



MINISTRY OF INTERNATIONAL TRADE AND INDUSTRY

THE STRATEGIC TRADE ACT (STA) 2010

INTANGIBLE TECHNOLOGY TRANSFER (ITT) IMPLEMENTATION IN MALAYSIA

“Facilitating Trade in a Secure Trading Environment.”

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What is Technology according to STA?

[illegible]

- Blueprints
- Plans
- Diagrams and Models
- Formulae and Tables
- Engineering designs and specifications
- Manuals and instructions in print or electronics format

- Instructions
- Skills
- Training
- Provision of working knowledge and consulting services
- The transfer of technical data



ITT in Perspective

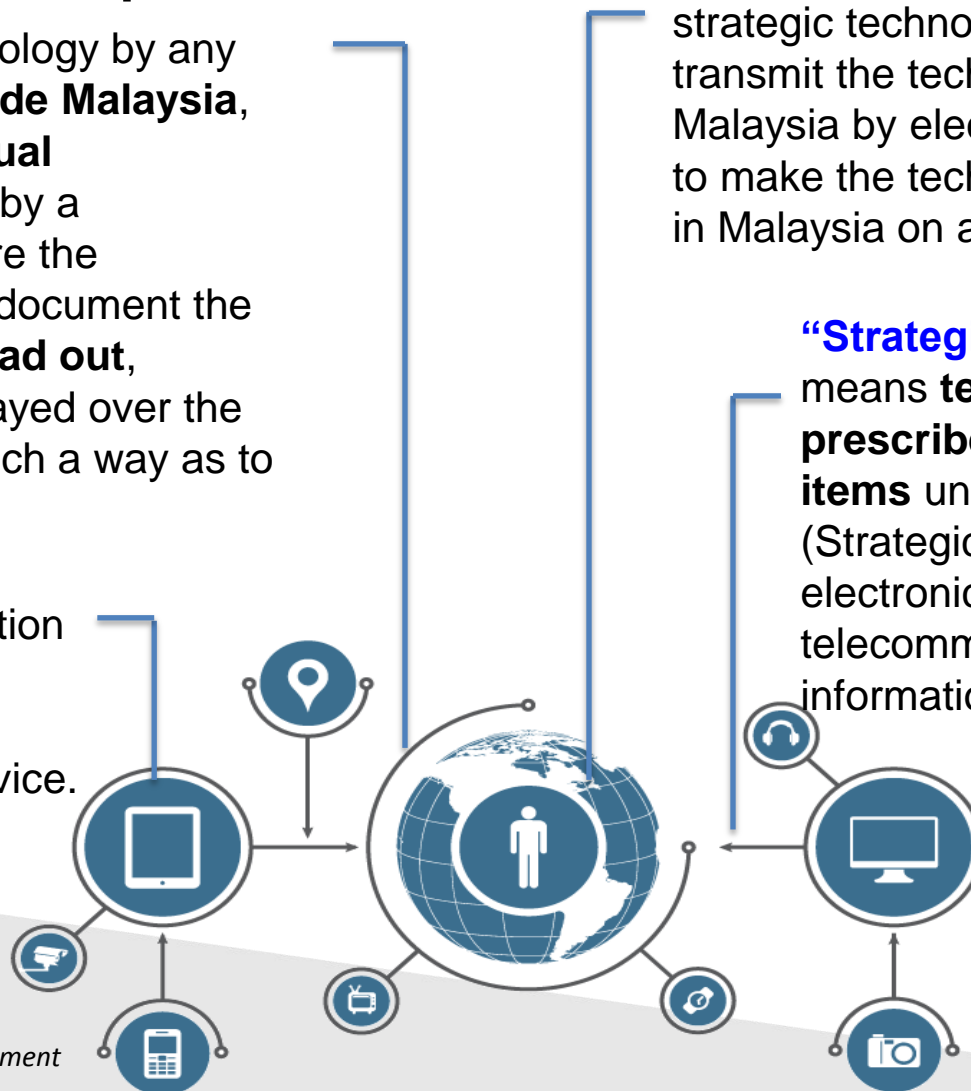
Section 2, STA 2010 - Interpretation

“Export” – to transmit technology by any means to a destination **outside Malaysia**, and includes any **oral or visual transmission** of technology by a communication devices where the technology is contained in a document the **relevant part of which is read out**, described or otherwise displayed over the communications device in such a way as to achieve a similar result.

“Software” – means a collection of programmes or microprogrammes recorded, stored or embodies in any device.

“Transmit” – in relation to strategic technology, means – to transmit the technology in Malaysia by electronic means, or to make the technology available in Malaysia on a device.

“Strategic technology” – means **technology prescribe as a strategic items** under Section 7 (Strategic Items) such as electronics, computers, telecommunications & information security.



Two variations of ITT risks relating to WMD Proliferation

**Transfer of
knowledge as
technical
assistance,
through
instruction**

For example: Teaching
PhD programs in
nuclear physics

**Transfer of
controlled
technology or
technical data by
intangible means**

For example: Email exchanges
of documents related to highly
sensitive information.



Why Control Technology?

The technology needed for WMD and delivery system programs is as important – or more important – than strategic commodities themselves.

Section 10, STA 2010 : Provision of Technical Assistance

(1) : No person shall provide any technical assistance within or outside Malaysia if such technical assistance is intended for use in connection with a restricted activity.



ITT Concern Parties



Scientist – data, results or experiment – foreign scientists directly (collaboration) or during conferences (presentations, discussions)



Academia – via courses, projects and students.

CONCERN PARTIES



Industry – via consultancy, manuals and training to the buyer, after-sales service, troubleshooting and adapting the product for related uses.



Brokers – facilitate such transfers by sharing information regarding suppliers of controlled technologies or by setting up a controlled transaction.



ITT: Potential Situations

Employment
of foreign
expatriates

Participation of foreign
delegations in the
company's internal
technical conferences

Technical assistance
(including verbal
exchanges) on sensitive
technology

Visual inspection by
foreign nationals
(company's blueprints,
plans and technical
specifications)

Foreign students
studying
sensitive
technology

Collaboration with
foreign students for
sensitive courses



Our Approach

- ❑ STA 2010 does not aim to over regulate or restrict the freedom of legitimate research, but the need to balance it with export control regulations.
- ❑ Assist relevant industries/ genuine researchers to understand the risks (and penalties) associated with proliferation of WMD in carrying out research projects.
- ❑ The implementation of ITT in the institutions/entities (through self-declaration) will be based on the 5 elements of Internal Compliance Programme (ICP).
- ❑ The comprehensive and facilitative ITT guideline will be used as a guide for any persons dealing with ITT :
http://www.miti.gov.my/miti/resources/ITT_Guidelines_2016-Final.pdf

- ❑ Finalised in December 2016 and was developed based on various consultations/ engagements with relevant industries, academia, research institutions and Government agencies.
- ❑ Objective: Ensuring that control is exercised over ITT of both dual-use and conventional weapons technology and promoting ICP to be adopted by institutions/entities as guidance.
- ❑ The Guideline contains ITT Control Mechanism namely:
 - ✓ flowchart on application;
 - ✓ ICP for ITT;
 - ✓ exemptions for technology transfer; and
 - ✓ FAQs.

INTERNAL COMPLIANCE PROGRAMME (ICP)



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Section 9 (7), STA 2010 : Exemption

(7) : *This section shall not apply to the export of any document in which any strategic technology is recorded, stored, or embodied, or to the transmission of such strategic technology, to the extent that the export or transmission is necessary to facilitate:*

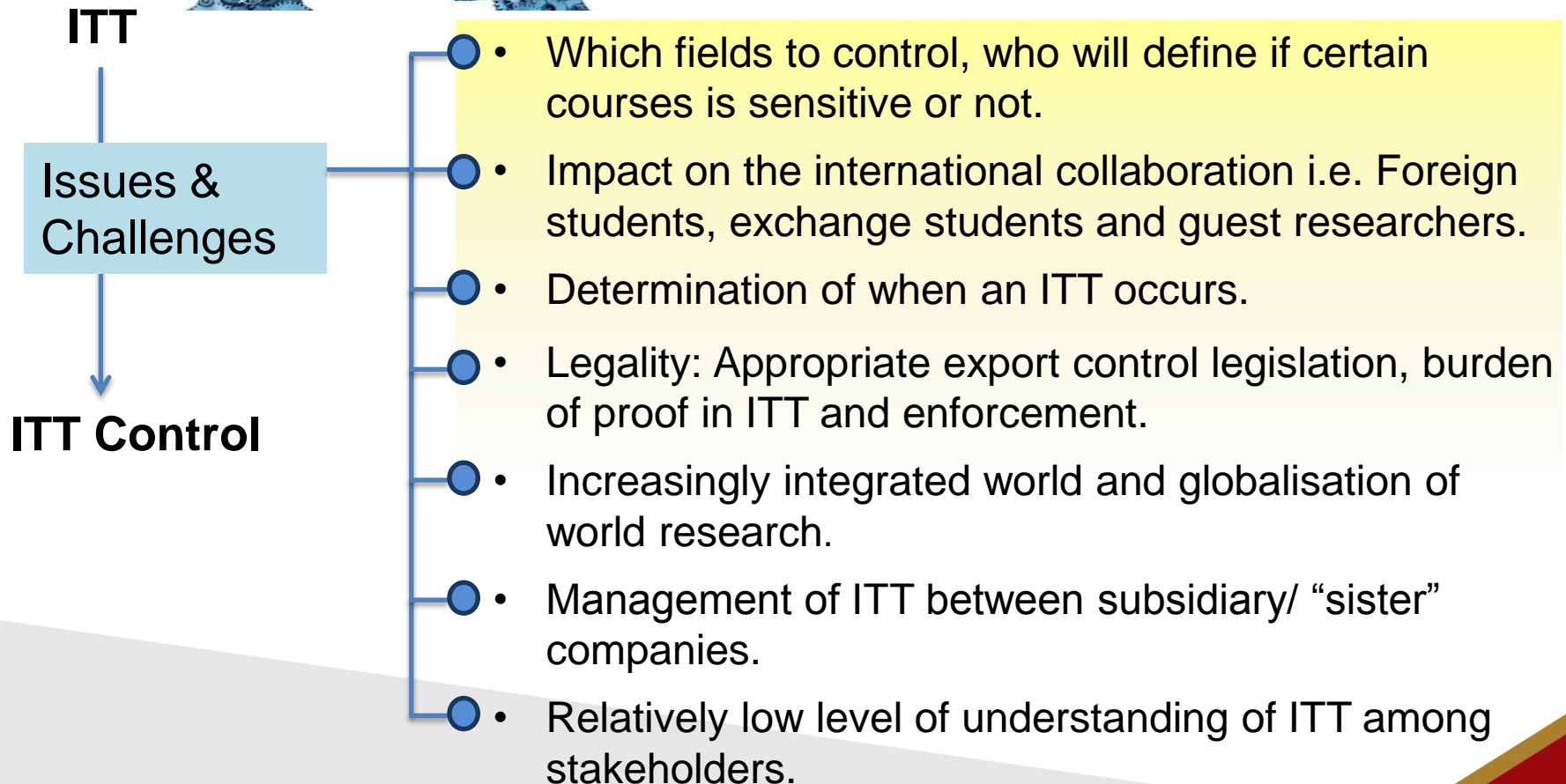
- The **installation, operation, maintenance or repair** of any items which have been exported;
- An **application for a patent**; and
- A research in such strategic technology, the results of which have **no practical application** (i.e. basic scientific research).



Common ITT Exemption

- **Information “in the public domain”**
 - Technology or software has been made available without restrictions upon its further dissemination.
- **“Basic scientific research”**
 - Experimental or theoretical work undertaken principally to acquire new knowledge of the fundamental principles of phenomena or observable facts.
 - Not primarily directed toward a specific practical aim or objective.
- **Minimum “technology” necessary for the installation, operation, maintenance (checking) and repair of items authorised for export**
 - Transfer is authorised as part of approval of the commodity license.

ITT Issues & Challenges





Benefits of ITT Compliance



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- ❑ **Leverage on STA to enhance Malaysia's image as a secure place for doing research and attract more genuine researchers and legitimate post-graduate students.**
- ❑ **Promote technology transfer and foreign direct investment into Malaysia.**
- ❑ **Enhance collaboration with foreign research universities which required strong internal ITT compliance.**
- ❑ **Safeguard our academicians and researchers. The valuable research undertaken by academia with proper export control can contribute towards preventing misuse of technology by proliferators to harm global security and regional economic prosperity.**



Moving Forward

Academic/ research institutions and industries are encouraged to establish internal ITT controls vetting (i.e. internal compliance programme) based on the STA Strategic Items List & Restricted and Prohibited End Users List.

Continue to undertake ITT outreach/ awareness, especially to academia and research institutions as well as related industries.



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unlisted item
technology
registration multiple permit
nuclear weapon
prohibited training special permit
record keeping strategic technology
software chemical weapon
trade single permit
military items
UNSCR 1540
strategic items controller screening biological weapon
penalty ITT investigation audit transmit security exemption
dual use items internal compliance program awareness
goods bring in transit toxin
relevant authority financial proliferation authorized officer technical assistance restricted

Thank you



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