EVOLUTION OF EXPORT CONTROL RULES AND CONSEQUENCES FOR EEE COMPONENTS

Thomas Torloting, CNES

thomas.torloting@cnes.fr

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TOPICS

- **EXPORT CONTROL RULES**
  - ✦ Principles
  - ✦ Example: US Regulations

- **US EXPORT CONTROL REFORM**
  - ✦ ECR Objectives
  - ✦ Consequences of the ECR

- **CONSEQUENCES ON EEE COMPONENTS**
  - ✦ What we need
  - ✦ What we demand

- **CONCLUSIONS**
  - ✦ How to avoid mistakes?
  - ✦ How to improve?

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Global scale dialogues

❑ Between countries supplying proliferating technologies

❑ Coordinate and harmonize rules and mesures to limit their proliferation:

  ❑ **The Wassenaar Arrangement:** on Export Controls for Conventional Arms and Dual-Use Goods and Technologies

  ❑ **The Nuclear Suppliers Group (NSG):** for the control of nuclear related technology

  ❑ …

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EXPORT CONTROL RULES

Export Control is a tool at the disposal of the international community to address threats posed by **weapons of mass destruction proliferation and their means of delivery**

Export Control is **constantly evolving:**

❑ **Technological** developments

❑ **Geopolitical** developments

❑ **Export Control Regulation** developments

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EXPORT CONTROL RULES

Export Control Regulations apply to:

❏ Plenty of <u>tangible and intangible items</u> such as:

  ❏ **Component**

  ❏ **Material and process**

  ❏ **Software**

  ❏ **Technology**

  ❏ **Services, Emails, Agreements…**

❏ Plenty of circumstances depending on the **End-Use/End-User, Intermediate Consignees…**
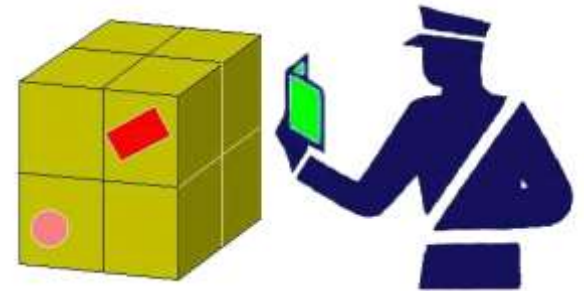
Export Control Regulations specify plenty of penalties:

  ❏ Criminal penalties

  ❏ Fees

  ❏ Blacklisting…

EXPORT CONTROL RULES

U.S. Regulations

Military Items

DEPARTMENT OF STATE
DoS

↓

I.T.A.R.
International Traffic in Arms
Regulations

↓

**U.S. Munition List
USML**

- **21 categories**
- **Military items**
- **Traditionally all inclusive list**

Dual-Use Items

DEPARTMENT OF COMMERCE
DoC

↓

E.A.R.
Export Administration
Regulations

↓

**Commerce Control List
CCL**

- **ECCN (Export Classification Control Number)**
- **Dual use items**
- **Traditionally positive list**

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ECR Objectives

- ❑ **Reduce the incentive for "ITAR-free"** foreign weapon and space systems (<u>U.S. space industry </u>spearheaded the push for reform)

- ❑ **Increase interoperability** of weapons systems with allies

- ❑ **Focus licensing and controls** on truly sensitive technologies and hardware

ECR Objectives

❑ ECR (what is controlled and how) and "US openness" (delivering of license) are two different things

   ❑ Still 0 license for China

❑ New rules are designed to boost US exports => better clarity and predictability than before in principle

❑ A great number of items have come off the USML to the CCL

❑ Dialogue with DoC is facilitated

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U.S. EXPORT CONTROL REFORM

ECR Objectives

❑ Objectives and behavior of Commerce is different than State

❑ Use of various license exception : De Minimis, STA, GOV…

❑ De minimized ITAR items in a non-US commercial satellite should be officially confirmed

❑ Beginning of a new process – Too soon to assess how US industry and administration are going to implement the rules

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U.S. EXPORT CONTROL REFORM

Previous USML Category XV

New USML Cat XV

Military Satellites & Satellites w/performance & ground equip

GPS Receivers w/performance

Services / assistance / technical data for USML & CCL satellites

Parts critical for military functions

16 Critical Technologies

New CCL

New ECCN 9x515

Spacecraft not in USML or other CCL & ground equipment

Specially designed AND hardened microelectronics w/performance

Parts /components specially designed for Cat XV & 515 articles

Other ECCNs
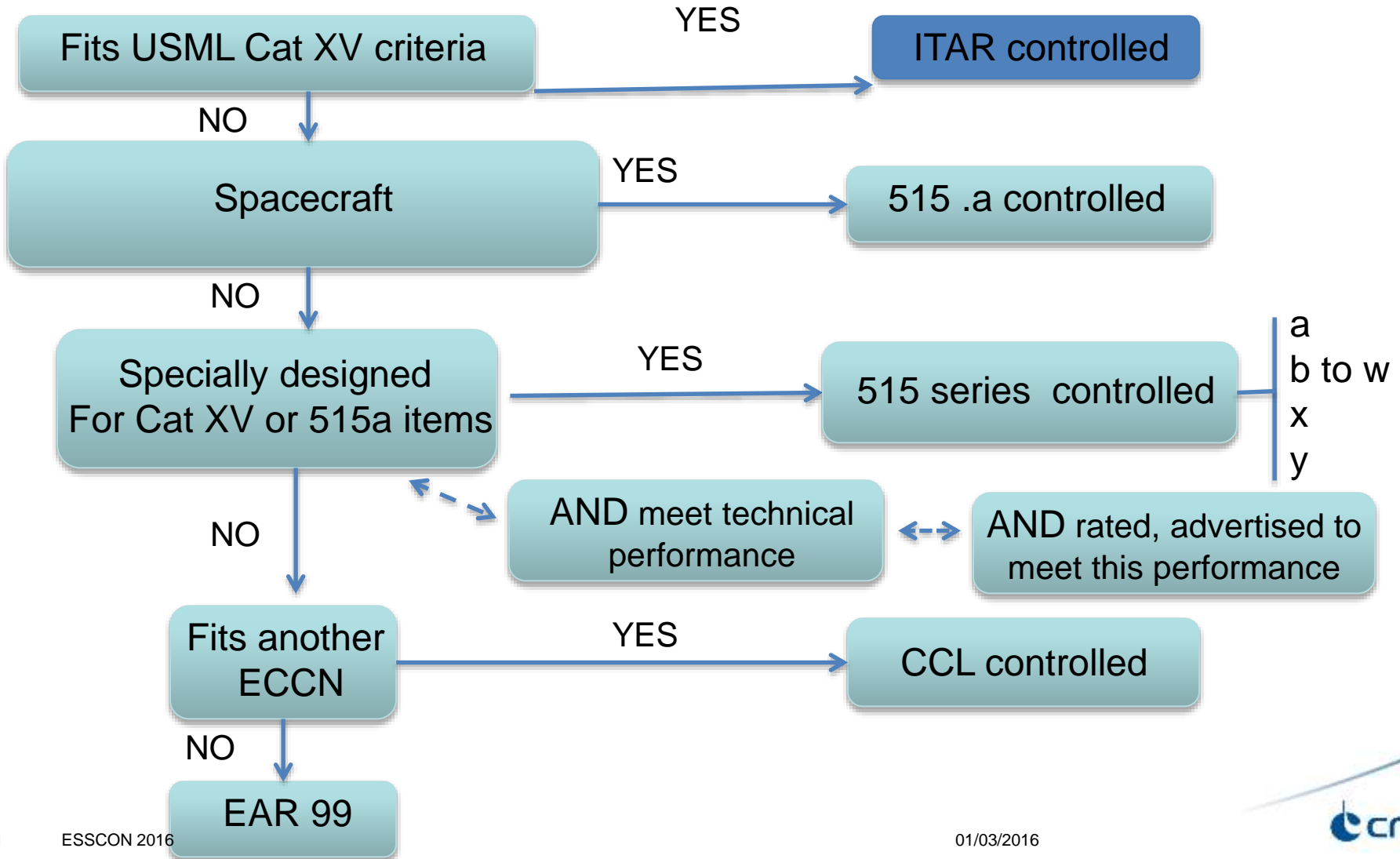
Specific radar systems

GPS Receivers w/o performance

- STA for 36 countries
- *25% de minimis* outside 36 (except for China for 9x515)

EAR 99

Untold Story

Space qualified components which are not specially designed or don't meet performance criteria

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U.S. EXPORT CONTROL REFORM

Exporter commodity identification process

Fits USML Cat XV criteria — YES → ITAR controlled

NO ↓

Spacecraft — YES → 515 .a controlled

NO ↓

Specially designed For Cat XV or 515a items — YES → 515 series controlled
- a
- b to w
- x
- y

↕ AND meet technical performance ↔ AND rated, advertised to meet this performance

NO ↓

Fits another ECCN — YES → CCL controlled

NO ↓

EAR 99

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Example on a project
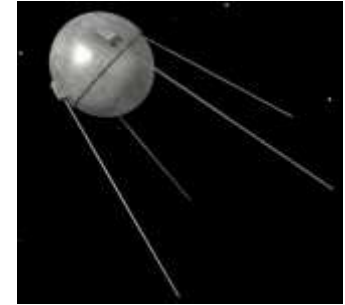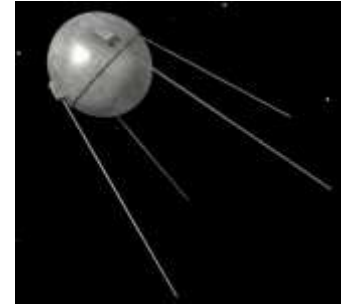

❑ **A scientific satellite**

  ❑ Only european&NATO partners

  ❑ Only european intermediate consignees

  ❑ Launch from Kourou, France

❑ **Pre-ECR procurement**

  ❑ Exhaustive End-User Statement

  ❑ <u>95 ITAR licenses</u> for EEE parts (over than 1800 references)

Example on a project

- **Post-ECR synthesis**
    - Classification from US manufacturers
    - **0 ITAR EEE parts** (6 EAR99)
    - **0 license needed**

CONSEQUENCES FOR EEE COMPONENTS

A summary

❏ **What are you exporting?**

  ❏   Establish licensing jurisdiction

  ❏   Determine the proper classification

❏ **Where are you exporting?**

  ❏   It fixes licensing requirements

❏ **Who will receive your item?**

  ❏   Check prohibited/restricted end-user lists

❏   **What will be the end-use of your item?**

  ❏   End-use controls

EXPORT CONTROL POLICY

What we need

- **Complete definition of the product**
  - Origin
  - Goal
  - Lifecycle

- **Full description of the product**
  - List of the constituents/equipments/GSE…

- **Export risk analysis**
  - Anticipating the controlled items
  - Having all the necessary informations

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EXPORT CONTROL POLICY

What we demand

❑ **Contract requirements**

    ❑ Responsibility engaged :

        ❑ From the signatories

        ❑ From the receiving entity

❑ **Documentation requirements**

    ❑ End-User Statement

    ❑ CECC

    ❑ Export plan

❑ **Stock control requirements**

CONCLUSION

How to Avoid Mistakes?

- ❑ **Ask the export status** to the manufacturer

- ❑ **Don't forget intermediate consignees** in the EUS

- ❑ **Secure and control the lifecycle** of an ITAR item

- ❑ **Check the entity lists**

- ❑ **Anticipate** the license demands

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CONCLUSION

How to Improve?

- ❑ **Stay in contact** with the US Gov helps both parties

- ❑ **Keep a valid database** of the export classification and export documents

- ❑ **Teach your partners** to avoid making mistakes

- ❑ **Create unique export documents** for european industries ?

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