



NAVIGATING THE SKIES:

Unraveling Non-Compliance Cases in the Air Cargo Industry



WELCOME ONBOARD!

Welcome onboard as we begin our journey to navigate through the unraveling non-compliance cases in the air cargo world. In this eBook, we'll explore the significance of compliance in global trade and understand its critical role in ensuring ethical business practices.

So fasten your seatbelts, and let's revisit some of the case studies where we will observe the outcomes experienced by companies that didn't prioritize compliance.

These stories serve as gentle reminders of the significance of comprehending and abiding by export control regulations.

As we explore these practical situations, we hope to help you gain valuable insights into the sector-specific challenges, as well as strengthen your compliance frameworks, mitigate risks, and contribute to a responsible and sustainable global trade landscape.



READY FOR TAKEOFF: THE SIGNIFICANCE OF AIR CARGO COMPLIANCE

Before we embark on our journey through the non-compliance cases, we want to ensure your safety and comfort by providing you with some essential “flight safety instructions” for this expedition.

1. Understanding the Significance of Air Cargo:

Before we taxi down the runway, let’s take a moment to appreciate the significance of air cargo in international trade. Like the powerful engines propelling us forward, air cargo facilitates the exchange of goods across borders, fostering global connections and economic growth.

2. Fasten Your Seatbelts - Compliance is Key:

Just like you fasten your seatbelt to ensure a smooth and secure flight, compliance is the seatbelt that holds your business steady in the turbulent world of international trade. Buckle up and embrace compliance, as it will safeguard your company from potential pitfalls and keep you soaring toward success.

3. Your In-Flight Guide - Regulations:

As we ascend, you’ll find your trusty “regulations” guide in the seat pocket in front of you. Please familiarize yourself with the rules governing international trade. Just as pilots rely on their flight manuals, companies must navigate through the regulations to ensure trade compliance.

4. Prepare for Turbulence - Ever-Evolving Rules:

Like turbulence during a flight, compliance can encounter unexpected challenges. Stay prepared for the ever-changing rules and regulations that govern international trade. Adaptability and awareness are your co-pilots, ensuring your business stays on course, even in uncertain skies.

5. Locate the Emergency Exit: Sector-Specific Challenges:

As we fly high, remember that each sector of international trade may encounter unique challenges. Pay attention to the “sector-specific challenges” announcements and equip yourselves with the knowledge to navigate through these complexities.

6. Embrace the Landing Gear - Safe Touchdown with Compliance:

As we prepare for our descent, remember the importance of safe landing gear. Just as the landing gear ensures a smooth touchdown, compliance guarantees your business touches down safely, free from legal penalties, fines, and reputational damage.

Prepare for an enlightening journey through international trade compliance. Keep seatbelts fastened, minds alert, and hearts open. Learn from these non-compliance cases, gain valuable insights into sector-specific challenges, and soar to new heights with compliance as our guiding light!



DESTINATION 1:

The Mideclared Hazardous Goods

THE MISDECLARED HAZARDOUS GOODS

\$455,000

What happened?

DHL Express (USA) repeatedly failed to comply with regulations between 2013 and 2014. The Federal Aviation Administration (FAA) alleges that the company accepted shipments without proper preparation for air transportation and neglected to provide required hazardous materials training to its employees and agents. Here are some specific examples from the incidents:¹



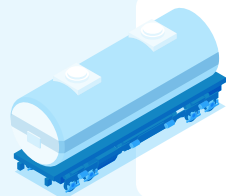
December 2013

DHL accepted a shipment of flammable printing ink bound for France without a dangerous goods declaration.



March 2014

DHL accepted a shipment of flammable paint for Australia without a dangerous goods declaration.



August 2014

DHL accepted a shipment of a fuel/defuel cart with a corrosive battery to be sent to Afghanistan. The battery was not disconnected, and there was no dangerous goods declaration.



September 2014

DHL accepted a shipment of lithium-ion batteries for Hong Kong, but the labeling was incorrect.

Consequences:

The FAA has proposed seven civil penalties totaling \$455,000 against the company (\$65,000 for each incident). The allegations include accepting shipments that were not properly prepared for air transportation and failing to ensure that employees or agents received the required hazardous materials training.

Key takeaways:

- **Compliance with regulations:** Companies must fully comply with applicable regulations, such as hazardous materials transportation rules. This includes proper preparation of shipments, accurate documentation, and adherence to labeling and handling procedures.
- **Employee training:** Comprehensive training on hazardous materials regulations should be provided to employees and agents involved in shipping and transportation. This ensures they have the knowledge and skills to handle materials safely and comply with regulations.
- **Thorough checks and verifications:** Implement robust procedures to verify compliance at each stage of shipping. Regular audits and monitoring help identify and address any compliance gaps, ensuring proper documentation, labeling, and handling of hazardous materials.

A large iceberg floats in the ocean, with a vast, hazy landscape in the background. The scene is dominated by shades of blue and white, creating a serene yet somber atmosphere. The iceberg is the central focus, with its jagged peaks and smooth surfaces catching the light. The background shows a distant, misty horizon under a pale sky.

DESTINATION 2:

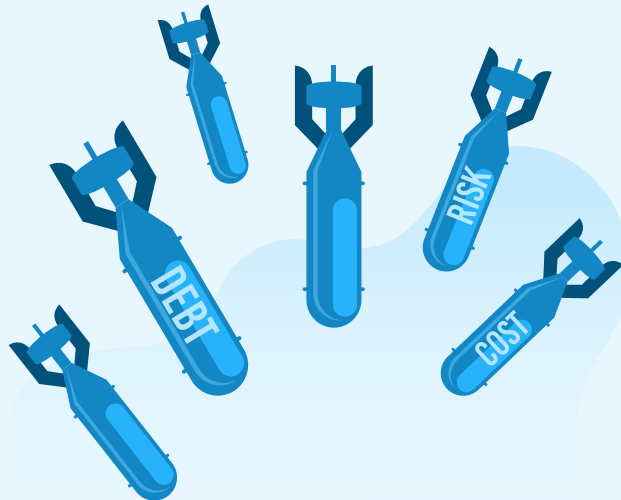
The Violation of Export Control Regulations

THE VIOLATION OF EXPORT CONTROL REGULATIONS

What happened?

During a span of two years, FedEx, headquartered in Memphis, Tennessee, engaged in 53 instances of exporting goods classified under ECCN 9A991 or 7A994, or designated as EAR99. These items, estimated at \$58,091, were sent to two entities without the required Bureau of Industry and Security (BIS) licenses.²

- Aerotechnic France, added to the BIS Entity List in June 2011, was found to have engaged in actions that could enhance Iran's military capability, a country designated as supporting international terrorism. The overall conduct of Aerotechnic posed a risk of the ongoing Export Administration Regulations (EAR) violations.
- The Pakistan Institute for Nuclear Science and Technology, a subordinate entity of the Pakistan Atomic Energy Commission, had been on the BIS Entity List since November 1988 due to its involvement in nuclear or missile activities.



Consequences:

The violations committed by FedEx did not go unnoticed, and the Office of Export Enforcement (OEE)'s Miami Field Office investigated the matter. As a result, on April 24, 2018, FedEx agreed to pay a civil penalty of \$500,000. This penalty was imposed to hold FedEx accountable for failing to obtain the necessary BIS licenses before exporting the controlled items. The violation of export control regulations carries significant legal and financial consequences, and the penalty served as a reminder of the importance of complying with such regulations.

Key takeaways:

- **Obtain required licenses:** Companies must ensure they obtain the necessary licenses and authorizations before exporting controlled items, complying with export control regulations such as the EAR.
- **Conduct thorough due diligence:** Thorough due diligence should be conducted on entities involved in business transactions to mitigate the risk of violating export control regulations. This includes checking if entities are listed on the BIS Entity List or have connections to prohibited activities.
- **Compliance with export control regulations:** Companies must fully comply with applicable export control regulations and requirements. Accurate classification of goods, proper documentation, and adherence to licensing requirements are crucial to avoid violations and potential penalties.



DESTINATION 3:
**Unlicensed Exports
and Evasion**

UNLICENSED EXPORTS AND EVASION




What happened?

Access USA, based in Sarasota, Florida, violated the EAR during 2011 and 2013. The company committed 129 counts of evasion, 17 counts of exporting or attempting to export crime control items without the required license, and 4 counts of exporting or attempting to export to a sanctioned entity on the BIS Entity List without the required license. Their actions included illegal shipments of rifle scopes, night vision lenses, weapons parts, and EAR99 items. They also altered item descriptions and removed merchant invoices to evade detection by the U.S. Government and law enforcement.³

Consequences:

As a result of the violations, the BIS imposed a substantial \$27 million civil penalty on Access USA. Out of the total penalty amount, \$17 million was suspended for a two-year probationary period. The settlement highlights the seriousness of the violations committed by the company, which involved numerous instances of evasion, unlicensed export of controlled items, and dealing with sanctioned entities.

In addition to the monetary penalty, Access USA's actions also led to reputational damage and loss of trust in the eyes of regulators and the public. Furthermore, the company entered into a non-prosecution agreement with the U.S. Attorney's office, which likely involved various compliance and oversight requirements to prevent future violations. The case serves as a clear example of the consequences companies



may face when they fail to comply with export regulations and attempt to evade detection and oversight. It underscores the importance of adhering to export control laws, maintaining transparent and accurate documentation, and ensuring strict compliance with licensing requirements for the export of controlled items.

The case serves as a clear example of the consequences companies may face when they fail to comply with export regulations and attempt to evade detection and oversight.

Key Takeaways:

- **Concealing export destination is illegal:** Attempting to evade detection by altering item descriptions and invoices to conceal the export destination is illegal and can lead to severe consequences.
- **Robust enforcement efforts:** Government agencies are actively working to identify, deter, and prevent violations of export regulations. Companies should expect stringent enforcement measures for non-compliance.
- **Cooperation with authorities:** Access USA's non-prosecution agreement shows that cooperating with authorities during investigations can influence the outcome of enforcement actions. It is essential for companies to fully cooperate if they come under scrutiny.



DESTINATION 4:

Historic Enforcement: Violating the Foreign Direct Product Rule

VIOLATING THE FOREIGN DIRECT PRODUCT RULE



What happened?

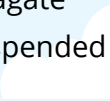
In August 2020, BIS imposed controls over certain foreign-produced items related to Huawei. Despite this, Seagate continued doing business with Huawei while its competitors stopped selling HDDs to Huawei. As a result, Seagate became Huawei's only supplier of HDDs.

Later, Seagate and Huawei signed a three-year Strategic Cooperation Agreement, making Seagate Huawei's main supplier with priority. BIS investigated and claimed that Seagate broke the rules by facilitating the export, reexport, or transfer (within a country) of over 7.4 million HDDs subject to the Huawei Foreign Direct Product rule without BIS authorization.⁴

Consequences:

Two subsidiaries of Seagate have agreed to pay \$300 million for violating U.S. export controls. This happened because they sold HDDs to Huawei in violation of the Foreign Direct Product rule.

This case is significant as it's the largest penalty in BIS history for Foreign Direct Product violations. As part of the resolution, Seagate will undergo audits for several years, and a Denial Order is suspended for five years.



Key Takeaways:

- **Tighten export controls due to national security concerns:** The company at the time told investors it didn't believe it needed a license to continue selling to Huawei. This case highlights the critical importance for companies to thoroughly understand and accurately interpret export control regulations as well as have necessary precautions.
- **Proactively prioritizing export compliance:** BIS imposed the largest stand-alone administrative penalty ever, which caused not only financial loss but also reputational damage to the firm. A robust export control compliance program, including comprehensive training for employees, regular audits of export activities, and strong internal controls to ensure strict adherence to export regulations, is necessary. By proactively prioritizing export compliance, companies can foster a culture of responsible business practices and enhance their standing in the global marketplace.



\$300,000,000
civil penalty

PREPARE FOR A SMOOTH LANDING: SIMPLIFYING TRADE COMPLIANCE

As we prepare for our final approach and landing, let's take a moment to highlight the significance of international trade in today's world. International commerce plays a crucial role in sustaining economic growth, improving living standards, creating job opportunities, and providing consumers with access to a diverse range of affordable goods. However, conducting business across borders poses unique challenges due to varying laws, regulations, and administrative complexities in different countries.

As we navigate the skies, conducting business across borders can present challenges and complexities. Let's have a quick recap of what we have learned from the non-compliance incidents:

- **Regulatory Adherence:** companies must follow international trade compliance rules, obtain licenses, and ensure accurate documentation.
- **Comprehensive Compliance Training:** it's essential to invest in training and education for employees to understand their roles and responsibilities in maintaining compliance.
- **Proactive Compliance:** A robust compliance program, including training, audits, and internal controls, fosters responsible business practices and global market reputation
- **Cooperating with Authorities:** Government agencies actively work to deter and identify export regulation violations, enforcing strict penalties for non-compliance. As exemplified by Access USA's case, cooperation during investigations can influence the outcome of enforcement actions.

Understanding the industry challenges, we have your journey covered with our specialized International Trade and Transport Compliance Solution (ITTS). Like a well-crafted flight plan, ITTS is designed for those who prioritize compliance and smooth operations. It's the ultimate co-pilot to make your global trade experience simpler, faster, and more cost-effective.

ITTS empowers you with a web-based interface that ensures a seamless and compliant flight through trade compliance regulations. We've cleared the runway of red tape and administrative hassles, so you can enjoy a smooth landing with your business intact.


Remember, ITTS is a solution built for those who want to comply. It's our way of ensuring that your journey in the world of international commerce is as efficient and successful as this flight.





We welcome you on board on your flight to compliance. Claim your boarding pass, it's free!

 **FLIGHT TO SUCCESS**

Boarding Pass

 **Business Class Boarding Pass**

PASSENGER: [Redacted]	FLIGHT: ITTS23	SEAT: 20A	[Redacted]
FROM: Compliance Crossroads TO: Ethical Trade Oasis			FROM: Compliance Crossroads TO: Ethical Trade Oasis
GATE: 7	BOARDING TIME: 10:00		FLIGHT: ITTS23
ETKT 1736483297456291			GATE: 7 BOARDING TIME: 10:00 SEAT: 20A
			
	<small>GATE CLOSES 10 MINUTES BEFORE DEPARTURE</small>		

Claim your free demo to experience the transformative power of ITTS.
Reach out to us today!

Emile Hendriksze, Account Manager
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You can reach our headquarters at:
✉ contact@beinformed.com



Useful resources

We understand that preventing non-compliance cases can be challenging for many companies. With so many layers and ongoing changes, staying up-to-date and ensuring your organization remains compliant takes serious work. That's why we would like to share valuable sources with you to explore ITTS deeper.

Video



Visual learner? Watch the ITTS video

Sit back to learn by watching the brief story of ITTS and how it works.

[Watch Now](#)

Whitepaper



Read all the details you need to know

You can find more detailed information related to the solution in our whitepaper.

[Download Now](#)

Webpage



Visit the webpage of our solution for a good start

Learn about the ITTS Solution and how it works.

[Read Now](#)

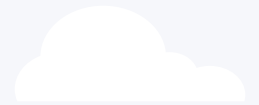
Blog



5 tips for air carriers to ensure compliance

Check our blog to learn five basic steps that all air cargo carriers need to take to help ensure compliance.

[Read Now](#)



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Sources

1. **Federal Aviation Administration** . FAA Proposes Seven Civil Penalties Against DHL for Alleged Hazardous Materials Violations.

<https://www.faa.gov/newsroom/faa-proposes-seven-civil-penalties-against-dhl-alleged-hazardous-materials-violations>

2. **U.S Department of Commerce**. Export Violations

<https://efoia.bis.doc.gov/index.php/documents/export-violations/export-violations-2018/1177-e2553/file>

3. **Bureau of Industry and Security**. Florida Firm Fined \$27 Million for Export Violations

<https://www.bis.doc.gov/index.php/about-bis/newsroom/1250-florida-firm-fined-27-million-for-export-violations>

4. **Bureau of Industry and Security**. Bis Imposes \$300 Million Penalty Against Seagate Technology Llc Related To Shipments To Huawei

<https://www.bis.doc.gov/index.php/documents/about-bis/newsroom/press-releases/3264-2023-04-19-bis-press-release-seagate-settlement/file>