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BUREAU OF INDUSTRY AND SECURITY

UPDATE 2014
CONFERENCE ON EXPORT CONTROLS AND POLICY

End-Use Monitoring and Effective Export Compliance



Kevin J. Kurland
Director
Office of Enforcement Analysis





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EXPORT COMPLIANCE & ENFORCEMENT: MISSION AND PRIORITIES

MISSION: Protect national security, foreign policy, and economic interests by inhibiting the unauthorized export/reexport of items subject to export control.


PRIORITIES:

- Proliferation of weapons of mass destruction and their means of delivery (nuclear, chemical, biological, and missile)
- Terrorism (including designated terrorist organizations and state sponsors of terrorism)
- Sanctions/embargoes (e.g., Iran, N. Korea)
- Unauthorized military end-use
- Foreign policy/human rights



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COMPLIANCE AND ENFORCEMENT

COMPLIANCE:


- Create culture of informed compliance
- Evaluate transactions

ENFORCEMENT:

- Detect and investigate
- Interdict shipments
- Penalize violators

"Those who comply with the rules benefit from strong enforcement because lax enforcement permits violators to flourish."

Eric L. Hirschhorn,
Under Secretary for
Industry and Security



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Compliance: Complementary Mission of Industry and Government

- 1) Ensure educated export and reexport (foreign business) communities
- 2) Be alert of suspicious inquiries
- 3) Evaluate *bona fides* of transaction parties
 - **Conduct end-use monitoring abroad**
- 4) Coordinate with partner governments/ customers to enforce/comply with complementary export controls
- 5) Identify export control violations



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End-Use Monitoring Programs

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Department of Commerce

- ☐ BIS End-Use Monitoring Program managed by the Office of Enforcement Analysis (OEA)
- ☐ Exports of items subject to the Export Administration Regulations (EAR), including Commerce Control List (CCL) items

Department of State

- ☐ Directorate of Defense Trade Controls (DDTC) Blue Lantern Program managed by DTC-Compliance (DTCC)
- ☐ Exports of U.S. Munitions List (USML) defense articles under the International Traffic in Arms Regulations (ITAR)

Department of Defense

- ☐ Defense Security Cooperation Agency (DSCA) Golden Sentry Program managed by DSCA's Directorate for Programs
- ☐ Exports of USML defense articles and services under the U.S. Foreign Military Sales (FMS) program



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What is an End-Use Check

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- ☐ An End-Use Check (EUC) is a **physical verification** on location with a party of the transaction to determine if the party is a reliable recipient of U.S. goods and that items are or will be used according to the EAR.
- ☐ As part of its licensing process and preventive enforcement efforts, BIS selectively conducts end-use checks on certain dual-use and munitions exports.
 - Monitor license condition compliance.
 - Monitor compliance of non licensed transactions.
 - Confirm the end-use.
 - Determine if the company is a reliable end-user.
 - Discover more information about the parties.



Triggered Spark Gap (Controlled for Nuclear Proliferation-3A228)



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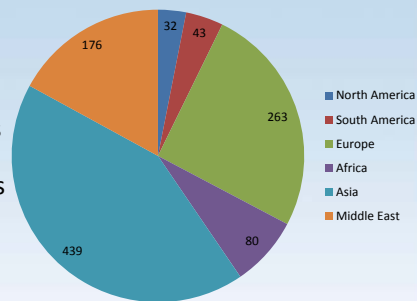
BIS End-Use Monitoring Program

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Objective: Facilitate secure exports and reliable sources of supply

- Pre-License Check (PLC): Establishes *bona fides* and validates information on export license applications PRIOR to shipment.
- Post-Shipment Verification (PSV): Strengthens assurances that all parties comply with an export license and licensing conditions to deter diversions AFTER shipment
- Non-Licensed PSV: Measures compliance with U.S. export controls and monitors illicit diversion of U.S. exports.

FY13 EUC Total By Region (1,033)



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Who Conducts End-use Verification?

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- **Export Control Officers (ECOs)**
 - Export control policy engagement.
 - Foreign government and local business outreach.
- **Sentinel Program:**
 - Checks conducted by Export Enforcement personnel in locations where no ECO is present.
- **U.S. Embassy officials**



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Consequences of Unfavorables

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- **Watch List:** Scrutiny of license applications and export transactions, including rejection, strict conditions, and pre-shipment inspection.
- **Unverified List:** Alerts exporters to exercise increased due diligence in transactions with foreign persons whose *bona fides* could not be verified. License Exceptions are not available.
- **Entity List:** Imposes restrictions on exports, absent license approval, on foreign persons involved in activities contrary to the national security or foreign policy interests of the United States.
- **Referral for Further Investigation:** May result in criminal or administrative penalties.



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Internal Compliance Program

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Elements of an Effective Compliance Program:

- Management Commitment
- Continuous Risk Assessment
- Formal Written Program: Ongoing Compliance Training
- Pre/Post Export Compliance Security and Screening
- Adherence to Recordkeeping Requirements
- Internal and External Compliance Monitoring and Periodic Audits
- Program for Handling Compliance Problems, including Reporting Violations
- Completing Appropriate Corrective Actions

- Trade benefits
- Safeguard your company's reputation
- Enforcement mitigation



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Best Practices for Evaluating Bona Fides

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- ☐ Screen customers (e.g., www.export.gov)
- ☐ Request an end-user certificate
- ☐ Visit the public website
- ☐ Review other social media sources (e.g., Twitter, Facebook, LinkedIn)
- ☐ Request business registration
- ☐ Understand foreign export control practices
- ☐ Provide license/regulatory conditions in writing and obtain written confirmation
- ☐ Conduct a visit
- ☐ Any other **red flags**?



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Export Controls: Joint Responsibility and Joint Benefits

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- Protecting national security is in the interests of the business community and BIS
- Culture of compliance:
 - Protects company reputation
 - Creates a level playing field
 - Creates trade benefits
 - Mitigates enforcement activities
- Government needs industry support...
...**including facilitating successful end-use checks!**



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Thank You!

Office of Enforcement Analysis
Bureau of Industry and Security

www.bis.doc.gov






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END-USE VERIFICATION



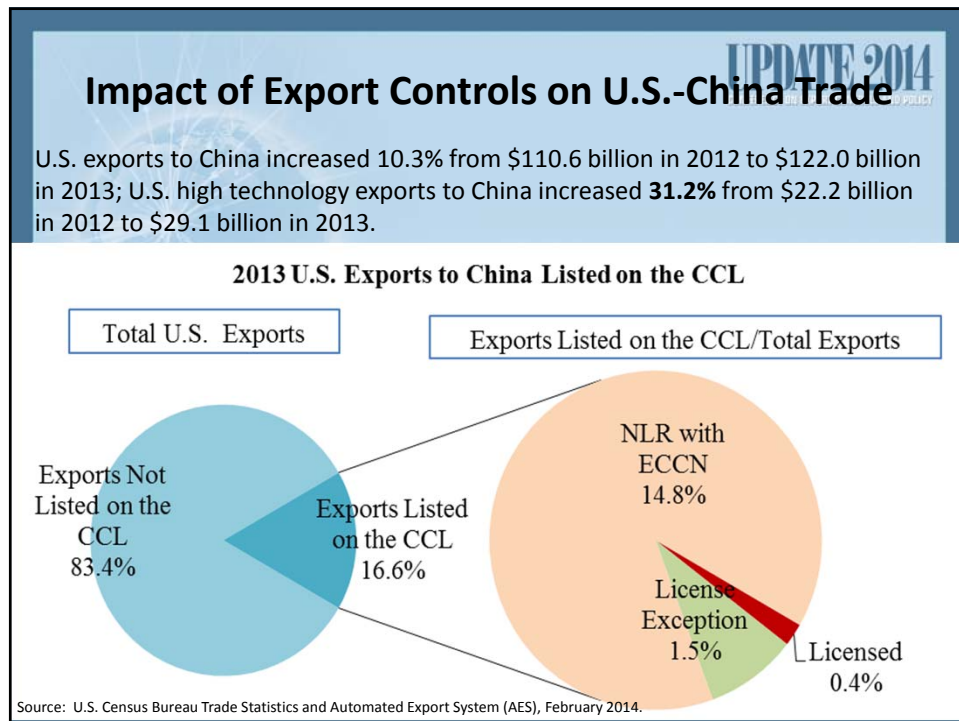
LINDA MINSKER
 ARTHUR ROY
U.S. Commercial Service
United States Embassy, BEIJING











Our Working Partners

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- ☐ U.S. State Department, Economic and Political sections
- ☐ Office of the United States Trade Representative
- ☐ U.S. Department of Energy
- ☐ U.S. Department of Defense
- ☐ U.S. Department of Homeland Security (ICE/CBP)
- ☐ Chinese Ministry of Commerce (MOFCOM)
- ☐ American Chamber of Commerce; U.S. Information Technology Organization
- ☐ University of Georgia; Consultants/law firms
- ☐ EU Export Control Officers



Types of Items and ECCN Categories

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- ☐ Category 1: Chemical/Biological
- ☐ Category 2: Machine Tools: 5-Axis Horizontal Machining Systems
- ☐ Category 3: Optoelectronics Industry
- ☐ Category 4: Semiconductor Industry
- ☐ Category 6: Fiber Lasers (Fine cutting)
Specialized cameras
- ☐ Category 7: Navigational systems
Aviation/Manufacturing



Import/Export Requirements

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- ☐ End-users in China must obtain an End-User Statement from the Ministry of Commerce (MOFCOM) prior to issuance of many BIS Export Licenses
- ☐ Sales of military items and crime control equipment are restricted to China



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Obtaining a MOFCOM End-User Statement

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- ☐ Import Certificate specifying end-use and identifying end-users
- ☐ Should be obtained when importing certain sensitive goods or technology
- ☐ Requires a U.S. Export license
- ☐ Importer is responsible for applying
- ☐ Application documents available online:
 - MOFCOM EUC Introduction link (in Chinese only)
 - <http://zzyhzm.mofcom.gov.cn/>
 - MOFCOM EUC Application link
 - <http://eucorp.mofcom.gov.cn/iseuCorp/>
- ☐ Submitted via mail with decision made within 20 days*



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Bureau of Industry, Security, Import and Export Control - MOFCOM

- ☐ In April, 2014, MOFCOM reorganized their departments, and established the Bureau of Industry, Security, Import and Export Control
- ☐ Main Stated Responsibilities and Goals:
 - To formulate and implement national policies and rules on import and export control
 - To issue import and export licenses for dual-use goods and technologies
 - To conduct investigations and evaluate industry security



New Agency Consisting of Six Divisions

- ☐ Safety Review Division
- ☐ Policy and Regulation Division
- ☐ License Division
- ☐ Enforcement Division
- ☐ Industrial Competitiveness Division
- ☐ Administration Office



Distinguishing Civil vs. Military

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- What actually separates manufacturing lines?
- Did the company build a separate building or even a compound specifically for civilian use, or is there a temporary fence or rope separating the machines from the materials?
- Can the company clearly articulate and track how the materials are used, and are they willing to share that information in EUC?



Red Flag Indicators for China

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- ✓ Company has production agreements or close affiliation with military
- ✓ Company address is different than proposed export destination
- ✓ End-user fails to obtain an End-User Statement from the Chinese Government when required
- ✓ Company has a history of conducting business with North Korean or Iranian entities (map)



EUC Case Study - A PSV and a PLC

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BIS China conducted an EUC (PSV) in 2013 for a company that uses U.S.-origin titanium to produce parts and components for civil aviation.

We conducted an EUC (PLC) in 2014 for the same company.

What were the differences?



Contribute to the Nation with Aviation Industry

Strengthen the Military Forces and Enrich the People

Commitment and Integrity

Innovative and Preeminent

"We are just partner but no competitor. We are committed to develop aviation industry and pursue business success, to participate in global aviation industry chain and regional economy development circle, to create value for customers and fulfill social responsibility, and, with a new stance and innovative thought, to compose a new chapter of fast and sound development for our country's aviation industry."






中国商用飞机有限责任公司
Commercial Aircraft Corporation of China, Ltd.

The Commercial Aircraft Corporation of China, Ltd. (COMAC) is a state-owned company, which is formed with the approval of the State Council and jointly invested by the State-owned Assets Supervision and Administration Commission (SASAC) of the State Council, Shanghai Guosheng (Group) Co., Ltd., **Aviation Industry Corporation of China (AVIC)**, China Aluminum Corporation (CHINALCO), Baosteel Group, and Sinochem Group. With a registered capital of RMB 19 billion.




Civil Aviation Cooperation: C919

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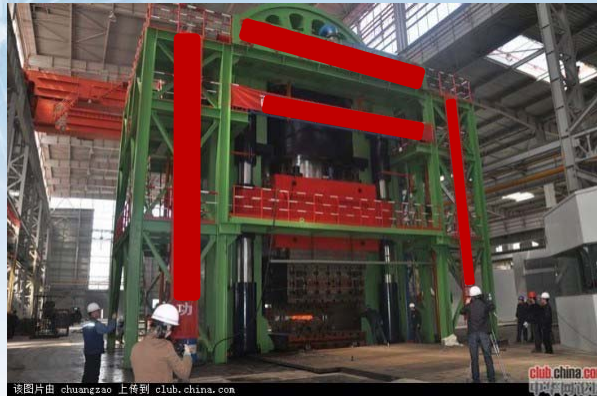
The diagram illustrates the global supply chain for the C919 aircraft, with components sourced from various international suppliers:

- Engine: CFM International LEAP-1
- Engine Thrust Reverser: French Aircelle
- Wing anti-icing: Liebherr
- Auxiliary Power Unit: Honeywell
- Wings & Movable Surface: AVIC Xi'an
- Flight Control System: Parker Aerospace
- Flight Recorder: GE Aviation
- Airframe: AVIC Hongdu
- Empennage: COMAC
- Weather radar: Rockwell Collins
- Electricity System: Honeywell
- Fuel System: Parker Aerospace
- Gate Signal System: Crane AE
- Radar cover: AVIC Chengdu
- Landing Gear: Honeywell
- Fire Detection System: Kidde
- Tire: Michelin Tires
- Cockpit control and instrument lighting: Eaton
- Simulate System: Rockwell Collins



Define “Separate” and “Civil”

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Best Practices for China

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- ☐ ***The United States fully supports high tech trade to civil end users for civil end uses. Do you know what the ultimate end-use is for your commodity?*** Have you seen the facility first hand? How often?

The U.S. Commercial Service provides an International Company Profile (ICP) service to assist you in evaluating potential business partners' reliability and capabilities as marketers for your products and services. The turn around time is about 20 days, and the reports are created in conjunction with reputable investigation/risk analysis firms in China.

www.export.gov/china/services



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Best Practices for China

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- ☐ ***I bought it (for a lot of money), so why can't I use it for whatever I want?***
Educating Chinese companies on the concept of export controls is the first step.
- ☐ **U.S.-origin equals quality.** The bottom line is that companies want the better tools, the more sophisticated equipment, the servicing, etc. It's worth the effort to educate.
- ☐ **Ask for an End-Use Statement**, especially for items that are or may be intended, entirely or in part, for a military end-use (EAR Part 744.21).



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The Unverified List (UVL)

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- ☐ Foreign parties to transactions subject to the EAR whose *bona fides* could not be verified (e.g., could not be located or contacted, could not demonstrate disposition of EAR items, etc.)
- ☐ Imposes 3 conditions on transactions involving listed persons:
 - 1) Mandatory electronic export information filing for all shipments
 - 2) Suspension of all license exceptions
 - 3) Prior consignee statement for items not subject to a license requirement
- ☐ Separate from the Entity List, which establishes a license requirement for entities acting *contrary to U.S. national security and foreign policy*. Generally establishes a license review policy of a presumption of denial.
- ☐ On June 16, 2014, BIS added the following China party to the UVL (79 *Federal Register* 34217):
 - China National Plant Import/Export Co.
Room 2135, Jingxin Building A,
No Dong San Huan North Road, Beijing, China



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Useful Resources

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- ❑ U.S. Commerce Department
 - U.S. Commercial Service
 - » Doing Business in China: Country Commercial Guide
 - Bureau of Industry and Security
 - » Export Administration Regulations
 - Patent and Trademark Office
 - » Protecting Intellectual Property Rights in China
- ❑ American Chamber of Commerce
 - Export Compliance Working Group (ECWG)
 - www.amchamchina.org
 - www.amchamkorea.org
- ❑ Independent Consultants and Law Firms
- ❑ Ministry of Commerce, China
 - www.mofcom.gov.cn



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Thank You!

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www.export.gov/china

www.bis.doc.gov



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END-USE VERIFICATION




Jose Rodriguez
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Region Overview

	<u>Country Group</u>
■ India	A:2 and 6, B
■ Bangladesh	B
■ Pakistan	B, D:2-4
■ Sri Lanka	B, D:5


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Region Overview

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- ❑ India Population 1,210,193,444
- ❑ Total exports to India were \$21.9 billion in 2013.
- ❑ Of the \$21.9 billion in U.S. exports to India in 2013, only 0.3% required a *BIS license*
- ❑ India working towards future membership in four multilateral export control regimes.
- ❑ The largest categories of U.S. advanced technology exports (controlled and not controlled) to India in 2013 were comprised of Aerospace at \$2.9 billion.



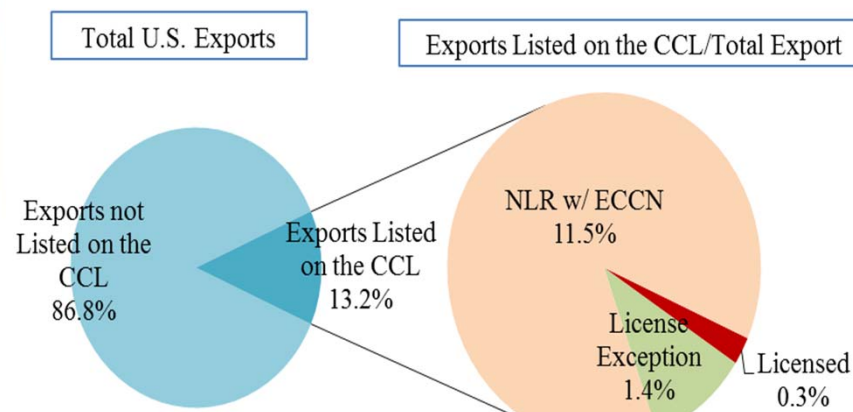
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Impact of Export Controls on U.S.-India Trade

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2013 U.S. Exports to India Listed on the CCL



Source: U.S. Census Bureau Trade Statistics and Automated Export System (AES), February 2014.

Who I Work With

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- ☐ Department of State – Economic and Political sections for Policy issues.
- ☐ U.S. Commercial Service for Trade issues.
- ☐ Department of Homeland Security (CBP/ICE) for coordination on enforcement Issues.
- ☐ Ministry of External Affairs, Government of India for End-Use Checks and Policy Issues.
- ☐ Trade Associations for Export Control Seminars
 - Federation of Indian Chambers of Commerce and Industry www.ficci.com
 - Confederation of Indian Industry (CII) www.cii.in
 - U.S.-India Business Council www.usibc.com
 - AMCHAM India www.amchamindia.com
 - Associated Chambers of Commerce and Industry of India www.assochem.org



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Types of Items and ECCNs

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- ☐ Category 1
 - Chemical, biological and radiation protection and detection equipment – 1A004
- ☐ Category 2
 - Vertical Machining Tools – 2B001
 - Pressure Transducers – 2B230
 - Centrifugal Pumps – 2B350
- ☐ Category 3
 - F Spectrophotometer (ICP-MS) – 3A233
 - Oscilloscopes – 3A292
- ☐ Category 6
 - Wideband Mini Transponders – 6A001
 - Doppler Velocity Log Navigator – 6A001
 - Thermal Imaging Camera – 6A003



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Types of Locations for EUCs

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- ❑ Majority of EUCs in India are at the end-user location instead of the consignee or intermediary's site.
 - Manufacturing Plants
 - Government Facilities
 - Research Institutions (private and government)
 - Testing facilities



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Red Flag Indicators for India

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- ✓ Vendors fulfilling a public or private tender can make you vulnerable to catch all controls and listed parties. *"If they ask for the end-use(r) I'll provide, if not...."*
- ✓ Most controlled transactions placed from the region are for local consumption. Be extra vigilant with orders placed to drop/deliver in third countries.
- ✓ Third parties are common in most transactions. They provide credit to small/mid-size clients and facilitate local clearance. However, be critical of the end-user statement signature which may have been completed by the intermediary/consignee on behalf of the end-user.



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EUC Case Study - A Reliable End-user

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Why would a graphics/printing company need an advanced machine tool?

- ☐ PLC on a two-axis rotary table controlled under Export Control Classification Number 2B008.
- ☐ Company designs and print decorative decals and plastic logos for the Indian and overseas automotive market.
- ☐ 100% of their products are decorative in nature.



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EUC Case Study - A Reliable End-user

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EXPORT CONTROLS AND POLICY

- ☐ New low-tech product, high-tech process for quality and precision.
- ☐ Company was subcontracting time on the same machine tool they wanted to purchase.
- ☐ Provided sample and documentation for review
- ☐ Open tour of current operations.
- ☐ The needs for a low-tech operation can be transformed overnight; our industry and control regime are ready to respond.
- ☐ Customer's prior experience with the equipment's performance combined with exporter education on the licensing process enhanced the visit and supported the favorable outcome.



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Best Practices for India

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- ☐ Know where your industry is concentrated. Most key industries are concentrated in particular regions/cities.
- ☐ Check your customers' basic compliance with Indian import requirements. Do they have an Importer Exporter Code? (exceptions apply)
- ☐ Is your customer exporting or re-exporting? Ask them about SCOMET.
- ☐ Some imports of high technology equipment are meant to comply with U.S. standards on finished products to be re-exported back to the States. Understanding those requirements may help you identify possible red flags.



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Useful Online Resources

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- ☐ Country Commercial Guide (CCG)
www.export.gov/india
- ☐ United States India Business Council (USIBC)
www.usibc.com
- ☐ United States India Importers Council (USIIC)
www.usiic.in
- ☐ Federation of Indian Chambers of Commerce & Industry (FICCI) www.ficci.com
- ☐ Confederation of Indian Industry (CII)
www.cii.in



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Thank You!

Embassy of the United States of America
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New Delhi 110 001, India
www.export.gov/india

www.bis.doc.gov



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END-USE VERIFICATION





Stephen Wilcox
Regional Export Control Officer
U.S. Commercial Service
U.S. Embassy Moscow





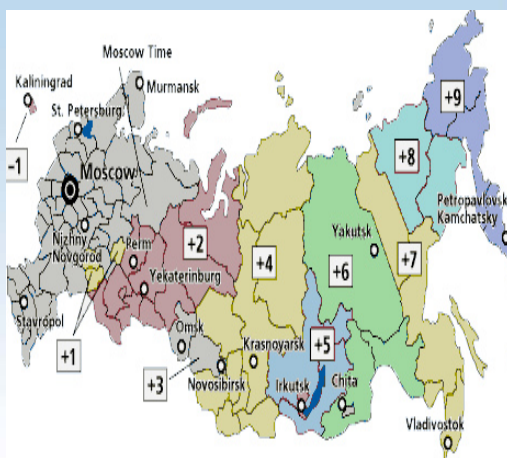




Region Overview

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- ❑ Country Groups A:2 and 4, D:1 and 3
- ❑ The United States exported \$11.2 billion of goods to Russia in 2013.
- ❑ Of the \$11.2 billion in U.S. exports to Russia last year, less than one percent was exported under a Commerce Department license.



Region Overview

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<u>Country Group</u>		<u>Country Group</u>	
▪ Azerbaijan	D:1,3	▪ Lithuania	A:3,5, B
▪ Belarus	A:4, D:1,3,5	▪ Moldova	D:1,3
▪ Estonia	A:3,5, B	▪ Poland	A:2-5, B
▪ Finland	A:2-5, B	▪ Serbia	B
▪ Georgia	D:1,3	▪ Tajikistan	D:1,3
▪ Kazakhstan	A:4, D:1,3	▪ Turkmenistan	D:1,3
▪ Kyrgyzstan	D:1,3	▪ Ukraine	A:2-4, D:1
▪ Latvia	A:3-5, B	▪ Uzbekistan	D:1,3



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Trade Statistics

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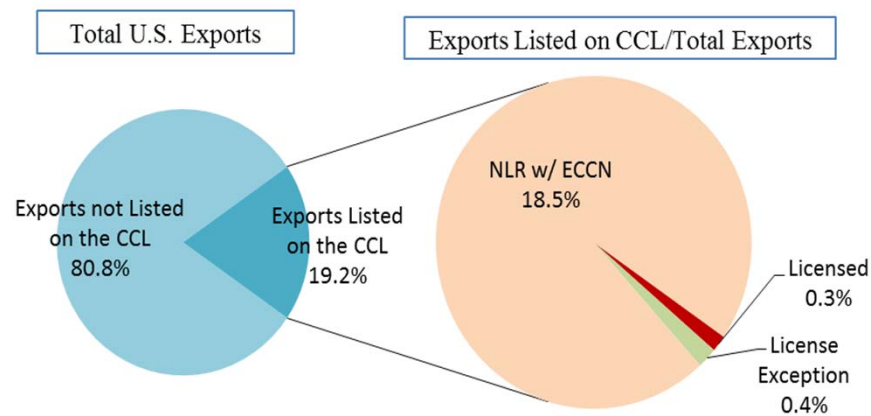
- ❑ U.S. exports to Russia in 2013 were \$11.2 billion, a new record and an increase of almost 30% from 2011. This is six times more than the growth rate for overall U.S. exports worldwide, which rose by 5%.
- ❑ Russian exports to the United States in 2013 were \$27 billion, a decrease of 15% from 2011.
- ❑ Russia's leading trade partners were recently Netherlands, China, Germany, Italy, Ukraine, and Turkey.



Impact of Export Controls on U.S.- Russia Trade

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2013 U.S. Exports to Russia Listed on the CCL



Source: U.S. Census Bureau Trade Statistics and Automated Export System (AES), February 2014.
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Who I Work With

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- ☐ U.S. Commercial Service
- ☐ U.S. State Department
 - Economic and Political-Military sections
 - Export Control and Related Border Security (ExBS)
- ☐ U.S. Department of Defense
 - Office of Defense Cooperation
- ☐ U.S. Department of Homeland Security
 - Immigration and Customs Enforcement
 - Customs and Border Protection



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Types of Items and ECCNs

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- ☐ Category 0
 - 0A987 rifle scopes
- ☐ Category 2
 - 2A983 Replacement parts for Airport Security Technology
- ☐ Category 3
 - 3A001 Amplifiers
 - 3A002 Signal Generator



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Types of Locations Checked

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- ☐ Companies
- ☐ Warehouses
- ☐ Beauty Salons
- ☐ Universities
- ☐ Institutes
- ☐ Residences
- ☐ Factories
- ☐ "Closed" Facilities
- ☐ Government Buildings



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Red Flag Indicators for Russia

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- ☐ The company refuses to meet with the ECO.
- ☐ Not answering questions during the meeting.
- ☐ The company hides important facts about its business activity.
- ☐ Refusal to provide requested transaction documentation.
- ☐ Newly formed company with same address as a company on the Entity List, Unverified List, or Denied Persons List.
- ☐ Diverting shipments from one freight forwarder to another.
- ☐ Using freight forwarders as final destinations.
- ☐ No website, no contact phone numbers, no address.
- ☐ Incorrect addresses on shipping labels.
- ☐ Attempts to hide complete written addresses.



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EUC Case Study

An Unfavorable Pre-License Check

UPDATE 2014
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- ☐ PLC requested on license application for item under ECCN 3A982
- ☐ \$86,700 transaction for export of one transistor for a pulse amplifier to be incorporated into a radar transmitter. Stated end-use was for civilian purposes.
- ☐ Initial order was later modified to a more powerful transistor by the Intermediate Consignee.
- ☐ PLC interview revealed no one actually knew the final destination of the commodity.
- ☐ Hesitant to answer questions about to whom the company exports (exports to over 50 countries – four of five embargoed countries).
- ☐ End-user actively supports military programs.
- ☐ Intermediate Consignee is a large supplier of electronics to the Russian military.



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Results of Crisis in Ukraine

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- ☐ BIS implements restrictions on trade with Russia:
 - New BIS restrictions on approvals of new export licenses and of re-export licenses to Russia.
 - The Department of Commerce (DoC) has added 24 companies to the Entity List.
 - BIS will deny pending applications for licenses to export or reexport any military item subject to the EAR to Russia or occupied Crimea and any dual-use item for military end use or end users.
 - The United States will continue to adjust its export licensing policies toward Russia as warranted by Russia's actions in Ukraine.



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Effects of Crisis in Ukraine

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- ☐ PLCs have been canceled by Russian companies seeking U.S. commodities, because the U.S. exporter cannot obtain license authorizations.
- ☐ Possible attempts to transship greater amount of commodities through third party countries listing the ultimate consignee in the third party country; item then transshipped to Russia.
- ☐ Companies asking to send items to a branch office in Ukraine instead of Russia, which also has a Russia branch office.



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Best Practices for Russia

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- ☐ Inform all freight forwarders as to whether an item is controlled. The forwarder cannot legally open packages, according to foreign laws, to ascertain whether or not an item(s) is/are controlled.
- ☐ Mark packages correctly. Third-party country customs services will not otherwise know whether or not they need to enforce a law.
- ☐ Don't fall for "this item is for civilian use." Sometimes this is stated up front in order to be able to receive an item using NLR or via a license, when in fact the item is not for civilian use. Practice due diligence and act on the side of caution.
- ☐ Ask for an end-user statement
- ☐ Russians extensively use freight forwarders or one or more intermediaries in order to circumvent U.S. export controls.
- ☐ If you know an item is going to Russia, because it is stated in the purchase order or in email correspondence, complete paperwork accurately. Do not ship to third-party country as ultimate consignee or end-user. Items may then be transshipped to Russia. Know and properly report and document the end-user.



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Addition of Russia Parties to the UVL

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❑ On June 16, 2014, BIS added the following Russian parties to the UVL (79 *Federal Register* 34217):

- JSC Voentelecom
Bolshaya Olenya Str. 15A, Moscow, Russia
- Nasosy Ampika
3-ya institutskaya St. Bld. 15, Moscow, Russia
- Nuclin LLC
Serebryakova Proezd 14, Moscow, Russia
- SDB IRE RAS
1 Vvedenskogo Square, Fryazino, Russia
- Security 2 Business Academy, a.k.a. S2BA,
a.k.a. Academy of Business Security
Deguninskaya Street 10, Moscow, Russia; *and*
Novoslobodskaya Str. 14/19, Moscow, Russia



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Useful Online Resources

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- ❑ Country Commercial Guide – Russia
 - <http://export.gov/russia/marketresearchonrussia/index.asp>
- ❑ American Chamber of Commerce – Moscow
 - www.amcham.ru
- ❑ U.S. – Russian Business Council
 - www.usrbc.org
- ❑ The Russian Organization for Small and Medium Entrepreneurship (OPORA)
 - <http://en.opora.ru>
- ❑ Russian Union of Industrialists and Entrepreneurs (RSPP)
 - <http://eng.rspp.ru>



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Thank You!

U.S. Embassy - Moscow
Bolshoy Devyatinsky
Pereulok, 8
Moscow, Russia
office.moscow@trade.gov
www.export.gov/russia

www.bis.doc.gov


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**Directorate of Defense Trade Controls
Defense Trade and Blue Lantern
End-Use Monitoring Program**

End-Use Monitoring Session I

**Regional Affairs & Analysis
Office of Defense Trade Controls Policy
Bureau of Political-Military Affairs**

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Legal Authorities for Defense Trade Controls

Reference	Subject
AECA (Arms Export Control Act), Sections 3(g), 38(g)(7), and 40A	Establishes DDTC and legal authority for defense trade controls; requires end-use monitoring of defense articles and services
ITAR (International Traffic in Arms Regulations)	Implementing regulations for AECA, specifies the United States Munitions List (USML)

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COUNTRY POLICES & EMBARGOES

- Section 126.1 of the ITAR: Prohibited Exports, Imports, and Sales to or From Certain Countries
 - Belarus
 - Burma
 - Cuba
 - Eritrea
 - Iran
 - North Korea
 - Syria
 - The People's Republic of China
 - The Republic of Sudan
 - Venezuela
 - Afghanistan
 - Central African Republic
 - Cote d'Ivoire
 - Cyprus
 - Democratic Republic of the Congo
 - Fiji
 - Haiti
 - Iraq
 - Lebanon
 - Liberia
 - Libya
 - Somalia
 - Sri Lanka
 - Vietnam
 - Zimbabwe



Three End-Use Monitoring Programs



Blue Lantern - U.S. Defense Articles, Defense Services and Brokering via Commercial Channels (USML)



Golden Sentry - U.S. Defense Articles and Defense Services via Government-to-Government Channels (Foreign Military Sales Program)



Extrancheck - Dual-Use Items (CCL)

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Blue Lantern Basics

- Verifies end-users, consignees, and end-uses of U.S. exports of defense articles and services
 - Pre-license and post-shipment checks (50/50)
- Performed worldwide by U.S. Embassy personnel in cooperation with host governments since 1990
 - 93 countries in FY 2013
- Required by U.S. law: High interest by Congress, media, and non-governmental organizations (NGOs)
- U.S. and foreign industry aware of program

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Objective 1 Build Confidence in Trade Relationship

- Monitor transfer of sensitive hardware, technology, and services
- Verify bona fides of parties, especially intermediaries
- Foster cooperation/confidence among U.S. government, host government, and industry
- Enhance understanding of U.S. export controls (e.g., USG approval required to re-export)
- NOT a law enforcement action or "investigation"

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Objective 2 Regulate Hardware & Technology Transfer

- Support and facilitate transfer of greater volume and more advanced hardware or technology

OR

- Result in increased scrutiny and/or restrictions on future exports

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Objective 3 Impede Gray Arms Trade

- Use of legitimate means for illicit ends
- Tools & Techniques
 - False end-use documentation
 - Front companies
 - Brokers
 - Hidden intermediaries/end-users
- Impeding gray arms trade improves international security and stability

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Vetting Licenses



Entities on every license are run against the Watch List

- 100,000+ entities from various USG sources
- Compiled from various USG sources, classified & unclassified
- Hit on Watch List may lead to a Blue Lantern
 - 918 Blue Lanterns out of ~83K export authorization requests in FY 2013

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Warning Flags End-User & End-Use Indicators



- Unfamiliar, limited, or any derogatory background information. Possible front companies
- Payment in cash or at above-market rates
- Incomplete or suspect supporting documentation
- End-user unfamiliar with hardware/technology or its use
- End-user declines follow-on repair or maintenance service or other warranty options



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Warning Flags Commodity Indicators



- Hardware in excessive quantity inconsistent with inventory of end-user
- Hardware or technology in demand by proscribed countries. See http://www.pmddtc.state.gov/embargoed_countries/index.html



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Warning Flags Commodity Indicators



- Sensitive hardware or technology



Stealth Fighter



Night Vision
Devices



Unmanned
Aerial
Vehicles



Missiles or
Rockets

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Warning Flags Country or Shipping Indicators



- Unusual or circuitous routing or trans-shipment through multiple countries or foreign parties
- End-user or consignee in a foreign free trade zone
- Unknown or unfamiliar intermediate party
- Vague or suspicious delivery dates, locations (e.g., P.O. box), shipping instructions, packaging requirements
- Designation of freight forwarders as foreign consignees or foreign end-users

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Blue Lantern Referrals



- Licensing Officers
- Department of Defense (e.g. Defense Technology Security Agency)
- Department of Homeland Security/Homeland Security Investigations
- Federal Bureau of Investigations
- Intelligence Community
- Open Source Reporting

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Types of Blue Lanterns

- **Pre-License** (50-60%)
 - Confirms order
 - Verifies *bona fides* of parties
 - Determines foreign import authorization
 - Verifies end-use
 - Ensures foreign parties understand ITAR requirements
- **Post-Shipment** (40-50%)
 - Confirms receipt by end-user
 - Confirms end-use per license and provisos
- **Post-License/Pre-Shipment** (<5%)

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Life-Cycle of a Blue Lantern

Washington

- Generate case
- Research companies and technologies
- Draft, clear, and send action request cable to Post

Post

- Conduct check, including research and site visit, if appropriate
- Draft, clear, and send response cable back to Washington

Washington

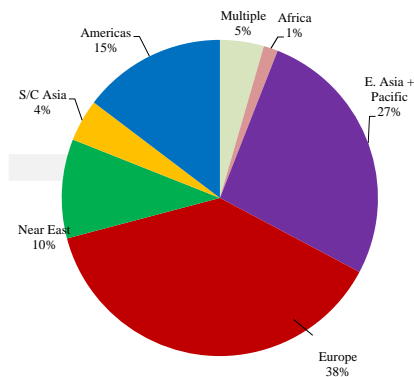
- If favorable, recommend issuance of license; record results for future reference
- If unfavorable, recommend application be either returned without action (RWA), denied, or revoked; if appropriate, add entities to Watch List, refer to Enforcement Division for possible civil and/or criminal action

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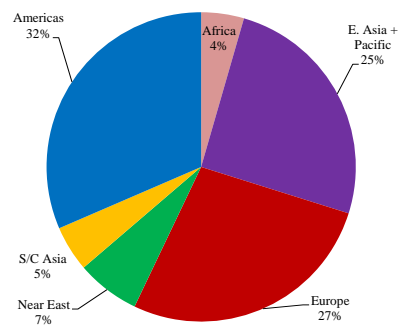


Regional Breakdown FY 2013

**Figure 1: Authorization Requests
By Region FY 2013**



**Figure 2: Blue Lantern Initiated
By Region FY 2013**



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Reasons for “Unfavorable” Responses FY 2013

Derogatory information/ foreign party deemed unreliable recipient of USML	70
Indications of diversion or unauthorized retransfer or re-export	47
Refusal to cooperate	38
Unable to confirm order or receipt of goods by end-user	25
Foreign party involved in transaction but not listed on license/ application	21

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Blue Lanterns

Blue Lanterns Initiated Jan. 2013-July 2014

	Favorable	Unfavorable	Pending	Total
India	6	4	3	14
Russia	3	3	2	8

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Case Studies

Diversion

Export License

- Commodity: Night Vision Devices
- End-user: South Asian Municipal Police Department
- Foreign Consignee/Broker: South Asian Private Company

Reason for Check

- Diversion concerns
- Sensitive "Significant Military Equipment"

Findings

- FC confirmed delivery of NVDs to end-user and provided serial numbers.
- End-user denied ordering/receiving any NVDs.
- Serial numbers provided by FC did not match those provided by U.S. exporter

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Case Studies

Refusal to Cooperate

Export License

- Commodity: Electronics
- End-user: East European Research Institute
- Foreign Consignee: East European Private Company

Reason for Check

- Diversion concerns
- Unusually high number of bandpass filters

Findings

- Refused to cooperate.

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QUESTIONS?

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