unless it is legal to export it
  - To the country in which the aircraft is located;
  - To the country in which the aircraft is registered; and
  - To the country, including a national thereof, which is currently controlling, leasing, or chartering the aircraft.
- Example
  - Exporting a 9A991 part to the UK, for installation on a Chinese-registered aircraft that is operated by a North Korean ...
  - You must meet export requirements for China and North Korea, as well as for the UK!!

**9A991 “Aircraft”, n.e.s., and gas turbine engines not controlled by 9A001 or 9A101 and “parts” and “components,” n.e.s. (see List of Items Controlled).**

**License Requirements**

*Reason for Control:* AT, UN

<i>Control(s)</i>	<i>Country Chart (See Supp. No. 1 to part 738).</i>
AT applies to entire entry	AT Column 1
UN applies to 9A991.a	See § 746.1(b) for UN controls.

**List Based License Exceptions (See Part 740 for a description of all license exceptions)**

*LVS:* N/A

*GBS:* N/A

*CIV:* N/A

**List of Items Controlled**

*Related Controls:* N/A

*Related Definitions:* N/A

*Items:*

# 9A991: What is Covered?

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. Aircraft n.e.s.;

c. Aero gas turbine engines, and “parts” and “components” “specially designed” 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. “Parts” and “components,” “specially designed” for “aircraft,” n.e.s.

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

**9A991 “Aircraft”, n.e.s., and gas turbine engines not controlled by 9A001 or 9A101 and “parts” and “components,” n.e.s. (see List of Items Controlled).**

### **License Requirements**

*Reason for Control:* AT, UN

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### 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		

# Characteristics of Export Control

- Reasons for Control, commonly associated with aircraft parts
  - AT – Anti-Terrorism - tends to apply to nearly all aircraft parts
  - MT – Missile Technology – tends to apply to many avionics
  - NS – National Security – tends to apply to many avionics
  - RS – Regional Stability - tends to apply to 600 series articles and technology for certain inertial systems and components
  - UN – UN Embargo - tends to apply to 600 series articles and demilitarized aircraft in 9A991.a

# AT – Anti-Terrorism

- Aimed at foreign governments that have supported terrorism
- License currently required for Iran, Syria, Sudan
- General Licensing Policy: General policy of denial, BUT:
  - For Iran, OFAC takes the lead on licenses
  - For Syria, aircraft parts and components intended to ensure the safety of civil aviation and the safe operation of commercial passenger aircraft will be reviewed on a case-by-case basis, with a presumption of approval
  - For Sudan, for civil uses by non-sensitive end-users within Sudan, aircraft parts and components intended to ensure the safety of civil aviation or the safe operation of fixed wing commercial passenger aircraft are reviewed with a general policy of approval

# MT – Missile Technology

- In support of U.S. foreign policy to limit the proliferation of missiles, a license is required to export and reexport items related to the design, development, production, or use of missiles
- License required everywhere, except Canada
- General Licensing Policy: Considered on a case-by-case basis to determine whether the export or reexport would make a material contribution to the proliferation of missiles

# NS – National Security

- It is the policy of the United States to restrict the export and reexport of items that would make a significant contribution to the military potential of any other country or combination of countries that would prove detrimental to the national security of the United States.
- License required everywhere except Country Group A:1
- General Licensing Policy: approve applications unless there is a significant risk that the items will be sent or diverted to a country in Country Group D:1
  - *We'll look at this list of countries when we examine license exceptions*

# RS – Regional Stability

- Controls maintained in support of U.S. foreign policy to maintain regional stability
- License required everywhere, except Canada, but there are many special rules
- General Licensing Policy:
  - ECCN 9x515 [*spacecraft*] and “600 series” [*defense*] reviewed to determine whether the transaction is contrary to the national security or foreign policy interests of the US
  - Other articles reviewed to determine whether the transaction could contribute directly or indirectly to any country’s military capabilities in a manner that would alter or destabilize a region’s military balance contrary to the foreign policy interests of the United States

# UN – UN Embargo

As of June 5, 2019 (last regulatory update), the countries subject to United Nations Security Council arms embargoes are:

- Central African Republic,
- Democratic Rep. of the Congo,
- Eritrea,
- Iran,
- Iraq,
- Lebanon,
- Libya,
- North Korea,
- Somalia, and
- Sudan

General Licensing Policy – denial if the authorization would be contrary to the relevant United Nations Security Council Resolution

# Characteristics of Export Control

- Other Reasons for Control, less commonly associated with aircraft parts:
  - CB - Proliferation of Chemical and Biological Weapons
  - CC – Crime control and detection
  - FC – Firearms Convention
  - NP – Nuclear Nonproliferation

# Do You Need a BIS License?

- **BIS Licenses:**
  - Licenses can be necessary because of:
    - Destination
    - Party identify (business or individual)
    - Intended use
  - 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

# 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 or other short turn-time situations

# Sometime You Cannot Use a License Exception for an Aircraft Part

- License exceptions are not available for certain aircraft parts
- Missile Technology (MT)
  - Except that parts under ECCNs 6A008, 7A001, 7A002, 7A004, 7A101, 7A102, 7A103, 7A104, 7A105, or 9A515, may be exported as part of a manned aircraft, or a replacement part for such an aircraft, under license exceptions RPL and AVS.
- No license exceptions to sanctioned nations: Cuba, Iran, North Korea, Syria, Crimea region of Ukraine or Russia (if the limited sanctions apply) *unless* a license exception is specifically listed in the country provisions in 15 CFR part 746

# License Exceptions and Defense Aircraft Parts

- License exceptions are not available for certain defense aircraft parts
- You can use RPL to export “600 series” items to destinations other than those identified in Country Group D:5 but you may NOT use AVS
  - Defense items whose ECCN is in the format **nx6nn**, e.g. 9A610
- Country Group D:5 is currently Armenia, Azerbaijan, Belarus, Cambodia, Georgia, Iraq, Kazakhstan, North Korea, Kyrgyzstan, Laos, Libya, Macau, Moldova, Mongolia, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Venezuela, Vietnam

15 C.F.R. Part 740, supplement 1

# BIS License Exceptions: Replacement of Parts (RPL)

- One-for one replacement of parts or servicing and replacement of equipment, e.g. exchange agreements
  - Aircraft/part 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 of Parts (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/index.php/forms-documents/doc\\_download/944-740-sup-1](http://www.bis.doc.gov/index.php/forms-documents/doc_download/944-740-sup-1)

# Using RPL

- If the original item was shipped without a license (assuming the item was legally exported), and the rules subsequently changed (so a license is now required), then you can still use RPL

# 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"

- Place a destination control statement on your commercial invoice
- Electronic Export Information
  - Must be filed on-line: <https://ace.cbp.dhs.gov>
  - You will get an International Transaction Number (ITN)
    - Comes in your responsive email – also found in ACE Shipment Manager
    - ITN goes on 1<sup>st</sup> page of the commercial loading document (e.g. air waybill, bill of lading)
  - There is a limited exception for non-licensed commodities valued at less than \$2,500 (*per schedule B number*)
  - If you use an export exception, then you must file EEI and declare the exception!
- Document retention period is five years
- If you are shipping through a freight forwarder, then absent a special *agency* agreement, **you** are usually expected to file the EEI

# Questions?



Please feel free to ask questions

Three customers ship you a IRU units controlled under ECCN 7A103. You have been asked to manage calibration and return of the article to your customers

Customer number one is a distributor located in Spain. They are seeking overhaul of the unit.

Notwithstanding license exceptions, do you need a Commerce Department export license to ship the overhauled unit back to Spain?

YES

NO

Is there a licensing exception that could apply to this transaction?

YES

NO

Identify it: \_\_\_\_\_

Three customers ship you a IRU units controlled under ECCN 7A103. You have been asked to manage calibration and return of the article to your customers

Customer number two is a distributor located in Tajikistan. They are seeking overhaul of the unit.

Notwithstanding license exceptions, do you need a Commerce Department export license to ship the overhauled unit back to Tajikistan?

YES

NO

Is there a licensing exception that could apply to this transaction?

YES

NO

Identify it: \_\_\_\_\_

Three customers ship you a IRU units controlled under ECCN 7A103. You have been asked to manage calibration and return of the article to your customers

Customer number three is an air carrier located in Switzerland, that owns and operates its own aircraft under Swiss registry. They are seeking upgrade of the unit base on a manufacturer's service bulletin that provides significant safety improvements to the unit.

Notwithstanding license exceptions, do you need a Commerce Department export license to ship the overhauled unit back to Switzerland?

YES

NO

Is there a licensing exception that could apply to this transaction?

YES

NO

Identify it: \_\_\_\_\_

Customer number four is a domestic US air carrier seeking to replenish its stock of IRUs (7A103) at its Singapore line station. They would like a new article for this location

Notwithstanding license exceptions, do you need a Commerce Department export license to ship this unit to Singapore?

- YES NO

Is there a licensing exception that could apply to this transaction?

- YES NO Identify it: \_\_\_\_\_

What special information do you need to confirm the applicability of this licensing exception?

If the air carrier has a contract for line maintenance with a maintenance subcontractor in Singapore, then would the carrier be permitted to have the article shipped to the maintenance subcontractor?

- YES NO Does this affect the exception basis?

Customer number five is a Saudi Arabian air carrier with an AOG aircraft that is grounded for maintenance in the Sudan. The Aircraft is leased from a US leasing company and registered in the United States (it has an 'N' number). The carrier is seeking immediate shipment of a two new units for use on the AOG aircraft, and the maintenance will be performed by a repair station based in (and incorporated in) the Sudan. One unit is an IRU controlled under ECCN 7A103, the other is a servo controlled under ECCN 9A991

Notwithstanding license exceptions, do you need a Commerce Department export license to ship the new unit to Sudan?

YES

NO

Is there a licensing exception that could apply to this transaction?

YES

NO

Identify it: \_\_\_\_\_

What special information do you need to confirm the applicability of this licensing exception? \_\_\_\_\_

If there is no exception, then what are the chances of getting a license for each unit?



# Thank You

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