



ASA Government and Industry Affairs Program

ASA Quality Committee Meeting

Aviation Suppliers Association

June 5, 2022



International Recognition of ASA-100

- FAA – AC 00-56B
- EASA
 - *EASA AMC1 145.A.42(b)(i)* provides that the procedures for the acceptance of components, standard parts and materials should include supplier evaluation procedures
 - *EASA GM2 145.A.42(b)(i)* explains what a supplier is, in order to assess who must be controlled
 - *EASA GM3 145.A.42(b)(i)* describes the elements that should be considered when evaluating a supplier's quality system, and it explains that suppliers accredited to ASA-100 an AC 00-56 are acceptable
- CAAC
 - *AC-120-FS-058 rev. 3* limits purchase only from accredited distributors
 - *IB-FS-MAT-001 rev. 1* recognizes only two acceptable forms of accreditation – ASA-100 and CAMAC ASP-R5



ASA Statement

- The ASA Statement is released –
 - <https://www.aviationsuppliers.org/asa-statement-form-2020>
 - This page includes form, instruction, and block-by-block training in both video and PDF formats



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 - This page includes form, instruction, and block-by-block training in both video and PDF formats
- The form and instructions are intended to support modern transactions
 - Complete instructions
 - Instructions that do not exclude distributors
 - The data that you need and that you can reasonably provide
 - Includes appropriate language to limit unwanted liability



ASA Statement – Keeping it Current

- The Statement is intended to be maintained by this committee
- Please monitor your use of the Statement over the next few months
- If you identify any of these issues, then please let us know so we can address them at the December 2022 Quality Committee meeting:
 - Lack of clarity in the instructions
 - Circumstance that ought to be considered in the instructions
 - Unintended consequences
 - Any other issue you think ought to be addressed to maintain the Statement and its instructions



New Export Standards: Compliance and Circumvention Detection

Focus on Russia and Belarus



Russia and Belarus

- Items classified in any ECCN require an export license to Russia or Belarus (15 C.F.R. § 746.8)
 - This will include aircraft parts under 9A991, avionics under CCL 7, etc.
 - License applications reviewed with a policy of denial, however applications related to safety of flight reviewed on case-by-case basis
 - AVS can be used in a very limited fashion
 - The most common application of AVS into Russia is to permit a non-Russian carrier to fly into and out of Russia for regular service
 - AVS cannot be used to support an aircraft registered in Russia/Belarus
 - AVS cannot be used to support an aircraft owned or controlled by a person or entity from Russia/Belarus
 - AVS cannot be used to support an aircraft “under charter or lease “ to a person or business from Russia/Belarus (this would typically apply to aircraft operated by Russian/Belarusian air carriers)



Russia and Belarus

- Restricted for military end user/use and military intelligence end user/use (15 C.F.R. §§ 744.21-744.22)
- Russian/Belarusian MEUs have moved to the Entity List
 - Even if not listed, still restricted if MEU
- OFAC sanctions also apply
 - Multiple overlapping programs: Election interference, Magnitsky, Crimea, CAATSA
 - OFAC tends to list restricted parties, and the lists are changing frequently, so check every transaction against the Consolidated Export Screening List, the SDN list and the SSI list



Lists

- **Consolidated Screening List:**
 - <https://www.trade.gov/data-visualization/csl-search>
- **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 for every transaction!



Important General Prohibitions

- General Prohibition Eight — In transit shipments that will pass through one of these countries:
 - Armenia, Azerbaijan, Belarus, Cambodia, Cuba, Georgia, Kazakhstan, Kyrgyzstan, Laos, Mongolia, North Korea, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Vietnam
 - This requires you to examine the ultimate destination and you must be able to legally export to that destination
- General Prohibition Ten — Proceeding with transactions with knowledge that a violation has occurred or is about to occur
 - If you know (or reasonably should know) that the ultimate destination or purpose is not legal then you cannot go through with the transaction



Performing Due Diligence

- Check out the lists
- Check out the ownership of your export customer
 - If a sanctioned party controls the business , then the sanctions may flow down to the business
 - If the sanctioned owners own 50% or more of the business, then there is a presumption of control (and sanctions may flow down to the business)



Example: Azur Air

- *Azur Air, Sharypovo Airport, 404/1 Kozhevnicheskiy Lane, Moscow, Russia; Order Temporarily Denying Export Privileges, 87 F.R. 21614 (April 12, 2022)*
- No person may, directly or indirectly, do any of the following:
 - Export to or on behalf of Azur any item subject to the EAR *except directly related to safety of flight and licensed by BIS;*
 - Facilitate Azur obtaining any item subject to the EAR;
 - Acquire (or facilitate) from Azur any item subject to the EAR
 - Service any item subject to the EAR that will be exported and which is owned, possessed or controlled by Azur.
- Also applies to successors or assigns, agents, or employees
- *Any other person, firm, corporation, or business organization related to Azur by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.*



Making Export Easier

Moving Some Parts to EAR99



- ASA has embarked on a project to obtain better clarification on what aircraft parts may be outside of the export regulations
- The goal is to objectively detail certain parts that may be treated as EAR99 for export purposes.



Specially Designed

- The “specially designed” is used to identify parts subject to certain classifications
- The “600 series” Export Commodity Classification Numbers (ECCN) often apply to items that are specially designed for use on defense aircraft
- The generic aircraft parts ECCN (9A991.d) applies to parts and components that are specially designed for use on aircraft



Specially Designed - Catch and Release

- The export rules rely on a catch-and-release paradigm
- Articles that are would be considered to be specially designed are “released” (not regulated under that provision) if they fall into these categories:
 - a fastener (e.g., screw, bolt, nut, nut plate, stud, insert, clip, rivet, pin), washer, spacer, insulator, grommet, bushing, spring, wire, or solder
 - Is used on both ECCN-controlled items and EAR99 items
 - Was developed as a general-purpose commodity (e.g. not developed for aircraft)
 - Was developed exclusively for use in EAR99 commodities (e.g. not developed for aircraft)



Application of “Not Specially Designed”

- 9A991.d covers:
 - “Parts” and “components,” “specially designed” for “aircraft,” n.e.s.
- This has typically included all aircraft parts that do not have a more specific ECCN (for example, avionics might be regulated under 7A991)
- ECCN 9A991.d *does not* include:
 - “accessories” or “attachments”
 - *These are associated items for any “component,” “end item,” or “system,” and which are not necessary for their operation, but which enhance their usefulness or effectiveness For purposes of this definition, “attachments” and “accessories” are the same.*
- Recently, our law firm clients have sought licenses for low-threat articles shipped to Chinese MEUs
 - BIS has been refusing to grant licenses and finding certain articles to be “not specially designed” to **permit** them to be exported without a license



Petition for Clarification

- If successful, we hope to get clarification on classes of aircraft parts that are not “specially designed” for aircraft and therefore fall outside of 9A991
- Our thought is to seek out clarification on the parts that are excluded under the Agreement on Trade in Civil Aircraft
 - These are excluded from duty-free treatment because they can be used for other industries
 - We will ask that these be excluded from 9A991 (typically that would mean classified as EAR99) for the same reason
- This would make it easier for members to export; especially under limitations like the Russia sanctions and the Chinese MEU sanctions that only apply to articles that are subject to the BIS Commerce Control Lists



Airworthiness Agency Activities



FAA Return to the Office

- “Return to Office” letters were sent out, specifying April 25 as the return date for FAA employees
- We know of some FAA employees who are in the office full time, but others who are not yet returned to the office on a full-time basis
- This is a work-in-progress

- Retirements have resulted in major changes among the senior executives



Safety Management Systems EU Status

- European SMS rules
 - MRO SMS was published November 2021
 - Applies starting 2 December 2022
 - AMCs and GMs are still forthcoming
 - Manufacturing SMS regulation was published February 2022 but we are awaiting AMCs and GMs
 - Expect one-year phase-in period, followed by a one-year corrective action period, in each case



Safety Management Systems

US Status

- FAA's proposed (NPRM) SMS rules for manufacturers and repair stations are due out in September of this year
- It is likely (but not definite) that the proposed rule for manufacturers will apply only to TC/PC holders
 - Would not apply to PMA/TSOA holders
 - This would be consistent with the ICAO requirement



SMS and Distributors

- SMS regulations are *very unlikely* to apply to distribution
- Historically, new quality paradigms have been applied to distributors through commercial pressure
 - With air carriers, repair stations and manufacturers required to have SMS programs, there is a possibility of commercial pressure to establish SMS programs
 - SMS relies on data, so there is a possibility of commercial pressure to support SMS programs through data sharing



ASA and SMS

- ASA does not currently intend to require SMS
- ASA wants to *support* members who wish to adopt SMS

- One way that we can support distribution SMS is to identify hazards (bad things that might happen) and place them in a hazard taxonomy (classification to make it easy to find and add hazards)
 - We would leave mitigations to individual adopters to identify

- Who is interested in working on the *Hazard Identification Committee* to identify aviation safety hazards that may affect distributors?



Homework - Summary

- Monitor your use of the ASA Statement and let us know about issues that need to be addressed at the next Quality Committee meeting
- Let us know about aviation safety hazards that you feel should be considered in a distributor safety management program (and let us know if you would like to join the *Hazard Identification Committee*)
- Got an issue to raise at the next Quality Committee meeting? Please send it to jason@washingtonaviation.com by October 31, 2022



Questions?



Thank You

Jason Dickstein, General Counsel
Aviation Suppliers Association
2233 Wisconsin Avenue, Suite 503
Washington, DC 20007

Tel: (202) 628-6776
Jason@WashingtonAviation.com