



# Exporting in a Challenging Environment

Workshop L

1:30 pm – 3:00 pm

June 7, 2022



# 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



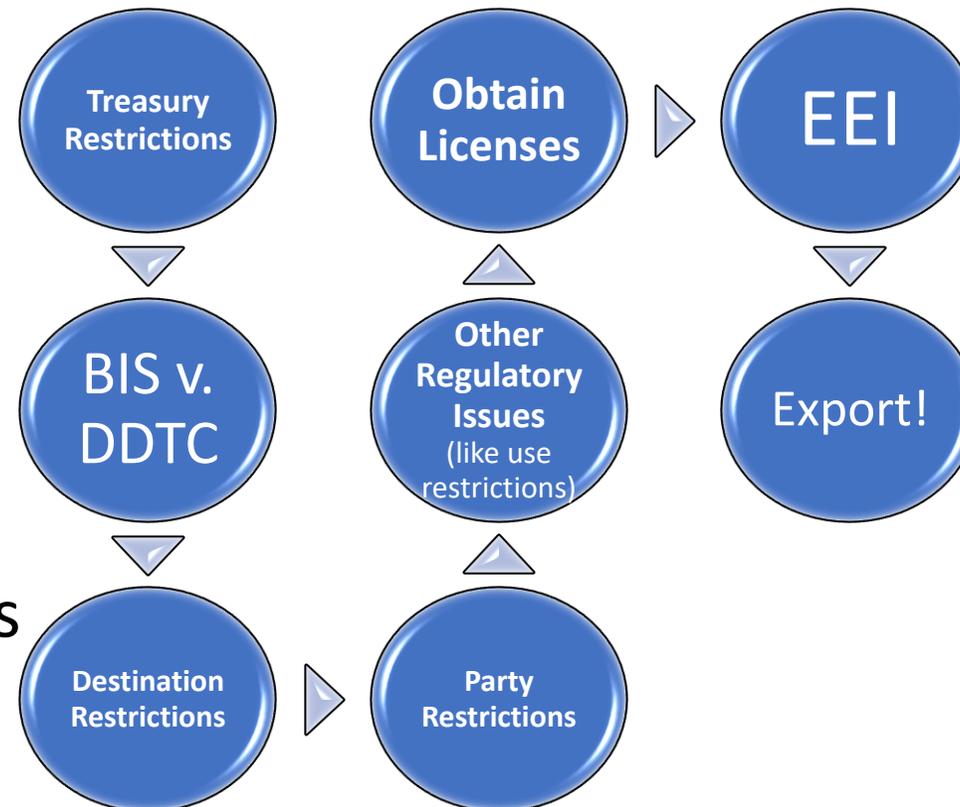
# Definitions: Export

## *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://www.trade.gov/data-visualization/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 List:**

- <https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information>

- Typically directed at countries, but may also serve more targeted purposes e.g., Counter Terrorism.

- **Specially Designated Nationals List:**

- <https://sanctionssearch.ofac.treas.gov/> [Search Engine]

- <https://home.treasury.gov/policy-issues/financial-sanctions/specially-designated-nationals-and-blocked-persons-list-sdn-human-readable-lists>

- **Sectoral Sanctions List**

- <https://www.treasury.gov/ofac/downloads/ssi/ssilist.pdf>

- These lists change, and entities can move from one list to another, so do the search every time!



# Sample Sanctioned Parties *as of May 31, 2022*

- Aero Continent
- Aero Courier Cargo
- Aero Express Intercontinental
- Aero Sky One
- Aerocaribbean Airlines
- Aero comercial Alas De Columbia
- Aerocondor
- Aeronautica Condor
- Aerospace Industries Organization
- Aerospace Research Institute
- Aerovias Atlantico Ltda
- AFAGIR
- Air Alanna
- Air Koryo
- Aircraft Avionics Parts and Support Ltd
- Airfix Aviation OYAI-Naser Airlines
- Al-Nasar Wings Airline
- Al-Sham Wings
- Avia Group LLC
- Avia Import
- Avia Trust FZE
- Aviation Capital Solutions, Ltd
- Butembo Airlines
- Capacitacion Aeronautica Profesional
- Caspian Airlines
- Cham Wings Airlines
- Cubana Airlines
- Dart Airlines
- Dena Airways
- Empresa Cubana de Aviacion
- Fars Air Cargo Airline
- Hors Airlines Ltd
- Intercontinental de Aviacion
- Int'l Airline Consulting
- Iran Air
- Khors Air
- Kyrgyztransavia Airlines
- Mahan Air
- Mantenimiento, Aeronautica, Transporte, Y Servicios Aereos
- Pouya Airlines
- Sky Blue Airlines
- Syrian Air Force Intelligence
- Syrian Airlines
- Transavia Export Airlines
- Ukrainian-Mediterranean Airlines (UM Air) [*certain aircraft*]
- Yasair Cargo Airline



# Look For Tail Numbers If You Have Them!

- You can find tail numbers in the SDN list, too
  - Even US tail numbers!
- Examples:
- EK-30064
  - EP-CFD
  - F-OJHI
  - M-SAAN
  - N200VR
  - N488RC
  - P-532
  - YV2894



# Sectoral Sanctions and Specially Designated Nationals (SDNs) Lists

- Persons on the Sectoral Sanctions List or the Specially Designated Nationals (SDNs) List are blocked
- Blocked:
  - a U.S. person may not procure goods, services, or technology from, or engage in transactions with, a blocked person directly or indirectly (including through a third-party intermediary)
  - This typically means no export and no imports with blocked parties
  - It also means no acceptance of funds from (or payments to) a blocked party



# Can I buy from a Subsidiary?

- **ISSUE: The parent company is on the sanctions list, but the subsidiary is not. Can I buy from the subsidiary?**
- If a blocked person owns or controls another entity, then that entity is blocked as well
  - Example: Rostec was sanctioned under the Ukraine/Russia related sanctions in 2014. They own most of United Engine Corp. United Engine Corp. was not on the OFAC sanctions list, but it was still treated as a blocked party because of the ownership.
  - **NOTE:** *United Engine Corp. was added two years later under its Russian name; United Engine Corp. is also on the BIS entity and MEU lists.*
- If two or more blocked persons own 50% or more of another entity, then the owned entity is also blocked (*substantial control is assumed*)



# Can I Get Paid?

**ISSUE: An export was completed before any sanctions could limit it, but the payment is still owed. Can I accept payment?**

- If the party is sanctioned by OFAC (e.g. on the SDN or SSI lists) then assets are frozen and transactions are blocked.
  - Example: AVIATION EQUIPMENT HOLDING (*on the sectoral sanctions list*)
- If the party is NOT sanctioned by OFAC and if no other published restriction applies, then you may be permitted to receive funds
  - Example: NORDWIND AIRLINES (*not yet sanctioned by OFAC*)
  - CAVEAT 1: be wary because the standards and lists are constantly changing
  - CAVEAT 2: significant banking restrictions may limit the sources of funds



# Nations Restricted by OFAC

*Current as of May 31, 2022*

- Afghanistan
- Balkans
- Belarus
- Burma
- Central African Republic
- China (Military Companies and Hong Kong-related)
- Congo (Dem. Rep.)
- Cuba
- Ethiopia
- Iran
- Iraq
- Lebanon
- Libya
- Mali
- Nicaragua
- North Korea
- Russia
- Somalia
- Sudan and Darfur
- South Sudan
- Syria/Syria Related
- Ukraine/Crimea/Russia
- Venezuela
- Yemen
- Zimbabwe



# Exception: Treasury Licenses

- A general OFAC license authorizes certain transactions without the filing of an application with OFAC
  - Example: An OFAC general license permits shipping aircraft parts to Cuba if BIS has licensed the transaction
- 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 / re-export to support safety of civil aviation and safe operation of U.S.-origin commercial passenger aircraft



# Treasury Rules

- You may also need to apply for release of blocked funds
- Online summary of OFAC laws and regulations:
  - <https://home.treasury.gov/policy-issues/office-of-foreign-assets-control-sanctions-programs-and-information>

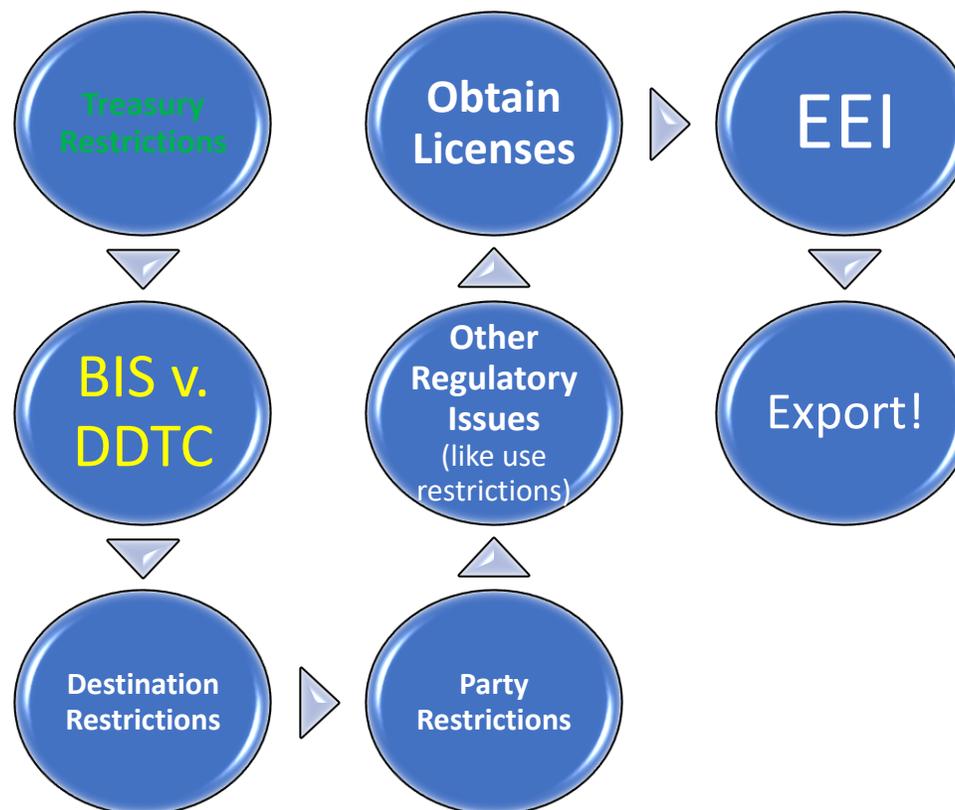


# Practical Advice – OFAC Compliance

- Gather information – do not be willfully blind to the facts
- Always check your export business partners on the consolidated screening list for every transaction
- If you identify a party who appears to be blocked, then do not engage in any transaction without first identifying your compliance path
  - Consult with a lawyer!
  - Remember that there may be a compliance path, including through licensing, if the proposed transaction does not conflict with U.S. interests

# Steps to Compliance

- Look at Treasury restrictions
- Identify whether the article is State or Commerce restricted



# 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



# Most Civil Aircraft Parts ARE NOT Covered Under the ITARs

- Effective October 15, 2013 many articles were removed from the ITAR and moved into the Commerce Department's regulations
  - Most dual use items were transferred to Commerce
  - Transferred items typically were assigned to "600" series ECCNs
  - This is for parts and articles; most completed defense aircraft remain on the USML and subject to ITAR



# Examples of USML 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, B-21, 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, including avionics for civil aircraft, will not be subject to ITAR



Questions?



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

If State Doesn't Regulate It, Then Commerce May  
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)?
  - <https://www.bis.doc.gov/index.php/documents/regulations-docs/2330-ccl0-to-9-10-24-18/file>
- Examples:
  - *CCL 2 - Material processing (e.g., bearings, certain testing equipment, etc.)*
  - *CCL 3 - Electronics*
  - *CCL 7 - Avionics*
  - *CCL 9 - Aerospace and Propulsion*



# Export Control 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:  
<https://www.bis.doc.gov/index.php/documents/regulations-docs/13-commerce-control-list-index/file>
  - Ask the manufacturer
  - Online via the Simplified Network Application Process:  
<http://www.bis.doc.gov/snap/index.htm>



# Export Control Classification Numbers

- If it is not in the CCL, then a license is likely unnecessary
  - But certain limits like denied parties or controlled usage may necessitate a license
- General item default for unlisted articles is EAR99
  - **But aircraft part default is 9A991**
  - Many avionics are 7A994
  - Avionic calibration and test equipment tends to be 7B001



# 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

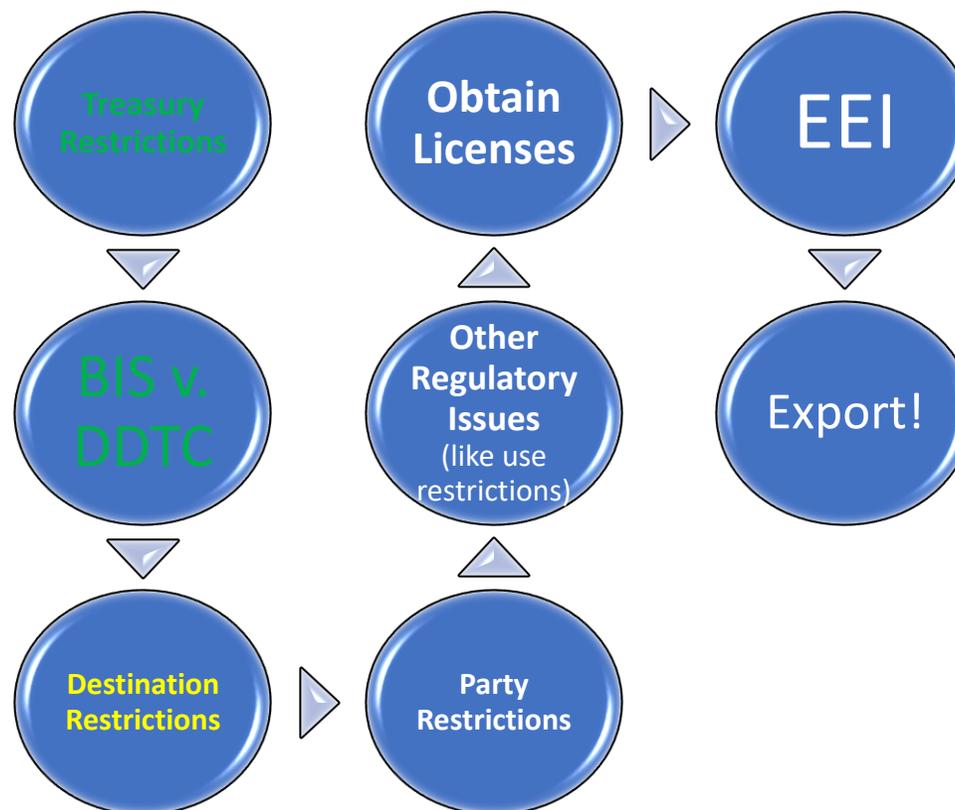


# “600 Series” ECCNs for defense components

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

# Steps to Compliance

- Look at Treasury restrictions
- Identify whether the article is State or Commerce restricted
- Examine appropriate destination restrictions





# Destination Restrictions

- The reasons for control associated with the ECCN identify destination restrictions.
- Exports to certain destinations may require a license; if the policy is to deny licenses, then this may be a de facto prohibition on exports.
- We use the Commerce Control List ECCN and the cross-referenced Commerce Country Chart to determine reasons for control (e.g., NS1, RS1) which can lead to license requirements



**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:

- a. Diesel engines, n.e.s., for trucks, tractors, and automotive applications of continuous brake horsepower of 400 BHP (298 kW) or greater (performance based on SAE J1349 standard conditions of 100 Kpa and 25°)
- b. Off highway wheel tractors of carriage capacity 9 mt (20,000 lbs) or more; and major "components" and "accessories," n.e.s.
- c. On-Highway tractors, with single or tandem rear axles rated for 9 mt per axle (20,000 lbs.) or greater and "specially designed" major "components".

**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:

- 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.

**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 (See Supp. No. 1 to part 738)
AT applies to entire entry	AT Column 1

**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:

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

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

**9B001 Equipment, tooling or fixtures, "specially designed" for manufacturing gas turbine engine blades, vanes or "tip shrouds", as follows (See List of Items Controlled).**

**License Requirements**

Reason for Control: NS, MT, AT

Control(s)	Country Chart (See Supp. No. 1 to part 738)
NS applies to entire entry	NS Column 1
MT applies to equipment for engines controlled under 9A001 for MT reasons and for engines controlled under 9A101	MT Column 1
AT applies to entire entry	AT Column 1

**Reporting Requirements**

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

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

LVS: \$5000, except N/A for MT  
GBS: Yes, except N/A for MT  
CIV: Yes, except N/A for MT

**Special Conditions for STA**

STA: License Exception STA may not be used to ship commodities in 9B001 to any of the destinations listed in Country Group A:6 (See Supplement No. 1 to part 740 of the EAR).

**List of Items Controlled**

Related Controls: For "specially designed" production equipment of systems, sub-systems, "parts" and "components" controlled by [9A005](#) to [9A009](#), [9A011](#), [9A101](#), [9A105](#) to [9A109](#), [9A111](#), and [9A116](#) to [9A119](#) usable in "missiles" see [9B115](#). See also [9B991](#).



**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.



**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.



# Do You Need a Commerce Department License?

- Check the specific reasons for control in CCL. Read it in its entirety; some reasons for control have special provisions or restrictions.
- Check the Export Control Country Chart (cross reference country and reason for control):
  - <https://www.bis.doc.gov/index.php/documents/regulations-docs/2383-supplement-no-1-to-part-738/file>
- If there is an “X” in the cross-reference, then you need a BIS license for export
- Also be sure to read the notes when indicated by a superscripted number after the country name



**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	
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		

*NOTE: This is an OLD version of the chart that is used to illustrate an AT1 restriction. The current version (April 8, 2022) no longer restricts Sudan under AT1*

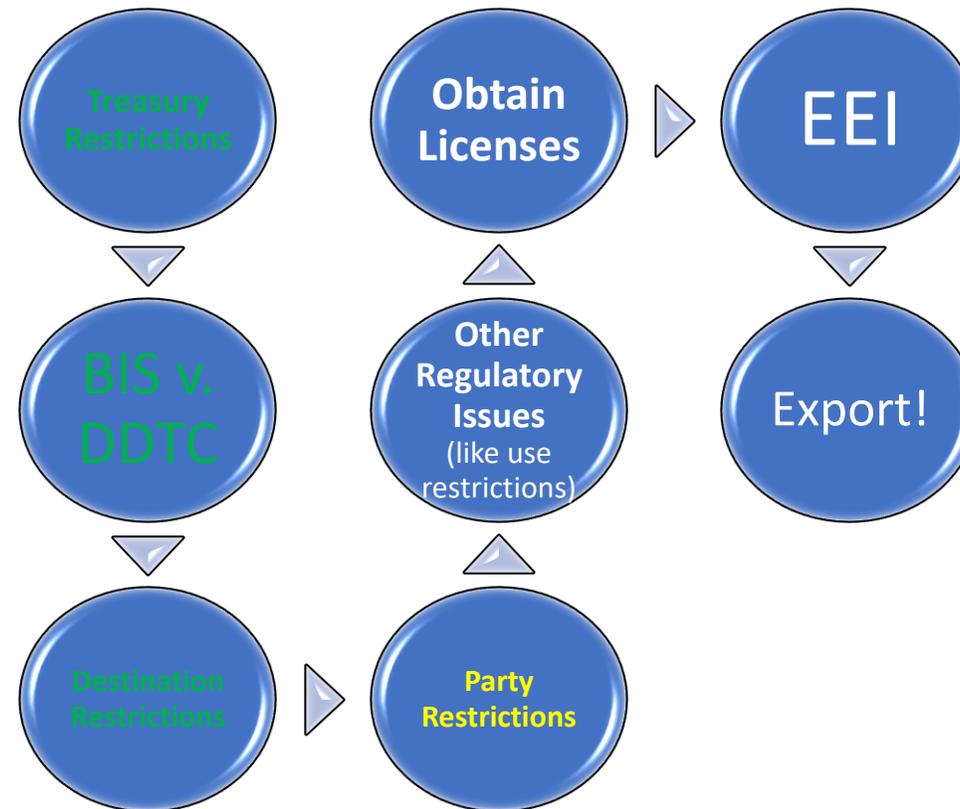


# Destination Restrictions

- Articles controlled for reason “UN” are restricted from export to the Central African Republic, Democratic Republic of the Congo, Eritrea, Iran, Iraq, Lebanon, Libya, North Korea, Somalia, and Sudan due to UN Security Council arms embargoes (15 C.F.R. § 746.1(b)(2))
- Such items are restricted from export to some countries under anti-terrorism restrictions
  - Column AT1 on the CCL country chart
  - *No current restrictions*

# Steps to Compliance

- Look at Treasury restrictions
- Identify whether the article is State or Commerce restricted
- Examine appropriate destination restrictions
- Check party-level restrictions





# BIS Forbidden Parties

- Department of Commerce's Bureau of Industry and Security (BIS) lists:
  - Denied Persons List
    - <https://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern/denied-persons-list>
  - Denied Entities List
    - <https://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern/entity-list>
- *You can also find them on the consolidated export screening list*

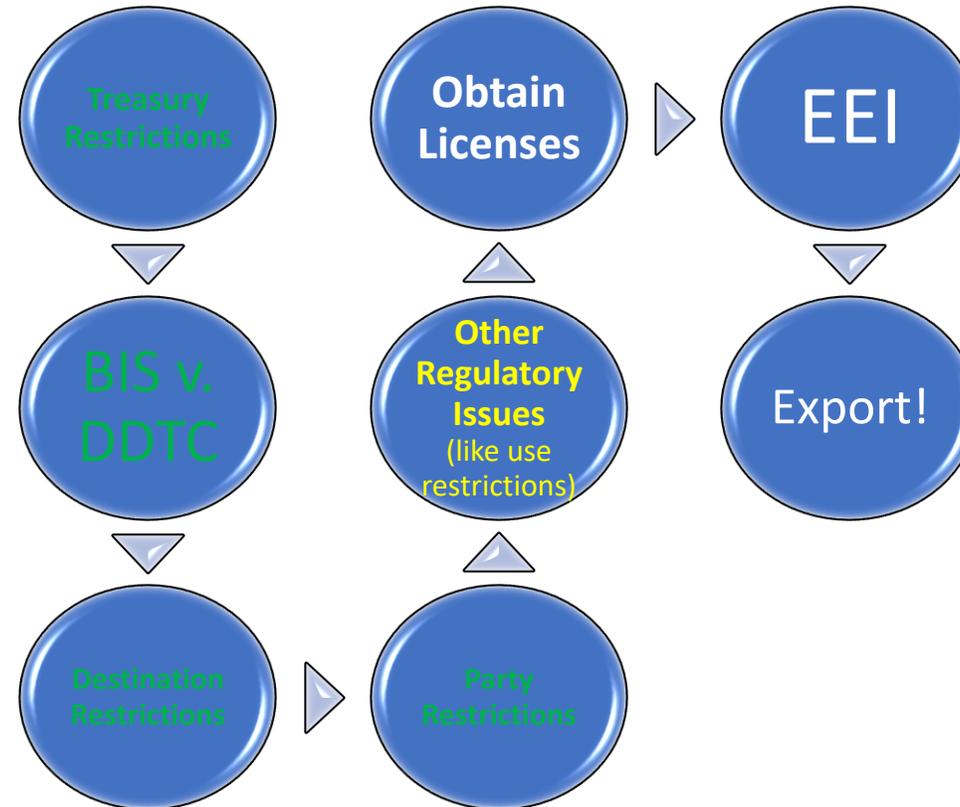


# What Is Denied?

- 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

- 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





# Do You Need a Commerce Department License?

- What will the importer do with it? Certain end-uses are restricted:
  - <https://www.bis.doc.gov/index.php/documents/regulations-docs/2343-744-1/file>
  - Rocket systems and unmanned air vehicles may require licensing; certain military end-users and/or end-uses may be restricted
  - These restrictions may drive a need to check third party country of registry and control (see “where is it going”)
  - **§ 744.7 requires us to identify the country in which an aircraft is located, is registered, and is controlled.**
- 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



# Parts for Foreign Aircraft

## General Rule for Foreign Aircraft (15 C.F.R. § 744.7)

- In addition to the normal license requirements, we may not export an aircraft part subject to the export administration regulations for use on a foreign aircraft, unless a License Exception or NLR permits the shipment to be made:
  - To the country in which the aircraft is located, and
  - To the country in which the aircraft is registered, or will be registered in the case of an aircraft under construction, and
  - To the country, including a national thereof, which is currently controlling, leasing, or chartering the aircraft.



# The New Russia-Rule (Belarus, too)

- 15 C.F.R. § 746.8
- Restricted Items cannot be exported to Russia or Belarus without a license
  - “Restricted Items” means anything classified in *any* ECCN on the CCL
  - This encompasses most aircraft parts
- ***Be wary of intermediaries who might accept in a third country for the benefit of a forbidden target***
- The Russia Rule also limits availability of license exceptions



# Can I Use a License Exception?

- There are a limited set of license exceptions that can be used for transactions subject to § 746.8, and the ones most useful for exporting aircraft parts are:
  - GOV (for supporting U.S. government operations)
  - AVS (for exporting aircraft parts)
    - Excluding any aircraft registered in, owned by, controlled by, or under charter or lease to Russia or to a national of Russia (or any other D:1 nation)
    - You may be able to export an aircraft part to Russia to support a non-Russian aircraft that was AOG at a Russian airport

***Note: RPL is not available for exports restricted under § 746.8***



# Combining the General Rule (§ 744.7) with the New Russia Rule (§ 746.8):

- We may not export an aircraft part subject to the EAR for use on a foreign aircraft,
    - If the aircraft is located in Russia, or
    - If the aircraft is registered in Russia, or
    - If the aircraft is controlled, leased, or chartered by Russia or a national of Russia;
- unless the export is covered by a license or a license exception.



# Combining the General Rule (§ 744.7) with the New Russia Rule (§ 746.8):

- We may not export an aircraft part subject to the EAR for use on a foreign aircraft,

- If the aircraft is located in Russia, or
- If the aircraft is registered in Russia, or
- If the aircraft is controlled, leased, or chartered by Russia or a national of Russia;

Includes a Russian-registered aircraft that is serviced outside of Russia

unless the export is covered by a license or a license exception.



# Combining the General Rule (§ 744.7) with the New Russia Rule (§ 746.8):

- We may not export an aircraft part subject to the EAR for use on a foreign aircraft,

- If the aircraft is located in Russia, or
- If the aircraft is registered in Russia, or
- If the aircraft is controlled, leased, or chartered by Russia or a national of Russia;

Includes Russian-owned aircraft as well as aircraft operated by Russian airlines

unless the export is covered by a license or a license exception.

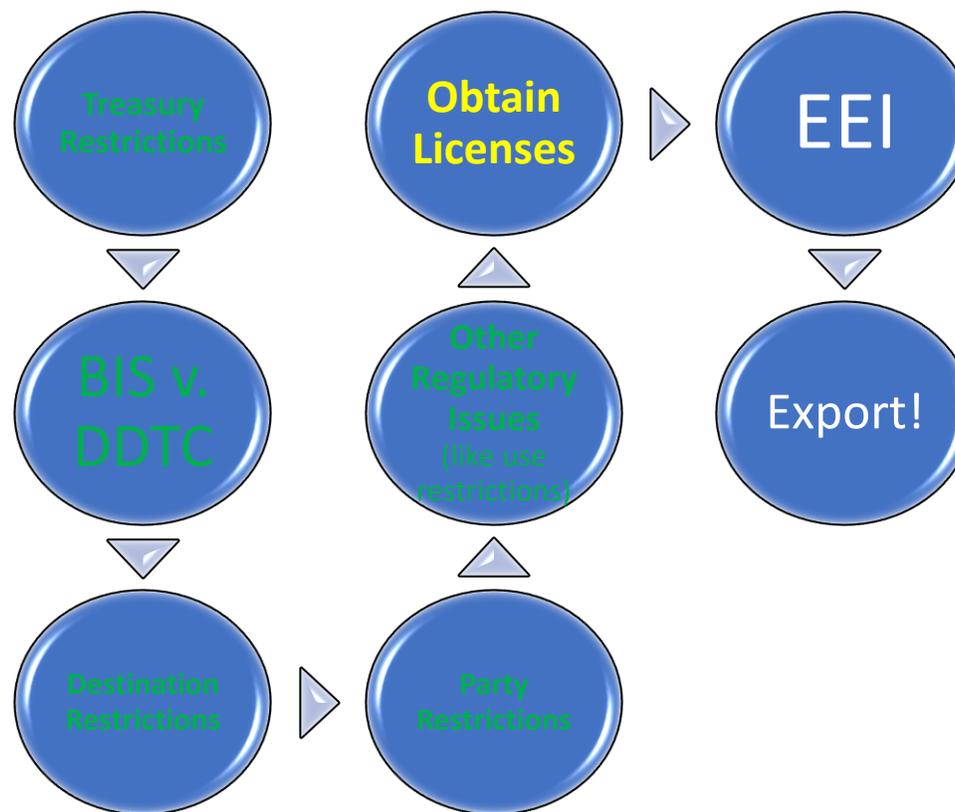


# C-130 vs. L-100

- An unusual “use” restriction exists for parts controlled under ECCN 9A610
- If the part is destined for installation on a C-130 then the export treatment can be different than if it is destined for installation in an L-100
  - There are additional reasons for control

# 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





# 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



# Statement on the Commercial Invoice

- Destination Control Statement (identical to the ITAR statement)
  - “These items are controlled by the U.S. government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. government or as otherwise authorized by U.S. law and regulations.”
  - Include the statement on the commercial invoice
    - For “600 series” articles, *also* include the ECCN



# Exceptions to 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
  
- *But exceptions can be complicated!*
  - *Some factors, like control under “MT” or having a 600-series ECCN, can restrict license use*



# 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
- Similar to ITAR 123.4 exception



# 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:  
<https://www.bis.doc.gov/index.php/documents/regulation-docs/2255-supplement-no-1-to-part-740-country-groups-1/file>



# “D” Country Groups — *last updated May 24, 2019*

	D:1	D:2	D:3	D:4	D:5
Afghanistan			X		X
Armenia	X		X		
Azerbaijan	X		X		
Bahrain			X	X	
Belarus	X	X	X	X	X
Burma	X		X		X
Cambodia	X				X
Central African Republic					X
China (PRC)	X		X	X	X
Congo (Democratic Republic of)					X
Cuba		X	X		X
Cyprus					X
Egypt			X	X	
Eritrea					X

	D:1	D:2	D:3	D:4	D:5
Georgia	X		X		
Haiti					X
Iran		X	X	X	X
Iraq	X	X	X	X	X
Israel		X	X	X	
Jordan			X	X	
Kazakhstan	X		X		
Korea, North	X	X	X	X	X
Kuwait			X	X	
Kyrgyzstan	X		X		
Laos	X				
Lebanon			X	X	X
Libya	X	X	X	X	X

	D:1	D:2	D:3	D:4	D:5
Macau	X		X	X	
Moldova	X		X		
Mongolia	X		X		
Oman			X	X	
Pakistan		X	X	X	
Qatar			X	X	
Russia	X	X	X	X	X
Saudi Arabia			X	X	
Somalia					X
South Sudan, Republic of					X
Sudan					X
Syria			X	X	X

	D:1	D:2	D:3	D:4	D:5
Taiwan			X		
Tajikistan	X		X		
Turkmenistan	X		X		
United Arab Emirates			X	X	
Uzbekistan	X		X		
Venezuela	X	X	X	X	X
Vietnam	X		X		
Yemen	X		X	X	
Zimbabwe					X

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# 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



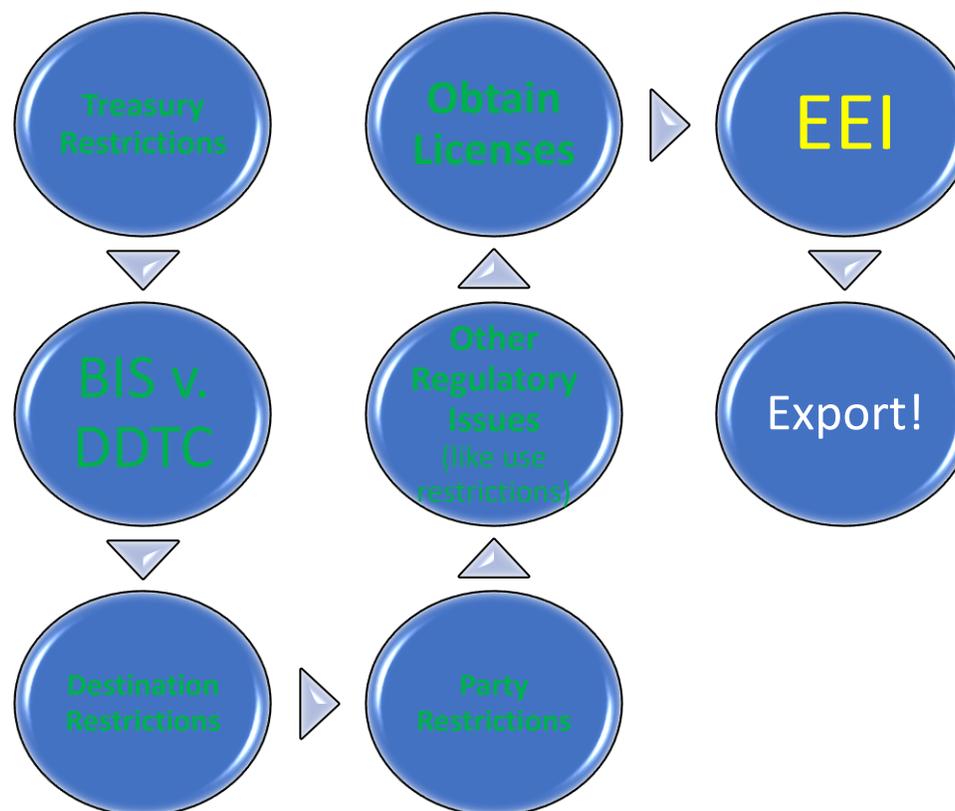
# BIS License Exceptions (AVS)

## *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

# 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





# Don't Forget the "Paperwork"

- Electronic Export Information
  - Must be filed on-line: <https://ace.cbp.dhs.gov/>
  - Keep copies of your documents for at least five years
    - Shipping document with the ITN
    - All other related transactional documents including:
      - invoices
      - orders
      - packing lists
      - correspondence
      - any other relevant information bearing upon the export transaction
  - There is a limited exception for non-licensed commodities valued at less than \$2,500



# Thank You

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