

Bird & Bird & European
Export Controls and
Sanctions in the Aviation
and Defence sector



A seamless
international team
& knowing the
industry inside-out &
practical experience
& specialist knowledge
& technology experts

Our mission is to combine our deep knowledge of the aviation sector and our legal expertise to develop commercial solutions that make long-term business sense.

Introduction

Bird & Bird is a global law firm. Altogether we have over 900 lawyers and legal practitioners working on our clients' issues and business goals worldwide. We select and develop our people to possess a rare and invaluable grasp of strategic commercial issues. By combining this talent with exceptional legal expertise and deep industry knowledge, our advice is always informed, up to date, focused and relevant. Our recommendations are practical, realistic and clear.

Bird & Bird & Export Controls and Sanctions

Our international team of export controls and sanctions experts is rich with experience of dealing with all aspects of regulatory control applied to business transactions anywhere in the world. We often deal directly with relevant national administrations and our international reach enables us to do this very effectively - particularly when considering the interrelationship between local and international laws, policies and business practices. The export controls and sanctions experts in our offices regularly join forces to tackle multinational and multi-jurisdictional issues on behalf of clients - including the extraterritorial application of regulations. We also have access to specialist external US counsel when required. Our recent experience includes:

- International
 - Wassenaar Arrangement
 - Missile Technology Control Regime
 - Nuclear Suppliers Group
 - Australia Group
 - Chemical Weapons Convention
- European
 - EU Dual Use Regulation
 - Common Foreign & Security Policy
 - EU Sanction Regimes
 - EU Blocking Regulation

- National
 - Dual Use and Military Regimes
 - UK BERR Licensing
 - German BAFA
 - French SETICE
 - Netherlands CDIU
 - Italian Ministries for Economic Development and Defence
 - Swedish ISP
 - Finnish Ministries of Foreign Affairs and Defence
- US
 - EAR
 - TAR
 - BIS
 - DDTC
 - OFAC

We relish using our practical experience, understanding of the regulatory issues and legal skills to get to grips with export controls and sanctions issues faster than other lawyers with less direct experience. It means we can provide timely, practical and commercially realistic advice and support in pursuit of sensible, workable solutions. We like to be at the leading edge of business and legal developments and to be innovative for our clients' benefit.

Compliance

Given the rise in regulatory control and enforcement, it is essential that businesses exposed to export control and sanction legal risks invest in compliance procedures, policies and practice to aid business continuity. Our team assists clients with setting up, maintaining and reviewing compliance programmes. We work closely with in-house specialists and make use of specialist software to ensure that our clients' procedures and capabilities offer protection against violating the regulations in force.

We also help clients with the classification of specific products to fit with our interpretation of ECCN categories and assist with rating enquiries with national authorities. Where necessary, we can draw on the technical expertise in our IP prosecution practice to provide clients with relevant expertise in this area.

In addition to providing advice and helping to create the appropriate compliance environment, our team also delivers on-site compliance training tailored specifically to each client's business needs, from general awareness training to detailed licensing procedures and ECCN classification. We deliver training for all levels and functional background of staff - from sales managers to logistics experts.

Our recent compliance work has included:

- Classification Review
 - Assisting our client's product engineers with the interpretation of specific relevant ECCNs, including the joint drafting of a "classification matrix" to identify applicable controls
- Sales Executives Training
 - Training on tendering and bidding, associated technology transfer and access, and how the commercial value of business opportunities is impacted by regulatory constraints and their potential consequences.

“Clients seek out the team’s assistance because it understands the aviation and aerospace market and is therefore able to offer commercially aware legal advice that is always on the money”

Chambers and Partners 2010

Advice

Over the course of a product's life cycle, there are specific export controls and sanctions issues arising at each stage - from product development and the sharing of technology, to multinational manufacturing, processing and assembly operations, technology licensing and the final sale to the end-user. We deeply understand these issues and we apply our knowledge of the different customs and practices in various industry sectors to identify how each of these issues affects our clients' business and advise how to take mitigating action.

Our team is experienced in matters involving technology transfer and access, specific transactional advice, end-user verification and documentation, transit procedures, finance and sanctions, licensing requirements and documentation. We assist clients in all drafting and negotiating contractual arrangements, to help ensure compliance and minimise business and legal risk.

We also regularly advise clients in contractual and other disputes.

Our recent advisory work has included:

- **Research & Development Project**
Advising a steel company on licensing requirements for technology transfer to an Asian partner in an R&D joint venture
- **Encryption**
Advising a manufacturer of IT hardware on the international distribution of products comprising encryption technology
- **General Trading Terms**
Drafting Export Control clauses for the general trading terms of a global aircraft maintenance provider.

“Bird & Bird Aviation lawyers are described as efficient, open minded and very good communicators”

Chambers Europe 2010

Investigations

Even with an effective compliance programme in place, some errors and omissions can still occur. We help clients in anticipating where such problems might arise by conducting internal investigations and audits under attorney-client privilege. Following private investigations, we advise clients on appropriate preventive and remedial measures to take, which may include voluntary self-disclosures. In many European countries, such disclosures are not regulated.

The penalties for violating regulations can include fines, criminal prosecution and license withdrawal. We use our international and domestic experience, coupled with our access to the relevant authorities, to help our clients minimise the adverse consequences of any violations. When necessary, we can also draw on the expertise of specialist corporate criminal defence counsel.

Thanks to our international reach, we can monitor and advise investigation activity across many countries - this is particularly helpful in an international manufacturing environment, where issues commonly arise in various locations simultaneously.

Our recent investigations work has included:

- **Violation Disclosure**
Representing a client before national authorities in a voluntary self-disclosure of license-condition violations for transit shipments and re-exports
- **International Disclosures**
Representing a multinational client on multiple voluntary self-disclosures in various European countries, arising from diverging interpretations of the EU Dual Use Regulation by national authorities.

“With a wide geographical reach and deep resources... this firm can ‘always access exactly the right people for any given situation’.”

Chambers Europe 2010

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A list of members of Bird & Bird LLP, and of any non-members who are designated as partners and of their respective professional qualifications, is open to inspection at the above address.