



MINISTRY OF INTERNATIONAL TRADE AND INDUSTRY

CIRCULAR OF THE CONTROLLER OF STRATEGIC TRADE

NO. 1/2014

GUIDELINES ON APPLICATION FOR ACCESS AUTHORIZATION
TO FROZEN PROPERTY

Purpose

The purpose of this circular is to provide guidelines on an application to be made by a person whose property has been affected by the targeted financial sanctions under the Strategic Trade (United Nations Security Council Resolutions) Regulations 2010 to have access to the frozen property.

Background

2. The United Nations Security Council (UNSC) has imposed certain measures relating to prevention, suppression and disruption of proliferation of weapons of mass destruction (WMD) and its finance *via* specific resolutions such as resolutions 1737 (2006), 1718 (2006) and their successors. One of these measures is targeted financial sanctions related to proliferation.
3. The targeted financial sanctions related to proliferation consist of:
 - (a) freezing of property of a designated person (individual and entity) listed under the UNSC sanction lists, as well as any person owned or controlled by that person, or any person acting on behalf of, or at the direction of that person; and

- (b) prohibition against making such property available to or for the benefit of the aforementioned persons.
4. The targeted financial sanctions are implemented in Malaysia *via* the Strategic Trade (United Nations Security Council Resolutions) Regulations 2010, the subsidiary legislation under the Strategic Trade Act 2010 (STA).
5. A designated person subject to these sanctions is specified as a prohibited end-user in the Second Schedule to the Strategic Trade (Restricted End-Users and Prohibited End-Users) Order 2014.

Specific Exemption

6. The resolutions of the UNSC provide specific exemptions to these targeted financial sanctions for certain basic expenses, extraordinary expenses or judicial, administrative or lien or judgment.
7. The procedure on the application for access authorisation to frozen property is attached to this Circular as **Annex**.

Effective Date

8. This circular takes effect from **5 November 2014**.



(MUTHAFA YUSOFF)

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

**Date : 5 November 2014
File : MITI/STS/656**

ANNEX

PROCEDURE FOR THE APPLICATION FOR ACCESS AUTHORIZATION OF FROZEN PROPERTY

(1) A person whose property has been affected by the freezing of property measures under the Strategic Trade (United Nations Security Council Resolutions) Regulations 2010, may make a **written application** to the Controller, to have access to that property on the ground that such property is -

- (a) necessary for basic expenses, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;
- (b) exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services;
- (c) exclusively for the payment of fees or service charges for routine holding or maintenance of frozen property;
- (d) necessary for extraordinary expenses approved by the Security Council Committee established pursuant to the relevant United Nations Security Council resolutions;
- (e) the subject of any judicial or administrative process, arbitration, lien or judgment, in which case the property may be used to satisfy such lien or judgment, provided that the lien or judgment was entered into before the date of the relevant United Nations Security Council resolutions; and is not for the benefit of a designated person; or

- (f) for payment due under a contract in which case the property may be used to satisfy such payment due under a contract, provided that the contract was entered into before the listing of such person as a designated person by the relevant United Nations Security Council resolutions; is not related to a restricted activity; and the payment is not directly or indirectly received by a designated person.

(2) An application under paragraph (1) shall include:

- (a) particulars of the applicant;
- (b) particulars of the frozen property;
- (c) detailed information on the freezing of the property;
- (d) reasons for application made by the applicant;
- (e) relevant supporting documents; and
- (f) any document or other information that the Controller considers necessary.

(3) The Controller may, after considering the application under paragraph (1) and any information and documents required under paragraph (2), submit or refuse to submit the application to authorize access to the frozen property of the applicant to the relevant Security Council Committee established pursuant to the relevant United Nations Security Council Resolutions.

(4) The decision of the Controller to submit or refuse to submit the application to authorize access to the frozen property of the applicant to the relevant Security Council Committee under paragraph (3) will be communicated to the applicant.

(5) If the Security Council Committee has no objection to the application sent by Controller pursuant to paragraph (3), the Controller will issue an authorization for the access to the frozen property to the applicant.

(6) The Controller may impose any terms and conditions as he considers appropriate in issuing the authorization under paragraph (5).

(7) For the purpose of this Circular, the Controller may consult or co-operate with any Ministries or government agencies, as the Controller deems appropriate.