



Joint-Industry Outreach

STA Evaluation – What to Expect
4 March 2015

OUTLINE

- 1 Overview – Pre STA
- 2 Where We Are
- 3 Roles and Responsibilities
- 4 STA Evaluation Cycle
- 5 Team's Findings - Common Mistakes (& New)
- 6 Action Forward



Malaysia – Pre STA



Scomi

- Scomi Precision Engineering (SCOMI): Malaysia's involvement with the A.Q. Khan network by supplying **aluminium centrifuge** components in 2003 intended for **Libya's nuclear weapons program**. This is often cited as among the strongest reasons for Malaysia to implement STA 2010.
- AQ Khan is the former head of Pakistan's nuclear programme who sent enriched uranium to Libya and sold nuclear centrifuge parts to Iran. He was operating through an international nuclear trafficking ring. Centrifuge parts **manufactured** by **SCOMI** were found on a ship bound for Libya in October 2003. This **ship** was **examined** in the Port of Taranto, **Italy**. SCOMI, admitted making the parts but said it **did not know** their **final destination** and believed they were for the **oil and gas industries**. The middleman/broker involved was BSA Tahir, a Sri Lankan married to a Malaysian. He was based in Dubai. He had a Malaysian PR.
- Malaysia was viewed as a transit point for illicit trade of strategic items- mainly to Iran.

Department of Justice Press Release

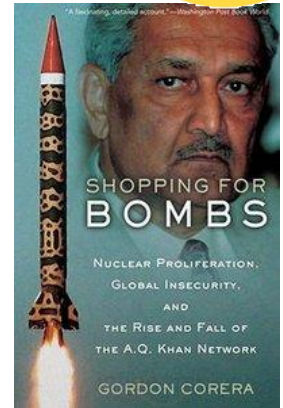
For Immediate Release
March 16, 2009

United States Attorney's Office
District of Columbia
Contact: (202) 514-7566

Iranian Man and His Company Charged in International Scheme to Supply Iran with Sensitive U.S. Technology

WASHINGTON—An Iranian citizen and his Tehran business have been charged with purchasing **helicopter engines and advanced aerial cameras** for fighter bombers from U.S. firms and illegally exporting them to Iran using companies in **Malaysia, Ireland and the Netherlands**. Among the alleged recipients of these U.S. goods was an Iranian military firm that has since been designated by the United States for being owned or controlled by entities involved in Iran's nuclear and ballistic missile program.

The charges against **Hossein Ali Khoshnevisrad**, 55, and his Iranian company, Ariasa, AG (Ariasa), were announced today by Matthew G. Olsen, Acting Assistant Attorney General for National Security, Jeffrey A. Taylor, U.S. Attorney for the District of Columbia, Kevin A. Delli-Colli, Acting



Origins of A.Q. Khan Network

Image not available due to copyright restrictions

Abdul Qadeer Khan (b. 1936)
"Father of the Pakistan Bomb"
Ph.D. in metallurgical engineering, Catholic Univ. of Louvain, Belgium, 1972

- 1972-74 Worked as engineer at Physical Dynamics Research Lab. (PDCL), a subcontractor of U.S. Centrifuge Technology (SCTC) in Netherlands
- 1974 After first Indian nuclear test, orders to Pakistan's Prime Minister Zulfikar Ali Bhutto offering his services
- 1975 Leaves PDCL for Pakistan with capital. Acquires for centrifuges and other components, as well as contact info. for 300 companies that supply centrifuge components
- 1976 Begins centrifuge work for Pakistan Atomic Energy Commission (PAEC), headed by Khush Ali Khan
- July 1978 (named director, Engineering Research Laboratory (ERL) in Pakistan. ERL, with assistance from U.S. nuclear weapons enrichment programs, ERL and PAEC, compete to design Pakistan nuclear bomb)
- Early 1980s Khan acquires blueprints for Chinese bomb tested in China's fourth nuclear explosion in 1980
- 1981 ERL named A.Q. Khan Research Laboratories (AKRL) by President Muhammad Zia ul-Haq
- Helps design Pakistan's prototype weapon H3 for nuclear program. AKRL continues work on enrichment and tested with H3 on satellite delivery system
- 2000 Many AKRL facilities built to make nuclear devices for underground tests. Khan calculated an additional four
- 2003 (removed from ERL directorship by President Pervez Musharraf after evidence of proliferation network uncovered when Libya renounced its NPT program)

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Malaysian police report implicates Dr A.Q. Khan

By
Updated Feb 21, 2004 12:00am

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KUALA LUMPUR, Feb 20. The former head of Pakistan's nuclear programme, Dr Abdul Qadeer Khan, sent enriched uranium to Libya in 2001 and sold nuclear centrifuge parts to Iran in the mid-1990s, Malaysian police said on Friday.

Buhary Syed Abu Tahir, 44, named by the United States as a middleman in an international nuclear trafficking ring, claimed Dr Khan asked him to send centrifuges to Iran in 1994 or 1995, according to police.

Two containers of used centrifuge units were shipped from Pakistan to Iran via Dubai and were paid for with about three million dollars in cash and kept in an apartment used by Dr Khan each time he visited Dubai, Abu Tahir told police.

Mr Tahir said Dr Khan told him that a "certain amount of UF6 (enriched uranium) was sent by air from Pakistan to Libya" in around 2001, according to police.

The latest revelations in the scandal were made in a 12-page police report on investigations into Malaysia's alleged link in the nuclear weapons black market and the role of Abu Tahir, a Sri Lankan businessman married to a Malaysian.

The probe was launched after US and British intelligence services told Malaysia that centrifuge parts manufactured by a local company had been found on a ship bound for Libya last October.

The Malaysian company, Scomi Precision Engineering (Scope), admitted making the parts but said it did not know their final destination and believed they were for the oil and gas industries.

UN Security Council Resolution



- UNSCR 1540 – OP3(d) requires all States to:



“take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall: establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export.....”

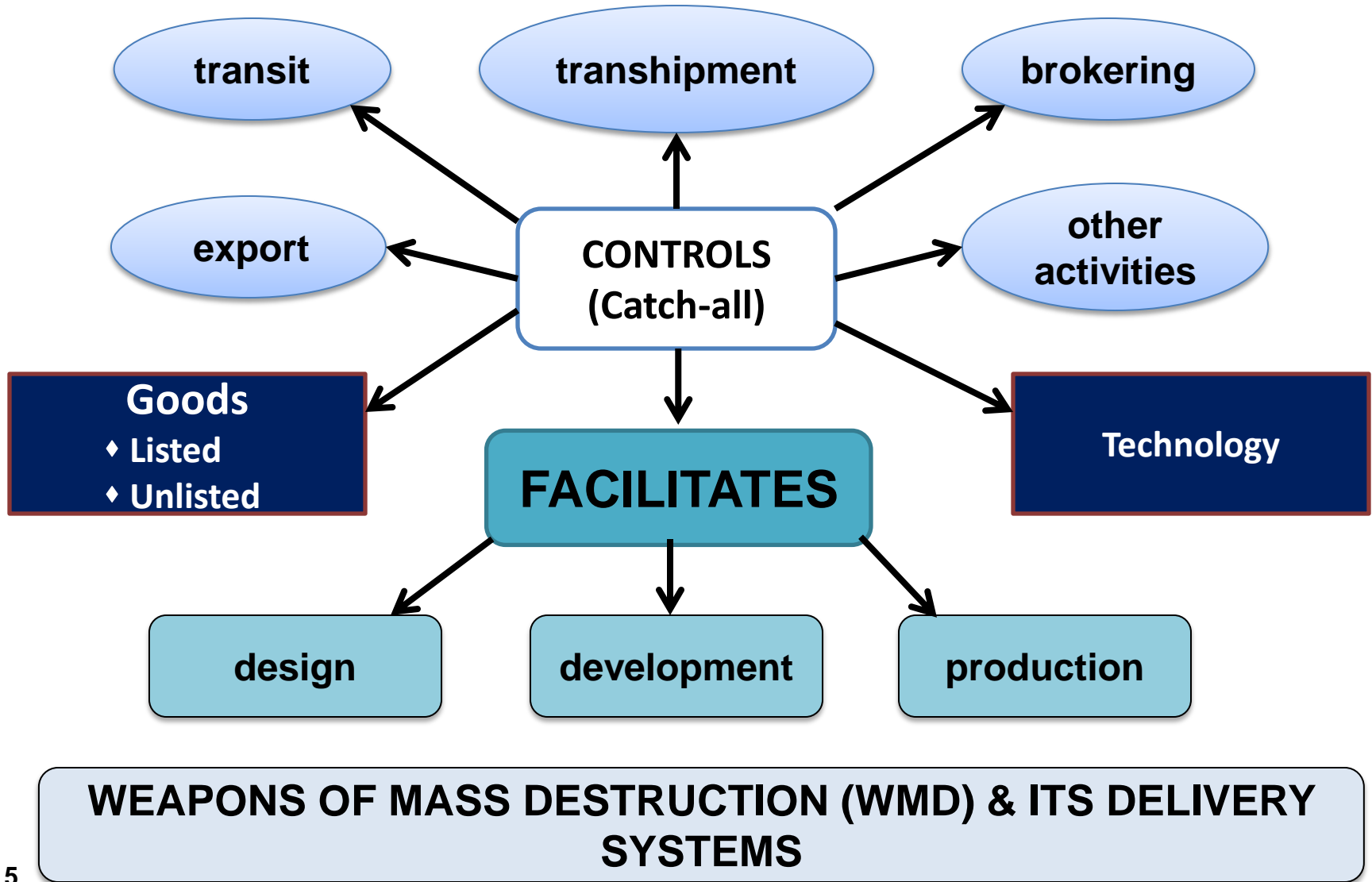


- As the UN Member State Malaysia is bound by Article 25 and 48 of the UN Charter to comply with and implement these obligations.



- Malaysia fulfils a major portion of the UNSCR 1540 requirement through the implementation of STA 2010 since January 2011.
- This is popularly known as ‘export control’. However, the more appropriate term is strategic trade management.

Strategic Trade Act 2010

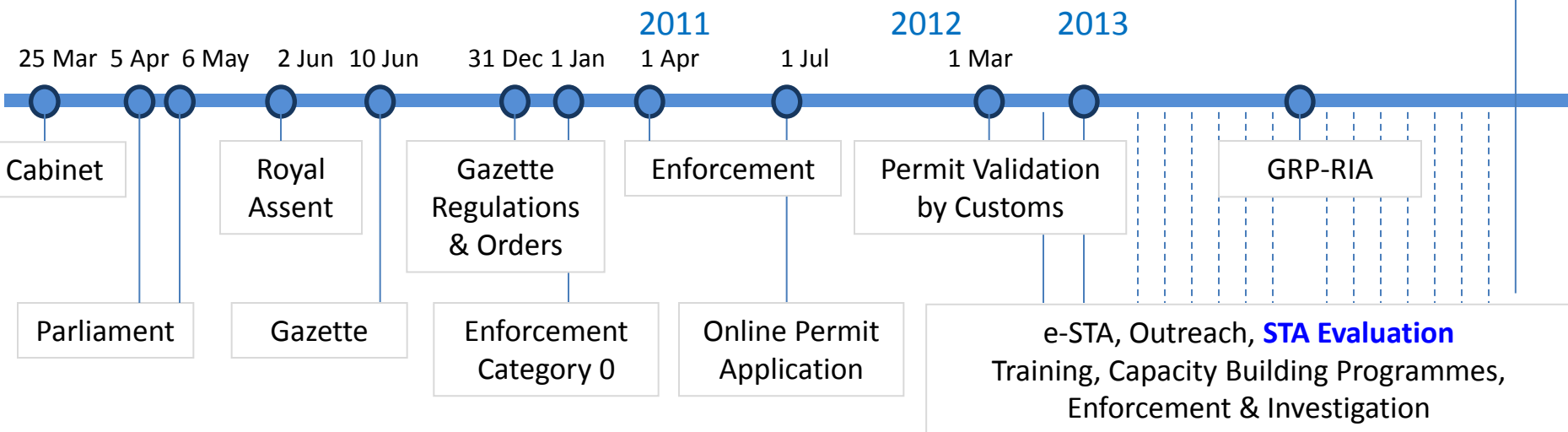


Timeline



STA 2010

2
0
1
4

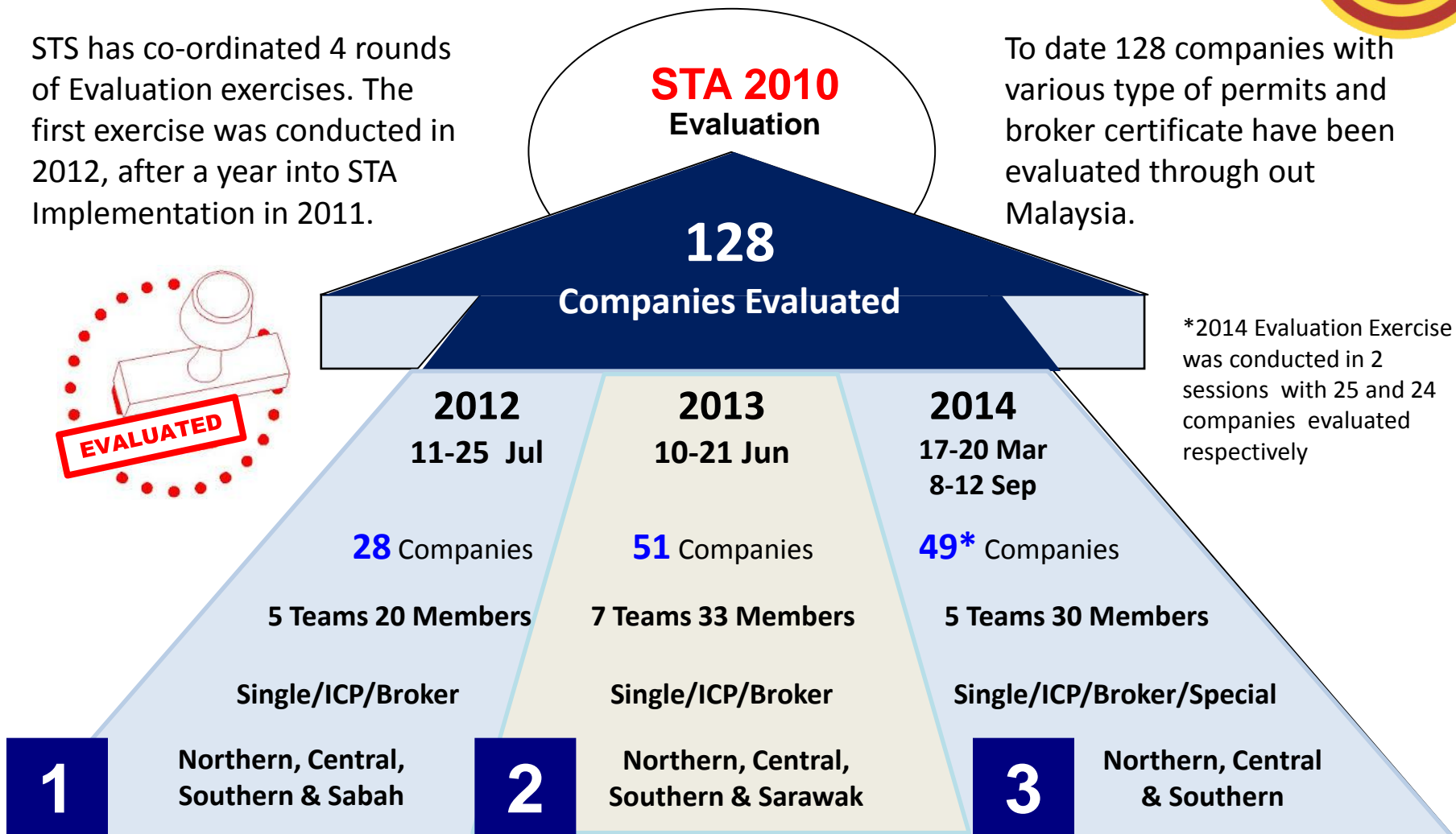


Where We Are



STS has co-ordinated 4 rounds of Evaluation exercises. The first exercise was conducted in 2012, after a year into STA Implementation in 2011.

To date 128 companies with various type of permits and broker certificate have been evaluated through out Malaysia.

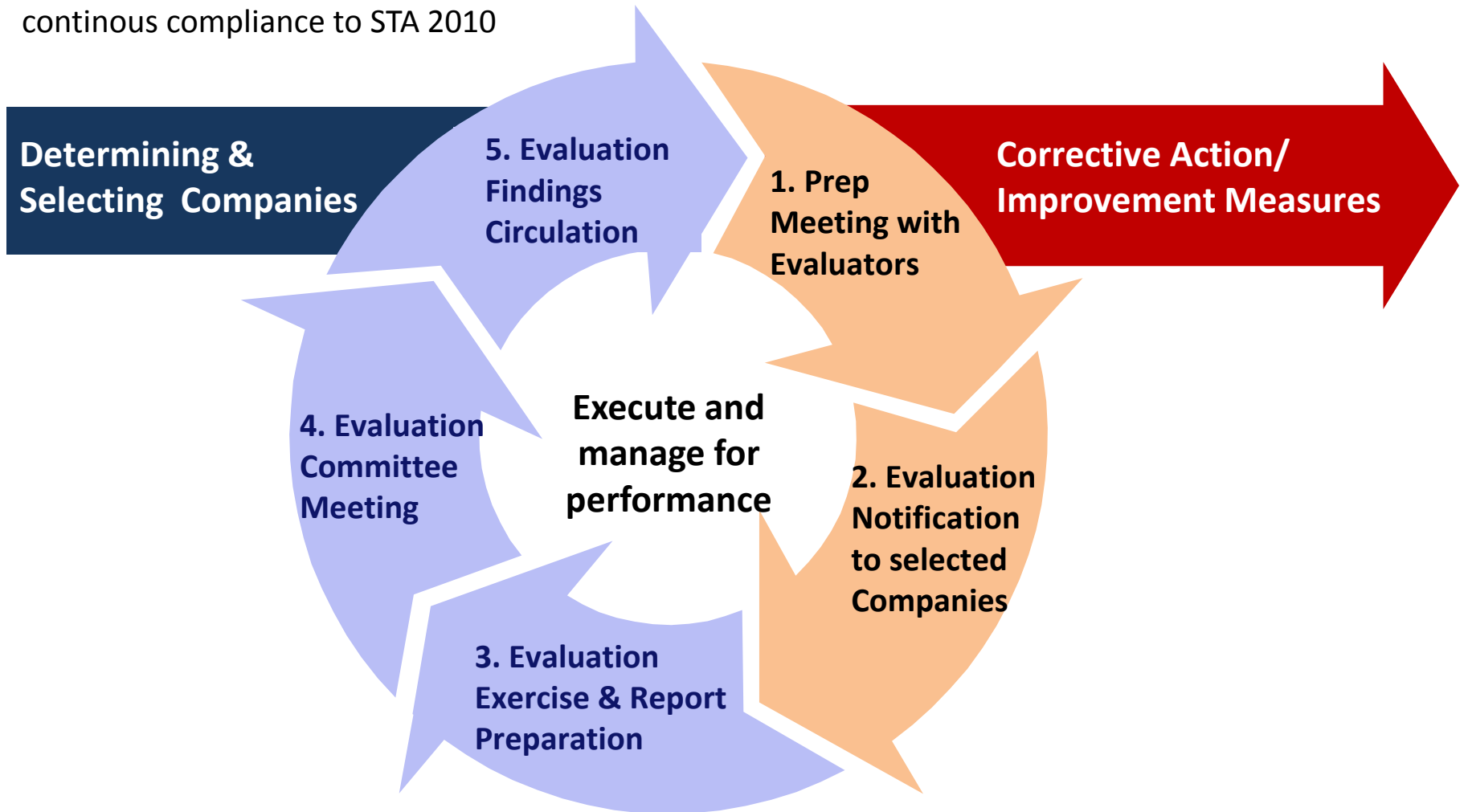


The STA evaluation is part of an on-going and regular engagement with companies to ensure that exporters comply with the permit conditions. The evaluation is in line with Regulation 30 (11) of the STA where the relevant authority may at any time require the records maintained under the Act to be audited and verified by authorised officer.

STA Evaluation Cycle



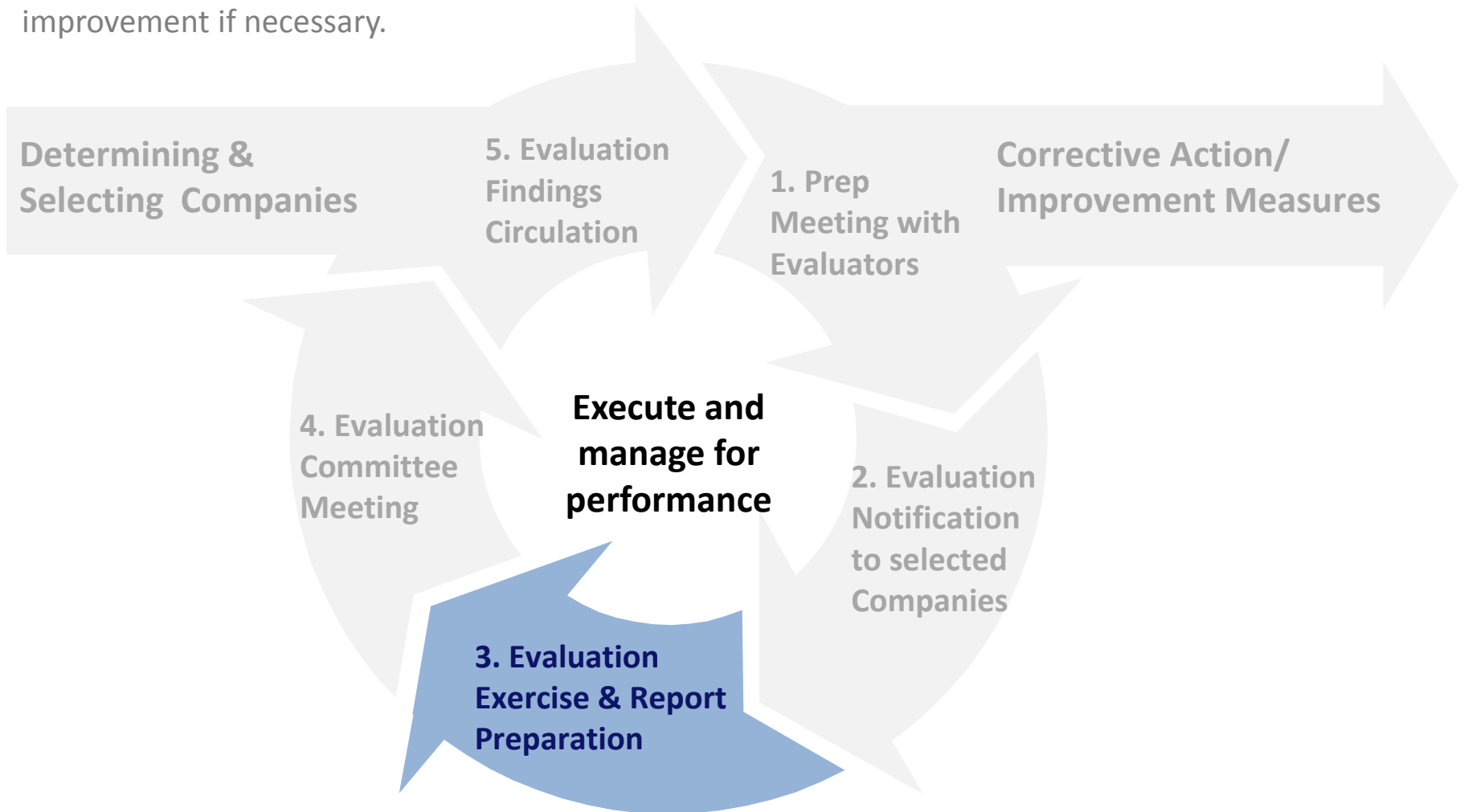
The **Evaluation Working Group Committee** deliberates on the audit findings and **decide on corrective action and/or improvement measures** to be taken up by companies to ensure continuous compliance to STA 2010



STA Evaluation Cycle



The **Evaluation Working Group Committee** deliberated on the audit findings and **decide on actions to be taken** on companies that violate the STA as well as discuss on the need of improvement if necessary.



STA Evaluation Cycle



- 1 Briefing on the Purpose of Evaluation & Company's Presentation
- 2 Verification of Documents & Report Writing
- 3 Sharing of General Findings with Company's Top Management
- 4 Q&A Session
- 5 Others

Evaluation Aspect

Single Permit

Special Permit

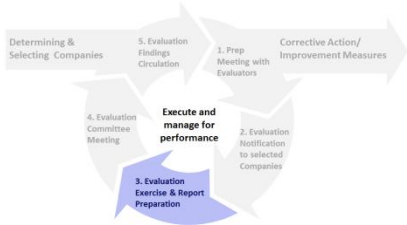
ICP

Brokering

Technical

- ☑ Items exported to a country or destination as specified in the permit.
- ☑ Items exported to the approved end-user as specified in the end-use statement.
- ☑ Permit holder **DOES NOT** export, transship or bring in transit any strategic items or unlisted items other than that specified in the permit.
- ☑ Quantity exported **DOES NOT** exceed the quantity that specified in the permit.
- ☑ Permit holder **DOES NOT** transfer or assign the permit to any other person.
- ☑ The strategic items exported within the validity period of the permit.
- ☑ Submission of Delivery Verification Statement (DVS-Form 6) to the Licensing Agency within 2 months from the date of export.

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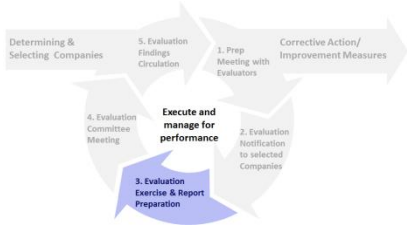
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- ☑ Submission of Delivery Verification Statement (DVS-Form 6) to the Licensing Agency within 2 months from the date of export.
- ☑ **End User Profile**: business activity, organisation structure, shareholders, mode of transport, business relationship, mode of payment and agreement (if applicable)

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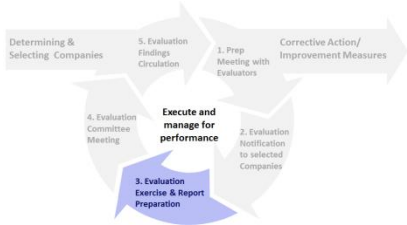
Brokering

Technical

A requirement for Multiple or Bulk permit valid for 2 years.
5 Elements Evaluated:

- ✓ Management Commitment
 - Awareness and understanding, Authorised applicant, Policy
- ✓ Screening Process
 - Elements screened – end user, end use, profile, business activity and screening mode
- ✓ Training (when, who, what, how)
 - plans and execution, implemented every 18 months
- ✓ Record keeping
 - EUS, DVS, Shipping Documents, K2 Form, Invoice, POD,
 - Technical Specification and Approved permit,
 - Tracking of product value and quantity for each shipment within the 2 years validity
- ✓ Audit (when, who, what, how)
 - Internal /External implemented annually on Export Control Element.

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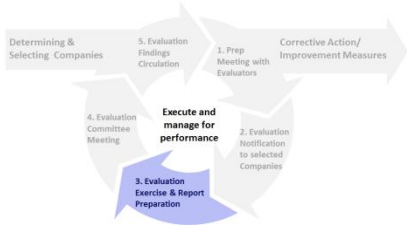
ICP

Brokering

Technical

- ✓ The strategic items brokered were registered in the broker certificate
- ✓ The strategic items brokered to the registered supplier/buyer as registered in the broker certificate
- ✓ The brokering activity conducted within the validity period of the broker certificate
- ✓ The certificate holder notify the Authority any changes to the information in the certificate within 14 days of such changes took place
- ✓ The certificate holder apply for new broker certificate when there are additional buyer/supplier/strategic items

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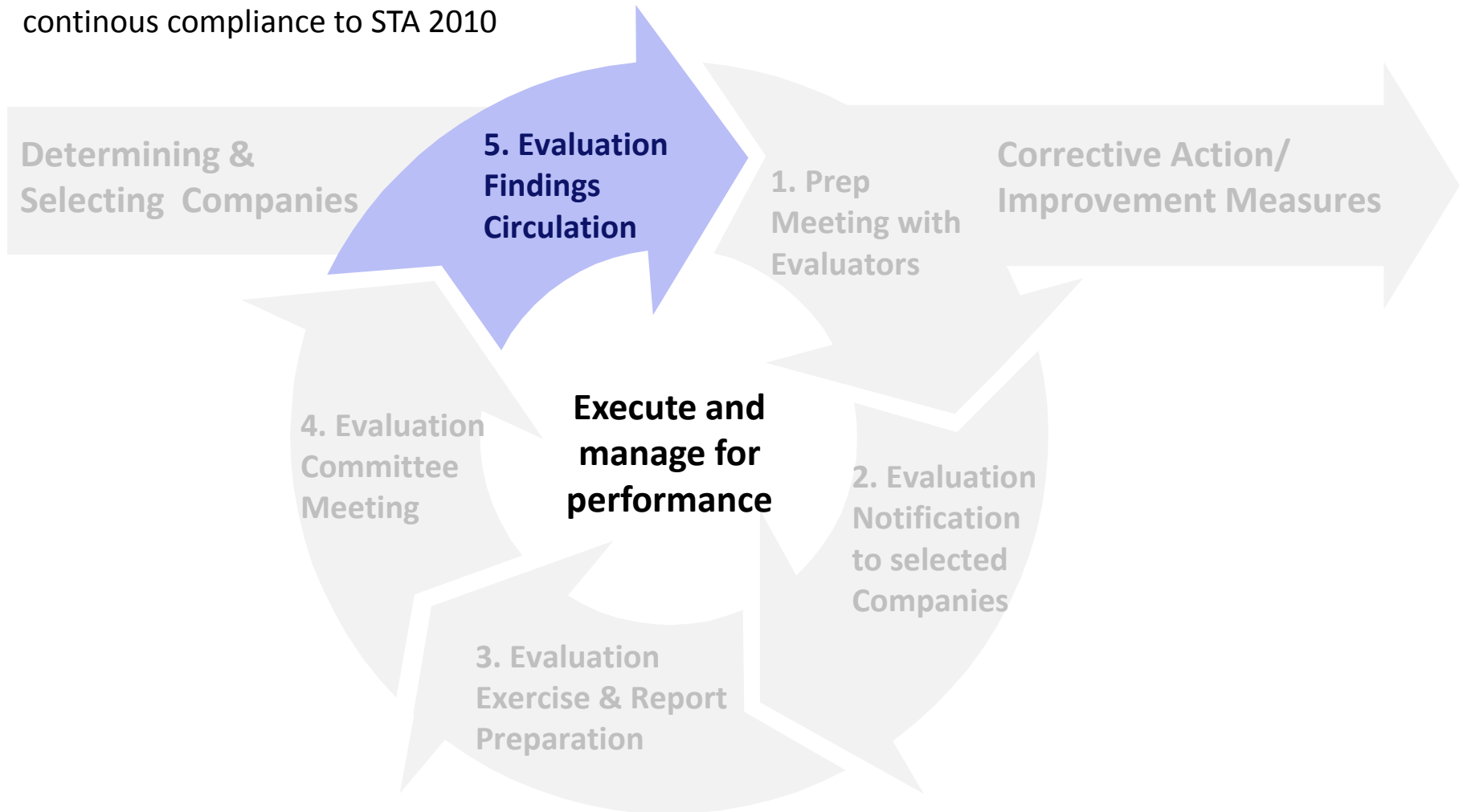
Technical

- ☒ Is the product/ item classified under the correct technical category of the Strategic Trade Order (Strategic Items) 2010?
- ☒ Is the product/ item classified under the correct product group of the Strategic Trade Order (Strategic Items) 2010?
- ☒ Do the product/ item match the correct items description of the Strategic Trade Order (Strategic Items) 2010?
Does the specification concur with the End Use Statement?

STA Evaluation Cycle



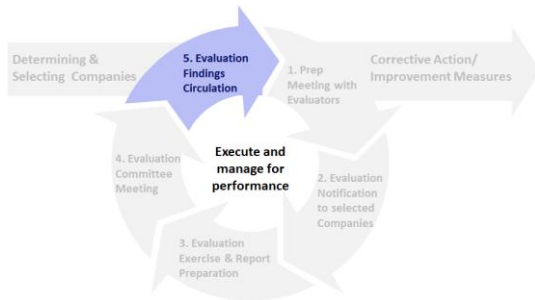
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STA Evaluation Cycle



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Evaluation findings:

- Shared with all agencies
- Shared with company
- Used to update our records on companies

Findings are important to us:

- We need to gauge compliance
- Provides input on areas to focus on for awareness and facilitation
- Better understanding of business operations
- Better enforcement

Findings are important to companies:

- To improve compliance
- To address any issue with the authorities
- To correct any misconceptions

Findings - Common Mistakes



Delivery Verification Statement	Awareness & Commitment	Record Keeping Mechanism	Strategic Item Declaration (K2 Form)
Training on Export Control	Screening & End Use Statement (EUS)	Export Control Audit & Compliance	Recommendation & Corrective Action



Findings - Common Mistakes



Delivery Verification Statement	Awareness & Commitment	Record Keeping Mechanism	Strategic Item Declaration (K2 Form)
Training on Export Control	Screening & End Use Statement (EUS)	Export Control Audit & Compliance	Recommendation & Corrective Action

- What verification?
- Companies were not aware of the requirement and procedure post permit approval.
- No submission of Delivery Verification Statement (DVS) –Form 6 made to the licensing agency after 2 months from the date of export for single and special use permit. For multiple/bulk permit – company to ensure records are kept for reference.
- All DVS is to be completed with a Proof of Delivery (POD)
- There were also companies who submitted the forms but has not made any copies for record keeping
- Who's the licensing agency again?

Findings - Common Mistakes



Delivery Verification Statement	Awareness & Commitment	Record Keeping Mechanism	Strategic Item Declaration (K2 Form)
Training on Export Control	Screening & End Use Statement (EUS)	Export Control Audit & Compliance	Recommendation & Corrective Action

- There are still companies with poor understanding, lack of awareness on procedures with minimal knowledge comprehension by the export control officer.
- Lacks commitment by top management in determining company's policy on export control
- Awareness is limited to specific individuals/unit responsible for logistics/shipment of strategic items – which should NOT be the case
- No authorisation letter highlighting export control officer's roles and responsibilities circulated within the organisation
- Failure to notify the Secretariat and DNT on updates or changes/ resignation of authorised applicant(s)

Findings - Common Mistakes



Delivery Verification Statement	Awareness & Commitment	Record Keeping Mechanism	Strategic Item Declaration (K2 Form)
Training & Audit on Export Control	Screening & End Use Statement (EUS)	Export Control Audit & Compliance	Recommendation & Corrective Action

- Poor documentations compilation, retention and consistency of records have been overlooked.
- Inavailability of some K2 Forms, POD, DVS and other shipping documents. Forwarding agents have them – They do?
- No records of Purchase Order / request and technical specification for strategic items – so where does the instruction comes from?
- Records/ documents archived or stored via system are not retrievable or not easily retrievable. Simply documents are everywhere
- Tracking of quantity and value used for multiple/bulk permit not available

Note: all relevant documents are to be kept for 6 years – company's obligation under section 30(9)

Findings - Common Mistakes



Delivery Verification Statement	Awareness & Commitment	Record Keeping Mechanism	Strategic Item Declaration (K2 Form)
Training & Audit on Export Control	Screening & End Use Statement (EUS)	Export Control Audit & Compliance	Recommendation & Corrective Action

- Wrong declaration made by forwarding agent. Declaration of STA items in K2 not made in the specified column (Y/ N).
- Wrong usage of permits (single use-many times, wrong permit number)
- Communication barrier with forwarding agent/ logistics provider. So long as all the shipment is not stopped, that's fine. Really?
- Most companies do not have shipper's instruction or notification on invoice indicating items are strategic – company's due diligence (safe guard)

Findings - Common Mistakes



Delivery Verification Statement	Awareness & Commitment	Record Keeping Mechanism	Strategic Item Declaration (K2 Form)
Training & Audit on Export Control	Screening & End Use Statement (EUS)	Export Control Audit & Compliance	Recommendation & Corrective Action

- Training on export control is not perceived as a priority.
- Most companies with ICP have yet to execute their training plan.
- No records of training and details of training materials not available
- Once in 18 months at least – not followed through

Findings - Common Mistakes



Delivery Verification Statement	Awareness & Commitment	Record Keeping Mechanism	Strategic Item Declaration (K2 Form)
Training & Audit on Export Control	Screening & End Use Statement (EUS)	Export Control Audit & Compliance	Recommendation & Corrective Action

Item Classification

- Items that are not strategic classified as strategic
- Items list not referred because my HQ does the classification. Who is operating in Malaysia?
- Wait for MITI to declare classification 'lah' – NO Letter issued. STA is self declaration

End Use Statement

- Same EUS for many single use permit application
- Different currency and quantity vs. permit application details

Findings - Common Mistakes



Delivery Verification Statement	Awareness & Commitment	Record Keeping Mechanism	Strategic Item Declaration (K2 Form)
Training & Audit on Export Control	Screening & End Use Statement (EUS)	Export Control Audit & Compliance	Recommendation & Corrective Action

- Audit conducted is not focused on export control process and procedures in specific.
- Elements audited not clear, no improvement before and after audit.
- Audit findings not available
- Conducted by internal or internal parties once annually – not followed through.
- We self-audit. No such thing!

Findings - Common Mistakes



Delivery Verification Statement	Awareness & Commitment	Record Keeping Mechanism	Strategic Item Declaration (K2 Form)
Training & Audit on Export Control	Screening & End Use Statement (EUS)	Export Control Audit & Compliance	Recommendation & Corrective Action

- Findings circulated in writing to companies
- Companies to respond within 2 months from the date of the letter
- What's the response like?
- So which category are you?

Action Forward



Companies

MNC's compliance may not necessarily be satisfactory, and small companies' compliance may not necessarily be unsatisfactory. The determining factor is the **people** within the organisation.

So, what's your compliance take?

Secretariat



Plan for 2015 Evaluation Exercise:

- Expect **better compliance** since awareness after a 4-year hand holding engagement.
- Continuous outreach AND step towards the real audit.
- Targeted approach evaluation
- Work on a database incorporating access to company's historical evaluation, findings and level of compliance.

Thank you



Our Team's concerted efforts: Roles and Responsibilities



STS, MITI

- Team leader & Coordinator
- Issuance of Notice of Disclosure
- Documentation Verification
- Report preparation
- Evaluation findings



PSD, MoH

- Team Leader
- Permit issuance agency
- Documentation verification
- Report preparation
- Input / feedback generation



NACWC



- Technical verification assistance
- Category code verification
- End-use verification
- Input/ feedback generation



Customs



MMEA



PDRM

- Declaration verification
- Routing path analysis
- Breakdown shipment verification (if any)
- Input / feedback generation