

Guidance Note on Company's Internal Control Programme

To prevent proliferation of weapons of mass destruction and to promote better and effective compliance with the legislation relating to strategic trade controls, personnel in a company dealing with import and export of strategic commodities should be guided for increasing awareness of strategic trade controls matters. For this purpose, the maintenance of an effective Internal Control Programme (ICP) within a company will be useful. This guidance note outlines the various essential elements of an ICP for general reference by traders concerned. For further details of the subject, please visit the Strategic Trade Controls Branch of the Trade and Industry Department or contact Ms. Michelle Poon at tel. no. 2398 5578.

The Responsibility of Companies

2. Maintaining effective controls to prevent the diversion of materials and equipment useful in weapons of mass destruction (WMD) programmes must involve responsibility not just on the part of the Government for implementing and enforcing controls at the macro level but also on the part of individual companies dealing in these goods. This responsibility upon individual companies comes about for a number of reasons. Firstly, Hong Kong is a major international commercial and trading centre into/from which a large volume of high technology goods is imported/exported each day. Traders in Hong Kong must bear responsibility for goods passing through their control. Secondly, the world is undergoing rapid development, meaning trade in high technology goods is ever increasing. As a number of these goods are capable of use in WMD programmes, for reasons of global security, it becomes increasingly important to ensure that they are used in a peaceful manner. Lastly, all Hong Kong companies have an obligation to strictly comply with the Laws of Hong Kong including the *Import and Export Ordinance*, and *Import and Export (Strategic Commodities) Regulations* enacted under it.

3. Practically, a good system of strategic trade control counts heavily on the co-operative efforts between the Government and the trade. The most

effective controls over these goods must occur at the company level. After all, it is the companies which are involved in the day-to-day sales and production and therefore have the greatest familiarity with the goods and their customers. In addition, implementation of an effective internal control system allows a company a defence that safeguards are in place and all reasonable precautions are taken to guard against diversion of their products to WMD programmes in the case that doubts are later cast upon a particular transaction of the company.

4. The establishment of an effective ICP or Code of Practice provides companies with a method of routinely screening all transactions in order to eliminate suspicious approaches, thereby enabling them to come to a responsible and informed judgement on supply and ensuring that only legitimate business transactions proceed. Any responsible companies would have no desire that their products be used in WMD programmes and indeed would wish to avoid such a possibility as far as they could. Implementation of an effective ICP is one method of doing so. The value of ICP within individual companies is therefore enormous.

Model Internal Control Programme (ICP)

5. ICP necessarily differs in its implementation from one company to another given the nature and size of the company concerned. That is, the ICP of a small trading company will differ from the ICP of a large production/multinational company. There are, however, a number of elements that are crucial components and will be found in one form or another in all effective ICPs :

A. Policy Commitment to Compliance

The company must make a firm commitment in writing clearly stating its resolution to not having its products used for weapons of mass destruction purposes and to fully comply with the *Import and Export Ordinance* and the *Import and Export (Strategic Commodities) Regulations*. Such a policy statement may be along the following lines:

To contribute to the preservation of international peace and security and prevent the proliferation of weapons of mass destruction and excessive stockpiling of conventional weapons, this company (insert company name) hereby declares its policy of strictly abiding by all import and export-related laws including the Import and Export Ordinance and Import and Export (Strategic Commodities) Regulations with respect to the supply of technology or export of materials or equipment controlled by the said Ordinance and Regulations (hereinafter referred to as “controlled goods”). To this end, this company hereby declares its policy of declining any transaction which in its judgement involves a risk that controlled goods will be used in or diverted to a weapons of mass destruction programme. The company also declares its policy of declining any transaction which may involve goods though not controlled by the Ordinance or Regulations, or services, contributive to such a programme. To ensure that this policy is disseminated, thoroughly understood and acted upon throughout the company, the company hereby establishes the Internal Control Programme (ICP) described below.

Further, in an effort to avoid contributing to illegal exports of controlled goods, this company hereby declares its policy of declining any transaction even when entirely within Hong Kong which may result in controlled goods later being exported in violation of the above-named Ordinance and Regulations.

These policies must be adopted as company policy and receive the endorsement and commitment of the company’s senior management. They must be brought to the attention of all employees within the company and preferably also to all the company’s customers (for example during pre-contractual negotiations and also in contractual documents relating to the transfer of controlled goods).

B. Nomination of Responsible Personnel for Import/Export Controls

The company will need to nominate suitable officers responsible for implementing controls on controlled goods and assign duties as appropriate. Personnel arrangements will naturally need to vary with the size and nature of the company.

The vetting of transactions from a trade control perspective must proceed based on a perspective other than the pursuit of profit, the prime objective of the sales and marketing area. To avoid any possible conflicts of interest when vetting orders and enquiries from customers, officers with primary responsibility for trade control matters should be independent of the sales/marketing area/department. Every effort must be made to avoid giving simultaneous sales/marketing and trade control responsibility to the same people. While not having trade control matters as their main function, the sales and marketing area will nevertheless need to take such matters into account when conducting their activities and perform much of the preliminary screening of transactions.

The screening and decisions on the legitimacy of transactions ideally should not be managed independently by a single individual. There should be some sort of double-checking mechanism in place such that decisions on the legitimacy of transactions be checked by a more senior officer within the company. In large companies, this is most effectively done by the establishment of a trade control team/department (the size of which will depend of course on the size of the company and volume of transactions it conducts). In smaller companies, it may only be practical to have a single person responsible for such matters on a day-to-day basis - if so this person should be responsible to the company's senior management and be required to report regularly. In either case, a Trade Control Manager (TCM), who will be in charge of the day-to-day implementation and conduct of trade control matters, will need to be appointed. People responsible for trade control matters could form a separate area of the company or they could also be placed in other areas of the company such as the legal department, the administration department etc.

The TCM will need to be one of the company's senior management and wherever

possible based in Hong Kong. She/he must be given a large amount of authority to act in approving or declining transactions. Ideally, (at least in larger companies, but also to the extent possible in smaller companies) the TCM should not have other duties which would conflict with or dilute the amount of time and attention paid to trade control matters. The appointment of a senior manager to head the trade control team/department need not have a detrimental effect on the company's business speed as responsibility for screening transactions can be delegated to his/her subordinates. Ultimate responsibility for and oversight of trade control matters will however rest with the TCM. In some smaller companies, it may be practical to have the Chief Executive Officer as the TCM and ultimately responsible for trade control matters, but in larger firms, it may be more practical for she/he to be a Board Member or other senior officer. The TCM should also be responsible for representing the company in such matters to the public and also for liaising with the Government as required.

It may be more appropriate for some companies to form a trade control committee which will delegate the day-to-day management of the trade control system to the TCM. If a committee is formed, the committee's duties must be clearly defined and a system capable of fulfilling all trade control functions must be established. A permanent office for the committee should be established and committee meetings should be held regularly with clear objectives stated in advance. If the committee does not meet regularly, a clear policy will need to be established stipulating when the committee does meet (e.g. when control lists are reviewed, when the TCM disputes the outcome of the screening process, when export activity needs to be reported to the Government, when new information on trade controls is received etc.).

The job description and responsibilities and authority for the trade control team and TCM must be clearly defined and records kept of these duties. These will need to include :

- creation, revision and implementation of the ICP;

- creation, revision and implementation of operating procedures (detailed regulations) to carry out the ICP;
- screening and approval of all transactions and enquiries as to product, end use, end user, customers and the transaction viewed as a whole (see C below);
- trade control-related audits;
- training and education of staff regarding trade controls, including courses, on-the-job training and provision of information; and
- guidance and assistance to subsidiaries and affiliates, if any.

The team must be given a high degree of authority in the final approval or the rejection of contracts made by the sales/marketing team.

Each member of the team should have a comprehensive job description which should detail his/her functions and responsibilities and spell out the “line of command” within the team.

The company’s senior management will need to make the general duties of these officers known amongst all employees and also have general oversight of the ICP in the initial stages in order to ensure the new policy and procedures are implemented smoothly.

C. Procedures Related to Trade Controls

The company will need to establish working procedures or routines for the screening of all business transactions and enquiries coming into its offices. These procedures have a number of elements. Management methods must be made transparent. Manuals, guidelines and formats need to be established as to how screening is to take place, common standards of judgement need to be employed and there will need to be a method by which decisions can be double-checked.

Screening of business transactions/orders/enquiries must be done before a definite contract to supply the goods has been formed i.e. it is between the

enquiry/order stage and order acceptance/formation of a contract that the screening must occur. The screening of transactions and enquiries themselves involves several elements :

- (a) product screening (determining whether the item is a controlled commodity)
- (b) customer and end user screening (determining the bona fides of the customer)
- (c) end-use screening (determining the legitimacy of the stated end use of the item to ensure it will not be used for weapons of mass destruction purposes)
- (d) transaction screening (viewing the transaction as a whole in order to make a judgement as to whether it is legitimate).

The sequence of screenings may vary. For trading houses and industrial manufacturers, it may be more effective if customer and end use screening take place before product screening. For other companies however, product screening should take place before customer and end use screening. The most effective control method should be explored in the circumstances of the individual company. In all cases, however, all screening processes must be conducted before the order is accepted.

The TCM and his/her team will need to ensure that procedures for the above screening processes are devised and stipulated in detail. For example, it is suggested that the team devise a Control Form which will contain fields to record the results of the above screening processes. Such a form will need to be completed for each and every order/enquiry the company receives.

(a) *Product Screening*

There will need to be procedures in place so that the company may determine whether the item being ordered/enquired after by a potential customer is a controlled commodity under the *Import and Export (Strategic Commodities) Regulations*. The most efficient way to do this is to perform a general screening

in advance instead of screening each transaction. All goods the company trades in or produces will need to be evaluated by the trade control team and classified as controlled goods or otherwise based on the control list in the Regulations. In the case of a large manufacturing company, this may be done by the trade control team in conjunction with the engineering or production/technical department which has working familiarity with the specifications and technical capabilities of the equipment/materials. In the case of a trading company which deals in goods that have been procured externally where the company does not possess the expertise to make such a determination, the company should request a determination from the supplier of the goods. The TCM should then confirm this determination. Alternatively, the company may forward the technical details of its products to the Technical Assessment and Classification Section of the Trade and Industry Department who may then make such a determination. For companies dealing regularly in controlled goods, the Trade and Industry Department invites them to take advantage of its pre-classification service by which the company may forward lists of the products it most regularly deals in to the Technical Assessment and Classification Section who will classify the goods for them in advance.

After determinations have been made as to the control status of all the company's products, detailed records and lists must be kept of the name, brand, model and product number and the part of the *Import and Export (Strategic Commodities) Regulations* control list it falls under. Records or lists must also be kept of the details of all products the company deals in that are not so controlled. Both types of lists will need to be revised by the TCM based on any changes to the Regulations or other relevant Hong Kong laws. If the company develops a new product or model or takes on a new line of products then these must also be classified by the trade control team and the relevant lists updated.

Both types of list must then be forwarded to the sales/marketing area(s) of the company. The sales/marketing area(s) must then use the lists in the case of every potential transaction to determine whether or not it would involve controlled goods and if so, the relevant part of the control list the goods fall under. In the case where a particular transaction would involve goods that have not been

classified, officers of the sales/marketing area must inform the sales/marketing manager who will request a determination from the TCM (e.g. this will need to occur if the company receives an enquiry or order for a product it has not dealt in before).

The decision on the control status of the requested goods will need to be recorded with other paperwork relating to the transaction. As indicated above, this may be most efficiently done on the Control Form.

(b) Customer and End User Screening

(i) Parties

The trade control team will need to classify all customers of the company according to the risk they may be involved in a WMD proliferation programme or may present a risk that goods supplied to them are diverted to such a programme. The classification of all the company's customers will need to be regularly updated as new information comes to hand. This list may be compiled by the trade control team but the TCM should be responsible for confirming it. The TCM should then pass this classification list to the sales/marketing areas of the company.

As a source of reference, companies may visit websites of governments of some high-tech supplier countries for information on persons, companies or entities to whom the exports of products from these countries would be denied or sanctioned. These information provide a good starting point for compiling a list of parties with whom transactions should be either denied or carefully monitored.

In addition, the trade control team must classify all customers (regular and infrequent, domestic and foreign) as to the level of risk they present of involvement in a WMD programme or diversion of goods to such a programme. In the case of domestic customers, this classification would be most appropriately conducted in accordance with the customer's perceived compliance with the *Import and Export Ordinance* and *Regulations* and the

customer's general trade behaviour.

Upon the receipt of an enquiry or order from a customer (including a domestic customer), the sales/marketing area will then need to screen the customer plus any consignees and end users identified in the potential transaction against the customer classification list and record the results of the screening on the Control Form. If the customer or end user is identified through this process as presenting a WMD risk, companies may consider seeking consultation with the Trade and Industry Department.

The addresses and contact numbers of all customers and end users should be checked as part of this process. Post office box addresses should not be accepted. In addition, business registration and other information should be checked as far as possible in order to confirm that customers and end users are *bona fides* companies/entities.

In compiling these lists, the company must not close its eyes to the receipt of incomplete information about customers and end users. Information received as to illegal export activity or less than legitimate trade behaviour must be faithfully reflected in the company's customer classification list in order to maintain the integrity of the screening process and the ICP.

(ii). *Destination Screening for Re-exports of Controlled Goods*

In the case of re-exports from Hong Kong of controlled goods manufactured overseas, the trade control team will need to ensure that the government of the original exporting country has no objection to the goods being re-exported to the third country. For companies involved in a significant amount of re-export activity in relation to controlled goods manufactured in Western countries or in other countries having an export control system, the most efficient way would be that the company compile and maintain lists of allowable re-export destinations for each different product in its inventory in advance. The company should also ensure that it has in its possession copies of valid export licences or other documents issued to its foreign suppliers by their governments testifying that

re-export to the destination in question is permitted.

The export destination for the potential transaction must be checked against these lists, and if allowed then the transaction should proceed to the next stage of the screening process. If however the export destination is not permitted by the original exporting government, then the sales/marketing area will need to inform the TCM, who should then confirm the situation and instruct the sales/marketing area to withhold the transaction (this is because an export would be approved by the Trade and Industry Department only when it knows that the shipment would not be denied by the original exporting government).

(c) End Use Screening

The sales/marketing area should ascertain from the customer and the end user (if different) the end use of the product i.e. for what purpose the product is required and how it will be used at the final destination. It is not sufficient that this end use be given in only general terms (e.g. “for trials”) - the sales/marketing must ensure that they receive detailed information on the use of the product and how it will fit into the customer/end user’s business activities. When exporting to an agent or customer with the end-user unknown, it will be necessary to confirm the end use and final type of customer as far as possible. All relevant end use details are to be recorded on the Control Form.

In addition to obtaining statements as to end use, it should be incumbent on officers within the sales/marketing area dealing with the order/enquiry to make some judgement as to the legitimacy of the end use. Final transaction screening is not the responsibility of the sales/marketing area, but they have enough familiarity with the products they are selling to make judgement as to whether the end use the customer/end user is claiming is normal and appropriate for the product being ordered and whether the product is suitable for the type of business the customer/end user is in. While of course the pursuit of sales and therefore profit is the primary motivation of the sales/marketing area, this judgement must be performed objectively in order that the trade control area has sufficient information and an interim decision on the legitimacy of the end use to come to a

final informed judgement. The sales/marketing area should record their end use judgements on the Control Form.

(d) Transaction Screening

It is necessary to carefully and objectively confirm the legitimacy of all documents and information received from customers and end users. This must be done by an objective review of the proposed transaction and parties involved to make a judgement as to the likelihood that false information has been given to conceal a WMD-purpose.

After the sales/marketing area has collected all the relevant information and completed the relevant sections of the Control Form, all documents should be forwarded to the trade control team for final transaction review. The trade control team must then view the transaction as a whole in order to judge whether or not any foreseeable danger is indicated by the content and form of the transaction. In conducting this final screening, the team should take into account all relevant factors such as information received from the customer/end user as to its business activities, the country destination, the nature of the product, the stated end use (together with the sales/marketing area's judgement as to the legitimacy of such end use), shipping arrangements and any other information in order to come to a judgement about the risk the goods will be used or diverted to a WMD programme. Some of the factors that may indicate a dubious transaction include (the following list is not exhaustive):

- the customer is willing to pay cash for high value orders or offers extremely lucrative financial compensation for the product;
- the customer or end user is reluctant to provide end use or end user information or the information provided is incompatible with the usual purpose for which the product is designed;
- the customer declines the offer of normal maintenance or support services for no apparent reason;
- the customer gives instructions to make direct shipments to trading companies, freight forwarders or other companies which have no apparent

- connection with the purchase;
- the customer or end user requests packaging arrangements or labelling inconsistent with the shipping mode, destination or type of product;
 - the final destination for the product is in a high security area or an area to which access is controlled;
 - the products ordered appear to be incompatible with the customer's usual business activity or environment;
 - the customer is unfamiliar with the product, its application or its performance;
 - the customer's order is for parts known to be inappropriate or for which the customer appears to have no legitimate need.

If there is doubt as to any of the details of the proposed transaction, the trade control team (or the sales/marketing area) should contact the customer to obtain further information or clarification.

The final decision-maker for the screening should be the TCM. His/her endorsement should be made on the Control Form and the sales/marketing area/department informed of his/her decision after this has taken place. The sales/marketing area may then, when the TCM's confirmation has been received, accept the customer's order and make the other necessary arrangements. Under no circumstances should the sales/marketing area have the authority to accept the customer's order until the TCM has given his/her final authorisation for the transaction.

In order to prevent illegal exportation or use of the company's products in a WMD programme, the company should make it a policy to require assurances from its customers as to these issues for every transaction. In practice, this could be done by the order is accepted that the customer will be required, as a condition of the company accepting its order, to give such assurances at the time the contract is made. These assurances could then be written into the contract documents. However, if the TCM considers, taking into account the results from all the screening processes and all other relevant circumstances, that a separate written assurance or pledge that the goods not be used in a WMD programme or

be illegally exported should be obtained, then he/she (directly or through the sales/marketing area, as appropriate) will require the customer/end user to give such an assurance before she/he gives final approval for the transaction.

As indicated above, merely because the goods or the subject of a proposed transaction are not controlled goods still means that the other screening processes must be completed and a judgement made at the end as to whether or not to enter into the transaction. In this regard, it is essential to note that under the Laws of Hong Kong - the *Weapons of Mass Destruction (Control of Provision of Services) Ordinance* - services knowingly provided to assist programme of weapons of mass destruction are prohibited.

(e) Applications for Licences

Either the transaction involves the export of any controlled goods to any destination, or the export of any non-controlled goods (or services) but may be used in a WMD programme, the company needs to apply for a licence from the Trade and Industry Department. If the TCM authorises the transaction, he/she should inform the sales/marketing area of his/her authorisation but specify that a licence will need to be obtained for the transaction. The sales/marketing area may then proceed with acceptance of the order and making other contractual arrangements. The sales/marketing area will however need to make it clear to the customer that a condition of the company entering into the contract to supply is that the supply is conditional upon obtaining the necessary export licence from the Government of the Hong Kong Special Administrative Region. This should also be clearly written into the supply contract.

The trade control team should then fill in the prescribed export application form, prepare or obtain accompanying documents (such as the technical specifications for the item or a copy of an export licence issued to its foreign supplier by the original exporting government) and submit the licence application to the Trade and Industry Department. Where the company has taken advantage of the Department's pre-classification service, it is not necessary to attach technical specifications but the company should quote the case number assigned to it.

In cases of domestic transfer, resale or disposal of controlled goods to a customer within Hong Kong where the company is under a legal obligation to give prior notice to and obtain approval from the Director-General of Trade and Industry, similar procedures will need to be followed. The TCM should make clear that his/her authorisation for transaction is conditional on giving such notice and receiving such approval. Upon receiving approval from the Trade and Industry Department, the trade control team should retain the original approval and forward a copy to the shipping area.

D. Shipment Control

Companies must ensure that the goods to be exported or supplied are the same as those appearing on the documents/invoice/licence, and the shipping department needs to have authority to halt the shipment if there is any discrepancy in this regard.

To prevent illegal exports, the shipping/despatch area must not arrange for the packing and shipping or forwarding of any goods to any customer (either within Hong Kong or overseas) without receiving a copy of the Control Form containing the TCM's authorisation that the transaction can proceed. The shipping area will need to maintain a record of this confirmation with the shipping records relating to the transaction. In addition, the shipping/despatch area/department or Shipping Manager should ensure that the TCM's understanding of the transaction as detailed on the Control Form correlates with information received from the sales/marketing area (e.g. the specifications have not changed etc.). If there is any discrepancy between the documents or the trade control area has not confirmed the transaction, the shipping area needs to have authority to halt the shipment and immediately inform the TCM.

In the case of controlled goods or goods otherwise needing an export licence, the receiving/shipping area will need to ensure that an original export licence for the shipment has been obtained from the trade control area and correlates with information received from the sales/marketing area. All these documents will

then need to be forwarded to the relevant carrier to enable despatch of the goods.

E. Internal Audits

To ensure the ICP is being implemented effectively and any deficiencies are identified and rectified, the trade control team should establish procedures for a regular programme of internal audits. Audits should be conducted by the trade control team - in large companies it may be feasible to establish an audit section within the trade control team. Otherwise the audits could be conducted by the TCM. If necessary the audit could also be performed by another group within the company. In all cases, however, it is imperative that the auditor be completely unrelated to the team/department being audited.

The employees who carry out the audit must produce a audit report and report to the TCM who has ultimate responsibility for the trade control system. The TCM should then be responsible for informing other senior management.

As a rule, audits should be carried out at least once a year. All departments within the company implementing trade controls should be audited. However, to promote efficiency, the audit content may vary according to the size of the department, the frequency of export or transfer, the type of goods with which it deals, or other factors.

It is imperative that an auditor who discovers a violation impartially compiles a report stating the details and causes of the violation. If a situation is discovered that is not a violation but which should be corrected, the auditor should record it and also include it in his/her report.

If any corrective action is required, senior management and/or the TCM will issue corrective orders (if any). Teams/departments receiving corrective orders as a result of an audit must take corrective action and report the measures taken to the TCM. A deadline should be established for the implementation of corrective measures and a report filed giving the results.

F. Education and Training

The TCM has responsibility for conveying to all employees the importance of strictly abiding by the *Import and Export Ordinance* and *Import and Export (Strategic Commodities) Regulations* and the company's ICP. To ensure trade controls are effectively implemented, the trade control team would be responsible for conducting regular training and education for all officers within the company.

Trade control training may be provided by adding it to the company's general system of training, but the trade control team must take part in designing the course and evaluating its results. The instructors must be experts in trade control issues. The types of courses to be offered may vary from general briefings for all employees to specific detailed on-the-job training for employees directly involved in trade control, such as people in the sales, engineering and shipping areas/departments of the company.

Specified educational materials will need to be devised and widely disseminated within the company.

Training should be made available on a regular and continuous basis to new employees or new promotees with responsibility in trade control areas within the company. Retraining, particularly as changes to Hong Kong law or internal company trade control procedures are adopted, will also need to take place. A training record should be kept noting the dates and details as well as outcomes of all training.

G. Record Keeping

It should be the responsibility of the trade control team to maintain records of all paperwork generated in relation to a particular transaction or enquiry relevant to the *Import and Export Ordinance* and the *Import and Export (Strategic Commodities) Regulations*. Document control procedures will need to be

devised and adopted and disseminated to relevant areas of the company. Under the Laws of Hong Kong, companies are required to maintain all documents related to the import/export of controlled goods. Adoption of efficient document control procedures will also facilitate the conduct of trade control audits and inspection/verification by officers of the Customs and Excise Department or the Trade and Industry Department if required.

Relevant documents to be stored include business transaction documents (such as order forms, contracts, invoices, bills of lading, air waybills, transaction-related communications etc.) and screening/trade control documents (documents verifying the legitimacy of the transaction e.g. verification on the end user, written judgements as to *bona fides* of stated end use, applications for and copies of import/export licences for controlled goods etc., as well as audit reports, training records, records of instructions to subsidiaries/affiliates, incident reports etc.).

The most appropriate storage medium (original, copies, electronic files, computer disks etc.) should be selected based on efficiency and the company's existing document control procedures.

H. Guidance to Subsidiaries or Affiliates (if applicable)

Any violation of the law by a subsidiary or affiliate dealing in controlled goods is highly likely to have an effect on the parent company. Therefore, trade control practices must be understood and adopted within the subsidiary or affiliate. The company, as the company with a majority shareholding or interest, should provide direction/guidance to its affiliate or subsidiary to comply with the laws and guide it to introduce its own ICP.

I. Obligation to Report and Penalties

All employees should be made aware of an obligation to report any violations of the *Import and Export Ordinance* and the *Import and Export (Strategic Commodities) Regulations* or the ICP or any perceived risk of violation. There

should be a recognised procedure for reporting such occurrences to the TCM. The TCM is responsible for investigating any reported violations and if confirmed, reporting this to other senior management. Senior management must immediately issue corrective orders to all relevant areas/departments and where appropriate report the incident to the Government.

The company should foster a culture of compliance within which people are encouraged to report perceived violations and instances where they perceive a risk of violation of the ICP and/or the Laws of Hong Kong. There should be procedures in place for them to make reports in a confidential manner. The company needs to ensure that people making such reports are not themselves penalised for doing so.

J. Interaction with the Trade and Industry Department

In maintaining effective controls on the movement of strategic goods, a closer partnership with the Government is useful. In this regard, the company will need to have guidelines and procedures for maintaining contact with the Trade and Industry Department. Such contact will of course be necessary where import and export licences need to be sought, but also to ensure it receives updates on any changes to the scope of control and also information on licensing procedures.

Officers of the company's trade control team would be responsible for making import and export applications to the Trade and Industry Department on a necessary basis. In addition, a dialogue should be maintained with the Department on a broader level by the TCM. If the company is a regular trader in controlled goods, the Trade and Industry Department encourages it to maintain a regular dialogue in order to ensure licensing and control issues affecting its business are promptly addressed.

K. Integration with Quality Management Practices

An effective ICP must not be an adjunct or an additional task mandated of employees in isolation from the regular conduct of the company's business. It

should be adopted as part of the company's code of practice that aims at activity of a high ethical and commercial quality and standard, as no doubt other practices and objectives have been adopted by the company. The company should ensure that the procedures for screening transactions and ensuring compliance with the *Import and Export Ordinance* and the *Import and Export (Strategic Commodities) Regulations* and other relevant Hong Kong laws are treated in the same manner and with equal emphasis within quality management practices as other business practices within the company. Trade control compliance should ideally have a status within the company equivalent to that of the company's primary activities such as sales/marketing. Employees should demonstrate familiarity with and commitment to trade control compliance issues and practices.

Conclusion

6. The Trade and Industry Department recognises the values of ICPs in contributing to the effective control of strategic goods. The Department would also appreciate receiving copies or details of the ICPs implemented within individual companies. As such, it is ready to offer advice on the implementation of an effective ICP within Hong Kong companies which is suitable to both the company's individual needs and circumstances. The Department will endeavour to assist with the facilitation of the granting of licences for companies maintaining/ demonstrating commitment to a meaningful and effective ICP and the control of strategic goods wherever possible. For further details of the subject, please visit the Strategic Trade Controls Branch of the Department or contact Ms. Michelle Poon at tel. no. 2398 5578.

Strategic Trade Controls Branch
Trade and Industry Department
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