



MINISTRY OF INTERNATIONAL TRADE AND INDUSTRY

STRATEGIC TRADE ACT (STA) 2010

INTANGIBLE TECHNOLOGY TRANSFER

INTERNAL COMPLIANCE PROGRAMME (ICP) | 30 OCTOBER 2019
ENHANCEMENT OUTREACH | WEDNESDAY

'Driving Transformation, Powering Growth'

"Facilitating Trade in a Secure Trading Environment."



MINISTRY OF INTERNATIONAL TRADE AND INDUSTRY

STA 2010 – INTANGIBLE TECHNOLOGY TRANSFER

BACKGROUND

ITT IN STA 2010 PERSPECTIVE

2019 ITT GUIDELINE

RECOMMENDATION / CONCLUSIONS



MITI





ITT IN STA 2010 PERSPECTIVE

What is ITT?

Two variations of ITT risks relating to WMD Proliferation

- Intangible transfer of knowledge
- Transfer of controlled technology by intangible means

Why do we need to control ITT?

- Proliferators require technology for them to establish their delivery systems
- Proliferators need to acquire new, advanced knowledge



STA 2010 – INTANGIBLE TECHNOLOGY TRANSFER

ITT IN STA 2010 PERSPECTIVE

Types of Strategic Technology

Technical Data

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

Technical Assistance

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

** if the technical data or technical assistance is for the items which has been granted STA export permit, it is covered under the existing permit.*

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**.



STA 2010 – INTANGIBLE TECHNOLOGY TRANSFER

ITT IN STA 2010 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.

“**items**” includes **goods and technology**

“**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.





STA 2010 – INTANGIBLE TECHNOLOGY TRANSFER

ITT IN STA 2010 PERSPECTIVE



Scientist – Foreign scientists involve in research collaboration. Attended conferences and having access to presentations and discussions.

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



Academia – via courses (lectures), projects and students. Foreign technical committee on assessing research paper (international funded scientific research).



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



STA 2010 – **INTANGIBLE TECHNOLOGY TRANSFER**

ITT IN STA 2010 PERSPECTIVE

WHY RESEARCH INSTITUTIONS/INDUSTRIES NEED TO EXERCISE CAUTIOUS?

Proliferators increasingly seek to acquire knowledge and training for their programs

Proliferators require intangible technology to establish engineering, design, and manufacturing capabilities

Trend corresponds with increasing focus on indigenous production of biological/chemical weapons, missiles, WMD, and military equipment

Acquiring information and technology via intangible means can provide an attractive way to support programs of concern



STA 2010 – **INTANGIBLE TECHNOLOGY TRANSFER**

2019 INTANGIBLE TANGIBLE TRANSFER GUIDELINE



- ❑ STS has conducted a few series of meeting and workshop with partner agencies and other government agencies; objectively to ensure SOP and guidelines are amended, improved and usable.
- ❑ As the custodian of the STA 2010, STS to ensure the STA are implemented effectively by formulating a set of guidelines and SOP as an administrative tool that may assist PIA and OGA to perform their respective roles.





2019 INTANGIBLE TANGIBLE TRANSFER GUIDELINE

The screenshot shows a web browser window with the URL <https://www.miti.gov.my/index.php/pages/view/sta2010?mid=105>. The website has a blue header with navigation links: ABOUT MITI, PROMOTING TRADE, TRANSFORMING INDUSTRY, EVENTS, and OUR SERVICES. A left sidebar contains links for NON-PREFERENTIAL CERTIFICATE OF ORIGIN (NPCO), STRATEGIC TRADE ACT 2010, BUMIPUTERA, KIMBERLEY PROCESS CERTIFICATION SCHEME (KPCS), GUIDELINES, LOCAL MANUFACTURER/SUPPLIER, and E-PARTICIPATION. The main content area features a navigation menu with links for Announcements, Events, FAQ, Strategic Items List, Prohibited & Restricted End User List, Forms, and Useful Links. Below this is a 'Back to top' link. A section titled 'Announcements' contains the following text: **ANNOUNCEMENT : 2019 INTANGIBLE TECHNOLOGY TRANSFERS (ITT) GUIDELINE**. Please be informed that Research Institution, Academia and Relevant Industries may view the revised **2019 Intangible Technology Transfer (ITT) Guideline** via the Resources link. Additional and enhance contents are as follows:

- Brief introduction note
- Elaboration on ITT
- Internal Compliance Programme for ITT
- Additional FAQ
- Pre-screening tool

 **Webpage ITT Guidelines 2019.pdf** Webpage ITT Guidelines 2019.pdf



STA 2010 – INTANGIBLE TECHNOLOGY TRANSFER

2019 INTANGIBLE TANGIBLE TRANSFER GUIDELINE

SALIENT FEATURES

**STRATEGIC TRADE ACT 2010
INTANGIBLE TECHNOLOGY TRANSFER (ITT) GUIDELINE**

2016

No.	Items	Page
1.	Objective	2
2.	Target	2
3.	Determination of what constitutes an ITT export	2
4.	Relevant section in STA	3
5.	Exemptions for Technology Transfer in the Control Lists	3-5
6.	ITT Control Mechanisms A- Application of Permits for Exports of Strategic Technology under STA ▪ Flowchart on Application of Permit for Exports of Strategic Technology under STA B- Internal Compliance Program (ICP) for ITT ▪ Management Commitment ▪ ITT Application Form ▪ Screening ▪ Training ▪ Audit	5-7
7.	Frequently Asked Questions (FAQ) on ITT	8-10

**STRATEGIC TRADE ACT 2010 (STA)
INTANGIBLE TECHNOLOGY TRANSFER (ITT) GUIDELINE**

2019

No.	Items	Page
1.	Introduction	1
2.	Objective	1
3.	Target	1
4.	Determination of what constitutes an ITT export	1
5.	Relevant provision in STA	3
6.	Exemptions for Technology Transfer	3-5
ITT Control Mechanisms		
7.	i. Application of Permits for Exports of Strategic Technology under STA ▪ Flowchart on Application of Permit for Exports of Strategic Technology under STA	6-8
	ii. Internal Compliance Program (ICP) for ITT a. Management Commitment b. ITT Management c. Screening d. Training e. Audit f. Record Keeping	
8.	Standard Operating Procedure For Internal Compliance Programme (ICP) Approval for Intangible Technology Transfer (ITT) A. Steps for ICP Application B. Checklist	9-12
9.	Frequently Asked Questions (FAQ) on ITT	13-15
10.	Appendix 1 Example Pre-screening sheet (for transfer of technologies and export of goods)	16-19
11.	Appendix 2 Form 1	20-30

Introduction note to briefly explain on ITT

Incorporating ICP for ITT

Additional FAQ

Pre-Screening Sheet as a tool to identify the ITT



2019 INTANGIBLE TANGIBLE TRANSFER GUIDELINE

BEST PRACTICE

Screening Process



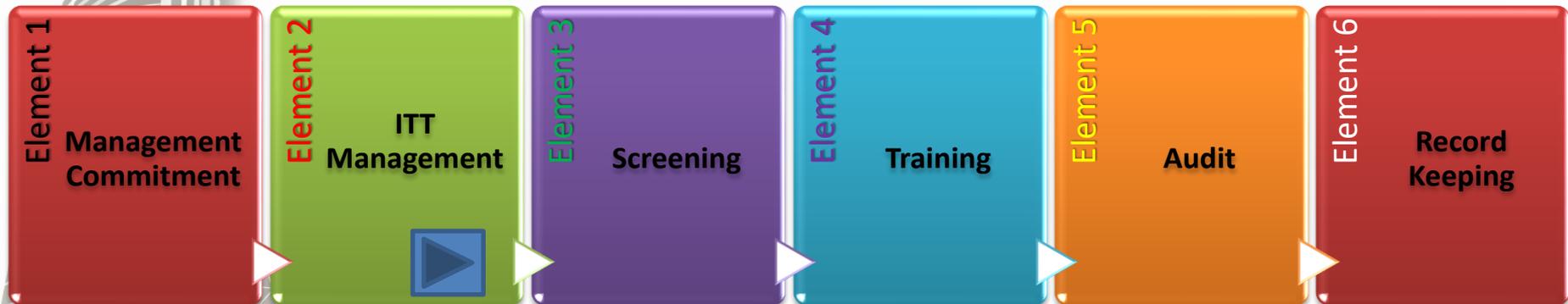
- If activity is controlled and it does not falls under ITT exemption -> **PERMIT REQUIRED**



2019 INTANGIBLE TANGIBLE TRANSFER GUIDELINE

BEST PRACTICE

Internal Compliance Programme for ITT





STA 2010 – **INTANGIBLE TECHNOLOGY TRANSFER**

RECOMMENDATION / CONCLUSIONS

❑ 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 sensitive data/ research projects.

❑ The implementation of ITT in the institutions/ entities (through self-declaration) will be based on the 6 elements of Internal Compliance Programme (ICP).

❑ The ITT guideline will be used as a guide for any persons/entity dealing with ITT



MINISTRY OF INTERNATIONAL TRADE AND INDUSTRY

Thank You

MENARA MITI

No. 7, Jalan Sultan Haji Ahmad Shah, 50480 Kuala Lumpur, Malaysia
Tel: 603-8000 8000 | Fax: 603-6206 4693 | Email: webmiti@miti.gov.my | Website: www.miti.gov.my



 www.miti.gov.my

 MITIMalaysia

 mitimalaysia

 MITIMalaysia

 MITIMalasiayoutube