




Export Control Considerations South Asia Region



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Region Overview

- Population: approximately 1.6 billion
- Different trade and export control considerations across the countries
- India and Pakistan both have Strategic Trade Control Laws

	<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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What We Do

- End-Use Monitoring
- Capacity Building Activities: collaborate with host government(s) to enhance Strategic Trade Controls within the region.
 - Industry Outreach
 - Government Outreach
 - Enforcement Collaboration
- Provide support to U.S. companies in the region with:
 - Understanding host country export/import controls.
 - Business support via International Trade Administration, Global Markets Office.

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Regional Trends

- Significant government funded R&D activities that require controlled items and technology.
 - Controlled U.S.-origin items under license authorization (transaction U.S. Government-vetted).
 - Controlled items under License Exceptions (private company due diligence)
- Presently, military industrial base is government driven or relies on sourcing from western partners.
- Procurement of above points is normally conducted via third parties involved in public tenders, limited tenders or sole sourcing but not directly by the government end-user. The “Tender Business”.
- The vast majority of exported items to these destinations are for domestic consumption.
- Sri Lanka – the opening of the civil aviation industry after the civil war has increased the demand for controlled and not controlled components.

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India Trends

- Government pursuing a private defense industrial base to modernize its military.
- Major U.S. defense contractors have a presence in India.
- Smaller western high-tech companies prefer a local distributor/partner.
- The city of Bengaluru is not only a major IT hub but also a hub for many aerospace activities and start ups (e.g., commercial satellites).
- Most major government laboratories also have a presence in these cities, hubs for innovation.
- Report trade barriers related to acceptance of license conditions concerning the conduct of end-use checks.

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Pakistan Trends

- Other developed countries' companies have a more aggressive presence/policy than U.S. companies in Pakistan.
 - Provides them with better understanding of the market and access to reliable partners
- Active collaboration in development and production of defense platforms with China (e.g., JF-17, advanced submarine technology transfer)
- Use of front companies to procure nuclear, missile, and other dual-use items for unauthorized end uses
- Non-state regional actors still present a risk for IED components procurement.

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Military End Users Things to Consider



- Procurement for parts and components is normally done domestically.
 - Private companies or Public-State Undertakings (PSU) fulfill the order.
- Defense laboratories engage in R&D for civilian applications, (e.g., LTE wireless communication).
- Government end users are aware of controls and understand the requirement of providing end user certificates
- While the U.S. government provides military equipment and has engagement with both countries, there are programs that are not supported for foreign policy reasons or under multilateral export controls commitments.

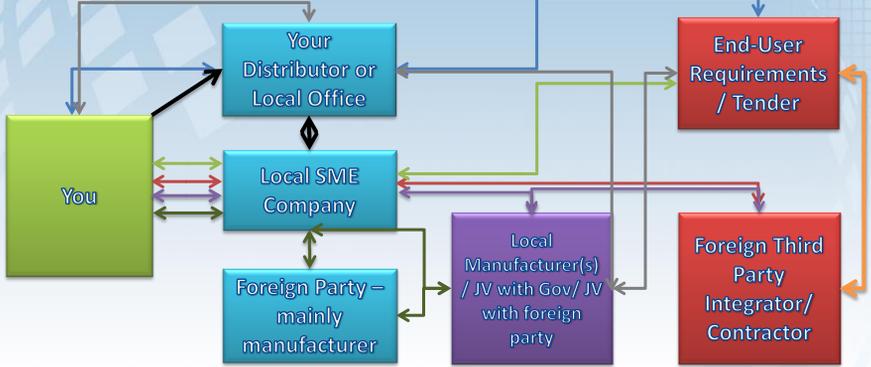
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End User and Tender Business Regional Applicability

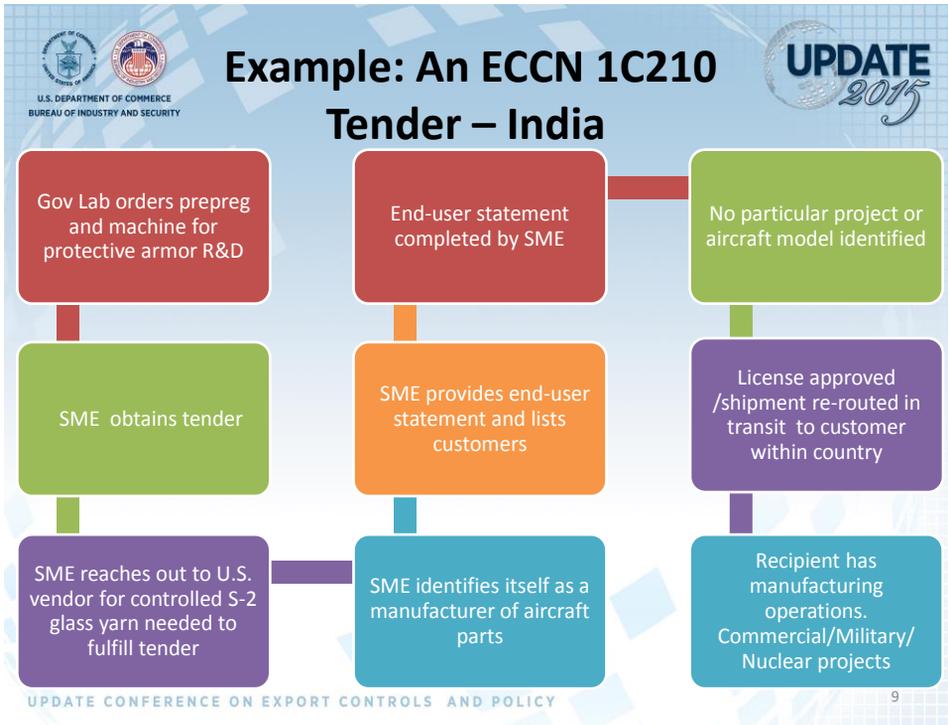




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Don't let the coyote infiltrate the supply chain!





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Mitigating Compliance Risk in the Tender Business

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- It is important to have a clear picture of the end user and end use to properly assess license requirements.
 - Remember Catch-All Controls and Proscribed Party Lists
- The tender-based orders commonly mistake a local SME for the end user due to that company's business profile.
 - Common comments after end-use check visits:
 - "If they ask about the end user, we provide, if not..."
 - I completed the end-user certificate myself (*many times they don't consult the end-user*)
- Many times the SME will hesitate, hide or refuse to provide the end-user customer name out of fear of the U.S. supplier stealing business.

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Mitigating compliance risk with local SMEs



- ASK!!!!
 - What is the project?
 - Is it a government project? If so, ask for the tender # or agency issuing the tender. This is typically public information.
 - What is the expected demand?
- When the SME is hesitant:
 - Assure the SME your business relationship with them is important and these questions are critical in facilitating secure trade.
 - Inquire how the end-user statement information was completed and by whom.

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A Listed Party Transaction Pakistan



EAR99 Medical Equipment and Lab Equipment 2B226 Furnace for Laboratory No End-User Statement furnished at Purchase Order moment	Procurement	Pakistan SME: Trader with 18 years experience U.S. Intermediary: Related to SME placed order Vendors: Various U.S. Distributors or Manufacturers	Agents & Vendors	Entity List Party Divisions License Required Case by Case for all CCL. Presumption of Approval for EAR99 items	End User
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Mitigating Risk: Supplying to Parties with WMD Concerns

- YES. The prior example could have resulted in some or all licenses being granted if BIS had an opportunity to review the facts.
- United States is not immune to front companies or diversion schemes within our borders.
- Simple questions or statements can help you determine if further due diligence is needed or help prevent illicit or “ignorant” transactions:
 - Will the item be exported? Or, if the item is to be exported please follow...
- Remember the strict liability standard. Do NOT self-blind.

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Mitigating Risk: Supplying to Parties with WMD Concerns

- New Domestic Customers:
 - When prospecting, also examine exposure to export control issues.
 - Establish an internal compliance profile for your own risk assessment.
 - Have a flyer/page on general export control rules.
- New International Customers:
 - Same as above +
 - Be specific on obtaining end use(r) certificate if you are supplying CCL items, even if there is a license exception available.
 - EAR99 items: Ensure your customer is not a listed party or supplying to a listed party.
 - Consider U.S. Global Market services for vetting significant customers.

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Regional Best Practices Points to consider

- **Bangladesh:** Used does not mean not controlled.
 - Market for many used machine tools and other controlled equipment for manufacturing or testing. Sales to logistics & auction companies should be accompanied with increased awareness of possible license requirements before export.
- **India:** What about transshipment?
 - Some illicit procurement networks try to exploit business ties in some communities with large expat business presence. Additional attention should be given to purchase orders directed by small companies or traders from or routed via transshipment locations.

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Regional Best Practices Points to consider

- **Pakistan:** So what about that Chinese-Pakistan collaboration?
 - Precision of end-user statements is key to ensure license applications are evaluated properly. Seek to obtain “program names” to determine the end use. This is normally public information when companies are dealing with government tenders.
- **Sri Lanka:** Increased trade opportunities = Increased due diligence
 - Increased U.S. exports due to government reforms in some sectors (e.g., civil aviation) and active investment and desires to compete with Dubai and Singapore as a maritime center. Remember, illicit procurement networks are always looking for new routes. Apply the same considerations across the board when performing due diligence.

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Useful Online Resources

- Country Commercial Guide (CCG)
 - www.export.gov/india
 - www.export.gov/pakistan
- India- Directorate General of Foreign Trade
 - <http://dgft.gov.in>
 - SCOMET Items
 - <http://dgft.gov.in/exim/2000/scomet/scomet2011.pdf>
- Pakistan Strategic Export Control Division
 - <http://www.mofa.gov.pk/secdiv/>




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Thank You!

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