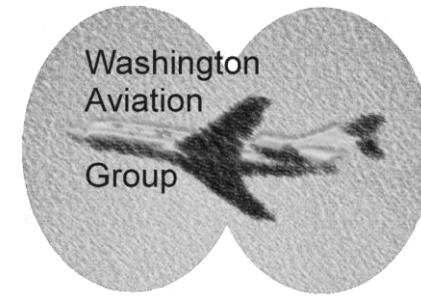


Exporting Aircraft Parts in an Increasingly Complicated World

ASA/AFRA Annual Conference

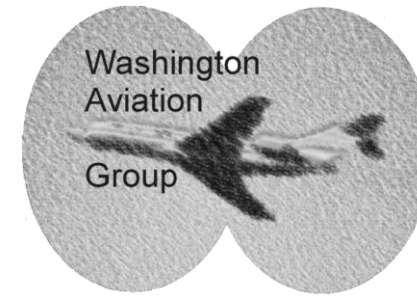
June 24, 2024



“At no point in history have export controls been more central to our collective security than right now.”

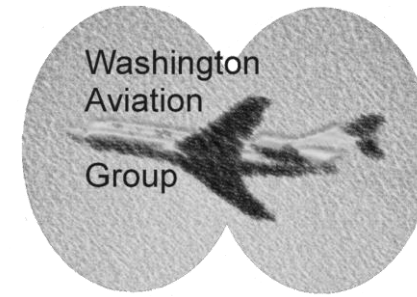
Opening Statement:
U.S. Bureau of Industry and Security
“Year in Review” 2023

What is an Export?



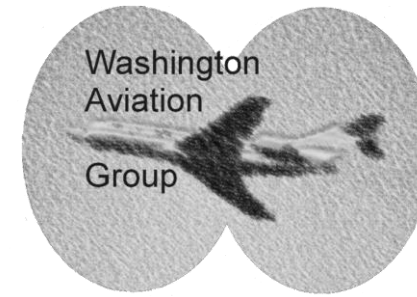
- Actual shipment or transmission of items out of the U.S.
 - Includes software
 - Includes technology (e.g. technical data and other visible information)
 - Can include technical documents, like CMMs or service bulletins, in some cases
 - Includes repaired items that are being returned!
- Deemed export
 - Any release in the United States of “technology” or source code to a foreign person
 - “Deemed” exported to the country of citizenship or permanent residency
- Transit through a country is considered an export to that destination, too
- **NOTE:** *Re-exports (beyond the US) and in-country transfers are also typically regulated*

Three Important Export Regulators in the US



- 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

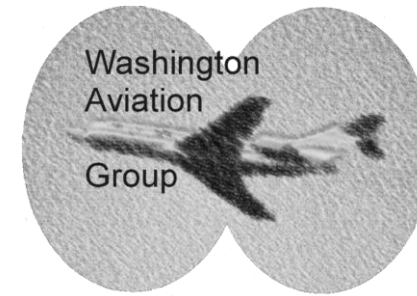
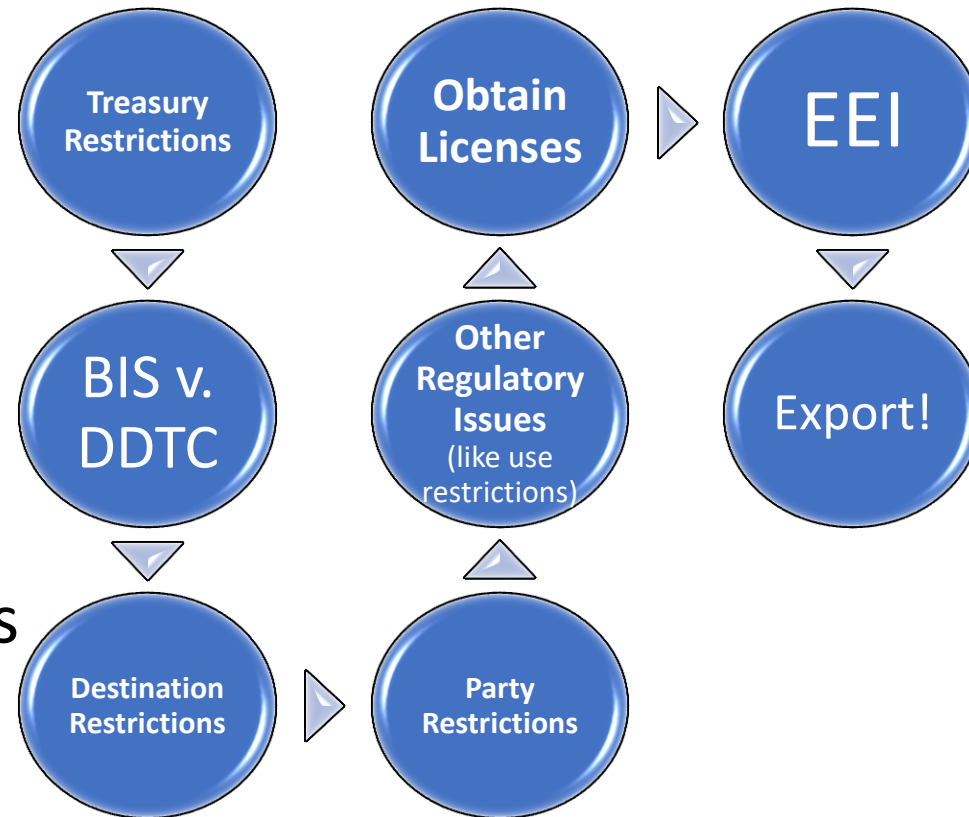
Disruptive Technology Strike Force and KleptoCapture

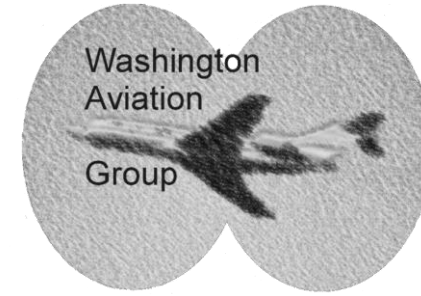


- Two men from Miami-Dade County pled guilty in April 2024 to procuring aircraft parts for Russian commercial airlines (United States v. Besedin and Patsulya, District of Arizona):
 - Took orders from Russian airlines, but claimed the orders were for Turkish end users
 - Approached aircraft parts suppliers in the United States, lied about who their customers were, and lied about where the parts would be going
 - Routed the shipments through the Maldives
- Two Kansas men (Robertson and Buyanovsky) and their company KanRus Trading Company
 - Shipping avionics to Russia through third countries, including Armenia and Cyprus
 - Receiving Russian avionics for overhaul, getting them serviced, and returning them to Russia
 - Buyanovsky pled guilty in December 2023; New indictment against Robertson filed in March 2024

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

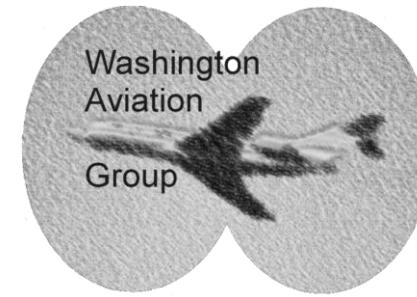




First, Can I Transact Business Here At All?

Are there General Treasury
Restrictions that Regulate
Transfer of Assets?

Consolidated Screening List



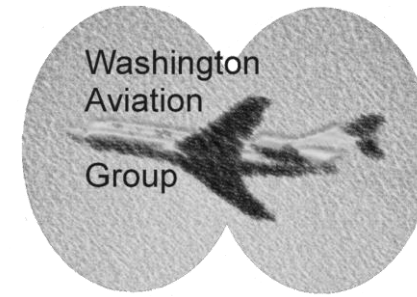
- Commerce, State, and Treasury lists

<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://ofac.treasury.gov/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**

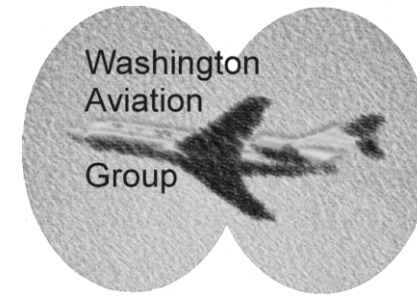
- <https://www.treasury.gov/ofac/downloads/ssi/ssilist.pdf>

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

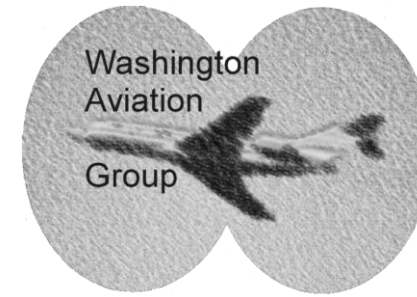
Sample Sanctioned Parties

as of May 29, 2024

- Aero Continent
- Aero Courier Cargo
- Aero Express Intercontinental
- Aero Sky One
- Aerocaribbean Airlines
- Aerocomercial Alas De Colombia
- 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 OY
- Al-Naser Airlines
- Al-Nasar Wings Airline
- Al-Sham Wings
- Avia Group LLC
- Avia Import
- Avia Trust FZE
- Aviacon Air Cargo
- Aviation Capital Solutions, Ltd
- Blue Sky Aviation
- 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
- Kyrgyz Trans Avia Airlines
- Mahan Air
- Mantenimiento, Aeronautica, Transporte, Y Servicios Aereos
- Pouya Airlines
- Sky Blue Airlines
- Syrian Air Force Intelligence
- Syrian Airlines
- TAE Avia
- Yasair Cargo Airline

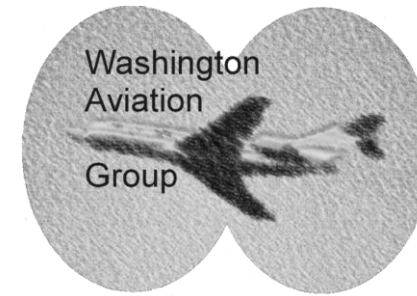


Sectoral Sanctions and Specially Designated Nationals (SDNs) Lists



- 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 exports and no imports with blocked parties
 - It also means no acceptance of funds from (or payments to) a blocked party

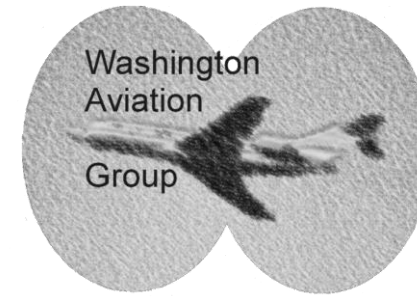
Can I sell to a Subsidiary?



- **ISSUE: The parent company is on the OFAC sanctions list, but the subsidiary is not. Can I sell to 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; 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*)

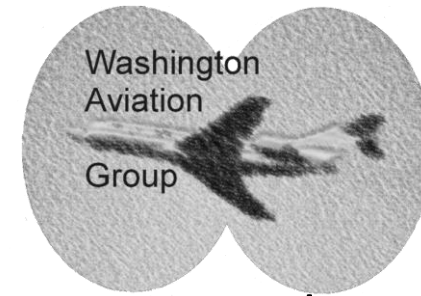
Places Restricted by OFAC

Current as of May 29, 2024



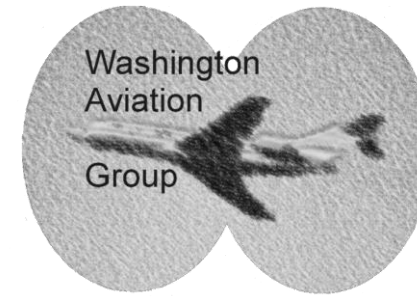
- Afghanistan
- Balkans
- Belarus
- Burma (Myanmar)
- Central African Republic
- China (Military Companies and Hong Kong-related)
- Congo (Dem. Rep.)
- Cuba
- Ethiopia
- Iran
- Iraq
- Lebanon
- Libya
- Mali
- Nicaragua
- North Korea
- Russia
- Somalia
- Sudan and Darfur
- South Sudan
- Syria/Syria Related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

Exception: Treasury Licenses



- A general OFAC license authorizes certain transactions without the filing of an application with OFAC
 - Example: Russia general license 40B permits exporting aircraft parts to certain Russian manufacturers/lessors for their civil aircraft registered outside of Russia
- 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 to support safety of civil aviation

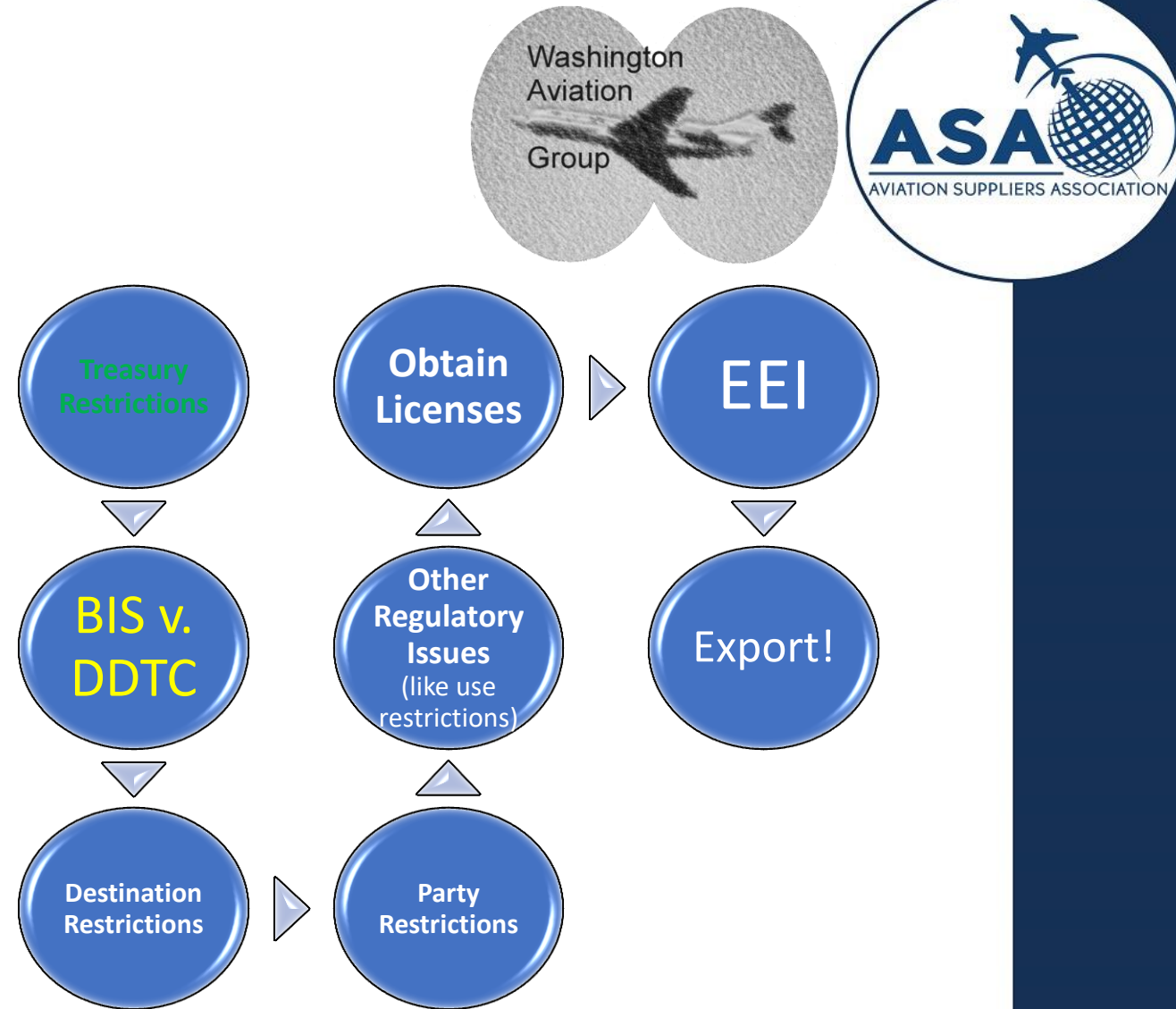
Practical Advice – OFAC Compliance



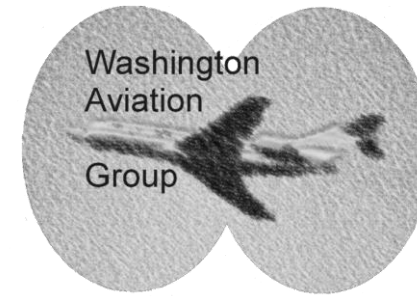
- Gather information – do not be willfully blind to the facts
- Consider ownership interests and flow-down of sanctions
- Always check your export business partners on the consolidated screening list and the OFAC sanctions list for every transaction
- If you identify a party who appears to be blocked, 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

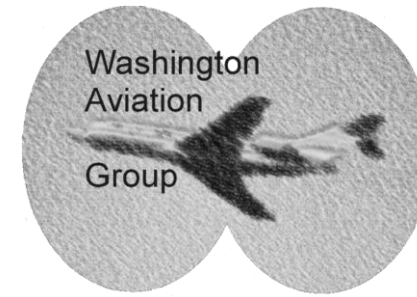


- Distinguish the U.S. Department with jurisdiction
 - Is it a US Munitions List Item?
 - Defense articles (many dual-use items have been removed from the USML!!)
 - Check ITARs
 - State has export jurisdiction
 - Otherwise subject to BIS restrictions
 - Identify the ECCN
 - Check BIS export administration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

ITAR

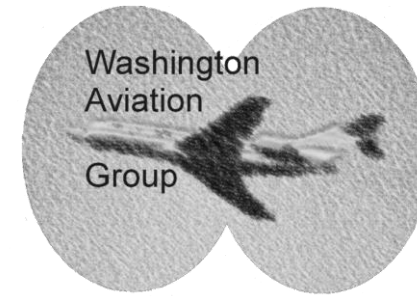
EAR

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

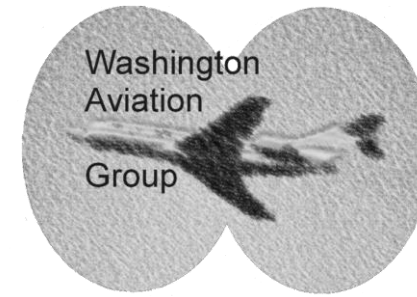
Examples of USML Aircraft Articles



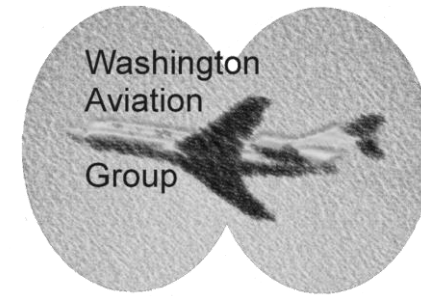
Certain articles (and their subcomponents) that are specially designed for USML/9A610-controlled aircraft:

- 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, 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?



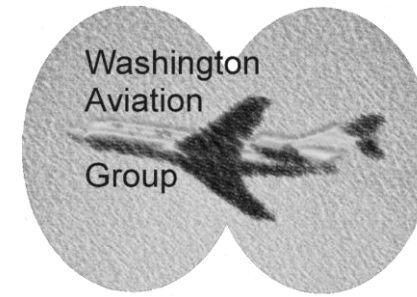
- If it is regulated by State Department
 - Register with State Department
 - Assess whether particular State Department Restrictions apply
 - Obtain appropriate licenses
- Most civil aircraft parts, including avionics for civil aircraft, will not be subject to ITAR



But What if it is Not a Munitions List Item?

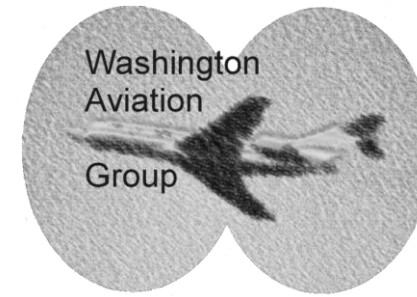
If State Doesn't Regulate It, Then Commerce May
Most Civil Aircraft Articles will Fall Within Commerce's
Export Jurisdiction

Is it Regulated by the Commerce Department?



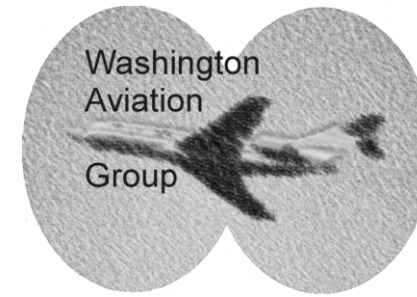
- What am I exporting? Is it classified under the Commerce Control List (CCL)?
 - <https://www.bis.doc.gov/index.php/regulations/commerce-control-list-ccl>
- Examples:
 - *CCL 2 - Material processing (e.g., bearings, certain testing equipment, etc.)*
 - *CCL 3 - Electronics*
 - *CCL 7 - Avionics*
 -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

Some Common Aviation ECCNs



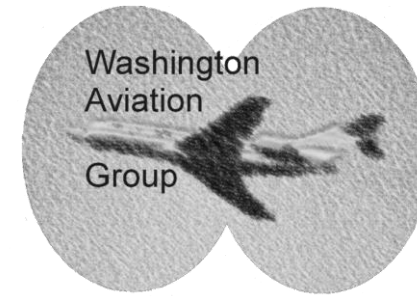
- 7A103
- 7A994
- 9A610
- 9A619
- 9A991
- Certain Inertial Reference Units
- Certain Avionics
- Certain Articles for Defense Airframes
- Certain Articles for Defense Engines
- Certain Articles for Commercial Aircraft

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:
<https://www.bis.doc.gov/index.php/licensing/simplified-network-application-process-redesign-snap-r>

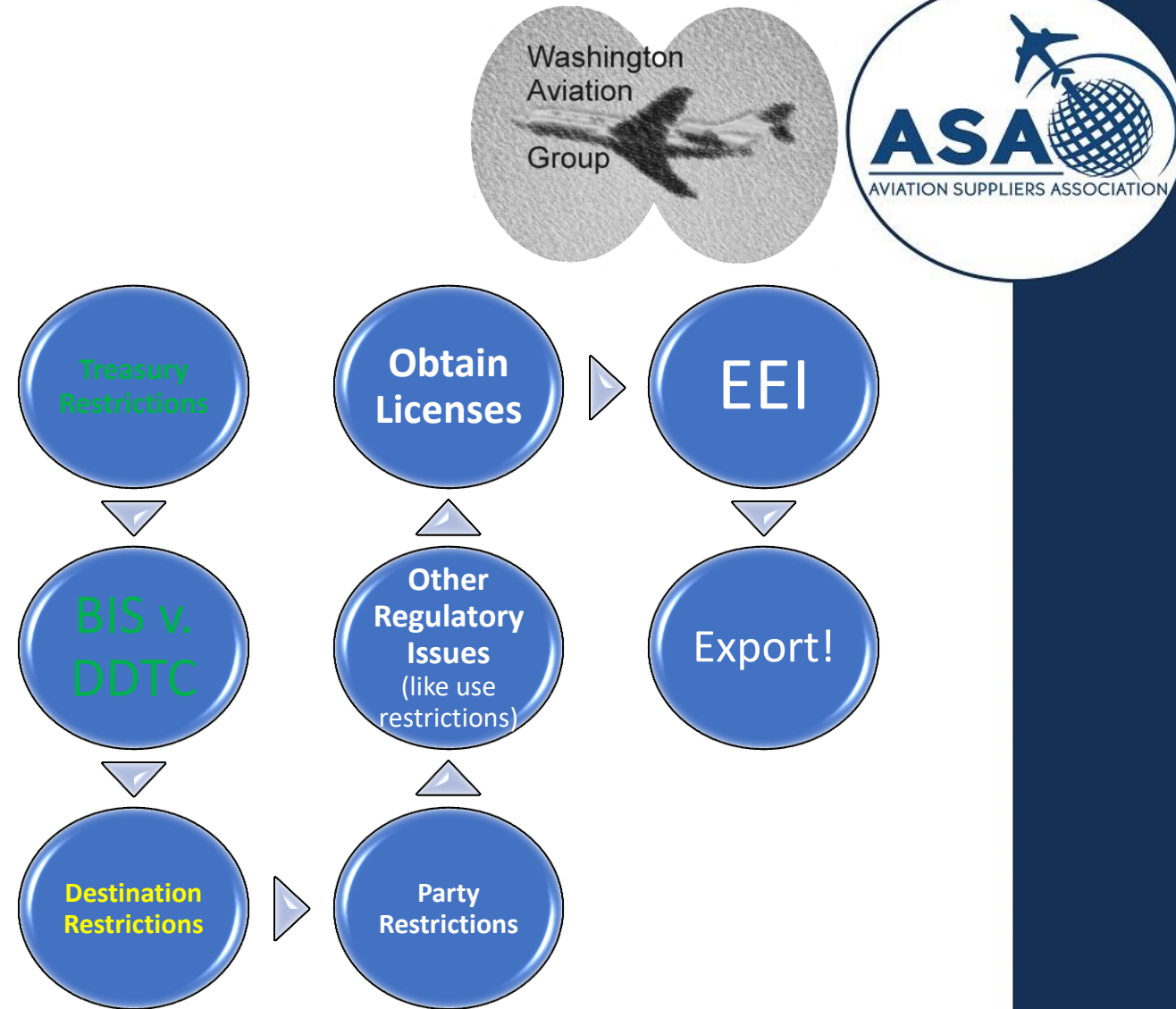
Export Control Classification Numbers



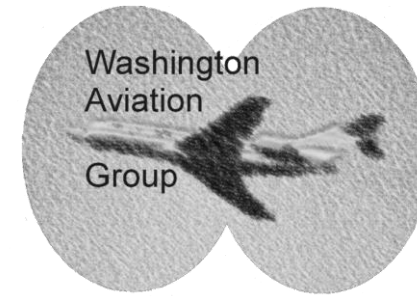
- General item default for unlisted articles is EAR99
 - But aircraft part default is 9A991
 - Many avionics are 7A994
 - Civil avionics calibration and test equipment tends to be 7B001 or 7B994
- If it is not in the CCL (e.g. if it is EAR99), then a license may be unnecessary to most destinations
 - But certain limits like sanctions, denied parties or a controlled usage may still affect your transaction

Steps to Compliance

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

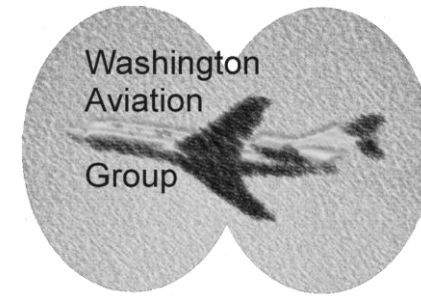


Destination Restrictions



- 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

Finding the Resources



- Commerce Control List (CCL)
- Supplement No. 1 to Part 774
- <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-C/part-774/appendix-Supplement%20No.%201%20to%20Part%20774>
- Commerce Country Chart
- Supplement No. 1 to Part 738
- <https://www.ecfr.gov/current/title-15/part-738/appendix-Supplement%20No.%201%20to%20Part%20738>

vehicles capable of a range equal to or greater than 300 km.

e. “Components” “specially designed” for pressure gain combustion-based propulsion systems controlled under USML Category IV.

f. Composite structures, laminates and manufactures thereof “specially designed” for the following items controlled under USML Category IV:

f.1. Systems capable of a range equal to or greater than 300 km;

f.2. Individual rocket stages usable in 9A604.f.1 systems;

f.3. Solid propellant rocket motors or hybrid rocket motors having a total impulse capacity equal to or greater than 8.41×10^5 Ns; or

f.4. Liquid propellant rocket engines integrated, or designed or modified to be integrated, into a liquid propellant propulsion system which has a total impulse capacity equal to or greater than 8.41×10^5 Ns.

f.5. Thrust vector control systems usable in rockets, space launch vehicles (SLVs), and missiles capable of delivering at least a 500 kg payload to a range of at least 300 km.

f.6. Re-entry vehicles or warhead heat shields usable in rockets, SLVs, and missiles capable of delivering at least a 500 kg payload to a range of at least 300 km.

f.7. Safing, arming, fuzing, and firing components usable in rockets, SLVs, and missiles capable of delivering at least a 500 kg payload to a range of at least 300 km.

g. through w. [Reserved]

x. “Parts,” “components,” “accessories,” and “attachments” that are “specially designed” for a

commodity subject to control in paragraphs .a through .d of this ECCN, or a defense article controlled under USML Category IV, and not specified elsewhere on the USML.

Note to 9A604.x: “Parts,” “components,” “accessories,” and “attachments” specified in USML Category IV(h) are subject to the controls of that paragraph.

9A610 Military aircraft and related commodities, other than those enumerated in 9A991.a (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, MT, AT, UN

<i>Control(s)</i>	<i>Country Chart (See Supp. No. 1 to part 738)</i>
NS applies to entire entry except: 9A610.b; parts and components controlled in 9A610.x if being exported or reexported for use in an aircraft controlled in 9A610.b; and 9A610.y.	NS Column 1
RS applies to entire entry except: 9A610.b; parts and components controlled in 9A610.x if being exported or reexported for use in an aircraft controlled in 9A610.b; and 9A610.y.	RS Column 1
RS applies to 9A610.y	China, Russia, or Venezuela (see §742.6(a)(7))
MT applies to 9A610.t, .u, .v, and .w	MT Column 1
AT applies to entire entry	AT Column 1
UN applies to entire entry except 9A610.y.	See § 746.1(b) for UN controls



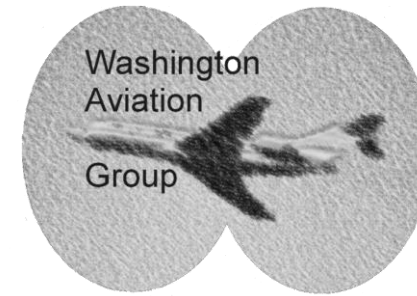
9A610 Military aircraft and related commodities, other than those enumerated in 9A991.a (see List of Items Controlled).

License Requirements

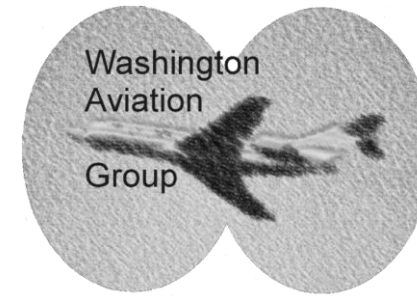
Reason for Control: NS, RS, MT, AT, UN

<i>Control(s)</i>	<i>Country Chart (See Supp. No. 1 to part 738)</i>
NS applies to entire entry except: 9A610.b; parts and components controlled in 9A610.x if being exported or reexported for use in an aircraft controlled in 9A610.b; and 9A610.y.	NS Column 1
RS applies to entire entry except: 9A610.b; parts and components controlled in 9A610.x if being exported or reexported for use in an aircraft controlled in 9A610.b; and 9A610.y.	RS Column 1
RS applies to 9A610.y	China, Russia, or Venezuela (see §742.6(a)(7))
MT applies to 9A610.t, .u, .v, and .w	MT Column 1
AT applies to entire entry	AT Column 1
UN applies to entire entry except 9A610.y.	See § 746.1(b) for UN controls

- Reasons for control
 - NS: National Security
 - RS: Regional Stability
 - MT: Missile Technology
 - AT: Anti-Terrorism
 - UN: UN Sanctions



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 Commerce Country Chart (cross reference *country* against the *reason for control*):
 - <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-C/part-738/appendix-Supplement%20No.%201%20to%20Part%20738>
 - If there is an “X” in the cross-reference, then you need a BIS license (or license exception) for export
 - Also be sure to read the notes when indicated by a superscripted number after the country name

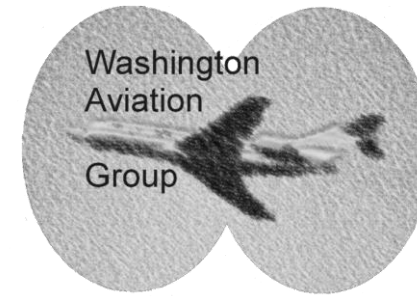
Countries	Chemical and biological weapons			Nuclear nonproliferation		National security		Missile tech	Regional stability		Firearms convention	Crime control			Anti-terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
Afghanistan	X	X	X	X		X	X	X	X	X		X		X		
Albania ^{2 3}	X	X		X		X	X	X	X	X						
Algeria	X	X		X		X	X	X	X	X		X		X		
Andorra	X	X		X		X	X	X	X	X		X		X		
Angola	X	X		X		X	X	X	X	X		X		X		
Antigua and Barbuda	X	X		X		X	X	X	X	X	X	X		X		
Argentina	X					X		X	X		X	X		X		
Armenia	X	X	X	X		X	X	X	X	X		X	X			
Aruba	X	X		X		X	X	X	X	X		X		X		
Australia ⁹	X															
Austria ^{3 4}	X					X		X	X							
Azerbaijan	X	X	X	X		X	X	X	X	X		X	X			
Bahamas, The	X	X		X		X	X	X	X	X	X	X		X		
Bahrain	X	X	X	X		X	X	X	X	X		X		X		
Bangladesh	X	X		X		X	X	X	X	X		X		X		

Countries	Chemical and 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
Afghanistan	X	X	X	X		X	X	X	X	X		X		X		
Albania ^{2 3}	X	X		X		X	X	X	X	X						
Algeria	X	X		X		X	X	X	X	X		X		X		
Andorra	X	X		X		X	X	X	X	X		X		X		
Angola	X	X		X		X	X	X	X	X		X		X		
Antigua and Barbuda	X	X		X		X	X	X	X	X	X	X		X		
Argentina	X					X		X	X		X	X		X		
Armenia	X	X	X	X		X	X	X	X	X		X	X			
Aruba	X	X		X		X	X	X	X	X		X		X		
Australia ⁹	X															
Austria ^{3 4}	X					X		X	X							
Azerbaijan	X	X	X	X		X	X	X	X	X		X	X			
Bahamas, The	X	X		X		X	X	X	X	X	X	X		X		
Bahrain	X	X	X	X		X	X	X	X	X		X		X		
Bangladesh	X	X		X		X	X	X	X	X		X		X		

Countries	Chemical and 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
Afghanistan	X	X	X	X		X	X	X	X	X		X		X		
Albania ^{2 3}	X	X		X		X	X	X	X	X						
Algeria	X	X		X		X	X	X	X	X		X		X		
Andorra	X	X		X		X	X	X	X	X		X		X		
Angola	X	X		X		X	X	X	X	X		X		X		
Antigua and Barbuda	X	X		X		X	X	X	X	X	X	X		X		
Argentina	X					X		X	X		X	X		X		
Armenia	X	X	X	X		X	X	X	X	X		X	X			
Aruba	X	X		X		X	X	X	X	X		X		X		
Australia ⁹	X															
Austria ^{3 4}	X					X		X	X							
Azerbaijan	X	X	X	X		X	X	X	X	X		X	X			
Bahamas, The	X	X		X		X	X	X	X	X	X	X		X		
Bahrain	X	X	X	X		X	X	X	X	X		X		X		
Bangladesh	X	X		X		X	X	X	X	X		X		X		

Countries	Chemical and 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
Afghanistan	X	X	X	X		X	X	X	X	X		X		X		
Albania ^{2 3}	X	X		X		X	X	X	X	X						
Algeria	X	X		X		X	X	X	X	X		X		X		
Andorra	X	X		X		X	X	X	X	X		X		X		
Angola	X	X		X		X	X	X	X	X		X		X		
Antigua and Barbuda	X	X		X		X	X	X	X	X	X	X		X		
Argentina	X					X		X	X		X	X		X		
Armenia	X	X	X	X		X	X	X	X	X		X	X			
Aruba	X	X		X		X	X	X	X	X		X		X		
Australia ⁹	X															
Austria ^{3 4}	X					X		X	X							
Azerbaijan	X	X	X	X		X	X	X	X	X		X	X			
Bahamas, The	X	X		X		X	X	X	X	X	X	X		X		
Bahrain	X	X	X	X		X	X	X	X	X		X		X		
Bangladesh	X	X		X		X	X	X	X	X		X		X		

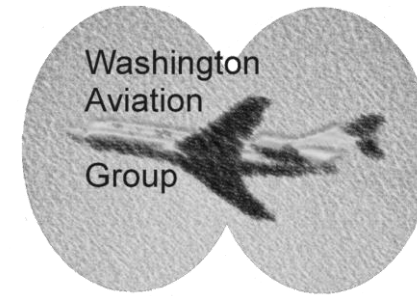
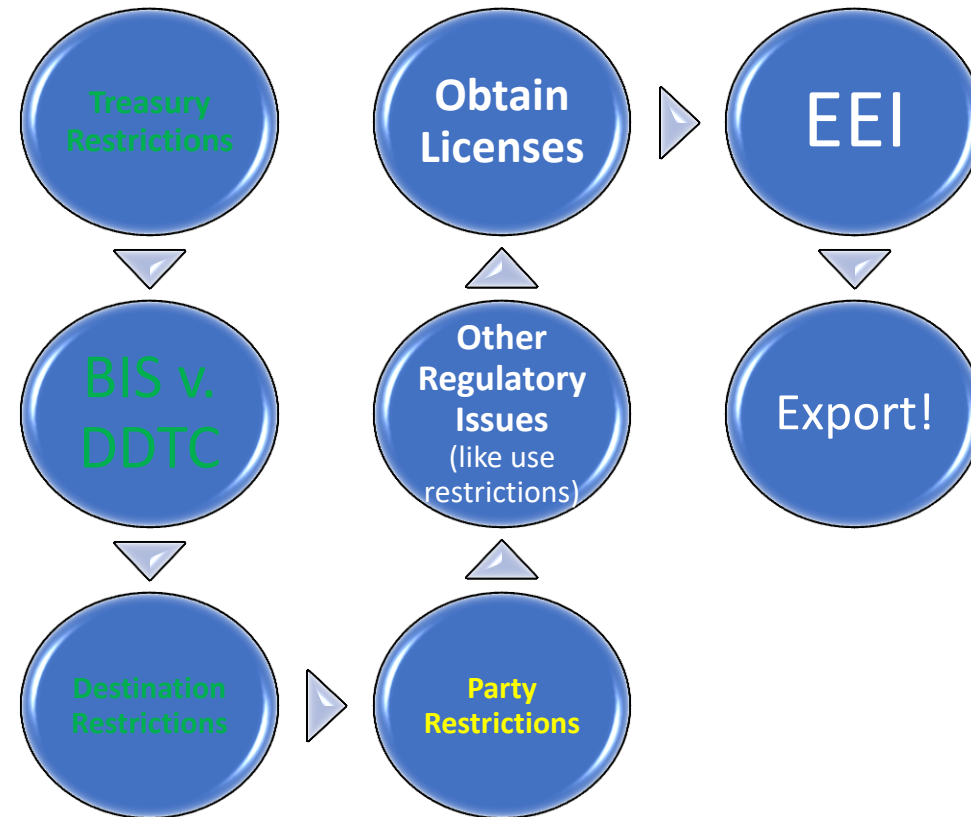
UN Destination Restrictions



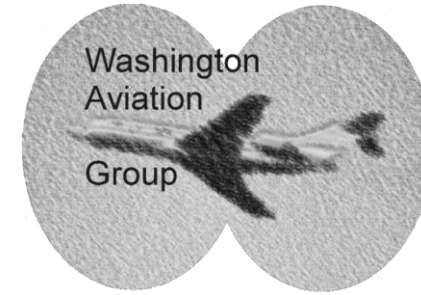
- Articles controlled for reason “UN” are restricted from export to the Central African Republic, Democratic Republic of the Congo, Eritrea, Iran, Iraq, Lebanon, Libya, North Korea, Somalia, and Sudan due to UN Security Council arms embargoes (15 C.F.R. § 746.1(b)(2))
- Demilitarized aircraft are an example of something subject to “UN” controls

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/the-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*
 - <https://www.trade.gov/data-visualization/csl-search>
- **NEW:** BIS has started to add addresses to the denied entities lists
 - Run your addresses through the consolidated list as well



CSL SEARCH

Search all [the screening lists](#) at one time by filling in the search boxes below.

If you get too many results, try including more information to the additional fields. If you get too few results, try searching one field at a time.

Name

Search for an entity's name or one of its alternative names.

Fuzzy Name

When set to "off", the spelling of the Name you search for must be correct to get results. When set to "on", the spelling for the Name you search for may be slightly off from the exact spelling. Check the score for each result to determine how close a match it is to the entity's name or its alternative names. A score of 100 is an exact match. Results are returned with the highest scores first. Fuzzy search filters out the following common words: co, company, corp, corporation, inc, incorporated, limited, ltd, mrs, ms, mr, organization, sa, sas, llc, university, and univ.

For example, 'Water Corporation' returns the same results as 'Water' because 'Corporation' is one of the common words.

Off

Address

Search for the street address, city, province, and postal code of an entity.

Unit D, 16/F One Capital Place, 18 Luard Rd, Wan Chai, Hong Kong

Sources

Choose which of the screening lists that you want to search.

Select...

Countries

Choose which countries that you want to search. Note, the Nonproliferation Sanctions and ITAR Debarred lists do not include the country with an entity. If you choose to search for entities by country then you will not be searching these two lists.

Select...

Search

Results

1 result.

[Address 01](#)

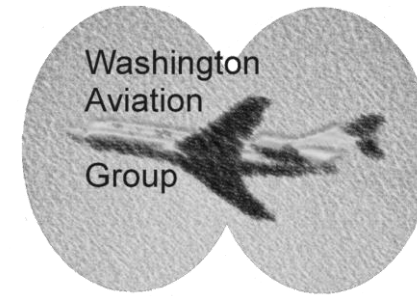
1

Leave
"Name"
blank

Set "Fuzzy
Name" to
'Off'

Plug-in the Address
you want to check

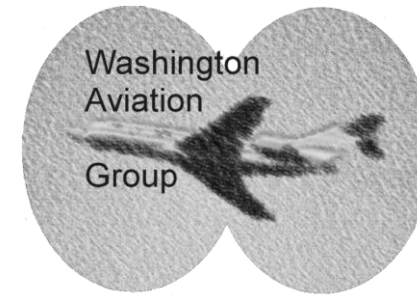
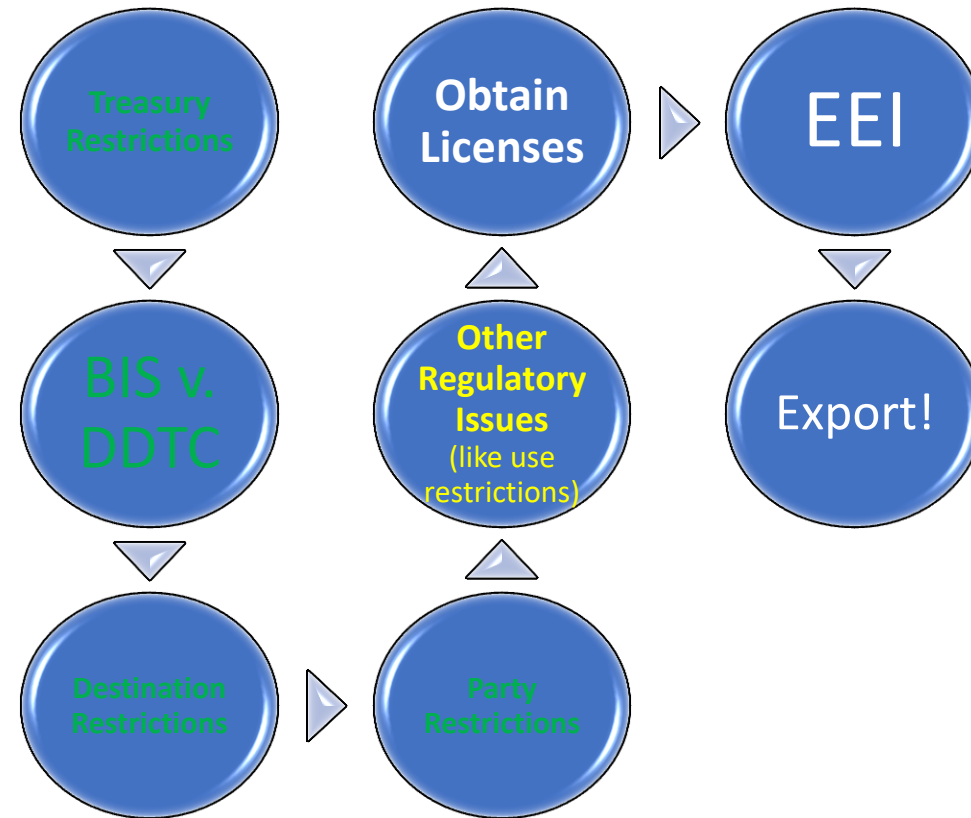
What Is Denied?



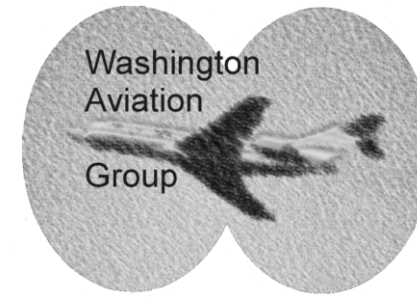
- Denied Persons may NOT participate in any way in any transaction involving the export from the United States of any commodity, software or technology subject to Export Administration Regulations (EAR)
 - No license transactions
 - No negotiations
 - No benefit from any export transaction
 - May not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

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

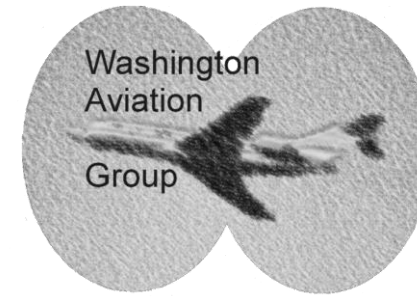


Do You Need a Commerce Department License?



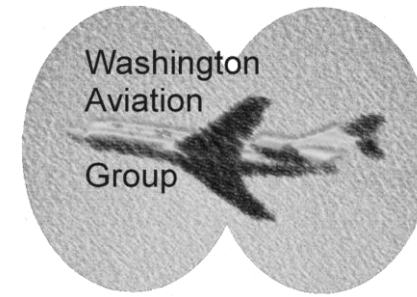
- What will the importer do with it? Certain end-uses are restricted:
 - See 15 C.F.R. Part 744
 - Rocket systems and certain unmanned air vehicles may require licensing; certain military end-users and/or end-uses may also be restricted
 - These restrictions may drive a need to check third party country 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

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

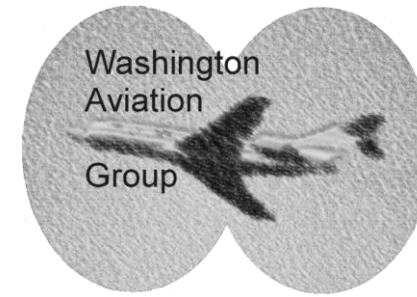
Parts for Foreign Aircraft



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, and
 - To the country, including a national thereof, which is currently controlling, leasing, or chartering the aircraft

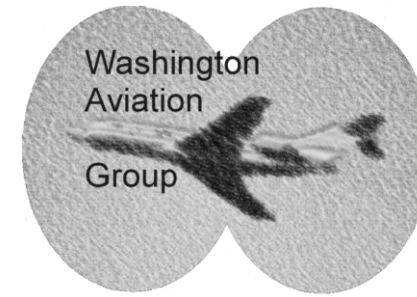
Some Parts of the World are Subject to Special Controls



For example (*not a complete list!*):

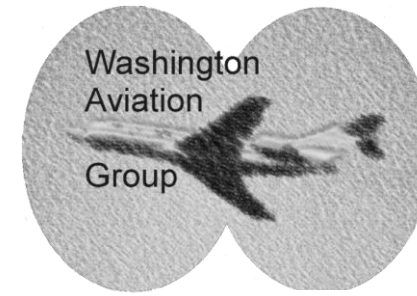
- Belarus (15 C.F.R. §§ 744.21, 746.5, 746.8, 746.10)
- Burma (15 C.F.R. § 744.21)
- Cambodia (15 C.F.R. § 744.21)
- China (15 C.F.R. § 744.21)
- Crimea and other regions of Ukraine (15 C.F.R. § 746.6)
- Cuba (15 C.F.R. § 746.2)
- Iran (15 C.F.R. § 746.7)
- Iraq (15 C.F.R. § 746.3)
- North Korea (15 C.F.R. § 746.4)
- **Russia (15 C.F.R. §§ 744.10, 744.21, 746.5, 746.8, 746.10)**
- Syria (15 C.F.R. § 746.9)
- Venezuela (15 C.F.R. § 744.21)

Combining the Foreign Aircraft Rule (§ 744.7) with the 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.
- This is a special concern right now, because of the efforts to circumvent the Russia sanctions
 - This is creating a special need for assessment of transactions

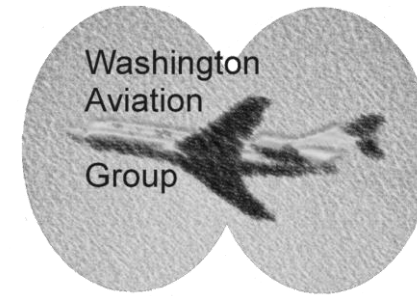
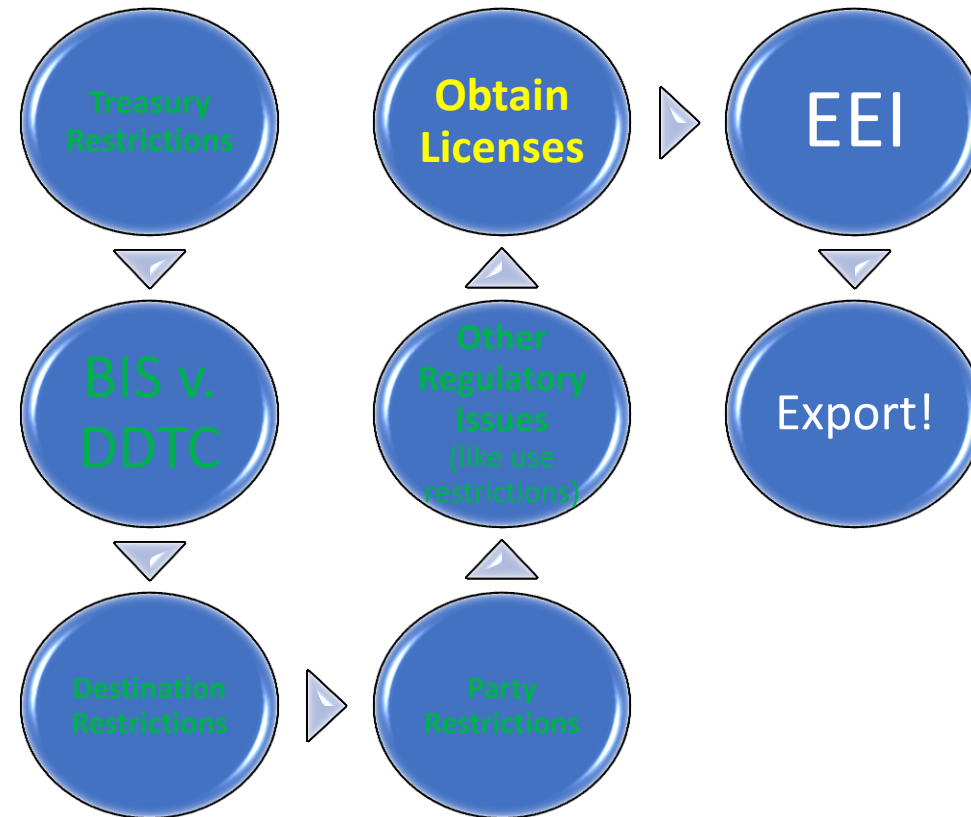
General Prohibition



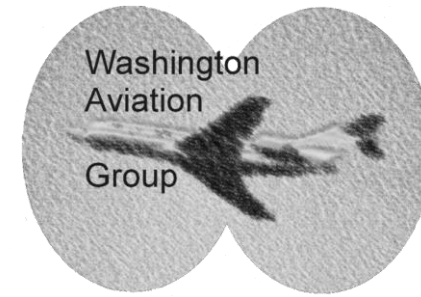
- BIS has published ten general prohibitions (15 C.F.R. § 736.2)
- General Prohibition 10 makes it illegal to engage in a transaction (including a domestic sale) if you know that an export violation has occurred, is about to occur, or is intended to occur
 - No license exception applies
- Don't allow yourself to be willfully ignorant: the government may apply a “knew or reasonably should have known” standard

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

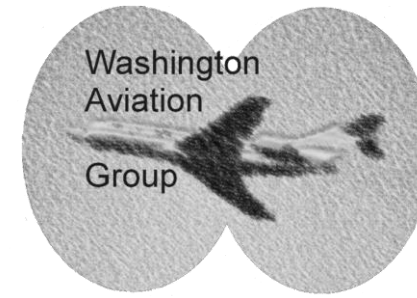


Do You Need a BIS License?



- 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

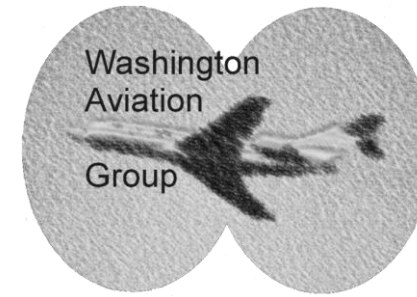
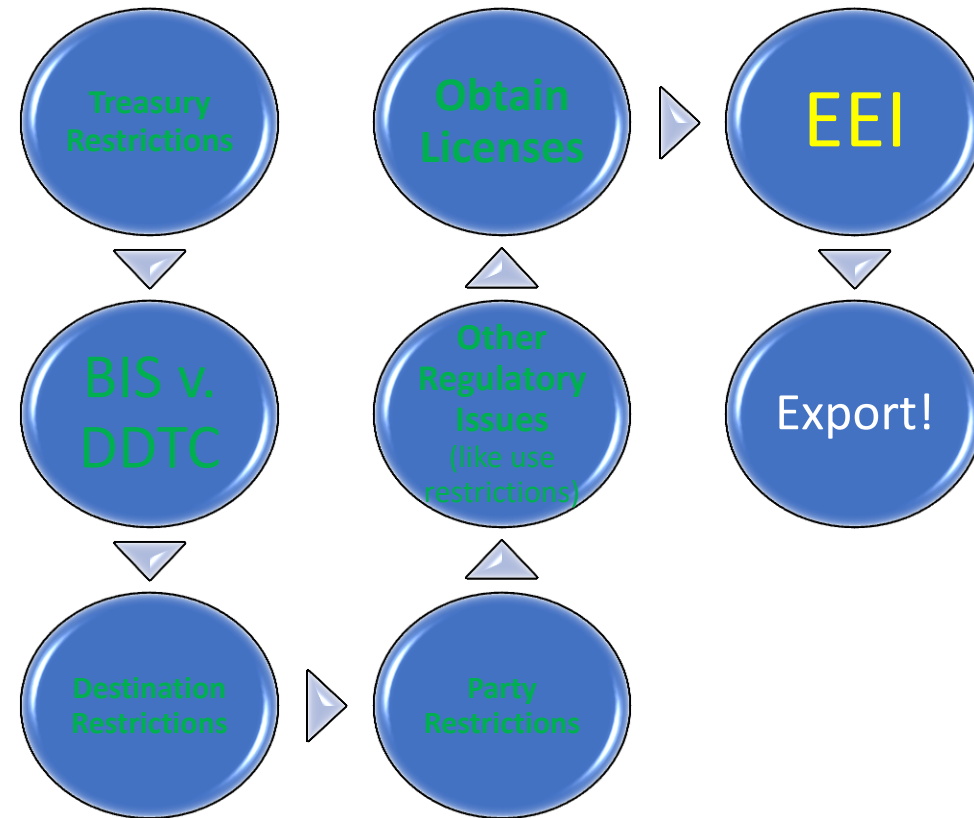
Exceptions to the License Process



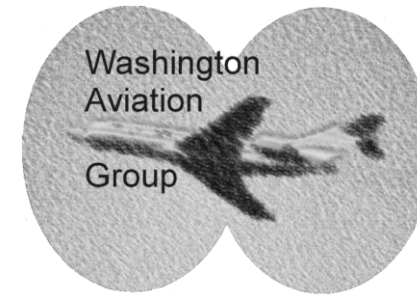
- Obtaining a license takes time
- This is inconsistent with AOG service
- There are certain exceptions that can sidestep licensing requirements and can be very useful for AOG situations
- **My favorites are RPL (replacement of parts) and AVS (aircraft parts under certain fact scenarios)**
- *Exceptions can be complicated!*
 - *Other factors, like control under “MT,” the Russia Rule, or having a 600-series ECCN, can restrict license use*

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

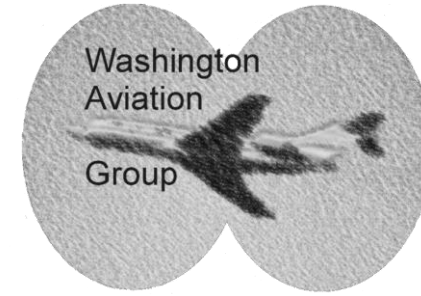


Don't Forget the “Paperwork”



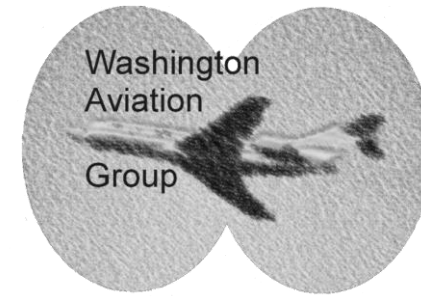
- Place a destination control statement on your commercial invoice
- Electronic Export Information
 - Must be filed on-line: <https://ace.cbp.dhs.gov>
 - You will get an International Transaction Number (ITN)
 - Comes in your responsive email – also found in ACE Shipment Manager
 - ITN goes on 1st page 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*)
- Document retention period is five years (keep all transactional documents)
- If you are shipping through a freight forwarder, then absent a special *agency* agreement, **you** are usually expected to file the EEI

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

Thank You!



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

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