

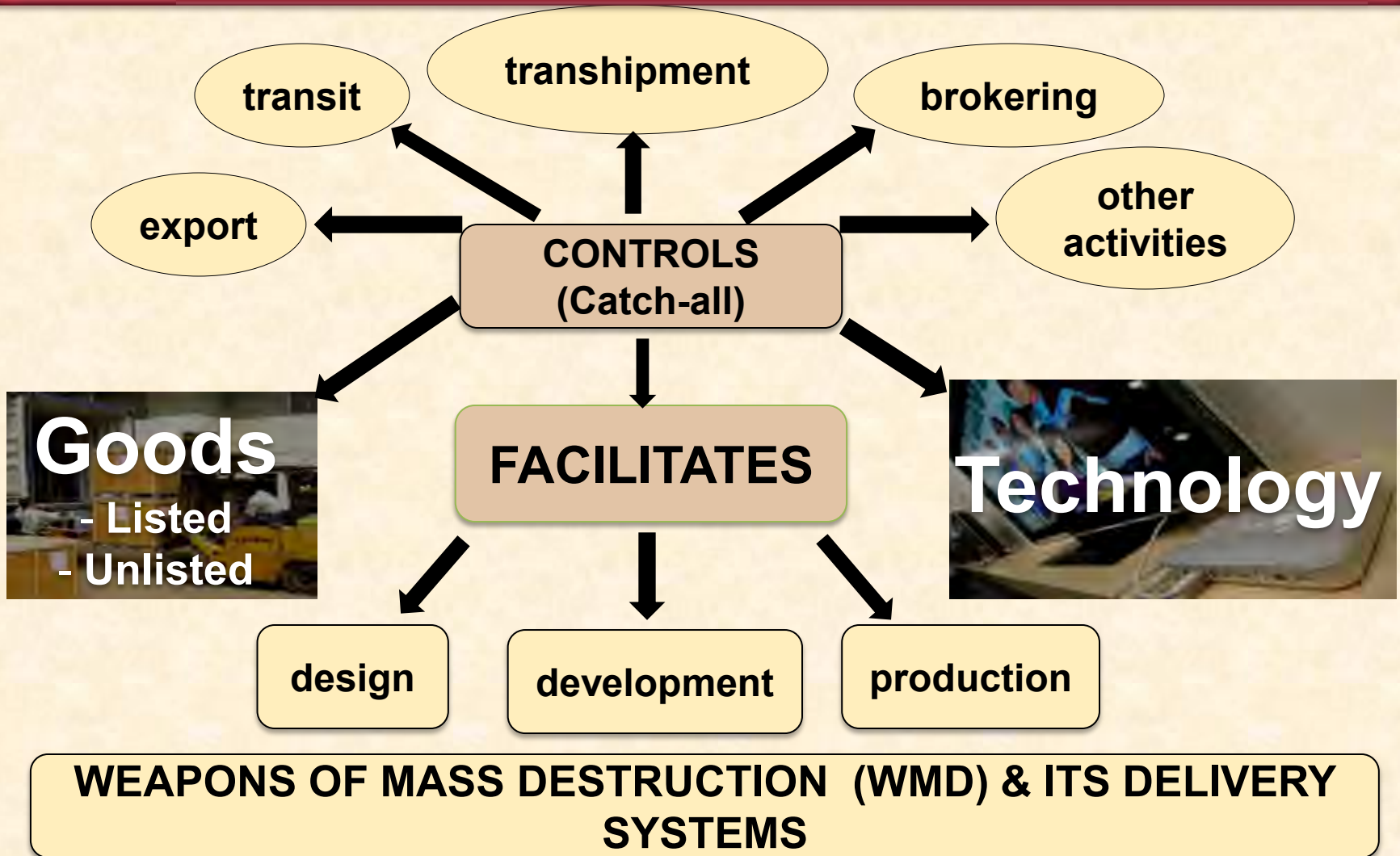


# **THE STRATEGIC TRADE ACT (STA) 2010**

**“FACILITATING TRADE IN A SECURE  
TRADING ENVIRONMENT”**



# OBJECTIVES OF STA



# REGULATIONS AND ORDERS



## STA 2010



**Strategic Trade  
Regulations 2010**

**Prescribes:**

**forms**

**procedures**

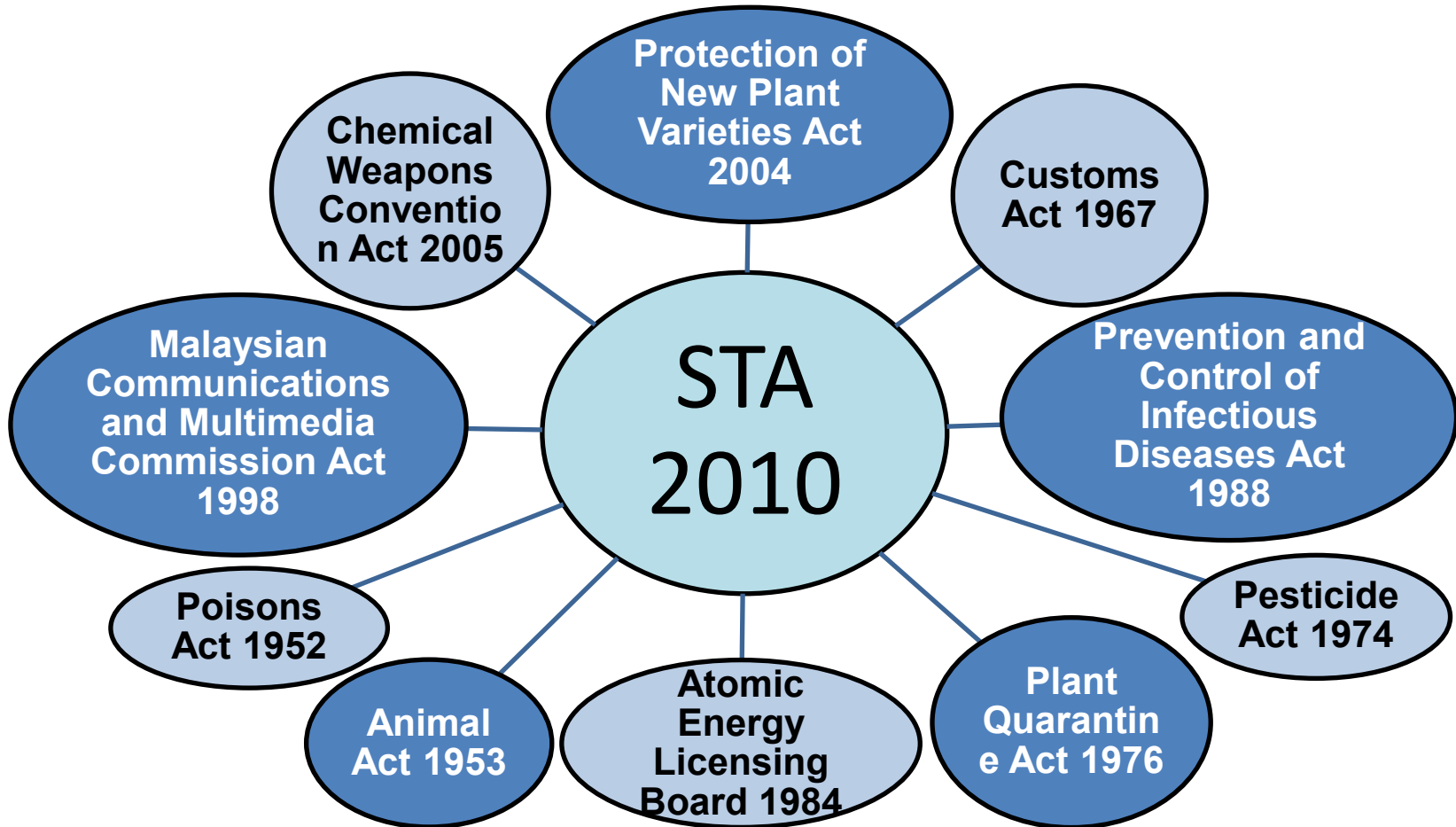
**any matter,  
including  
enforcement**

**payable  
fees**

**Strategic Trade  
(Strategic Items)  
Order 2010**

**Strategic Trade  
(Restricted End-  
Users and  
Prohibited End-  
Users) Order 2010**

# RELATED LAWS



**If these laws are in conflict or inconsistent:**  
**STA shall prevail**

# PARTNER AGENCIES

Minister of International Trade and Industry

Strategic Trade Secretariat

Partner Licensing Agencies

Enforcement



Pharmaceutical  
Services Division

Poisons



Royal Malaysian  
Customs



Royal Malaysia  
Police



Malaysian Communications  
and Multimedia Commission

Telecommunications  
& Electronics



Malaysian Maritime  
Enforcement Agency



Malaysian Communications  
and Multimedia Commission



Atomic Energy Licensing Board

Nuclear related  
Items / Materials

**Other officers specified by  
the Controller**

# DEFINITIONS

## Export

- to take or cause to be taken out of Malaysia any items
- by land, sea or air
- or to place any items in a conveyance
- for the purpose of such items being taken out of Malaysia
- to transmit technology by any means
- to a destination outside Malaysia
- includes any oral or visual transmission of technology
- by a communication device

## Bring in transit

- to bring items from any country into Malaysia
- by land, sea or air
- where the items are to be taken out from Malaysia

## Transshipment

- to remove items from the conveyance on which they were brought into Malaysia
- and to place the items on the same or another conveyance for the purpose of taking them out of Malaysia
- where these acts are carried out using a through bill of lading, airway bill or manifest

## Brokering

- the activity of a person who, either on his own behalf or acting as an agent on behalf of another person-
  - (a) negotiates, arranges or facilitates the purchasing, financing, conveying, sale or supply of items; or
  - (b) buys, sells or supplies such items

**“Items” include goods and technology**

## Strategic Items

### Listed

#### **A. Military**

#### **B. Dual-Use**

- 0) Nuclear Materials, Facilities & Equipment
- 1) Materials, Chemicals, Microorganisms and Toxins
- 2) Material Processing
- 3) Electronics
- 4) Computers
- 5) Telecommunications and Information Security
- 6) Sensors and Lasers
- 7) Navigations & Avionics
- 8) Marine
- 9) Propulsion Systems, Space Vehicles & Related Equipment

### Unlisted

- If a person is informed by the relevant authority; OR
- If a person knows/has reason to believe that the item will or may be used for a restricted activity.

# STRATEGIC ITEMS

## Categories and Numbering Scheme

1	C	1	18
Technical Category	Product Group	Regime Origin	Item. No.
<p><b>0 Nuclear Materials, Facilities and Equipment</b></p> <p><b>1 Materials, Chemicals, “Microorganism” and “Toxins”</b></p> <p><b>2 Material Processing</b></p> <p><b>3 Electronics</b></p> <p><b>4 Computers</b></p> <p><b>5 Telecommunications and “Information Security”</b></p> <p><b>6 Sensors and Lasers</b></p> <p><b>7 Navigation and Avionics</b></p> <p><b>8 Marine</b></p> <p><b>9 Propulsion Systems, Space Vehicles and Related Equipment</b></p>	<p><b>A Systems, Equipment, Components</b></p> <p><b>B Test, Inspection and Product Equipment</b></p> <p><b>C Materials</b></p> <p><b>D Software</b></p> <p><b>E Technology</b></p>	<p><b>0: Wassenaar or NSG Trigger List</b></p> <p><b>1: MTCR</b></p> <p><b>2: NSG Dual-Use List</b></p> <p><b>3: AG</b></p> <p><b>4: CWC</b></p>	

# e.g 1C118

**Titanium-stabilised duplex stainless steel (Ti-DSS) having all of the following:**

**a) Having all of the following characteristics:**

- **Containing 17.0 - 23.0 weight percent chromium and 4.5 - 7.0 weight percent nickel;**
- **Having a titanium content of greater than 0.10 weight percent; and**
- **A ferritic-austenitic microstructure (also referred to as a two-phase microstructure) of which at least 10 percent is austenite by volume (according to ASTM E-1181-87 or national equivalents); and**

**b) Having any of the following forms:**

- **Ingots or bars having a size of 100 mm or more in each dimension;**
- **Sheets having a width of 600 mm or more and a thickness of 3 mm or less; or**
- **Tubes having an outer diameter of 600 mm or more and a wall thickness of 3 mm or less.**

e.g 1C350

## TRIETHANOLAMINE (CAS 102-71-6)

- ***Military Use***

Triethanolamine is a **precursor** for **nitrogen mustard gas**.

- ***Commercial Use***

It is extensively used in personal care products, including **soaps, shampoos, hair styling products** and **dyes, skin cleansers**, and **cosmetics**. It is also used in the textile industry.

- Triethanolamine serves as an **additive** for **cement, concrete**, and **polymers** (including **resins** and **rubber**).



# DEFINITION OF TECHNOLOGY

Defined as **specific knowledge & information required development, production or use of products includes technical data and technical assistance**, in addition to hardware & equipment.

**“Development”** - before production e.g. design research, design analysis, design concepts, assembly of prototypes, pilot production schemes, design data etc.

**“Production”** - construction, production engineering, manufacturing, integration, assembly (mounting), inspection, testing and quality assurance.

**“Use”** – operation, installation (including on-site installation), maintenance (checking), repair, overhaul or refurbishing.

# TYPES OF TECHNOLOGY

## Technical Data

- Blueprints
- Plans
- Diagrams
- Models
- Formulae
- Tables
- Engineering design and specifications
- Manuals and instructions written or recorded
- Any other media or devices e.g. disk, tape, read only memories



## Technical Assistance

- Instructions
- Skills
- Training
- Working knowledge and consulting services, including the transfer of technical data



**Ph.D programmes** in nuclear engineering, physics or microbiology

**Employment of foreign expatriates**



**POTENTIAL ITT SITUATIONS**



**E-mail exchanges** of documents related to integrated circuit production

**Consultation** on the development and deployment of wireless telecommunications networks



# CATEGORIES OF PERMITS

## SINGLE-USE

**ONE-TIME** EXPORT, TRANSHIPMENT OR BRING IN TRANSIT PERMIT  
for a **SINGLE COUNTRY / DESTINATION**

Valid for **6 months**

**MULTIPLE- USE** (\*NEEDS  
INTERNAL COMPLIANCE  
PROGRAMME (ICP))

**MULTIPLE** EXPORTS,  
TRANSHIPMENT OR  
BRING IN TRANSIT of the  
items for **DIFFERENT**  
**COUNTRIES /**  
**DESTINATIONS**

Valid for **2 years**

**PERMIT**

**BULK** (\*NEEDS ICP)

**MULTIPLE** EXPORTS,  
TRANSHIPMENT OR  
BRING IN TRANSIT of  
items for a **SINGLE**  
**COUNTRY /**  
**DESTINATION**

Valid for **2 years**

## SPECIAL

**ONE-TIME** EXPORT, TRANSHIPMENT OR BRING IN TRANSIT PERMIT  
for a **SINGLE COUNTRY / DESTINATION** which the end-user is a  
**RESTRICTED END-USER**

Valid for **1 year**

# OFFENCES



# PENALTIES

- Severity of penalty depends on intent and knowledge

## For arms and related materials

- With the intent and knowledge to unlawfully export, tranship or bring into transit without a permit:
  - Where death is the result – a death sentence or imprisonment for natural life
  - In the case of a body corporate a minimum fine of RM 30 million
  - In any other case, imprisonment for not less than 10 years or with a fine of not less than RM10 million or both (body corporate – RM20 million)
- Without the intent and knowledge to unlawfully export, tranship or bring into transit without a permit:
  - Imprisonment of not less than 5 years or fine of not less than RM5 million or both (body corporate - RM10 million)

# CONT...

## For strategic items and unlisted items

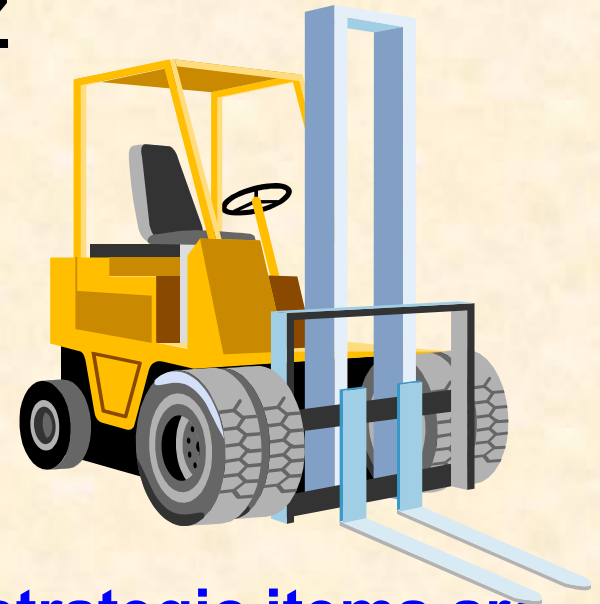
- **With the intent and knowledge to unlawfully export, transship or bring into transit without a permit:**
  - **imprisonment for a term of not less than 10 years or a fine of not less than RM10 million or both (body corporate – RM20 million)**
- **Without the intent and knowledge to unlawfully export, transship or bring into transit without a permit:**
  - **imprisonment of not less than 5 years or fine of not less than RM5 million or both (body corporate - RM10 million)**

# FACILITATION UNDER THE STA 2010

- To ensure smooth implementation of the Act as well as to facilitate business:
  - 1) **Exemption**
  - 2) **Establishment of ICP**
  - 3) **Amendments to the STA 2010 Regulations**
  - 4) **On-line permit application system**

# 1) EXEMPTION

- Transit and Transshipment
  - arrive in a **Free Commercial Zone (FCZ)** or brought immediately into FCZ
  - **remain** in the FCZ
  - not exceeding **30 days**



\* **95% of transit and transshipment of strategic items are exempted from applying for permits.**

**HOWEVER, THE EXEMPTION DO NOT APPLY TO THE FOLLOWING COUNTRIES...**



**North Korea**



**Iran**



**Congo**



**Ivory Coast**



**Lebanon**



**Sudan**



**Afghanistan**



**Iraq**



**Liberia**



**Rwanda**



**Somalia**



**Eritrea**



**Libya**

# AND...

- **No exemption for Transshipment Permit for Schedule Three items of the STA Regulations 2010, e.g:**
  - ❖ **Military items – rifles, revolvers, pistols, ammunitions, bombs, torpedoes, rockets, missiles, war vessels, war aircrafts**
  - ❖ **Nuclear reactors, gas centrifuge plant**
  - ❖ **Uranium, maraging steel, tungsten, molybdenum**
  - ❖ **Toxic chemicals, human pathogens**

## 2) INTERNAL COMPLIANCE PROGRAM (ICP)

- It is a set of **procedures** that have to be implemented **within a company** before an item is exported using **multiple-use or bulk permit**.
- The procedures in place **ensure that the company complies** with the Strategic Trade Act 2010 and associated Regulations.
- The Controls can be done:
  - manually
  - electronically, etc.
- **Other names** for ICP:
  - Internal Control Plan
  - Export Management System
  - Export Compliance Program
  - Trade Compliance Program



# WHY IS ICP NECESSARY?

- **Ensure compliance** with applicable laws and regulations
- **Detect** export control **violations**
- **Contribute to non-proliferation** of sensitive items, technology and information



# KEY ELEMENTS OF ICP

- **Company-wide awareness** of export control
- **Highest level of support**, i.e. letter from CEO or equivalent
- **Clearly assigned accountability**
- **Written** compliance manuals, policies and procedures
- **ICP to be integrated with standard business procedures**
- **On-going training** on policies and procedures
- **Regular audits/self-assessments**
- **Corrective action plans**



# MITI'S ICP CHECKLIST

**AN EFFECTIVE ICP REQUIRES THE FOLLOWING:**

- 1) Management Commitment**
- 2) Screening Process**
- 3) Training**
- 4) Record-keeping**
- 5) Audit**



### **3) AMENDMENTS TO THE STA REGULATIONS**

#### **– Effective 1 December 2011**

**(a) Period of application for permits in Regulation 10, 11, 12 and 13 as follows:**

- **Single use permit (for export and transit) – reduced from 30 working days to 30 days and for transshipment from 5 days to 5 working days;**
- **Special permit (for export, transit and transshipment) – reduced from 2 months to 30 days; and**
- **Bulk and multiple use permits (for export, transit and transshipment) – reduced from 2 months to 30 days.**

# CONT...

## **(b) Period of submission of Delivery Verification Statement (DVS) as follows :**

- **Single use permit (for export, transit and transshipment) – from 2 months from the date of permit issued to 2 months from the date export (validity of 6 months);**
- **Special permits – from 2 months from the date of permit issued to 2 months from the date of export (validity of 1 year); and**
- **Bulk and multiple use permits (for export, transit and transshipment) – from 2 months from the date issued to whenever requested by the relevant Authority (validity of 2 years).**

# CONT...

- (c) Additional provision in Regulation 11 to allow applicants to apply bulk and multiple permit for transit;**
- (d) Editorial amendments to Form 2, 4 and 8;**
- (e) New format to Form 5 (End-Use Statement) and Form 6 (Delivery Verification Statement) that are more simplified and business friendly taking into account comments and consultations with all stakeholders; and**
- (f) To exclude ECCN 5A2 (systems, equipments and components) and 5B2 (test, inspections and production equipment) from the Third Schedule.**

# **4) ONLINE PERMIT APPLICATION SYSTEM**

# REGISTRATION PROCESS FLOW

**DNT Registration for User ID and Password**

**<http://www.dagangnet.com>**

**Use ID and Password to access <http://www.mytradelink.gov.my>**

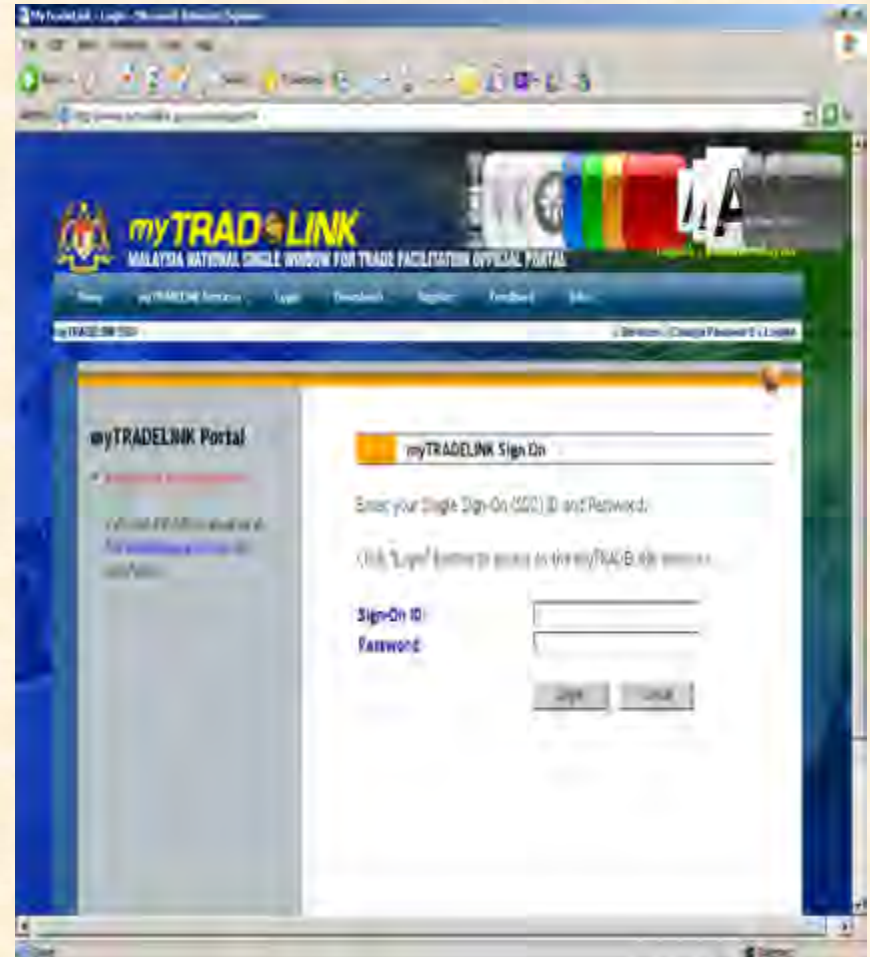
**Select Strategic Trade Act 2010 (Registration)**

**Key-in information and submit Registration Application**

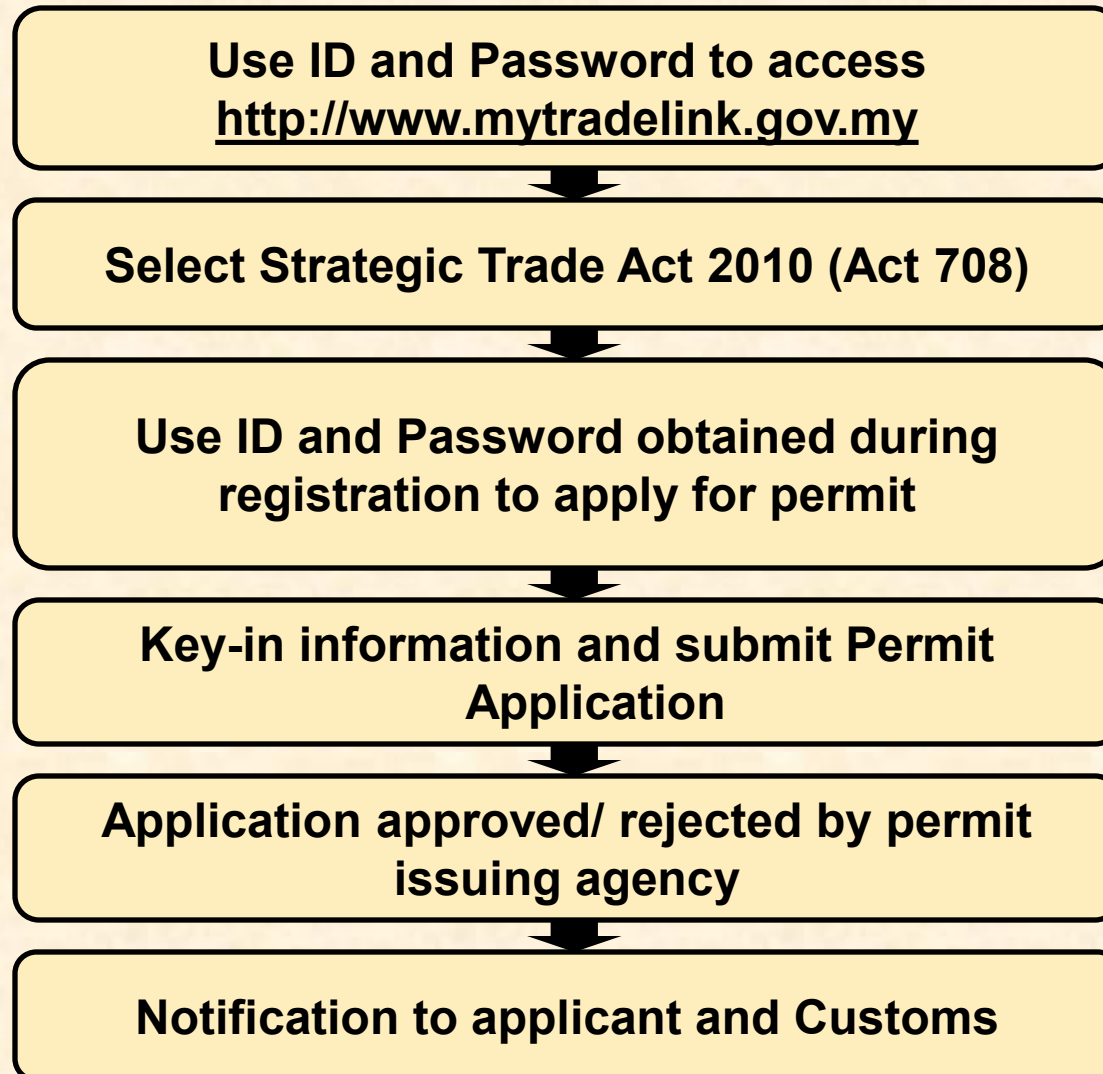
**Approved by MITI**

**Obtain Digital Signature Token from DNT and activate the token**

**Access STA online permit application**



# PERMIT APPLICATION PROCESS FLOW



# REFERENCE ON STA 2010

- [www.miti.gov.my](http://www.miti.gov.my) > Strategic Trade Act
- ✓ ICP Guideline
- ✓ FAQ
- ✓ Recent announcements
- ✓ Strategic items list
- ✓ How to register and apply for permits
- ✓ Forms
- Any enquiries can be sent to [admin.sts@miti.gov.my](mailto:admin.sts@miti.gov.my)
- **STS Hotline** – 03-6200 0585
- **STS Client Day**, every **last Wednesday of the month, 10 a.m. to 12 noon** in the Strategic Trade Secretariat Office, MITI.



**THANK YOU**

**Strategic Trade Secretariat  
Ministry of International Trade  
and Industry**