



# US Export Laws

*and How to Make the Compliance Process Less Onerous*



# 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

# Definitions: Export



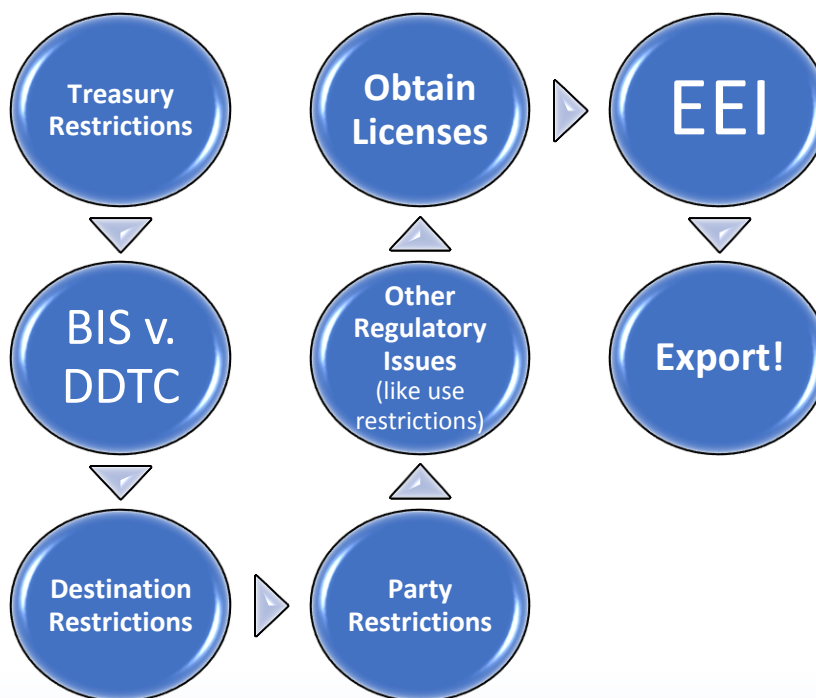
## *What is an export?*

- 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!

# Steps to Compliance



- Look at Treasury restrictions
- Identify whether the article is State or Commerce restricted
- Examine appropriate destination 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
- <https://legacy.export.gov/csl-search>
- If you have problems managing the consolidated list, then use the individual lists

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

# OFAC Lists



- **Sanctions Programs and Country Information List:**
  - <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>
- **Specially Designated Nationals And Blocked Persons List:**
  - <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>

# Sample SDN Parties

*as of May 5, 2020*



- Aero Continent
- Aero Continente
- Aero Courier Cargo
- Aero Express Intercontinental
- Aero Sky One
- Aerocaribbean Airlines
- Aerocomercial Alas De Columbia
- Aerocondor
- Aeronautica Condor
- Aerospace Industries Organization
- Aerospace Research Institute
- Air Alanna
- Air Koryo
- Al-Naser Wings Airlines
- Al-Sham Wings
- Avia Group LLC
- Avia Import
- Aviation Equipment Holding
- Aviation Capital Solutions, Ltd
- Butembo Airlines
- Caspian Airlines
- Cham Wings Airlines
- Cubana Airlines
- Dart Airlines
- Dena Airlines
- Empresa Cubana de Aviacion
- Fars Air Cargo Airline
- Gomei Air Services Co Ltd
- Hors Airlines Ltd
- Intercontinental de Aviacion
- International Airline Consulting
- Iran Air
- Khors Air
- Kyrgyztransavia Airlines
- Mahan Air
- Meraj Air
- National Aerospace Development Administration
- Pouya Airlines
- Sky Blue Airlines
- Syrian Arab Airlines
- Ukrainian-Mediterranean Airlines
- UM Air
- Yasair Cargo Airline



# OFAC-Sanctioned Nations

*Current as of May 5, 2020*



- Belarus
- Burundi
- Central African Republic
- Congo (Dem. Rep. of)
- Cuba \*
- Iran \*
- Iraq
- Lebanon
- Libya \*
- Mali \*
- Nicaragua \*
- North Korea \*

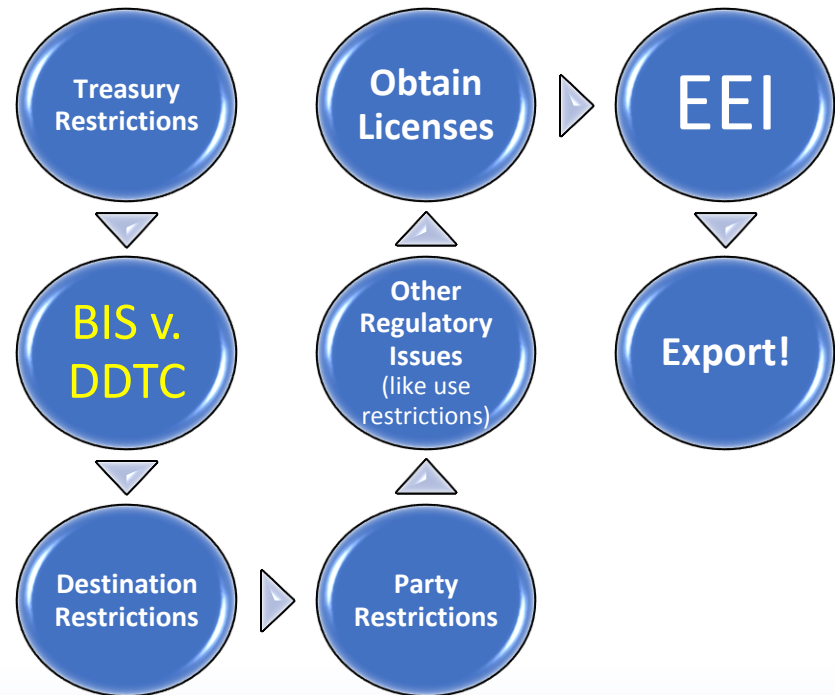
- Russia (Magnitsky)
- Somalia
- South Sudan \*
- Sudan and Darfur
- Syria \*
- Ukraine/Crimea/Russia \*
- Venezuela \*
- Yemen
- Zimbabwe \*

*\*= changed sanctions in 2020*

# Steps to Compliance



- Identify whether the article is State or Commerce restricted



# A Structured Approach to Exporting: Second Step



## BIS vs. DDTC

- Distinguish the U.S. Department with jurisdiction
  - Is it a US Munitions List Item?
    - Defense articles
    - USML is a list in the ITARs
    - State has export jurisdiction
- ASA was part of the 2013 change that shifted many defense aircraft parts to “600-series” BIS
- If it is not USML, then it is subject to BIS restrictions
  - Check the ECCN and the BIS regulations
  - Commerce has export jurisdiction

# Examples of USML Aircraft Articles



- Certain articles (and their subcomponents) that are specially designed for USML/9A610-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
  - Register with State Department
  - Assess whether particular State Department Restrictions apply
  - Obtain appropriate licenses
- Most civil aircraft parts will not be subject to the ITARs



# 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



# Start with the ECCN: Export Commodity Classification Number



## Group

A-Equipment  
B-Test/Inspection/Production Equipment  
C-Materials  
D-Software  
E-Technology

“9” indicates US unilateral control

9

A

9

9

1

The Commerce Control List (CCL) Category is a number from 1-9

Reason for Control (*lowest number takes precedence*)

Ordinal to distinguish entries

# 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



# “600 Series” ECCNs for Defense Aircraft Parts



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
<i>Military commodities outside the US that are derived from “600 series” controlled content</i>	0A919



Commerce Control List

Supplement No. 1 to Part 774

Category 9—page 22

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

Control(s)	Country Chart (See Supp. No. 1 to part 738).
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:*

Export Administration Regulations

Bureau of Industry and Security

January 15, 2017

Commerce Control List

Supplement No. 1 to Part 774

Category 9—page 23

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.

Export Administration Regulations

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**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.

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b. Aircraft n.e.s.;

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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.

# “Default” Aircraft Parts ECCN



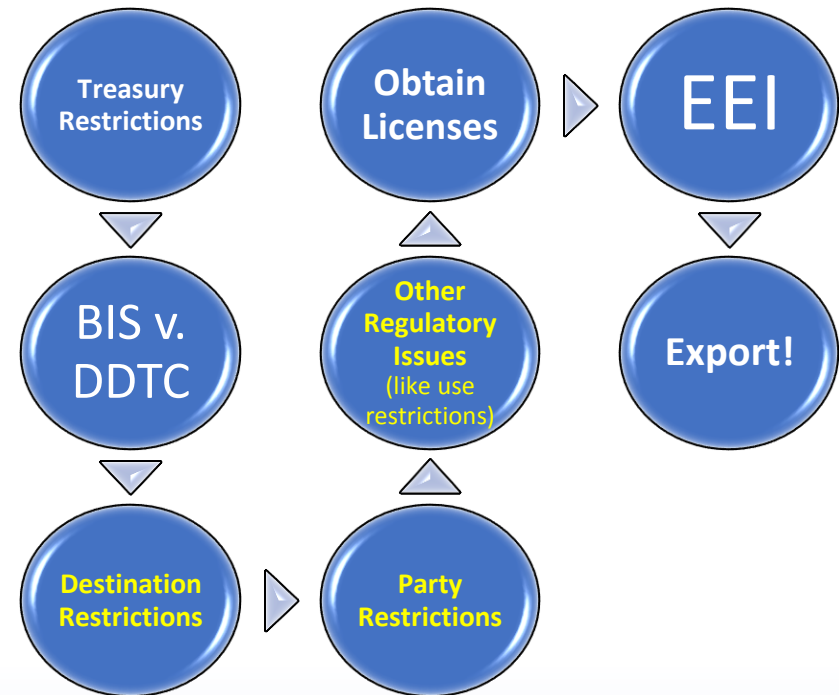
## Other aircraft parts/equipment not covered under another ECCN are ECCN 9A991

- Demilitarized items [9A991.a] are restricted from export to Central African Republic, Democratic Republic of the Congo, Eritrea, Iran, Iraq, Lebanon, Libya, North Korea, Somalia, and Sudan due to UN embargos (*15 C.F.R. § 746.1(b)(2)*)
- 9A991 items are restricted from export to some countries under anti-terrorism (“AT”) restrictions
  - Column AT1 on the CCL country chart
  - Current restrictions include: Sudan (by chart) and Cuba, Iran, North Korea, and Syria (by rule)
  - Some restrictions may be overcome by license

# Steps to Compliance



- 
- 
- Examine appropriate destination restrictions
- Check party-level restrictions
- Identify other regulatory issues
- 
- 



# 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):  
<https://www.bis.doc.gov/index.php/documents/regulation/s-docs/federal-register-notices/federal-register-2014/1033-738-sup-1/file>
- If there is an “X” in the cross-reference, then you need a Commerce license for export

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

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<i>Control(s)</i>	<i>Country Chart (See Supp. No. 1 to part 738).</i>
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*LVS:* N/A

*GBS:* N/A

*CIV:* N/A

## List of Items Controlled

*Related Controls:* N/A

*Related Definitions:* N/A

*Items:*



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		

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Countries	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Firearms Convention	Crime Control			Anti-Terrorism	
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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		
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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		

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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		

Commerce Country Chart

Reason for Control

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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		
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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		

Commerce Country Chart

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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		
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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		

# Use-Related Reasons for a Commerce Department License



- What will the importer do with it? Certain end-uses are restricted:
  - <https://www.bis.doc.gov/index.php/documents/regulation-docs/418-part-744-control-policy-end-user-and-end-use-based/file>
  - 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://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern/entity-list>
  - *You can also start in the consolidated list*

# What Is Denied?



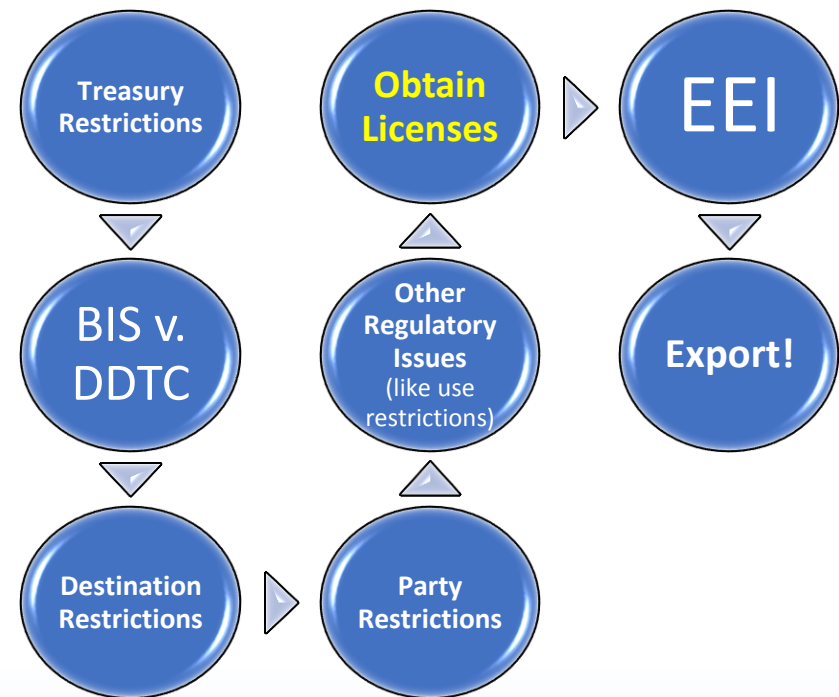
- Denied Persons may NOT participate in any way in any transaction involving the export from the United States of any commodity, software or technology subject to Export Administration Regulations (EAR)
  - No license transactions
  - No negotiations
  - No benefit from any export transaction
  - May 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



# Steps to Compliance



- Obtain licenses as necessary



# Do You Need a BIS License?



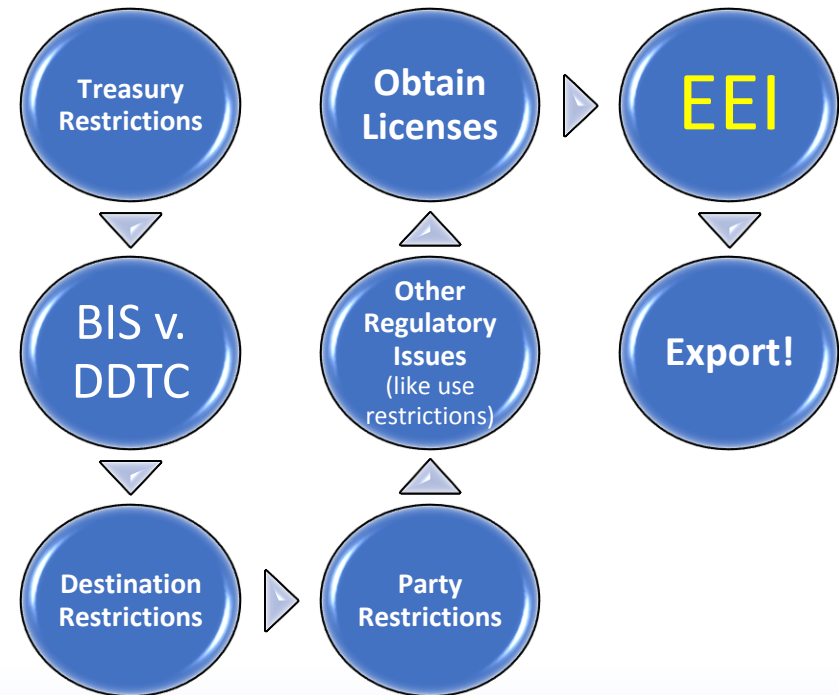
- BIS Licenses:
  - A relatively small percentage of total US exports and re-exports require a BIS license
  - Licenses can be used to overcome exclusions
- Apply for licenses online using SNAP-R
  - <https://snapr.bis.doc.gov/snapr/>

# 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
- My favorite license exceptions (most useful for AOG situations) are
  - AVS (aircraft parts for certain targets)
  - RPL (replacement / servicing of parts)

# Steps to Compliance



- Document the transaction

# Don't Forget the “Paperwork”



- 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 are shipping through a freight forwarder, then absent a special *agency agreement*, **you** are usually expected to file the EEI

# Document Retention



- Keep copies of your export documents for at least five years
  - EEI information
  - shipping documents
  - invoices
  - orders
  - packing lists
  - correspondence
  - and any other relevant information bearing upon the export transaction
- May be retained electronically

# Questions?



## Please feel free to ask questions

You can add your questions through the  
“attendee chat” function

If you think of questions later, then you can  
also email them to:  
[Jason@WashingtonAviation.com](mailto:Jason@WashingtonAviation.com)



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# Thank You



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