

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

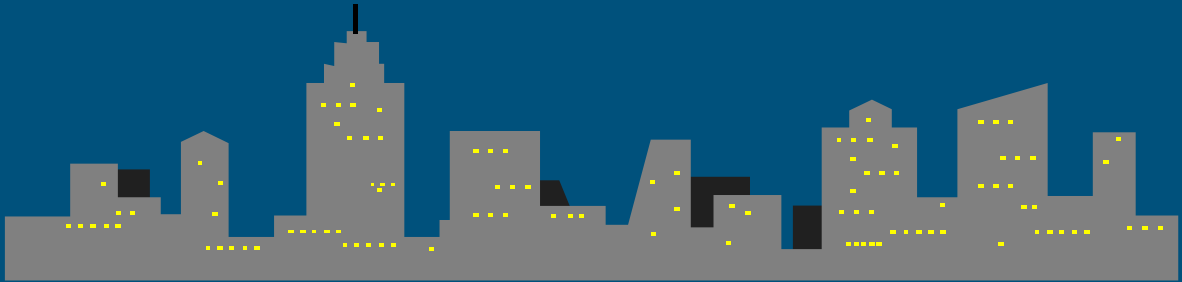
Hong Kong-U.S. Joint Outreach Seminar  
on Strategic Trade Control  
6 December 2018 • Hong Kong

**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

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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?

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***Strategic Trade Control***

## **Why** is there a control?

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- 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?

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***Strategic Trade Control***

## Who should comply?

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- 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?

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### *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***

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- **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?

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- 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](http://www.stc.tid.gov.hk)  
Control List  
Pre-classification Service

## Where are the goods being exported/re-exported?

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- 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](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?

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- 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](http://www.meti.go.jp/english/press/2017/0524_001.html)

## Why is the customer purchasing the goods?

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- 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

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- 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

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- Guidance Note on Company's Internal Control Programme  
[https://www.stc.tid.gov.hk/english/hksarsys/files/icp\\_revised.pdf](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](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](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](http://www.stc.tid.gov.hk)

**Strategic Commodities Control System**  
Trade and Industry Department  
The Government of the Hong Kong Special Administrative Region

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Strategic Commodities Control in Hong Kong

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- Check Licence by Carriers

**Highlights**

9 July 2018

**New Licence Condition and "Important Note" Pass-on Requirement**  
Strategic Trade Controls Circular No. 6/2018 now supercedes Strategic Trade Controls Circular No. 7/2009 on the same subject. The updates include a new licence condition and a pass-on requirement of "Important Note" for import licences covering certain US-origin encryption products (Category 5). Import licences issued before the publication date of this Circular will not be affected.  
more >>  
8 May 2018

**Hong Kong's Strategic Trade Control System: At a Glance**

- General
- Scope of Control
- Whether I need a Licence?
- How is a Licence Application Processed?
- Articles in Transit
- Air Transshipment Cargo Exemption Scheme for Specified Strategic Commodities (SCTREX)

**Guidance Note on Import and Export of Strategic Commodities**

- Trading Firms
- Carriers

# Strategic Trade Control Circulars

**Strategic Commodities Control System**  
Trade and Industry Department  
The Government of the Hong Kong Special Administrative Region

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Home > Pamphlet, Circulars and Publications

**Pamphlet, Circulars and Publications**

Strategic Trade Controls Circular

2001	2002	2003	2004	2005	2006
2007	2008	2009	2010	2011	2012
2013	2014	2015	2016	2017	2018

**Pamphlet and Other Publications**

- Strategic Trade Control Pamphlet
- General Licensing Information
- Information on Specific Products
- Classification Information

**Trade and Industry Department**  
The Government of the Hong Kong Special Administrative Region  
香港特別行政區政府 工業貿易署  
Trade and Industry Department Tower, 700 Nathan Road, Kowloon, Hong Kong

24-hour hotline : 25 922 922 e-mail address : [stc@tid.gov.hk](mailto:stc@tid.gov.hk)

Ref: TRA CR 1015/20  
8 May 2018

**Strategic Trade Controls Circular No. 6/2018**  
**Import and Export of Encryption Products**

This circular reminds traders of the licensing requirements for the import and export of encryption products. Circular No. 7/2009 (dated 12 May 2009) of the same subject is hereby superseded.

**(a) The Legal Basis**

The legal basis for imposing licensing control over strategic commodities in Hong Kong is the Import and Export (Strategic Commodities) Regulations (to be referred as "the Regulations" hereafter) made under the Import and Export (Control) Ordinance (Cap. 61). Laws of Hong Kong Articles contained in the Schedules to the Regulations are organized as Strategic Commodities. The import and export of which must be covered by valid licences issued by the Director-General of Trade and Industry. The Regulations contain four Schedules. Schedule 1 is the list of strategic commodities subject to import and export licensing control. Schedule 2 contains products which, in addition to being subject to import and export control, are controlled even if they are in transit through Hong Kong. Schedules 3 and 4 set items and activities subject to end-use control (also read subsection 2.2 below).

**(b) Control on Encryption Products**

In implementing licensing control on strategic commodities, Hong Kong follows closely the controls adopted by the international control regime. Encryption products are controlled under the Wassenaar Arrangement, an international control regime involving the transfer of sensitive dual-use goods and technology. Encryption products may fall under "Category 5, Part 2 - Information Security" of the Dual-Use Goods List of Schedule 1 to the Regulations. Import and export of the encryption products so specified are subject to licensing control.

## Seminars on Strategic Trade Control



## Further Questions:



Licensing Section  
2398 5575



[stc@tid.gov.hk](mailto:stc@tid.gov.hk)



Classification Section  
2398 5587



# Thank you

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Questions are welcomed  
in the Q&A Session

