

The “*Who, What* and *How*”
in Control Compliance and
Best Practice for Licence Application

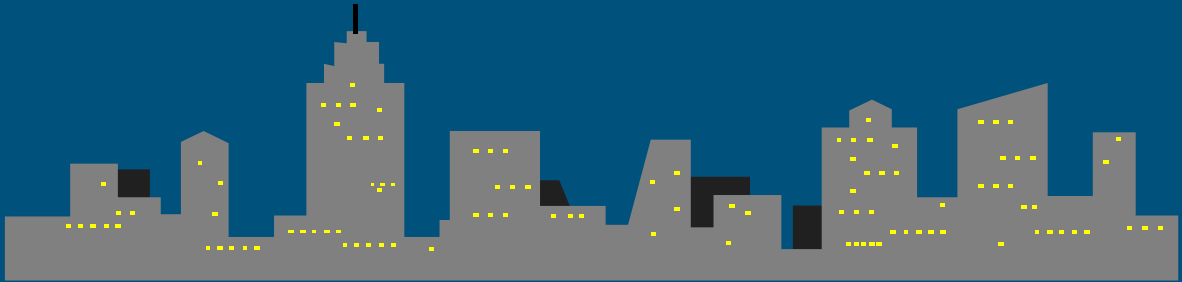
Hong Kong-U.S. Joint Outreach Seminar
on Strategic Trade Control
6 December 2018 • Hong Kong

What control to be complied?

Strategic Trade Control

Strategic Trade Control in Hong Kong

- Import, export and transshipment of strategic commodities are subject to **licensing** control.
- Transit of “more sensitive” items also requires import/export licences.



What sort of things are being controlled?

Strategic Trade Control

Scope of Strategic Trade Control

Import and Export (Strategic Commodities) Regulations

- Schedule 1 : Strategic Commodities (SC)*
- Schedule 2 : More sensitive SC in transit
- Schedule 3 : End-use
- Schedule 4 : Activities related to the items listed in Schedule 3

** Mirror the control of international regimes*

Why is there a control?

Strategic Trade Control

Why is there a control?

- Prevent Hong Kong from being used as a conduit for proliferation
- Secure continued access to high technology for maintaining Hong Kong's role as a regional centre of trade, finance, banking, logistics and telecommunications.

Who should comply?

Strategic Trade Control

Who should comply?

- Importer / Exporter –
Any person who bring SC or cause SC to be brought into Hong Kong
Any person who take out SC or cause SC to be taken out of Hong Kong
- Examples:
Trading Firms
Carriers
Logistics Companies
Secretarial Service Companies

How to comply?

Strategic Trade Control

Statutory Requirements

Import and Export Ordinance

- No person shall import or export any strategic commodity unless with a valid licence issued by the Trade and Industry Department (TID)
- Carriers shall retain possession of any strategic commodity until a valid import licence issued by the TID has been obtained.
- Carriers shall not accept export of any strategic commodity until a valid export licence issued by the TID has been obtained.

Specific Licensing Arrangement for Goods of U.S.-origin under *the “no-undercutting” principle*

- Properly covered by export authorizations, e.g. U.S. Export Licence
- End-User Statement
- Certain undertakings for use of licence exception (e.g. STA)

Best Practice for Licence Application

First thing first ...

- A firm and clear commitment to compliance
- To nominate suitable officer(s) responsible for compliance procedures
- To formulate working procedures and routines for screening transactions
- Know your customers

Know your customers

Know Your Customers – The Four W's

- **What** is being imported/exported?
- **Where** are the goods being exported/re-exported?
- **Who** will be receiving the goods?
- **Why** is the customer purchasing the goods?

What is being imported/exported?

- It is your responsibility to know the commodity classification and disposition of the item being sold.
- If the goods are controlled strategic commodities, licences for import and/or export are required.
- www.stc.tid.gov.hk
Control List
Pre-classification Service

Where are the goods being exported/re-exported?

- Ensure that the goods are not destined for places of concern
- Countries subject to United Nations Sanctions
https://www.tid.gov.hk/english/import_export/uns/uns_countrylist.html
Official website of authorities of individual country
(Example: BIS of the U.S., METI of Japan, etc.)

Who will be receiving the goods?

- Know your customer: Ensure that the goods are to be exported to a legitimate end-user
- Check whether the end user is a proscribed entity

U.S. – Consolidated Screening List:

<https://www.export.gov/article?id=Consolidated-Screening-List>

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Japan – End User List:

http://www.meti.go.jp/english/press/2017/0524_001.html

Why is the customer purchasing the goods?

- Ensure that the technical capabilities of the goods are suitable for the end-use declared



The quantity and performance capabilities of the goods ordered significantly exceed, without satisfactory explanation, the amount or performance normally required for the stated end-use.

What to do when red flag is found

- Reevaluate information after inquiry
- Refrain from transaction if you still have concerns
- Or submit a licence application to the Trade and Industry Department

Setting up your own compliance procedure

- Guidance Note on Company's Internal Control Programme
https://www.stc.tid.gov.hk/english/hksarsys/files/icp_revised.pdf
- Core Elements of A Company's Internal Programme
https://www.stc.tid.gov.hk/english/hksarsys/files/icp_core_elements.pdf
- Advice for ICP
https://www.stc.tid.gov.hk/english/hksarsys/files/ppt_onicp_nov2008.pdf
- ICP published by foreign control authorities:
<https://www.stc.tid.gov.hk/english/hksarsys/promoting.html>

Online Guidance: www.stc.tid.gov.hk

Strategic Trade Control Circulars

Seminars on Strategic Trade Control



Further Questions:



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Thank you

Questions are welcomed
in the Q&A Session

