

## INTERNAL COMPLIANCE PROGRAM – A GUIDE

### Introduction

1. The Strategic Trade Act (STA) 2010, Regulations and Orders came into force on 1 January 2011 for Part II - Category 0 (Nuclear Materials, Facilities, and Equipment) and on 1 April 2011 for Part I and Part II - product categories (Category 1 - 9).
2. The objective of the STA 2010 is:
  - to control exports of strategic items and technology that can be used to design, develop and produce weapons of mass destruction (WMD) and their delivery systems.
3. For those involved in the export and brokering of strategic items and technology, a permit from the designated licensing authority in Malaysia is required, namely:
  - Strategic Trade Secretariat Ministry of International Trade and Industry (STS, MITI);
  - Atomic Energy Licensing Board (AELB);
  - Malaysian Communications and Multimedia Commission (MCMC); and
  - Pharmaceutical Services Department, Ministry of Health (PSD, MOH).
4. Under the STA 2010, export controls are imposed on exports of strategic items (listed and unlisted items), transfers of intangible technology and other activities that support exports of strategic items, including the transit and transshipment of such items.
3. The STA 2010 provides for a 'catch- all' provision and it places enormous responsibility on enterprises and other economic operators directly involved in the exports of strategic items that are sensitive and has dual-use possibilities.

### What is an Internal Compliance Program?

4. An internal compliance program (ICP) is a set of procedures that a company must satisfy before an item is exported. It ensures that transactions satisfy the export control regulations enacted by the government. An **ICP is a prerequisite** for Malaysian companies that wish to avail **themselves of bulk and multiple-use permits** under the STA 2010.
5. At the company level, ICP may be called by different names, such as:

STRATEGIC TRADE SECRETARIAT

[icp.sts@miti.gov.my](mailto:icp.sts@miti.gov.my)

FACILITATING TRADE IN A SECURE TRADING ENVIRONMENT

- Internal Control Plans (ICPs);
  - Export Management Systems;
  - Export Compliance Programs;
  - Global Trade Compliance Plans; or
  - 'Code of Conduct'
8. An ICP within the company is a commitment taken by voluntarily to support the authorities by ensuring that internal controls and procedures are put in place that safeguards the company from being taken advantage by proliferators of weapons of mass destruction. It provides the authorities some level of confidence to consider offering the facilitation of bulk and multiple-use permits that allows the company to carry out their business with minimal Government interference, in particular by placing a large part of the responsibility on export control on the economic operator itself.
6. The commitment to the ICP is satisfied when the company has established procedures in place to ensure that thorough investigations of the buyer and the end-user had been undertaken prior to shipment and export of strategic items and/or technology.

### **Key Elements of an ICP**

7. An ICP is intended as a safeguard against proliferators from taking advantage of weaknesses within the company in the sales of sensitive dual-use items or technology to unauthorised parties. The procedures in place must be applied throughout the company in a transparent and responsible manner to ensure compliance to the STA, Regulations and Orders.
8. The ICP should consists the following elements:
- Attestation of management commitment;
  - A written statement of intent on export controls;
  - A designated officer appointed at the level of management to oversee the implementation of the ICP and his/their responsibilities and positions stated clearly in the company;
  - Clear compliance policy and procedures which should be prepared on the company's letterhead;
  - Evidence on screening process conducted, its coverage and the methods used;
  - Knowledge of your customer and the end-use of the items exported;

- Centralised processing for the export of strategic item;
- Engagement of all employees including across all the business units within the organisation on export control;
- Transparent reporting and decision-making responsibilities for exports;
- Continuous training provided within the organisation on export control and its implication on the business;
- Proper documentations of all transactions of strategic items to be kept for a period of at least six years as required by the law (Part V – The Regulations of STA 2010);
- Frequent audit of procedures for compliance, at least once every 12 months;
- To remain up-dated on the Government's export control laws, Regulations and Orders; and
- Establish good working relationship between company and export licensing authorities.

### **How to Apply For a Bulk or Multiple-Use Permit?**

12. STS has developed the attached ICP checklist to be adhered by companies. The checklist is the minimum requirement that will satisfy STS and other licensing authorities for consideration of a bulk or multiple-use permit.
13. Preferably, company should have a track record of at least 6 months of single permit applications in the online e-Permit STA system before can be qualified to submit for an ICP application. A visit to the premise of the company might be warranted.
9. Companies are encouraged to complete the ICP Check-list and provide it to STS for consideration to qualify for the facilitation of a bulk or multiple-use permit
10. The completed checklist must be accompanied by a letter in the company letter head signed by the designated person in charge of export control, and should be the same person identified as overall in-charge of export control in the on-line e-Permit STA registration system. All relevant documents should be attached for reference.
11. Based on STS and other licensing authorities' evaluation of the information provided, the company may qualify for an ICP status and gain access to the trade facilitation of bulk or multiple-use permit. Before ICP applications are approved or rejected, STS may request further details or information.
12. The approved bulk or multiple-use permit is valid for two years and is renewable. However, it can be suspended or withdrawn at any time if the company is found

to have given false information or is not showing full commitment to satisfy the requirements of the STA 2010. In other words, the revocation of an ICP status.

17. STS may undertake pre and post audits for compliance. These audits may be done without notice and the opportunity will be used to make a thorough evaluation of the ICP practices put in place as indicated by the company in the check-list.
13. For further enquiries and assistance, please contact the Strategic Trade Secretariat in MITI via email at [icp.sts@miti.gov.my](mailto:icp.sts@miti.gov.my).
14. The completed checklist and supporting documents should be sent to the following address, for consideration:

**Strategic Trade Controller  
Strategic Trade Secretariat  
Ministry of International Trade and Industry  
Level 4, MITI Tower,  
No.7, Jalan Sultan Haji Ahmad Shah,  
50480 Kuala Lumpur**