



MINISTRY OF INTERNATIONAL TRADE AND INDUSTRY

THE STRATEGIC TRADE ACT (STA) 2010

***“Facilitating Trade in a Secure
Trading Environment.”***

***PTP Community Outreach
01 October 2018***

**Mega Marissa Malek
Principal Assistant Director
Strategic Trade Secretariat, MITI**

WHY WE ARE HERE?



MINISTRY OF INTERNATIONAL TRADE AND INDUSTRY

**LET US NOT LET MALAYSIA BE FAMOUS
FOR THE WRONG REASONS – *AGAIN.....***

MALAYSIA – PRE STA



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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.

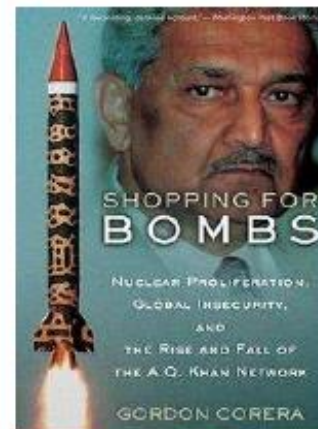
AQ Khan is the former head of Pakistan's nuclear programme who sent enriched uranium to Libya and sold nuclear centrifuge parts to Iran. He was operating through an international nuclear trafficking ring. Centrifuge parts **manufactured** by **SCOMI** were found on a ship bound for Libya in October 2003. 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.



Origins of A.Q. Khan Network

Dr. Abdul Qadeer Khan (AQ Khan) is a Pakistani nuclear scientist and former head of Pakistan's nuclear programme. He is known for his role in the proliferation of nuclear technology to other countries, including Libya and Iran. The origins of his network are traced back to his work at the Khushab nuclear facility in Pakistan.



Department of Justice Press Release

For Immediate Release
March 16, 2019

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 Syria from the U.S. 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 once 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 **Hamid Ali Khoshdel**, 55, and his Iranian company, **Amad, AG (AMAD)**, 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. Delo-Colli, Acting

Malaysian police report implicates Dr A.Q. Khan

Updated Feb 21, 2004 12:08pm

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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.

Gulruhy 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 parts were shipped 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 URE (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 as the role of Abu Tahir, a Sri Lankan businessman married to a Malaysian.

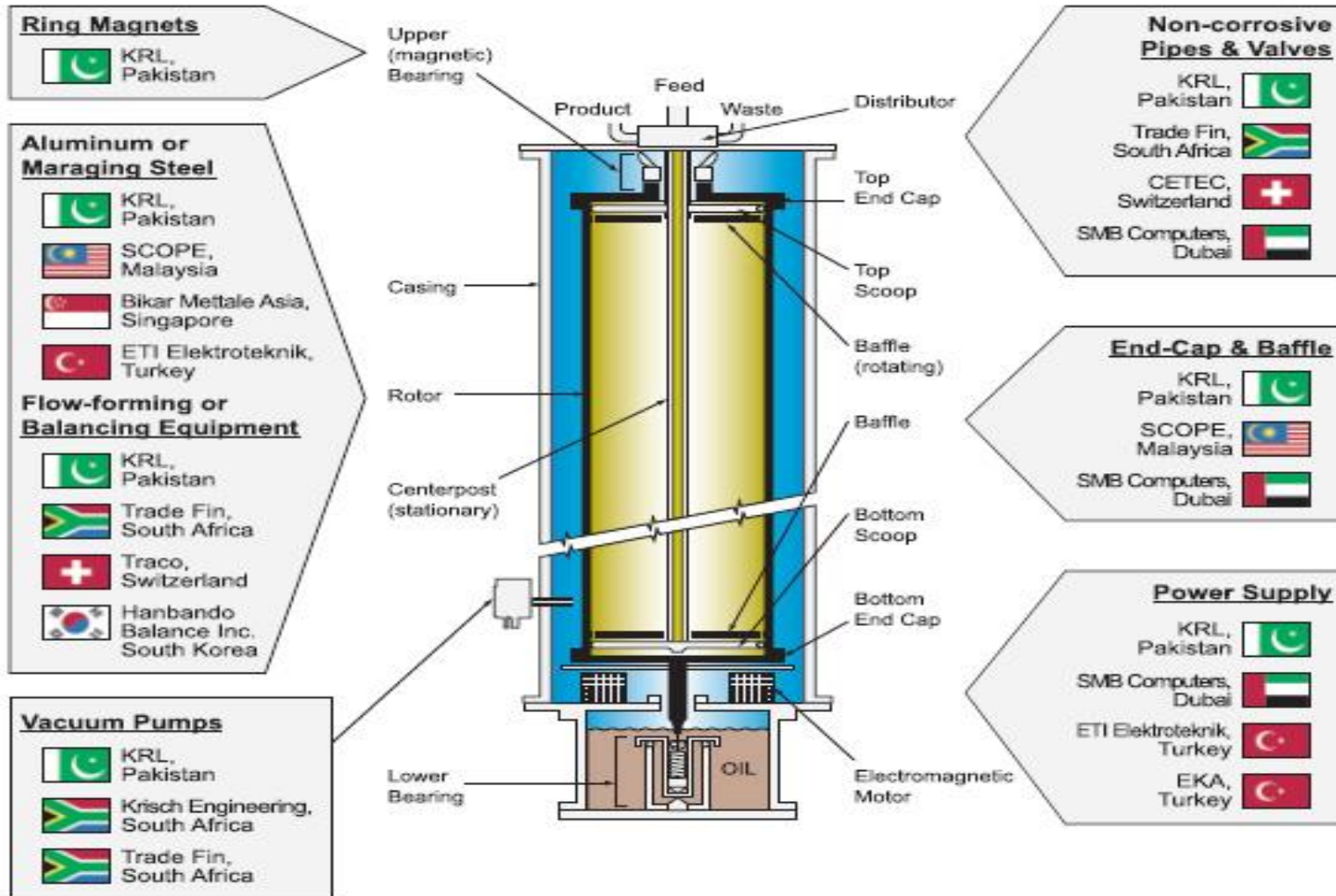
The probe was launched after US and British intelligence services told Malaysia that centrifuge parts manufactured by a local company had been found on a ship bound for Libya last October.

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

MALAYSIA – PRE STA



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HOW?

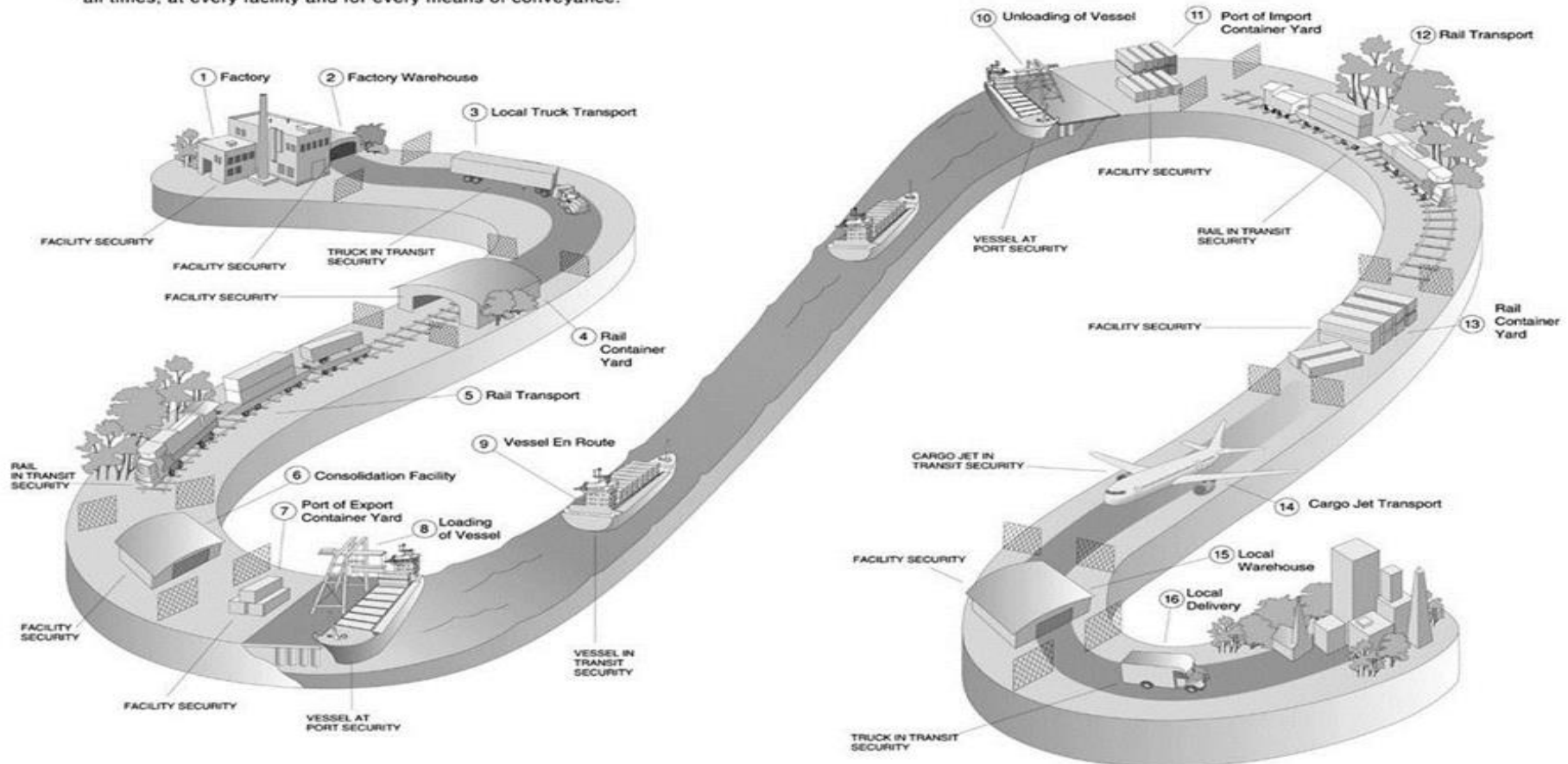


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Proliferators exploit the legitimate supply chain to procure export controlled goods for illegitimate means

SECURITY AND THE SUPPLY CHAIN

Securing the supply chain means providing appropriate security at all times, at every facility and for every means of conveyance.



HOW?



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- **Common illicit methods include:**
 - **Smuggling of goods in comingled shipments;**
 - **Falsely describing the commodity on export documentation;**
 - **Falsely stating the end-use and end-user of an item requiring an export permit;**
 - **Undervaluing the shipment to avoid reporting requirements.**
- **Transshipment routes are used to exploit favorable trade status with supply/transit countries – using trade facilitation to divert attention for goods meant for restricted / prohibited entity / country.**

THE COMMITMENT: STA 2010



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United Nations
Security Council
Resolution 1540

- 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.

HOW STA 2010 STARTED

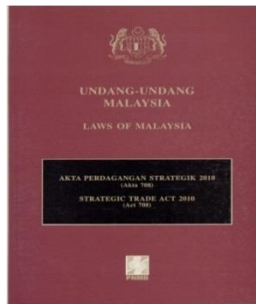


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INTERNATIONAL LEVEL

United Nation Security
Council Resolution (UNSCR)
1540



DOMESTIC LEVEL

Malaysia
Strategic Trade Act (STA) 2010



MINISTERIAL LEVEL

Strategic Trade Secretariat (STS),
Ministry of International Trade and
Industry (MITI)

STA IS NOT ONLY IN MALAYSIA...



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It is an International Practice

- Most countries have some form of strategic trade law enforced in their own country (also known as export control).
- The EU, USA, Japan, Hong Kong, Chinese Taipei, Australia have many years of experience in implementing this law. There is a greater emphasis on the roles of economies in the ASEAN region now to ensure the safety of global trade.



THE JOURNEY



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STA 2010

2018

2010

5 Apr

2 Jun

10 Jun

2011

31 Dec

1 Jan

1 Apr

1 Jul

2012

1 Mar

2017

8 Sept

Cabinet

Royal Assent

Gazette Regulations & Orders

Enforcement

Permit Validation by Customs

Amendment of STA, Strategic Item List 2017

Compoundable Penalties, Strategic Trade UNSCR Regulations amendment, Strategic Item List 2018

Parliament

Gazette

Enforcement Category 0

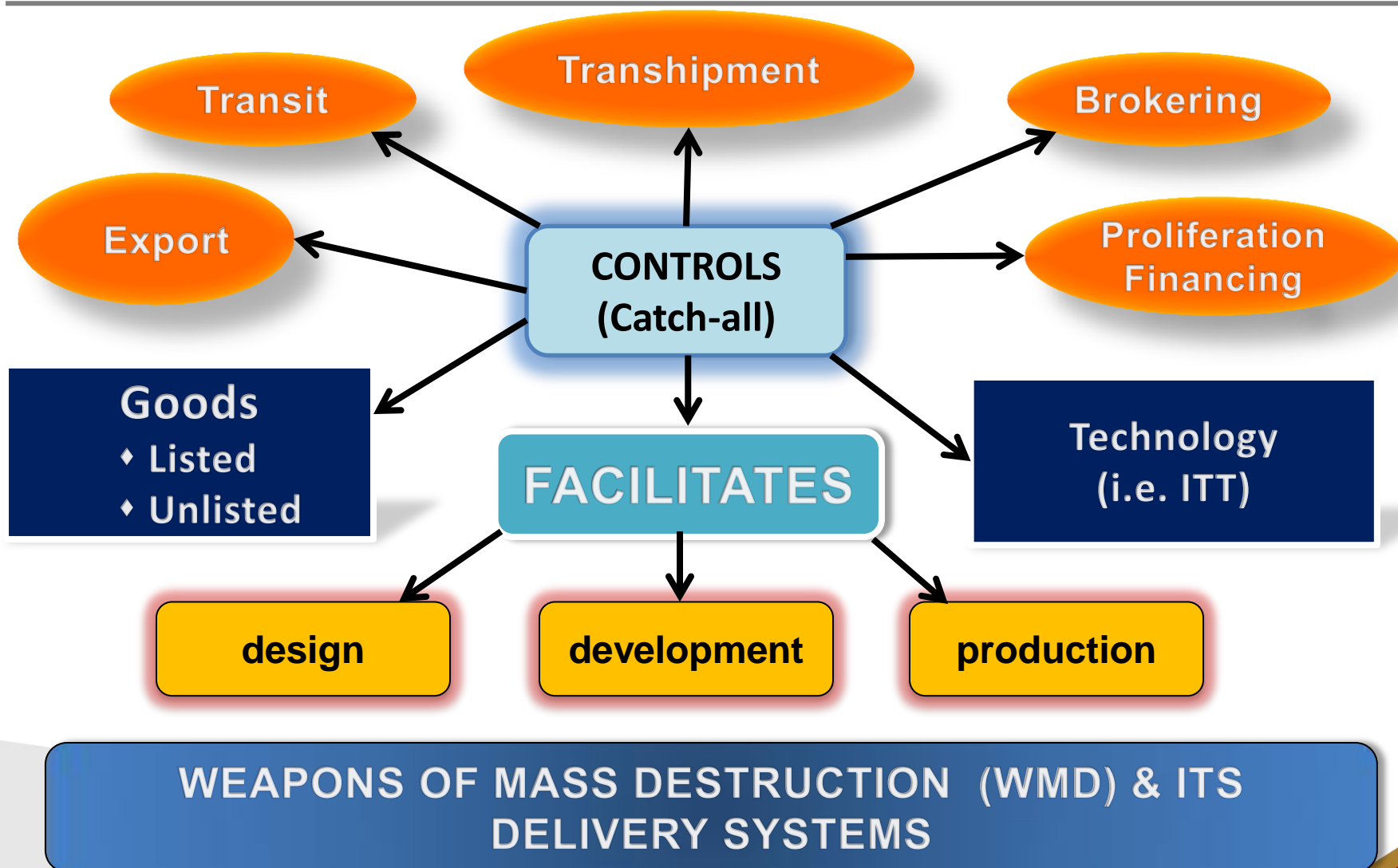
Online Permit Application

e-STA, Outreach, Training, Enforcement, Audit, Investigation, Intangible Technology Transfer, Proliferation Financing...

WHAT STA 2010 GOVERNS?



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THE TEAM



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- focal point for STA 2010, custodian of Law
- responsible for overall strategic trade management
- maintains online system

Ministry of International Trade and Industry



Strategic Trade Secretariat

- licensing, issues policy, guidelines, SOP, conducts outreach, ICP approval,
- Leads audit and interdiction teams

Partner Licensing Agencies



Pharmaceutical
Services Division



Malaysian
Communications
and Multimedia
Commission



Poisons

Telecommunications
& Electronics

Nuclear related Items
/ Materials

Enforcement Agencies



Royal Malaysian
Customs



Royal Malaysia
Police



Malaysian
Maritime
Enforcement
Agency



Malaysian
Communications
and Multimedia
Commission

Other officers specified
by the Controller



Suruhanjaya Sekuriti
Securities Commission
Malaysia



THE CONTROL LIST



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Strategic Trade (Strategic Items) (Amendment) Order 2017

- List out the strategic items that are controlled which can be divided into military items and dual use items
- Adopted from the EU list
- Last updated on March 2017
- Different from Custom HS Code (only 5 digits code)**

P.U. (A) 90

Category Code	Items Description	Note	Relevant Authority
1C216	Maraging steel, other than that specified in 1C116, 'capable of an ultimate tensile strength of 1,950 MPa or more, at 293 K (20 °C).	Note: 1C216 does not control forms in which all linear dimensions are 75 mm or less. Technical Note: The phrase maraging steel 'capable of' encompasses maraging steel before or after heat treatment.	Atomic Energy Licensing Board (AELB), MOSTI
1C225	Boron enriched in the boron-10 (¹⁰ B) isotope to greater than its natural isotopic abundance, as follows: elemental boron, compounds, mixtures containing boron, manufactures thereof, waste or scrap of any of the foregoing.	Note: In 1C225 mixtures containing boron include boron loaded materials. Technical Note: The natural isotopic abundance of boron-10 is approximately 18.5 weight per cent (20 atom per cent).	Atomic Energy Licensing Board (AELB), MOSTI
1C226	Tungsten, tungsten carbide, and alloys containing more than 90% tungsten by weight, other than that specified by 1C117, having both of the following characteristics: a. In forms with a hollow cylindrical symmetry (including cylinder segments) with an inside diameter between 100 mm and 300 mm; and b. A mass greater than 20 kg.	Note: 1C226 does not control manufactures specially designed as weights or gamma-ray collimators.	Atomic Energy Licensing Board (AELB), MOSTI
1C227	Calcium having both of the following characteristics: a. Containing less than 1,000 parts per million by weight of metallic impurities other than magnesium; and		Atomic Energy Licensing Board (AELB), MOSTI

 30 Mac 2017 30 March 2017 P.U. (A) 90	WARTA KERAJAAN PERSEKUTUAN FEDERAL GOVERNMENT GAZETTE
PERINTAH PERDAGANGAN STRATEGIK (BARANG STRATEGIK) (PINDAAN) 2017 STRATEGIC TRADE (STRATEGIC ITEMS) (AMENDMENT) ORDER 2017	
DISIARKAN OLEH/ PUBLISHED BY JABATAN PEGUAM NEGARA/ ATTORNEY GENERAL'S CHAMBERS	

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STRATEGIC TRADE (RESTRICTED END-USERS & PROHIBITED END-USERS) ORDER 2016



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Restricted End User

- Based on country of final destination
- Adopted from UNSC Resolution
- Requires special permit for export of strategic item



Prohibited End User

- List of individuals & entities prohibited from export of strategic items
- Automatic adoption from UNSC Resolution (20 June 2016)
- UNSCR 1718 (2006) Democratic People's Republic of Korea (DPRK)
- UNSCR 2231(2015) against the Islamic Republic of Iran (Iran)



PENALTIES



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WITH INTENT

Resulting in **DEATH**:

- death sentence; or
- Imprisonment: natural life
- (body corporate: ≤ RM 30 million)

OTHER CASE:

- Imprisonment: ≤ 10 years; or
- Fine: ≤ RM10 million; or both (body corporate: ≤ RM20 million)

ARMS
&
RELATED
MATERIALS

WITHOUT
INTENT

- Imprisonment: ≤ 5 years; or
- Fine: ≤ RM5 million; or both
- (body corporate: ≤ RM10 million)

PENALTY

OTHER CASE:

- Imprisonment: ≤ 10 years; or
- Fine: ≤ RM10 million; or both (body corporate: ≤ RM20 million)

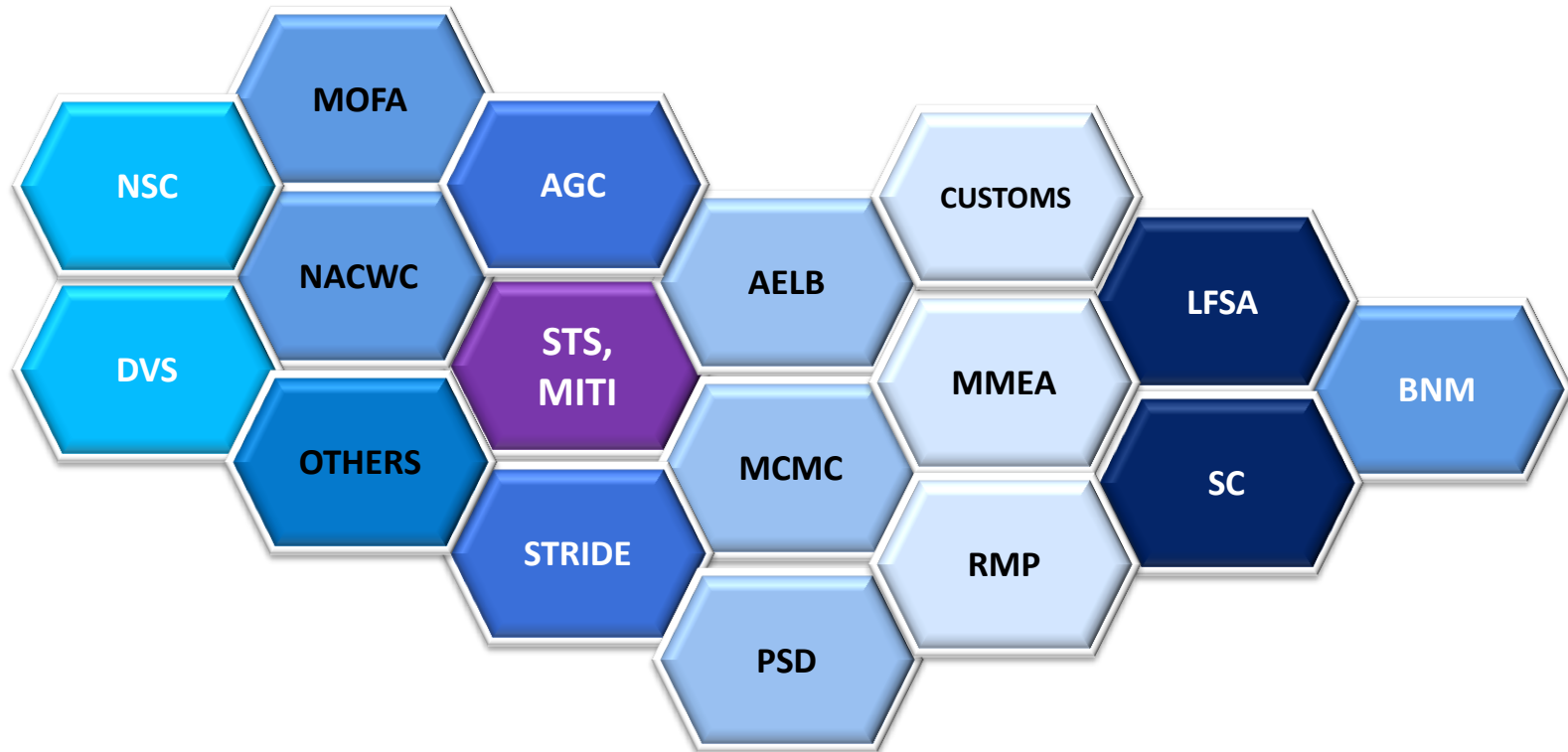
LISTED &
UNLISTED
ITEMS

- Imprisonment: ≤ 5 years; or
- Fine: ≤ RM5 million; or both
- (body corporate: ≤ RM10 million)

INTER-AGENCY COORDINATION



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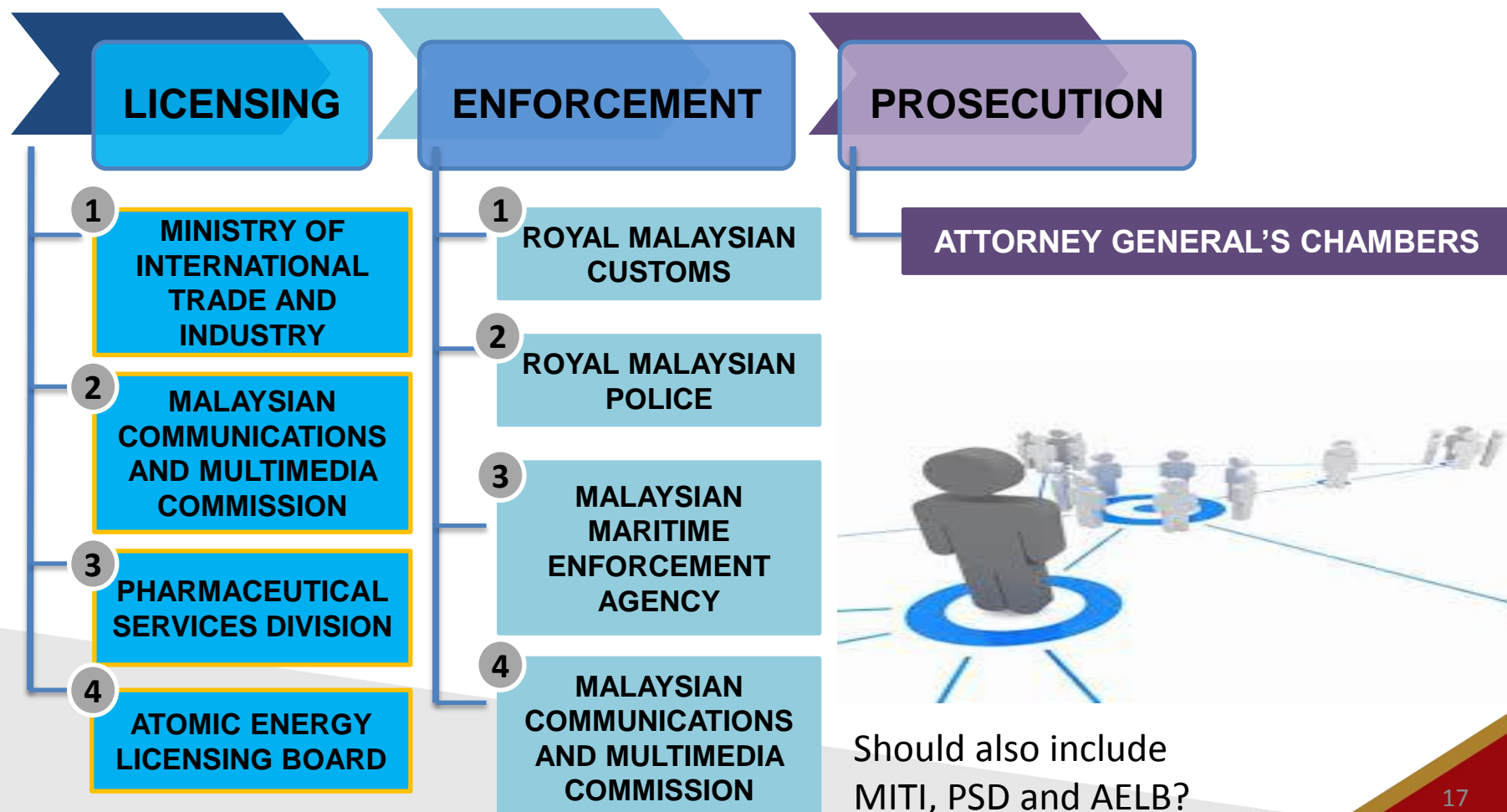


- ***Policy, regulations, guidelines, enforcement of STA 2010 and its subsidiary.***
- ***Obligation and impact of international agreement, convention or treaty on STA 2010.***
- ***Local or foreign sources of intelligence report on STA 2010 violation.***
- ***Outreach and capacity building program, STA 2010 statistics.***



INTERAGENCY COLLABORATION

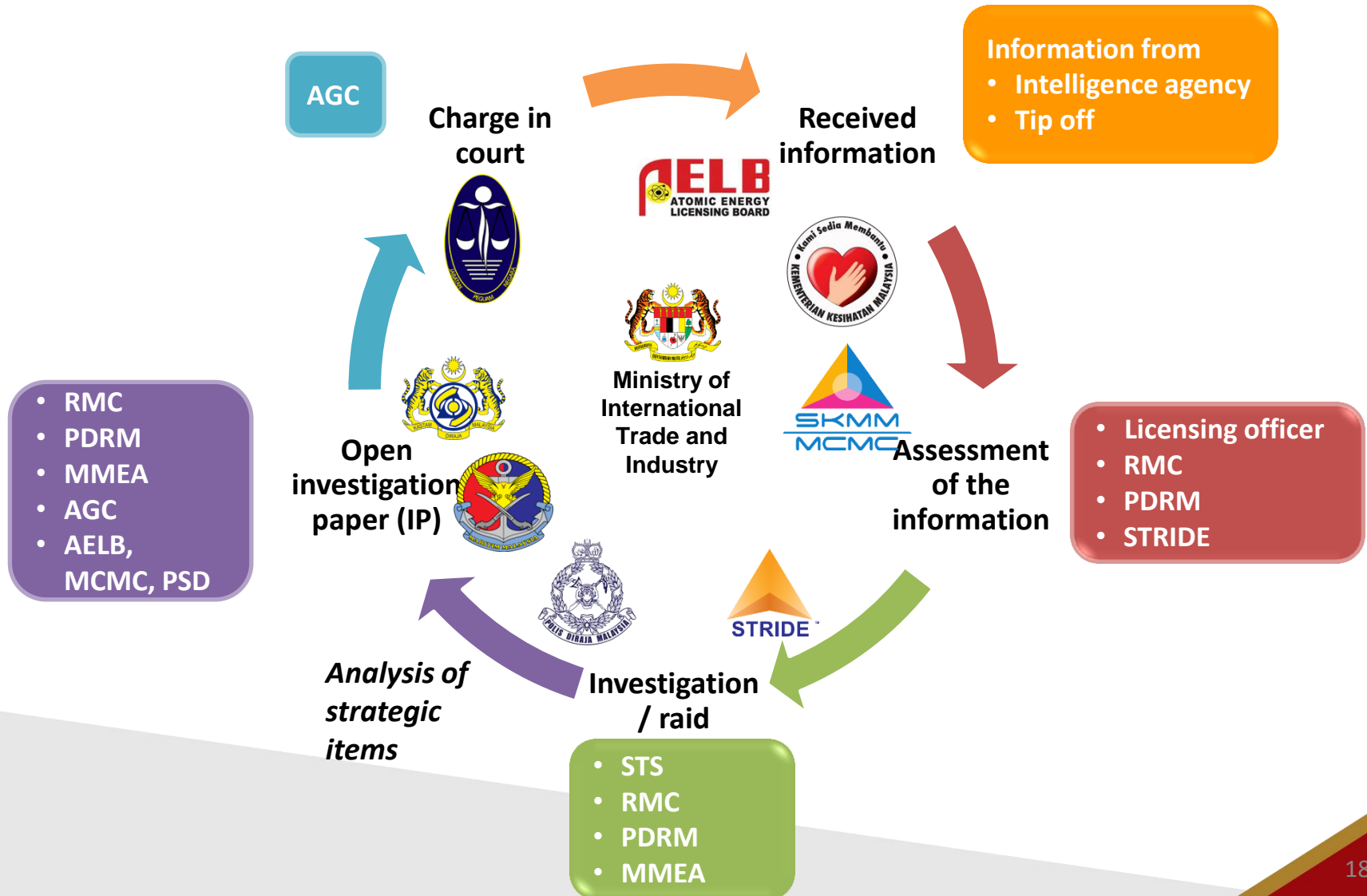
Effective partnership and interagency collaboration makes a difference in strategic trade management



INTER AGENCY APPROACH - STA INVESTIGATION



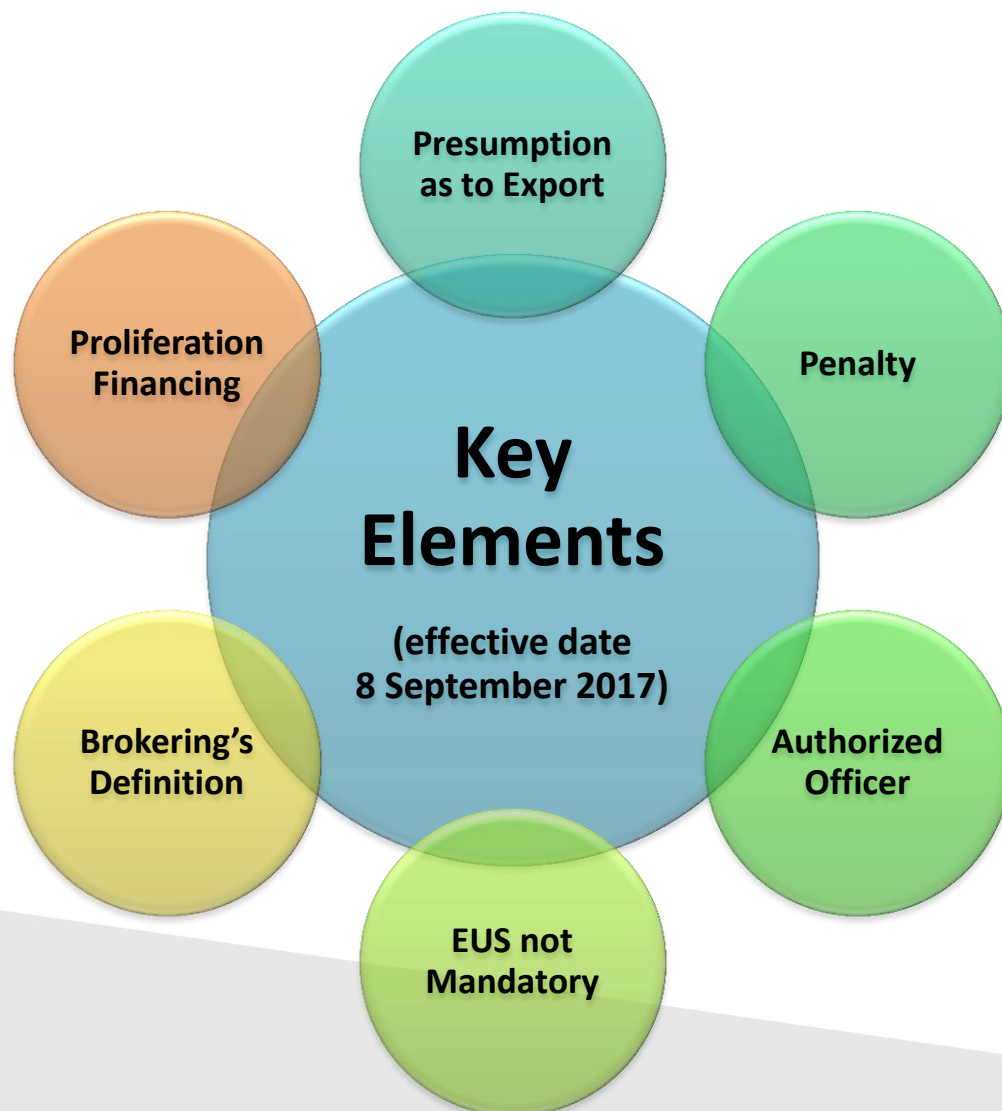
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STA (AMENDMENT) 2017



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The process of STA 2010 review has started since 2013 based on the feedback from Government agencies, industry player and associations.

BEST PRACTICES



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THE REMINDER



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**STATEMENT BY
YAB PRIME MINISTER OF MALAYSIA
TUN DR MAHATHIR BIN MOHAMAD
AT THE GENERAL DEBATE OF THE 73RD SESSION
OF THE UNITED NATIONS GENERAL ASSEMBLY (UNGA)**

28 SEPTEMBER 2018, NEW YORK



THE REMINDER



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14. We are seeing acts of terror everywhere. People are tying bombs to their bodies and blowing themselves up in crowded places. Trucks are driven into holiday crowds. Wars are fought and people beheaded with short knives. Acts of brutality are broadcast to the world live.

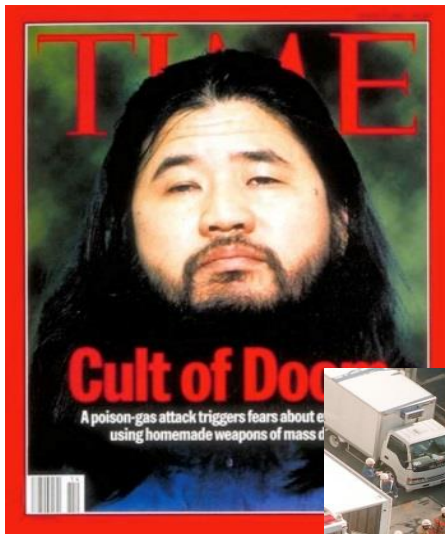
18. This present war against the terrorist will not end until the root causes are found and removed and hearts and minds are won.

26. Malaysia hates terrorism. We will fight them.

28. Wars are about killing people. Modern wars are about mass killings and total destruction countrywide. Civilised nations claim they abhor killing for any reason. When a man kills, he commits the crime of murder. And the punishment for murder may be death.

31. We now have nuclear bombs, capable of destroying whole cities. But now we know that the radiation emanating from the explosion will affect even the country using the bomb. A nuclear war would destroy the world.

THE WORK YOU DO IS VERY IMPORTANT; IT COULD SAVE COUNTLESS LIVES



RELATED INFORMATION LINK



MINISTRY OF INTERNATIONAL TRADE AND INDUSTRY

Any feedback and comments on this subject as well as request for an appointment can be sent to admin.sts@miti.gov.my

STS awareness video is available via:-
https://www.youtube.com/watch?v=z-Sr2g_xmyg&t=98s

For more information, please visit
www.miti.gov.my ;
www.mcmc.gov.my;
<http://portal.aelb.gov.my/sites/aelb>

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Thank you... Q&A

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