

DEVELOPMENTS IN THE FIELD

Addressing the Human Rights Risks of Financing the Arms Industry: Insights from Banks' Corporate Policies

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Abstract

This article examines recent measures undertaken by major commercial banks to mitigate and address human rights risks associated with their financial dealings in the arms industry. By reviewing the corporate policies of 20 leading banks that provide financing to top arms manufacturing and exporting companies, the article provides insights into three significant aspects of banks' efforts: the development of defence sector policies, the implementation of risk assessments for adverse human rights impacts, and the application of exclusion clauses. These measures highlight the increasing recognition by banks of the need to address the ethical, social and human rights implications of financing arms deals, contributing to the broader regulatory and normative framework governing the arms industry.

Keywords: arms trade; banks; corporate responsibility; human rights

1. Introductory remarks: New practices in the banking sector

The involvement of banks in financing the arms industry, a high-risk sector comprised of companies that manufacture and export weapons, has historically received less scrutiny than other high-risk industries. Despite the substantial business opportunities and security goals advanced by arms sales, the focus of the literature on the national and international security implications of arms exports has resulted in corporate commercial interests in such sales being largely overlooked.¹ Financing is an essential factor in the production and export of weapons, which is provided by banks to arms companies through loans, project financing, underwriting services, shareholdings and investments. While financing is linked to the adverse human rights impacts of arms deals, it is not specifically regulated within the arms export framework outside sanctions laws and embargoes. In recent years, as the implications of the United Nations Guiding Principles on Business and Human Rights (UNGPs) for the Arms Trade Treaty (ATT) have received greater attention, the roles banks play in the arms sector have been explicitly recognised, though implicitly remain characterised as less important in the supply chain than arms companies and states who 'constitute the top layer of this chain'.²

¹ Jonathan A Grant, *Rulers, Guns, and Money: The Global Arms Trade in the Age of Imperialism* (Cambridge: Harvard University Press, 2007) 3–6.

² UN Working Group on Business and Human Rights, 'Responsible Business Conduct in the Arms Sector: Ensuring Business Practice in Line with the UN Guiding Principles on Business and Human Rights' (30 August 2022) <https://www.ohchr.org/sites/default/files/2022-08/BHR-Arms-sector-info-note.pdf> 2 (accessed 1 May 2024).

Amid rising public and stakeholder pressure to divest from industries harmful to human rights, banks have taken greater efforts to publicly document the measures they implement to mitigate and address downstream risks in high-risk sectors, including risk management systems, enhanced due diligence processes, specialised risk management teams and increased disclosures.³ Such measures are generally detailed in corporate policies, resulting in the use of these policies as instruments of co-regulation which mutually reinforce the treaties and domestic regulations for the arms sector.⁴ Corporate policies are distinctive tools through which banks can use their unique position in the arms sector, which stands outside the bounds of the security-driven motivations of states and arms companies, to influence normative developments across jurisdictions to mitigate and address the adverse human rights impacts of arms deals.⁵

Previous studies have demonstrated that, as with other high-risk industries, changing societal expectations on the protection of human rights by corporations are pushing major commercial banks to develop and adopt policies which address the human rights risks of the arms industry.⁶ This article analyses the policies of 20 major commercial banks and provides insights into the types of measures recently implemented by banks to mitigate and address the adverse human rights impacts of arms deals. These banks were selected based on the following criteria: they are registered in one of the six major exporter states (China, France, Germany, Russia, the United Kingdom or the United States);⁷ and they provided a combined total of more than US\$1 billion in financing through loans and underwriting to top arms manufacturing and exporting companies in 2023.⁸ A summary of the selected banks and their relevant policies for human rights and the arms industry is provided in the table below.

Bank	Jurisdiction	Relevant Corporate Policies
Bank of America	United States	Human Rights Statement; Environmental and Social Risk Policy (ESRP) Framework (a defence sector policy is referenced in this document but not publicly available) ⁹
Bank of China	China	N/A – only Corporate Social Responsibility Reports available

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³ See, e.g., Jennifer Kunz and Mathias Heitz, 'Banks' Risk Culture and Management Control Systems: A Systematic Literature Review' (2021) 32 *Journal of Management Control* 439; Javid Iqbal and others, 'Risk Management Disclosures and Banks Financial Performance: Evidence from Emerging Markets' (2024) 26 *Risk Management* 5.

⁴ Jan Eijbouts, 'Corporate Codes as Private Co-Regulatory Instruments in Corporate Governance and Responsibility and Their Enforcement' (2017) 24 *Indiana Journal of Global Legal Studies* 181, 191; Judith Schrempf-Stirling and Florian Wettstein, 'The Mutual Reinforcement of Hard and Soft Regulation' (2023) 37 *Academy of Management Perspectives* 72, 73.

⁵ Steven R Ratner, 'Introduction to the Symposium on Soft and Hard Law on Business and Human Rights' (2020) 114 *AJIL Unbound* 163, 166.

⁶ See, e.g., PAX and ICAN, 'High-risk arms trade and the financial sector' (July 2022), https://paxvoorvrede.nl/wp-content/uploads/import/2022-07/PAX_REPORT_HIGHRISK_ARMS_TRADE.pdf (accessed 1 May 2024).

⁷ SIPRI data on arms transfers from 2016 to 2023: SIPRI, 'Arms Transfers Database' (2024), <https://armstransfers.sipri.org/ArmsTransfer/> (accessed 1 May 2024).

⁸ Data on 2023 financing from: PAX, 'Who Invests?' (2024), <https://www.dontbankonthebomb.com/investors/> (accessed 1 May 2024).

⁹ Bank of America, 'Bank of America Corporation Human Rights Statement' (2022), <https://about.bankofamerica.com/content/dam/about/report-center/hrs/2022/human-rights-statement.pdf> (accessed 30 May 2024); Bank of America, 'Bank of America Corporation Environmental and Social Risk Policy (ESRP) Framework' (2023), <https://about.bankofamerica.com/content/dam/about/pdfs/environmental-and-social-risk-policy-december-2023.pdf> (accessed 30 May 2024).

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Bank	Jurisdiction	Relevant Corporate Policies
Barclays	United Kingdom	Statement On Human Rights; Defence & Security Statement ¹⁰
BNP Paribas	France	Statement on Human Rights; Sector Policy – Defence & Security; Human Rights Risk Mapping ¹¹
Citigroup	United States	Statement on Human Rights; Environmental and Social Policy Framework ¹²
Commerzbank	Germany	Policy Statement on Human Rights and Environmental Due Diligence; Positions and Policies (includes a summary of a defence sector statement, which Commerzbank states is currently under review) ¹³
Crédit Agricole	France	Human Rights Charter; ‘Arms Industry and Arms Trade’ Policy ¹⁴
Crédit Mutuel	France	Sector Policy – Defence & Security Sector ¹⁵
Deutsche Bank	Germany	Statement on Human Rights; a defence sector policy is mentioned in press releases but is not publicly available ¹⁶

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¹⁰ Barclays, ‘Barclays Group Statement On Human Rights’ (2024), <https://home.barclays/content/dam/home-barclays/documents/citizenship/our-reporting-and-policy-positions/Barclays-Group-Statement-on-Human-Rights-February-2024.pdf> (accessed 30 May 2024); Barclays, ‘Defence & Security Statement’ (2023), <https://home.barclays/content/dam/home-barclays/documents/citizenship/our-reporting-and-policy-positions/policy-positions/Barclays-Statement-on-the-Defence-Sector.pdf> (accessed 30 May 2024).

¹¹ BNP Paribas, ‘Statement of BNP Paribas on Human Rights’ (2012), https://cdn-group.bnpparibas.com/uploads/file/uk_declaration_bnp_sur_droit_de_l_homme.pdf (accessed 30 May 2024); BNP Paribas, ‘Sector Policy - Defence & Security’ (2017), https://cdn-group.bnpparibas.com/uploads/file/bnpparibas_csr_sector_policy_defense_security.pdf (accessed 30 May 2024); BNP Paribas, ‘BNP Paribas Human Rights Risk Mapping’ (2021), https://group.bnpparibas/uploads/file/bnp_paribas_human_rights_risk_mapping.pdf (accessed 30 May 2024).

¹² Citigroup, ‘Statement on Human Rights’ (2018), https://www.citigroup.com/rcs/citigpa/akpublic/storage/public/citi_statement_on_human_rights.pdf (accessed 30 May 2024); Citigroup, ‘Environmental and Social Policy Framework’ (2023), <https://www.citigroup.com/rcs/citigpa/storage/public/Environmental-and-Social-Policy-Framework.pdf> (accessed 30 May 2024).

¹³ Commerzbank, ‘Policy Statement of Commerzbank AG on Human Rights and Environmental Due Diligence’ (2023), https://www.commerzbank.com/media/konzern_1/comp/LkSG_Statement_HumanRights_Environment.pdf (accessed 30 May 2024); Commerzbank, ‘Positions and Policies’ (2023), https://www.commerzbank.de/en/nachhaltigkeit/nachhaltigkeitsstandards/positionen_und_richtlinien/positionen_und_richtlinien.html (accessed 30 May 2024).

¹⁴ Crédit Agricole, ‘Human Rights Charter within Crédit Agricole S.A. Group’ (2009), <https://www.credit-agricole.com/en/pdfPreview/189196> (accessed 30 May 2024); Crédit Agricole, ‘“Arms Industry and Arms Trade” Policy’ (2024), <https://www.credit-agricole.com/en/pdfPreview/198936> (accessed 30 May 2024).

¹⁵ Crédit Mutuel, ‘Sector Policy - Defence & Security Sector’ (2022) https://www.creditmutuel.fr/fr/vitrine/medias/docs/groupe/informations-financieres/politiques-sectorielles/CM11-RSE-secteur-defense-et-securite_version-anglaise.pdf (accessed 30 May 2024).

¹⁶ Deutsche Bank, ‘Deutsche Bank Statement on Human Rights’ (2023), <https://www.db.com/files/documents/csr/sustainability/Statement-on-Human-Rights.pdf> (accessed 30 May 2024). Public statements by Deutsche Bank reference a defence sector policy for ‘controversial weapons’: Deutsche Bank, ‘Deutsche Bank Upgrades Its Policy on Controversial Weapons’ (23 May 2018), https://www.db.com/news/detail/20180523-deutsche-bank-upgrades-its-policy-on-controversial-weapons?language_id=1 (accessed 30 May 2024); Deutsche Bank, ‘Deutsche Bank Has Expanded Its Defence Policy and External Transparency’ (28 March 2019), https://www.db.com/news/detail/20190328-deutsche-bank-has-expanded-its-defence-policy-and-external-transparency?language_id=1 (accessed 30 May 2024).

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Bank	Jurisdiction	Relevant Corporate Policies
Goldman Sachs	United States	Sector Guidelines ¹⁷
Groupe BPCE	France	Ethics and Compliance statement; ESR Sector Policy Applicable to the Defence Industry (from Natixis, the subsidiary of Groupe BPCE that offers wholesale banking services and other financial services to larger companies) ¹⁸
HSBC	United Kingdom	Human Rights Statement; Defence Equipment Sector Policy ¹⁹
Industrial and Commercial Bank of China	China	N/A
JPMorgan Chase	United States	Human Rights statement ²⁰
Lloyds Banking Group	United Kingdom	Human Rights Policy Statement; External Sector Statements (which includes a defence sector statement) ²¹
Morgan Stanley	United States	Global Balanced Fund Exclusion Policy ²²
NatWest Group	United Kingdom	Human Rights Position Statement; Defence: Risk Acceptance Criteria ²³
Société Générale	France	Environment and Social General Principles; Defense & Security Sector Policy ²⁴

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¹⁷ Goldman Sachs, 'Sector Guidelines' (2024), <https://www.goldmansachs.com/our-commitments/sustainability/sustainable-finance/environmental-and-social-risk-management/sector-guidelines/> (accessed 30 May 2024).

¹⁸ Groupe BPCE, 'Ethics and Compliance: Groupe BPCE's Actions and Commitments' (2024), <https://groupebpce.com/en/the-group/compliance> (accessed 30 May 2024); Natixis, 'ESR Sector Policy Applicable to the Defence Industry' (2020), https://natixis.groupebpce.com/wp-content/uploads/2022/08/200909_final_amended_cl_defense_policy_eng_v7.pdf (accessed 30 May 2024). Natixis' defence sector policy applies worldwide to all services offered by the bank.

¹⁹ HSBC, 'HSBC Human Rights Statement' (2022), <https://www.hsbc.com/-/files/hsbc/who-we-are/pdf/230710-hsbc-human-rights-statement.pdf> (accessed 30 May 2024); HSBC, 'Defence Equipment Sector Policy' (2022), <https://www.hsbc.com/-/files/hsbc/our-approach/risk-and-responsibility/pdfs/221215-defence-equipment-sector-policy.pdf> (accessed 30 May 2024).

²⁰ JPMorgan Chase & Co, 'Human Rights' (2023), <https://www.jpmorganchase.com/about/our-business/human-rights> (accessed 30 May 2024).

²¹ Lloyds Banking Group, 'Human Rights Policy Statement' (2021), <https://www.lloydsbankinggroup.com/assets/pdfs/who-we-are/responsible-business/downloads/group-codes-and-policies/human-rights-policy-statement-2021.pdf> (accessed 30 May 2024); Lloyds Banking Group, 'LBG External Sector Statements' (2024), <https://www.lloydsbankinggroup.com/assets/pdfs/who-we-are/responsible-business/downloads/group-codes-and-policies/lbg-external-sector-statements.pdf> (accessed 30 May 2024).

²² Morgan Stanley, 'Global Balanced Fund Exclusion Policy' (2023), https://www.morganstanley.com/im/publication/msinvf/material/esg_exclusionpolicy_msinvf_globalbalancedfund.pdf (accessed 30 May 2024).

²³ NatWest Group, 'Human Rights Position Statement 2022' (2022), https://www.natwestgroup.com/content/dam/natwestgroup_com/natwestgroup/pdf/NWG017-Book-1720.pdf (accessed 30 May 2024); NatWest Group, 'Defence: Risk Acceptance Criteria' (2023), https://www.natwestgroup.com/content/dam/natwestgroup_com/natwestgroup/pdf/NWG-2023-ESE-Pdfs-Defence.pdf (accessed 30 May 2024).

²⁴ Société Générale, 'Environmental and Social General Principles' (2016), <https://www.societegenerale.com/sites/default/files/documents/2020-10/environmental-and-social-general-guidelines-oct2016.pdf> (accessed 30 May 2024); Société Générale, 'Defense & Security Sector Policy' (2023), <https://www.societegenerale.com/sites/default/files/documents/CSR/Defense-and-security-sector-policy.pdf> (accessed 30 May 2024).

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Bank	Jurisdiction	Relevant Corporate Policies
VTB Group	Russia	N/A
Wells Fargo	United States	Human Rights Statement ²⁵

II. Defence sector policies

The majority of the examined banks have adopted defence sector policies since 2020, with the earliest policies being adopted in 2017 and 2018 by BNP Paribas and Deutsche Bank, respectively. These policies detail the processes applied by banks when engaging with the arms industry and, in some cases, incorporate specific human rights commitments, reflecting an increased awareness in recent years of the human rights risks associated with financing arms deals.²⁶ For example, Lloyds Banking Group's 2024 defence sector policy uses more expansive language in recognising 'the inherent ethical, environmental and social risks associated with the manufacture, trading and supply of weapons and defence equipment and protection services', compared to its previous policy from 2019.²⁷ Broadly, these policies detail measures such as assessment of the type of weapon to be exported, the destination state and its human rights record, and the intended end use of the weapon, including its potential use in the commission or facilitation of a violation of human rights or international humanitarian law.²⁸ Citigroup is one bank that acknowledges the leverage it possesses to transform the behaviours of its clients through proactive engagement to increase the client's awareness of human rights risks and improve business practices.²⁹

The incorporation of human rights considerations into the defence sector policies of major banks has the potential to set higher standards for addressing human rights risks, which can encourage wider adoption of risk management processes and accountability measures by the financial sector in its dealings with the arms industry. Further clarification of the specific processes that banks implement in their dealings with the arms industry and increased transparency of comprehensive policies (as opposed to summaries) are necessary to promote accountability for their financing of arms deals. Defence sector policies provide opportunities for banks to detail their additional commitments to encourage or compel adverse human rights impacts to be addressed, by directing changes to arms companies' practices or detailing consequences, such as limitations in financing for failure to implement processes for addressing human rights risks. The majority of the banks examined should utilise their policies to leverage their business relationships with arms companies to improve their clients' awareness of human rights risks prior to agreeing to the financing of arms deals, which could consequently drive changes in the arms industry to integrate human rights considerations into business practices.

²⁵ Wells Fargo (US): Wells Fargo Bank, 'Human Rights Statement' (2022), <https://www08.wellsfargomedia.com/assets/pdf/about/corporate-responsibility/human-rights-statement.pdf> (accessed 30 May 2024).

²⁶ See Natixis (2020), note 18, 1; Barclays (2023), note 10, 1; Crédit Agricole (2024), note 14, 1.

²⁷ Lloyds Banking Group (2024), note 21, 9–10; Lloyds Banking Group, 'Defence Sector Statement' (2019), https://www.banktrack.org/download/defence_sector_statement/190415_defence_sector_statement_jan2019.pdf (accessed 30 June 2024).

²⁸ NatWest Group (2023), note 23.

²⁹ Citigroup (2018), note 12, 7–8.

III. Risk assessments for adverse human rights impacts

Furthermore, risk assessments are a common feature in banks' efforts to counter corruption, diversion of weapons and money laundering associated with arms deals.³⁰ The review of banks' policies reveals that risk assessments have been expanded to include consideration of adverse human rights impacts, reflecting the growing awareness by banks of the inherent human rights risks of arms sales. Several of the selected banks acknowledge the need for 'enhanced' or 'reinforced' due diligence in their dealings with the arms industry because of the high susceptibility of this sector to corruption, diversion and human rights risks.³¹ The policies examined consistently state that the necessity of enhanced due diligence for the arms industry is due to the inherent human risks associated with arms deals,³² with some banks also explicitly referencing international and regional regulatory standards.³³ This 'careful evaluation of associated risks' can include, for example, an assessment of whether military equipment transactions involve countries with a record of grave violations of human rights or where there is an active armed conflict.³⁴

Banks in jurisdictions with stricter regulatory frameworks, such as the European Union, have tended to publicly disclose greater details of their risk assessment processes. Some banks, such as BNP Paribas and Société Générale, identify the processes they implement, such as risk mapping and verification measures of export recipients and destinations.³⁵ Others remain vague about their specific processes or only provide such information in internal documents.³⁶ For example, Barclays mentions the application of enhanced due diligence to clients on 'a case-by-case basis' according to its 'defence and security standard', but does not elaborate on what the processes or standard entail.³⁷ Overall, comprehensive information on risk assessment processes and practices remains limited in the examined policies, reaffirming the ongoing challenges of the lack of transparency in the arms sector. Further regulatory pressure and civil society campaigns such as those that have occurred in recent months in response to the conflict in Gaza,³⁸ could further drive banks to publicly disclose details of their risk assessment processes and practices for arms deals, which would allow for scrutiny of their effectiveness by external stakeholders.

IV. Exclusion of services

Additionally, exclusion clauses are utilised by some banks to limit or prohibit their involvement with the arms industry. Of the selected banks, HSBC implements the broadest exclusion that bans any services being provided to the arms industry, although this does not extend to shareholding in arms companies and only applies to new clients, thus limiting the scope of the exclusion in practice.³⁹ The most common exclusion clauses prohibit financial services from

³⁰ Facing Finance, 'Out of Control: Irresponsible weapons transfers and future weapon systems' (May 2019), https://www.facing-finance.org/files/2019/05/ff_dp7_ONLINE_v02.pdf (accessed 30 June 2024).

³¹ Natixis (2020), note 18, 1; BNP Paribas (2017), note 11, 6; Société Générale (2023), note 24, 8; Bank of America (2023), note 9, 10.

³² BNP Paribas (2017), note 11, 3; Citigroup (2023), note 12, 20.

³³ Crédit Mutuel (2022), note 15, 2; Lloyds Banking Group (2024), note 21, 1; Crédit Agricole (2024), note 14, 1.

³⁴ BNP Paribas (2017), note 11, 8.

³⁵ Ibid; BNP Paribas (2021), note 11, 11–12; Société Générale (2016), note 24, 8.

³⁶ See, e.g., Deutsche Bank, note 16.

³⁷ Barclays, 'Barclays PLC Annual Report 2022' (2022), <https://home.barclays/content/dam/home-barclays/documents/investor-relations/reports-and-events/annual-reports/2022/AR/Barclays-PLC-Annual-Report-2022.pdf> 253 (accessed 1 May 2024).

³⁸ See, e.g., BBC News, 'Reading: Anti-war and environmental groups protest outside Barclays bank', BBC News (12 February 2024), <https://www.bbc.com/news/uk-england-berkshire-68267845> (accessed 30 May 2024).

³⁹ HSBC (2022), 'Defence Equipment Sector Policy', note 19, 2.

being provided to clients under embargo, with these clauses in effect restating compliance with regulatory requirements.⁴⁰ Another significant type of exclusion clause relates to the production of ‘controversial weapons’, generally referring to weapons prohibited by international treaties such as nuclear weapons, chemical or biological weapons, cluster munitions and anti-personnel mines.⁴¹ Firearms are also included on the controversial weapons lists of several United States-based banks in response to mass shootings.⁴²

Restrictions are also imposed on the types of financial services provided to arms companies. Crédit Mutuel states it will ‘refrain’ from providing services for specific transactions if there is ‘insufficient knowledge of the purpose, the client and its counterparties and of whether the country concerned is a “sensitive country” or not’.⁴³ Société Générale and NatWest Group exclude or restrict financing for arms deals that involve intermediaries such as arms brokers.⁴⁴ BNP Paribas and Groupe BPCE restrict services to companies the United Nations or human rights bodies have identified as being involved in human rights violations, or companies located in active conflict zones.⁴⁵ Exclusion clauses are an important tool for addressing the adverse human rights impacts of arms deals, particularly when they implement strict criteria based on external factors and independent reporting. The effectiveness of such measures is difficult to gauge at present due to limited details on their scope and application in practice. Banks should thus, in addition to adopting exclusion clauses with strict criteria, disclose their application to arms companies in practice, which would complement other measures such as comprehensive and transparent risk assessment processes.

V. Conclusion

It is clear that many of the largest financiers of arms companies have developed and adopted policies that seek to mitigate and address the adverse human rights impacts of the arms industry, with defence sector policies, risk assessments for adverse human rights impacts, and exclusion clauses being three notable features of these efforts. As banks are compelled by external pressures from regulators, the market, and civil society to implement processes to mitigate and address the human rights risks of arms deals, corporate policies have distinct potential to be utilised to drive change and supplement the existing regulatory framework for arms exports. By implementing processes that prioritise human rights, major commercial banks can influence the adoption of stronger ethical standards and accountability measures in the arms industry as well as throughout the financial sector. Further targeted efforts to increase transparency and disclosure of practices are an important corollary to these policy developments and for assessing the effectiveness of defence sector policies, human rights risk assessments, and exclusion clauses in practice.

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⁴⁰ Crédit Agricole (2024), [note 14](#), 4; Société Générale (2016), [note 24](#), 8.

⁴¹ HSBC (2022), ‘Defence Equipment Sector Policy’, [note 19](#), 1; NatWest Group (2023), [note 23](#), 2; Morgan Stanley (2023), [note 22](#), 2, 3; Citigroup (2023), [note 12](#), 25.

⁴² Citigroup (2023), [note 12](#), 24–25; Bank of America (2023), [note 9](#), 10; Morgan Stanley (2023), [note 22](#), 2, 3.

⁴³ Crédit Mutuel (2022), [note 15](#), 1–2.

⁴⁴ Société Générale (2016), [note 24](#), 7; NatWest Group (2023), [note 23](#), 3. See also: BNP Paribas (2017), [note 11](#), 7.

⁴⁵ BNP Paribas (2017), [note 11](#), 7; Natixis (2020), [note 18](#), 4.

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