



End-Use Monitoring - Diversion

Moderator: Kevin J. Kurland
Director, Office of Enforcement
Analysis



Bureau of Industry and Security
U.S. Department of Commerce



END-USE MONITORING ***Case study***

Linda Minsker
Export Control Officer
U.S. Commercial Service
U.S. Embassy - Beijing, China



Region Overview

- The U.S. exported \$103.9 billion of goods to China in 2011. \$20.1 billion of those goods were high-tech items.
- Of the \$103.9 billion in U.S. exports to China last year, less than one percent was exported under a Commerce Department license.
- Country Group D



U.S. Commercial Service Collaboration

- Export Control Officer/Commercial Officer
- Commerce Family:
 - Commercial Service
 - Market Access and Compliance
 - Patent and Trademark Office
 - Import Administration



Who I Work With

- U.S. State Department, Economic Section
- 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
- American Chamber of Commerce;
U.S. Information Technology Organization
- University of Georgia; Consultants/law firms
- European Union Export Control Officers



Types of Items Checked

- National Security, Nuclear Nonproliferation, and Chemical/Biological controls
- Manometers (semiconductors, lasers)
- MOCVD (semiconductors, wafer manufacturing)
- Fiber Laser (fine cutting)
- 3-axis, 5-axis horizontal machine tools (auto, aviation)



Types of Locations Visited

- Companies / Warehouses
- Science Parks / Universities
- Factories



Favorable PSV Case Study

- Validated End-User (VEU) Authorized ECCNs:
 - 3B001.a, 3B001.b, 3B001.c,
3B001.d, 3B001.e, 3B001.f
- Equipment for the manufacturing of semiconductor devices.
- Controlled for national security reasons.



Favorable PSV Case Study

- Validated End-User
- Open, detailed tour
- Current Production
- Knows Exporter
- Knows Customer
- Future growth
- Internal Compliance Program
- Top to bottom compliance: From President to Gate keeper



Lessons Learned

- Transparency and compliance leads to trade confidence and license approvals.



Useful Online Resources

export.gov
Helping U.S. Companies Export

- China Resources
- Country Commercial Guide: Doing Business in China*
- Protecting Intellectual Property Rights in China*
- Market Research
- Export Regulations



谢谢

U.S. Embassy Beijing
No. 55 An Jia Lou Road
Beijing, China
8610-8531-4484
www.export.gov/china
www.bis.doc.gov





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END-USE MONITORING Case Study

Perry A. Davis
Export Control Officer
U.S. Commercial Service
U.S. Embassy - New Delhi, India



Region Overview

“The Indian Subcontinent”

Recent evolution of U.S. - India relations:

- U.S. - India Nuclear Deal in 2008
- Presidential visit in 2010
- India’s membership in export control regimes
- U.S. - India Strategic Dialogue
- High Technology Cooperation Group



U.S. Commercial Service Collaboration

- Export Control Officer/Commercial Officer
- Commerce Family:
 - Commercial Service
 - Patent & Trademark Office (PTO)
 - Market Access & Compliance (MAC)
 - U.S. Trade and Development Agency (USTDA)



Who I Work With

- Department of State, Economic and Political Sections
 - Policy Issues
- Commercial Service
 - Trade Issues
- Department of Homeland Security (CBP/ICE)
 - Enforcement Issues
- Ministry of External Affairs, Government of India
 - End-use Checks and Policy Issues
 - Export Control Seminars



Types of Items Checked

- Supercomputers
- Navigation Equipment
- Forensic Toolkits, Cameras
- CNC Machines
- Materials Processing - Pumps with low dollar value
- NLR Items

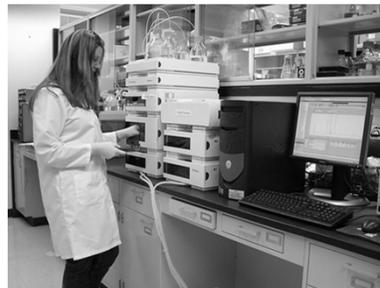


Some of these items have a high level of control.



Types of Locations Visited

- India**
 - Universities
 - Laboratories
 - Factories
 - Companies
 - Warehouses
- Regional Countries**
 - Bangladesh
 - Sri Lanka



Statistics

India

- \$21.6B in exports to India in 2011.
- Only 0.3% of exports required a BIS export license to India.
 - 83% of items subject to a license requirement shipped under a license exception.
- Country Groups A & B.
- A majority of End-Use Checks are performed in Western and Southern part of the Indian Subcontinent - Mumbai, Pune, Bengaluru, Chennai and Hyderabad.

Sri Lanka and Bangladesh

- Country Group B



PSV Case Study

The License

- Export license issued for CNC machine tools**
- ECCN is 2B001 - controlled for National Security and Nuclear Nonproliferation reasons**
- License conditions include:**
 - No nuclear end-use.
 - No military end-use.
 - No resale or transfer without USG approval.
 - Applicant must inform consignee of all conditions and may be subject to PSV.



PSV Case Study – The Request

- ❑ **U.S. Exporter**
 - Small company in the business of selling machine tools.
 - Previous exports of machine tools.
 - This was their first export license.
- ❑ **Ultimate Consignee (UC)**
 - Small company involved in the manufacture of automotive parts.
 - No records of previous exports from the U.S.
 - First export license.
- ❑ **BIS obtained invoice, packing list and bill of lading from exporter and requested a PSV.**



PSV Case Study - Initial Contact with UC

ECO initial contact with the UC did not go well.

- “...did enter into negotiations...” for the purchase of the machine tools.
- “...we did sign a few documents...” during that process
- but the deal “...did not materialize...”
- “...No money was ever paid...” to the exporter.
- “...no machines have been imported...” by the UC to date.



PSV Case Study – Regroup

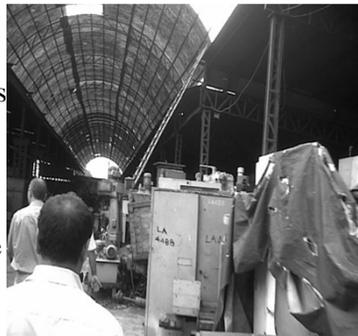
- ❑ ECO contacted BIS HQ.
- ❑ BIS approached the shipping company (not the exporter).
- ❑ Another version of the same bill of lading contained a different unlicensed Ultimate Consignee, Company C.
- ❑ Company C
 - No record of export license for Company C.
 - Reseller and exporter of machine tools.
 - Offering the specific machine tools that were the subject of this PSV for sale – “...available all over the world.”



PSV Case Study - Onsite Visit with UC

PSV Results:

- UC originally intended to buy the machines.
- UC acquaintance, Company C, offered to purchase all 7 CNC machines and hold them.
- UC stated they subsequently purchased 2 of the 7 from Company C.
- UC took us to Company C's warehouse to view the remaining 5 machines.



PSV Case Study Results & Lessons Learned for Industry

- ❑ **Issues include:**
 - Unlicensed consignee (Company C)
 - Dual bills of lading
 - Evasive answers
 - Intent to resell?
- ❑ **The lesson – Comply with the specifics of your export license.**

Exporter, when the deal with his licensed consignee fell apart – just shipped to someone else.
- ❑ **Follow-up** – We did re-visit the licensed UC. They had, in fact, purchased and installed the remaining 5 of 7 from Company C. Mitigates concerns regarding where the machines may end up, but the front end actions remain suspicious and are significant.



Useful Online Resources

- ❑ Country Commercial Guide (CCG)
 - <http://www.export.gov/india>
- ❑ United States India Business Council (USIBC)
 - <http://www.usibc.com/>
- ❑ Confederation of Indian Industry (CII)
 - <http://www.cii.in/>
- ❑ Federation of Indian Chambers of Commerce & Industry (FICCI) <http://ficci.com/>
- ❑ American Chamber of Commerce (AMCHAM)
 - <http://amchamindia.com/>



Thank You!

Perry A. Davis
U.S. Embassy
The American Center
24, Kasturba Gandhi Marg
New Delhi, India
www.export.gov/india
www.bis.doc.gov



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END-USE MONITORING Case study

Tom Pepe
Export Control Officer
U.S. Commercial Service
U.S. Embassy – Moscow, Russia



Region Overview

- The United States exported \$8.3 billion of goods to Russia in 2011.
 - Of that \$8.3 billion, \$1.1 billion were subject to the Commerce Control List.
- Of the \$8.3 billion, less than one percent was exported under a Commerce Department license.
- Country Groups A & D



U.S. Commercial Service Collaboration

- Export Control Officer/Commercial Officer
- Commerce Family:
 - Commercial Service
 - Patent and Trademark Office



Who I Work With

- U.S. State Department
 - Economic, Political-Military Sections
 - Export Control and Related Border Security
- U.S. Department of Defense
 - Defense Attachés Office
- U.S. Department of Homeland Security
 - Immigration and Customs Enforcement
 - Customs and Border Protection



Types of Items Checked

Reasons for Control:

- National Security (NS)
- Missile Technology (MT)
- Regional Stability (RS)

- Cameras
- Circuits
- Machinery
- Other electronics



Types of Locations Visited

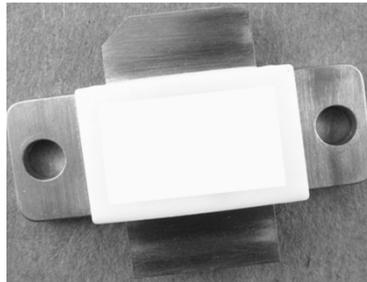
- Companies/Warehouses
- Beauty Salons/Universities
- Factories
- “Closed” Facilities



Unfavorable PLC Case Study

- \$86,700 transaction to be licensed under the condition items not be used for military purposes.
- Took 54 days to locate point of contact and conduct the meeting.
- Ultimate Consignee incorrectly listed as end-user; No end-use given.
 - End-user: a government entity.
- Intermediate Consignee is a subsidiary of a military R&D and production firm.

Item: Transistors used as pulse amplifiers controlled for Regional Stability under ECCN 3A982



Unfavorable PLC Case Study – Cont’d.

- ❑ Ultimate Consignee was hesitant to answer questions about the company’s previous exporting history.
 - Exported to over 50 countries - four of which have current embargoes
 - When asked about the types of products typically exported:
 - “We can tell you that we have never exported _____ to any of these countries, which is the subject of our meeting.”



Unfavorable PLC Case Study – Cont’d.

- ❑ Ultimate Consignee was unaware and does not know why the initial order was modified to a more powerful transistor by Intermediate Consignee.
 - Traditionally ordered 120V transistors for the production of a particular product.
 - License application was for 400V transistor.
 - Prohibited, per contract between Ultimate Consignee and military end-user, from opening the module into which the transistor was incorporated.



Lessons Learned

- Obtain and provide current and proper points of contact - giving old or inaccurate information leads to significant delays.
- Know your end-user and end-use.
- Don't settle for vague answers - ask questions to cover your bases. "I don't know" should never be an acceptable answer.
- Educate the end-user of the potential conditions of the license to include a possible meeting with a BIS official.



Useful Online Resources

- Country Commercial Guide (CCG)
 - <http://www.export.gov/russia>
- 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>



Спасибо

U.S. Embassy Moscow
Bolshoy Devyatinsky
Pereulok, 8
Moscow, Russia
www.export.gov/russia
www.bis.doc.gov

