

What Export Control Reform Means for You: Let Us CI-EAR Up Changes to the International Traffic in Arms Regulations (ITAR) – Episode II: The First Change – Reevaluating your ITAR Aircraft Parts

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In [Episode I: The Basics](#) we noted that U.S. Export Control Reform may be causing confusion and consternation among those who will have to take the first theoretical rule changes and apply them in real and practical situations. Among the first test subjects are those who oversee ITAR compliance for manufacturers and exporters of aircraft and aircraft parts. While these brave souls will be the front line of the ECR implementers, those in the ranks behind (looking at you, Military Vehicles and Naval Vessels) will do well to learn from their experience.

Below, for the benefit of the bold compliance professionals who are first into the breach, we present our helpful FAQ on the re-classification of aircraft parts and components. We note that no single commodity jurisdiction can be definitively determined by following the general how-to from an online article, but we are sure you understand that. Below is an illustration intended to demonstrate that the rules, though voluminous and complex, can be distilled through a few simple questions and that most of the heavy jurisdictional analysis work can be accomplished in short order.

A. Opening Questions

Q1: I am charged with reevaluating commodity jurisdictions for a major aircraft parts manufacturer with a catalog of hundreds of ITAR-controlled items. How will I ever categorize them all?

A1: To start, you will not panic (this may be the most difficult advice to follow). There are three general steps required in this review:

- Review the revised, user-friendly USML. The revised USML is now designed to affirmatively list the items it controls. If your commodity is still listed, the ITAR controls will still apply to your commodity and your analysis is finished. Keep calm and carry on.
- Review the CCL. If your item is *not* enumerated on the revised USML it should have been

moved to the Commerce Control List. Review the CCL category applicable to your item. For instance, aircraft parts will now be found under CCL Category 9: Aerospace and Propulsion.

- Review the 600 Series. In each CCL category, you will find a new list of “600 Series” items, created to cover items removed from the revised ITAR. The 600 Series items will have a new appended letter. Review “.a” – “.w” for the former ITAR items now specifically enumerated in the EAR. Review the “.x” category for former ITAR items not specifically enumerated in the EAR. *Then* review the “.y” category for items not specifically enumerated, but expressly removed from the controls of the “.x” category (more on this confusing idea later).

B. Specific Initial Steps

Q2: That’s a great three-step list, but it still sounds complicated and fails to give me practical help on an actual item. Can I get an example of how I go about this analysis?

A2: Of course, that’s what we’re here for. Let’s say you make aircraft tires.

Q3: I make aircraft tires.

A3: Don’t get smart with us. We’re trying to help.

Ok, so we take an item from our catalogue (specifically aircraft tires in this case) and we ask a series of questions about the product, possibly with the help of Export Control or Operations personnel at the company:

You: Was this product controlled under United States Munitions List Category VIII(h)?

Export Control Personnel: Yes. It was a part or component specially designed for a VIII(a) military aircraft.

You: Good. Now, is this product a part, component, accessory, attachment, or equipment specially designed for a current U.S.-origin B-1B, B-2, F-15SE, F/A-18 E/F/G, F-22, F-35 or future variants thereof; for the F-117 or U.S. Government technology demonstrators? [*ie. Is this product now controlled by VIII(h)(1) of the revised USML?*]

ECP: No. It was designed for an F-16.

You: Good. Is this product a face gear gearbox, split-torque gearbox, variable speed gearbox, synchronization shaft, interconnecting drive shaft, or gearbox with internal pitch line velocities exceeding 15,000 feet per minute or part or component “specially designed” therefor? [*ie. Is this product now controlled by VIII(h)(2) of the revised USML?*]

ECP: No. It is a tire.

You: Is this product a tail boom, stabilator or automatic rotor blade folding system or part or component “specially designed” therefor? [*ie. Is this product now controlled by VIII(h)(3) of the revised USML?*]

ECP: No. It is still a tire.

[*With apologies for belaboring the analysis, we hope to demonstrate that this process can be performed with an entire catalogue at once but use only one illustrative example.*]

You: Is this product . . .

. . . and here you simply run down the 26 items that will be affirmatively listed as controlled under the revised USML Category VIII(h)(1)-(26). That list of VIII(h) items is published at [78 Fed. Reg. 22755](#). If an item in our catalogue receives a “yes” answer and falls under VIII(h)(1)-(26), the item is on the revised USML and remains ITAR-controlled.

Q4: But if we determine the aircraft tire we’re examining is not on the revised USM List, where do we go next?

A4: Good question. We now go to the EAR category we believe will contain the part removed from the USML:

- We start with Category 9, *Aerospace and Propulsion*
- We proceed to Product Group A: *Systems, Equipment, and Components* – because our tire is not: Group B, *Test Equipment*; Group C, *Materials*; Group D, *Software*; or Group E, *Technology*)
- We examine the new 9A 600 Series, created for parts removed from the ITAR, and find Export Control Classification 9A610 *Military Aircraft and Related Commodities*.

Q5: So my aircraft tire, removed from Category VIII(h) of the ITAR, may now be found in Category 9A610 of the EAR?

A5: Correct.

C. The New EAR Categories

Q6: What are the new appended letters on these categories, “.a” through “.y”?

A6: 9A610.a – 9A610.w specifically enumerate the items, formerly controlled under the ITAR, now controlled in those twenty-three EAR categories. 9A610.x is a catch-all, covering the parts not enumerated in “.a” – “.w.”

Q7: So a previously ITAR controlled item will be caught in the .x category if it is not enumerated in the rest of the 600 Series for its EAR Category and Product Group?

A7: Generally, yes. Commodities that were covered by the catch-all section of a USML category, but that are not affirmatively listed in the revised USML category or revised EAR category, will be moved to the corresponding EAR category under the 600 series with the appendix “.x”. In this case, the VIII(h) items not affirmatively listed in VIII(h)(1)-(26) or 9A610.a – 9A610.w, will be controlled under

9A610.x.

Q8: But what about the “.y” category?

A8: The simplest and most conservative way of analyzing all products not affirmatively listed in the revised USML is to assume they have dropped from the catch-all clause of their former USML category into the corresponding EAR “.x” group. However, under the new controls, certain items will be affirmatively removed from the “.x” category and listed as “.y.”

The “.y” controls comprise a list of commodities that are not otherwise enumerated (and therefore would normally fall into “.x”) that are of less importance for export control and therefore subject to even less stringent control as “.y” commodities.

D. Technology

Q9: What about the software and technology related to the commodities we are discussing?

A9: If a commodity stays on USML under VIII(h)(1)-(26), then the software and technology directly related to that commodity will stay in VIII(i). If the commodity moves to the CCL in Product Group A, then the software will move to the corresponding Product Group D, and the related technology will move to the corresponding Product Group E. For example, if your commodity is moved to ECCN 9A610, the software or technology will move to category 9D610 or 9E610 respectively.

E. License Exceptions and “Specially Designed”

Q10: What license exceptions apply to the . . .

A10: Let us stop you right there. This blog article is already far too long-winded. Take time to digest the information presented here, and we will address license exceptions in the ECR and the new definition of “specially designed” in Episode III and Episode IV of this series.

Q11: Thank you.

A11: Glad to help.

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