



# THE STRATEGIC TRADE ACT (STA) 2010

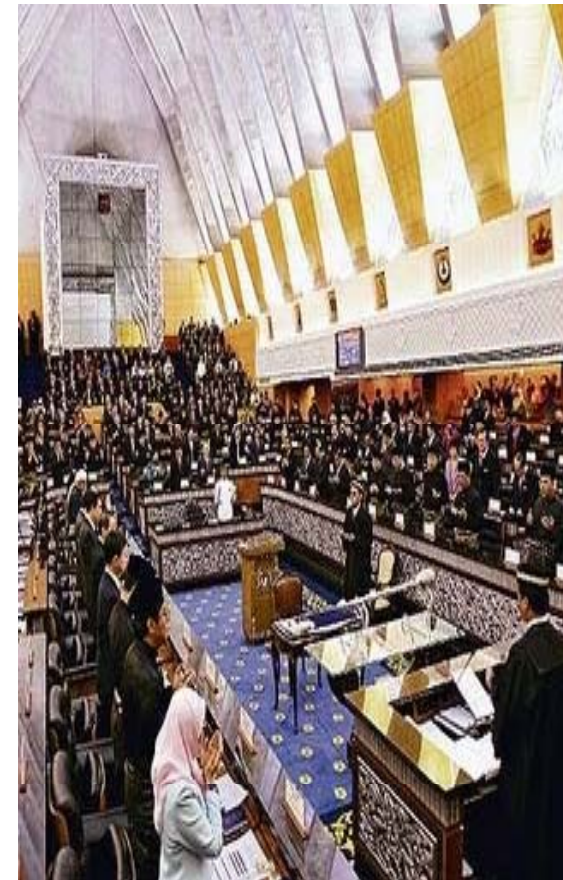
“FACILITATING TRADE IN A  
SECURE TRADING ENVIRONMENT”



# THE ENACTMENT OF STA 2010

## UNSC Resolution 1540 in 2004

- Cabinet - 26 March 2010
- Parliament
  - 5 April 2010 (Dewan Rakyat)
  - 6 May 2010 (Dewan Negara)
- Royal Assent - 2 June 2010
- Gazette - 10 June 2010
- Gazette of Regulations and Orders – 31 December 2010
- Enforcement – 1 April 2011
- On-line Permit Application
  - 1 July 2011



# REGULATIONS AND ORDERS



**STA 2010**



**Strategic Trade  
Regulations 2010**

**Prescribing:**

**forms**

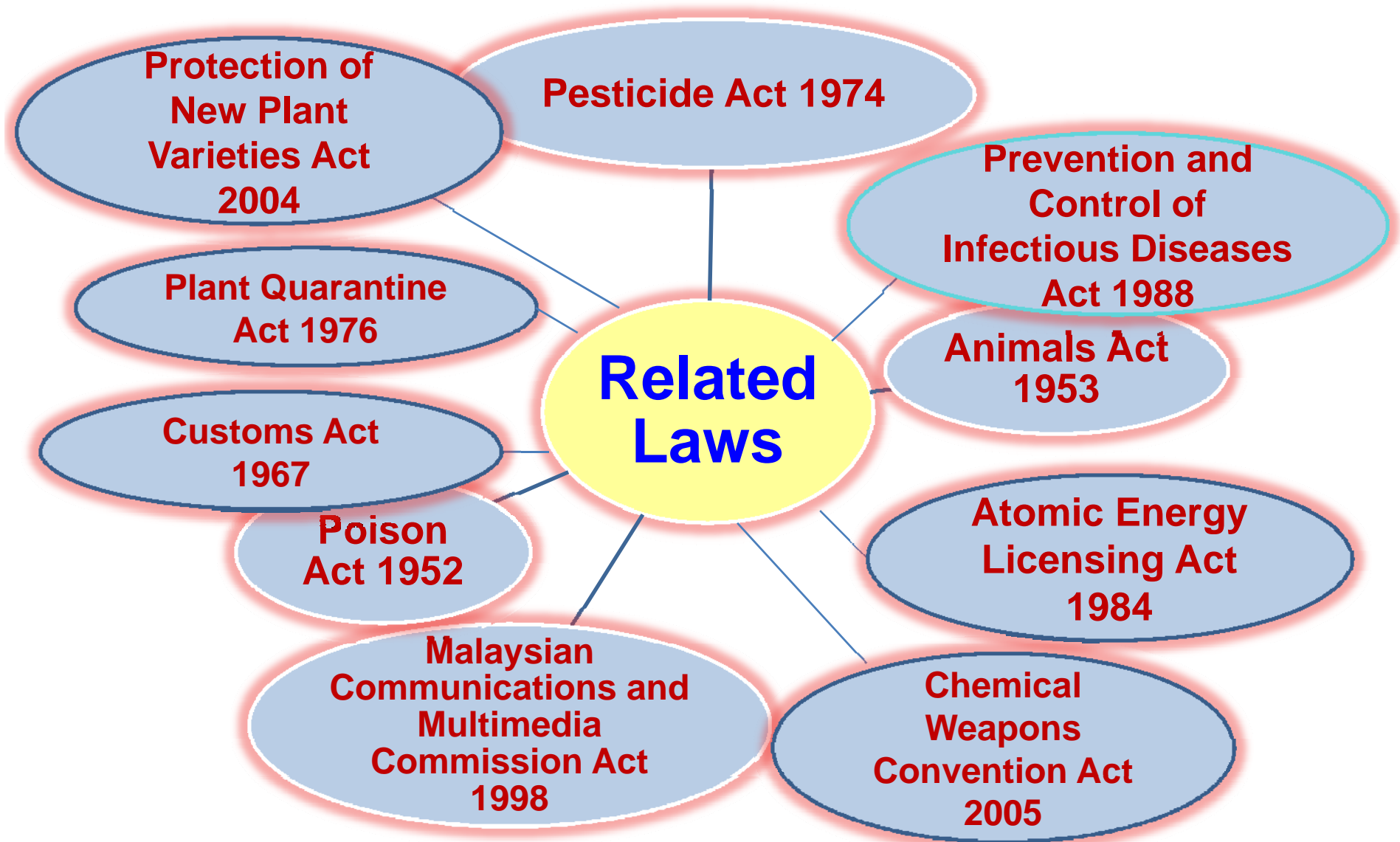
**procedures**

**any matter,  
including  
enforcement**

**payable  
fees**

**Strategic Trade  
(Strategic Items)  
Order 2010**

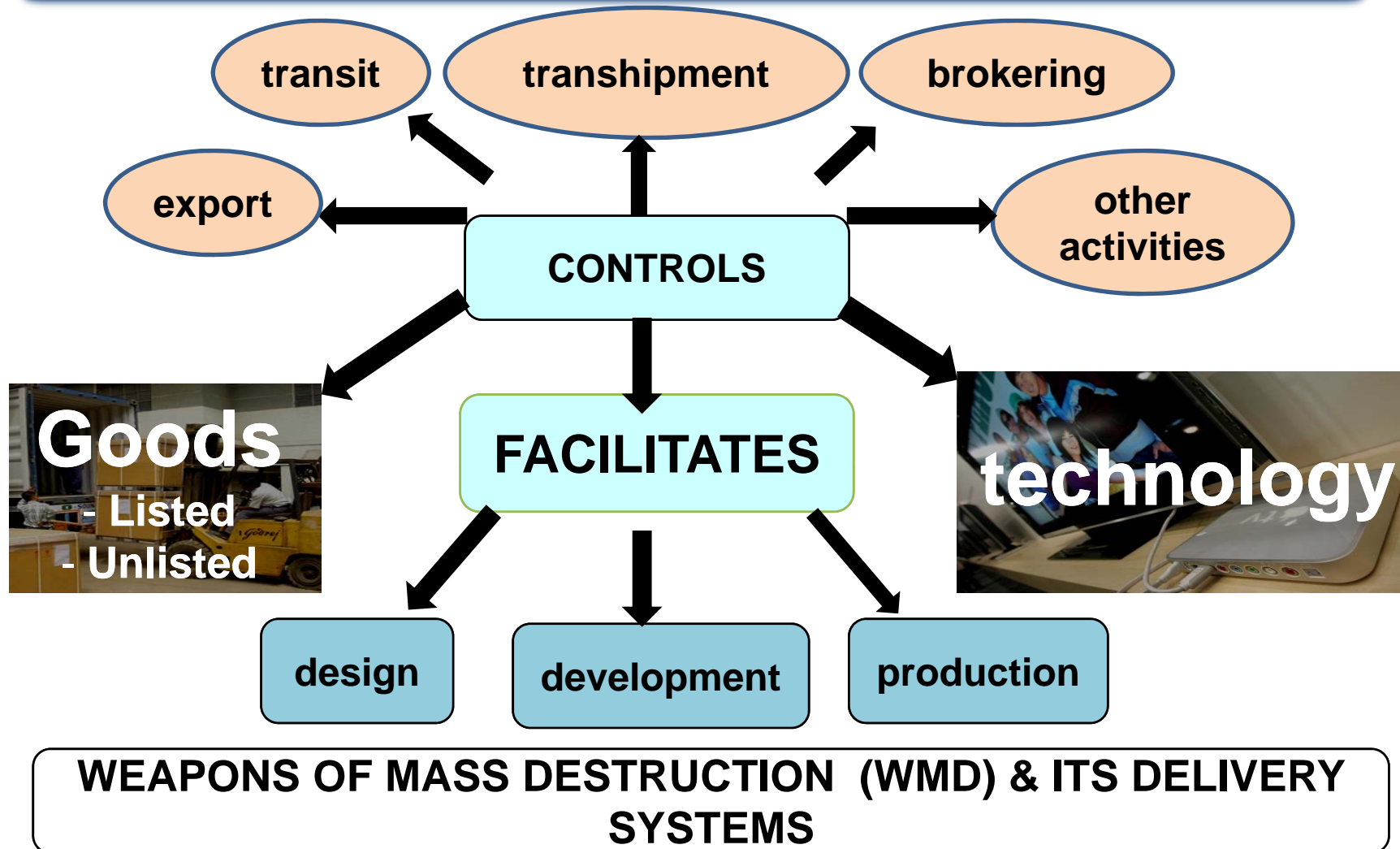
**Strategic Trade  
(Restricted End-Users  
and Prohibited End-  
Users) Order 2010**



**If these laws are in conflict or inconsistent:**

**STA shall prevail**

# OBJECTIVES OF STA



# DEFINITIONS

**export**

- to take or cause to be taken out of Malaysia any items
- by land, sea or air
- or to place any items in a conveyance
- for the purpose of such items being taken out of Malaysia

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

# CONTINUED...

## "INTANGIBLE TECHNOLOGY TRANSFER"

**export**

- to transmit technology by any means
- to a destination outside Malaysia
- includes any oral or visual transmission of technology
- by a communication device

# CONTINUED...

**bring in  
transit**

- to bring items from any country into Malaysia
- by land, sea or air
- where the items are to be taken out from Malaysia



# CONTINUED...

## transhipment

- to remove items from the conveyance on which they were brought into Malaysia
- and to place the items on the same or another conveyance for the purpose of taking them out of Malaysia
- where these acts are carried out using a through bill of lading, airway bill or manifest

# CONTINUED...

## brokering

- the activity of a person who, either on his own behalf or acting as an agent on behalf of another person-
- (a) negotiates, arranges or facilitates the purchasing, financing, conveying, sale or supply of items; or
- (b) buys, sells or supplies such items

# Classification of Products or Items

## Strategic Items

### Listed

#### A. Military

#### B. Dual-Use

- 0) Nuclear Materials, Facilities & Equipment
- 1) Materials, Chemicals, Microorganisms and Toxins
- 2) Material Processing
- 3) Electronics
- 4) Computers
- 5) Telecommunications and Information Security
- 6) Sensors and Lasers
- 7) Navigations & Avionics
- 8) Marine
- 9) Propulsion Systems, Space Vehicles & Related Equipment

### Unlisted

- If a person is informed by the relevant authority; OR
- If a person knows/has reason to believe that the item will or may be used for a restricted activity.

# STRATEGIC ITEMS

## Categories and Numbering Scheme

| 1  | C  | 1                                | 18        |
|--|--|----------------------------------|-----------|
| Technical Category   | Product Group                            | Regime Origin                    | Item. No. |
| 0 Nuclear Materials, Facilities and Equipment              | A Systems, Equipment, Components         | 0: Wassenaar or NSG Trigger List |           |
| 1 Materials, Chemicals, "Microorganism" and "Toxins"       | B Test, Inspection and Product Equipment | 1: MTCR                          |           |
| 2 Material Processing                                      | C Materials                              | 2: NSG Dual-Use List             |           |
| 3 Electronics  | D Software                               | 3: AG                            |           |
| 4 Computers  | E Technology                             | 4: CWC                           |           |
| 5 Telecommunications and "Information Security"            |  |                                  |           |
| 6 Sensors and Lasers                                       |  |                                  |           |
| 7 Navigation and Avionics                                  |  |                                  |           |
| 8 Marine   |  |                                  |           |
| 9 Propulsion Systems, Space Vehicles and Related Equipment |  |                                  |           |

**e.g 1C118**

**Titanium-stabilised duplex stainless steel (Ti-DSS) having all of the following:**

**a) Having all of the following characteristics:**

- **Containing 17.0 - 23.0 weight percent chromium and 4.5 - 7.0 weight percent nickel;**
- **Having a titanium content of greater than 0.10 weight percent; and**
- **A ferritic-austenitic microstructure (also referred to as a two-phase microstructure) of which at least 10 percent is austenite by volume (according to ASTM E-1181-87 or national equivalents); and**

**b) Having any of the following forms:**

- **Ingots or bars having a size of 100 mm or more in each dimension;**
- **Sheets having a width of 600 mm or more and a thickness of 3 mm or less; or**
- **Tubes having an outer diameter of 600 mm or more and a wall thickness of 3 mm or less.**

e.g 1C350

## TRIETHANOLAMINE (CAS 102-71-6)

### *Military Use*

- Triethanolamine is a **precursor** for **nitrogen mustard gas**.

### *Commercial Use*

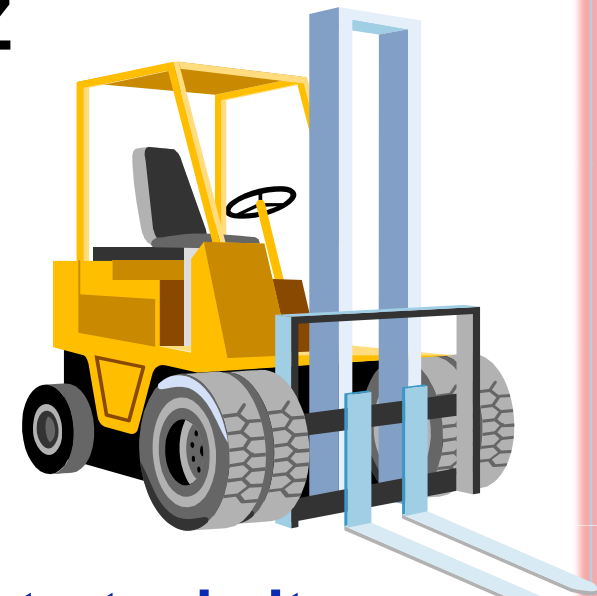
- It is extensively used in personal care products, including **soaps**, **shampoos**, **hair styling products** and **dyes**, **skin cleansers**, and **cosmetics**. It is also used in the textile industry.

Triethanolamine serves as an **additive** for **cement**, **concrete**, and **polymers** (including **resins** and **rubber**).



# EXEMPTIONS

- Transit and Transshipment
  - arrive in a **Free Commercial Zone (FCZ)** or brought immediately into FCZ
  - **remain** in the FCZ
  - not exceeding **30 days**



**\* 95% of transit and transshipment of strategic items are exempted from applying for permits.**

# HOWEVER...

- **No exemption** for transit for:



North Korea **and** Iran



- **No exemption** for transit for **Military Items** to:



Congo



Ivory Coast



Lebanon



Sudan



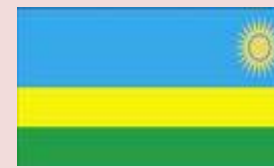
Afghanistan



Iraq



Liberia



Rwanda



Somalia



Eritrea



Libya



## AND...

- **No exemption for Transshipment Permit for Schedule Three items of the STA Regulations 2010, e.g:**
  - ❖ **Military items – rifles, revolvers, pistols, ammunitions, bombs, torpedoes, rockets, missiles, war vessels, war aircrafts**
  - ❖ **Nuclear reactors, gas centrifuge plant**
  - ❖ **Uranium, maraging steel, tungsten, molybdenum**
  - ❖ **Toxic chemicals, human pathogens**
  - ❖ **Information security – cryptography, test equipment**

# PARTNER AGENCIES

## LICENSING MINISTRY/AGENCIES



**Strategic Trade  
Secretariat, MITI**



**Malaysian  
Communications and  
Multimedia Commission  
(MCMC)**



**Atomic Energy  
Licensing Board  
(AELB)**



**Pharmaceutical  
Services Division,  
Ministry of Health**

## ENFORCEMENT AGENCIES



**Royal Malaysian  
Customs**



**Royal Malaysian  
Police**



**Malaysian  
Maritime  
Enforcement  
Agency**



**MCMC**



**Other officers  
specified by  
the Controller**

# CATEGORIES OF PERMITS

## SINGLE-USE

**ONE-TIME** EXPORT, TRANSHIPMENT OR BRING IN TRANSIT PERMIT  
for a **SINGLE COUNTRY / DESTINATION**

Valid for **6 months**

## MULTIPLE- USE

**MULTIPLE** EXPORTS  
OR TRANSHIPMENT of  
the items for  
**DIFFERENT  
COUNTRIES /  
DESTINATIONS**

Valid for **2 years**

PERMIT

## BULK

**MULTIPLE** EXPORTS OR  
TRANSHIPMENT of items  
for a **SINGLE COUNTRY /  
DESTINATION**

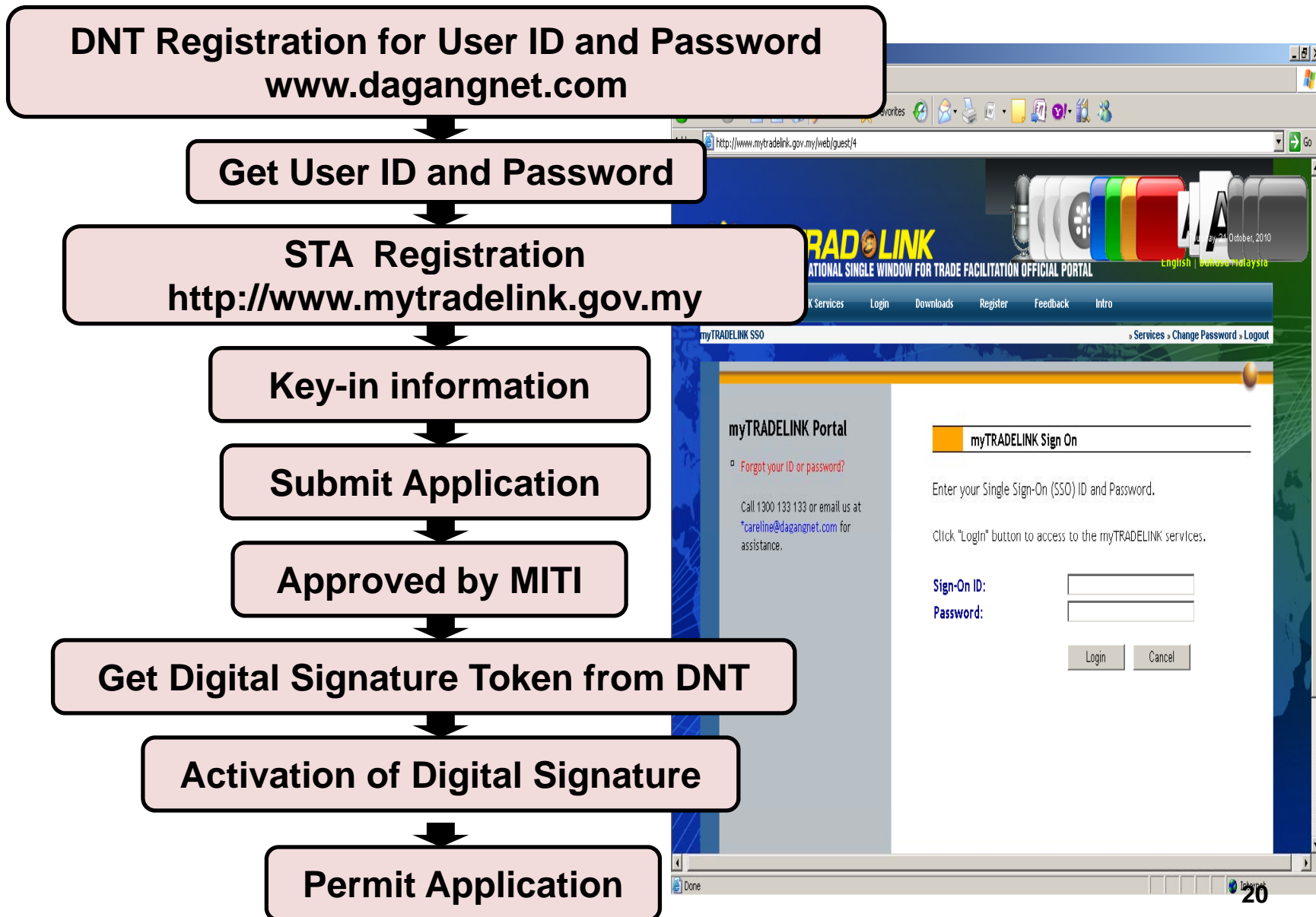
Valid for **2 years**

## SPECIAL

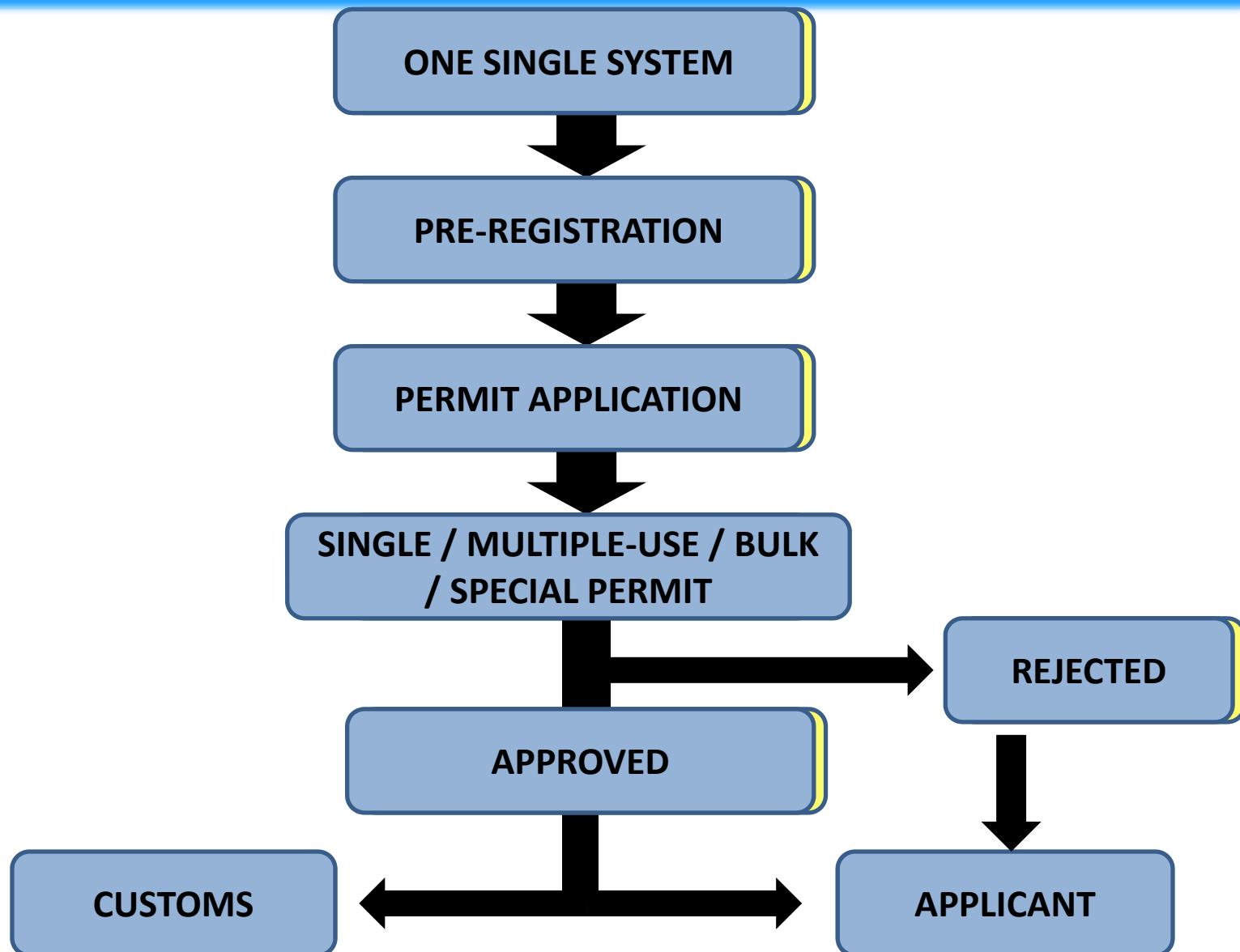
**ONE-TIME** EXPORT, TRANSHIPMENT OR BRING IN TRANSIT PERMIT  
for a **SINGLE COUNTRY / DESTINATION** which the end-user is a  
**RESTRICTED END-USER**

Valid for **1 year**

# REGISTRATION PROCESS FLOW



# REGISTRATION / PERMIT APPLICATION



# SELF-DECLARATION

- Effective **1 July 2011**, company to declare in the **K2 and K8** customs declaration forms whether or not **products** exported are **strategic items**.
- If product is ticked as **strategic item**, the **system** will **prompt** for the **STA export permit license number** to be entered.
- A Circular on the self-declaration by companies and permit validation by Royal Malaysian Customs was issued by the Strategic Trade Secretariat on 30 June 2011. It is available on MITI website for reference.

# BENEFITS

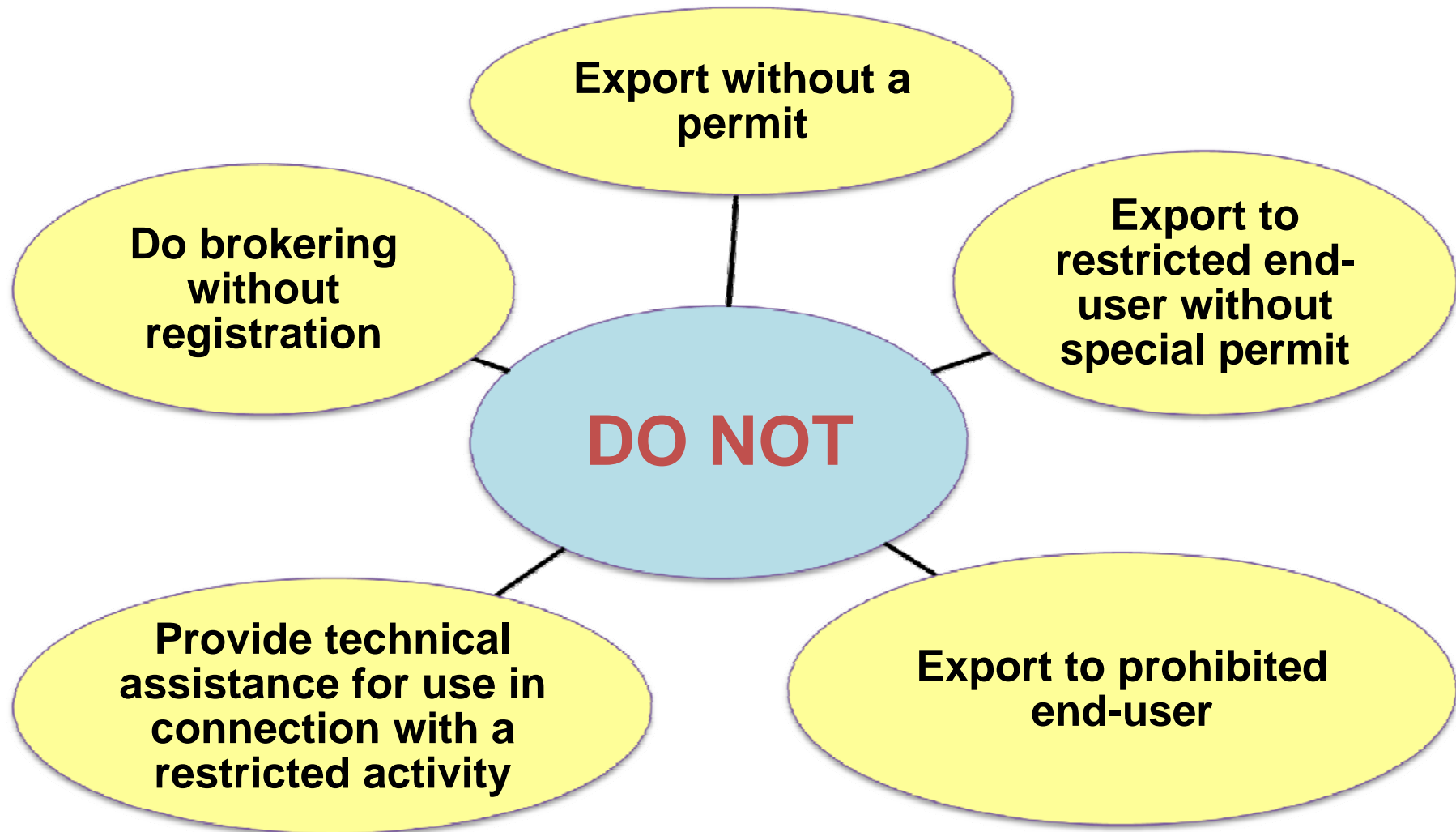
- **facilitates trade**
- **build investors' confidence**
- **enhance national image**
- **international obligations (UNSCR 1540)**
- **protect exporters from being exploited**
- **contribute towards international peace and security**

# CHALLENGES

- **MNCs vs local SMEs**
- **Transit / Transshipment**
- **Brokers – who are they?**
- **Product identification - Export Control Classification Number (ECCN) / Harmonised System (HS) Code**
- **Trade vs Security**
- **Costs**
- **Implementation issues**
- **Enforcement**



# OFFENCES



# PENALTIES

- Severity of penalty depends on intent and knowledge

## For arms and related materials

- With the intent and knowledge to unlawfully export, tranship or bring into transit without a permit:
  - Where death is the result – a death sentence or imprisonment for natural life
  - In the case of a body corporate a minimum fine of RM 30 million
  - In any other case, imprisonment for not less than 10 years or with a fine of not less than RM10 million or both (body corporate – RM20 million)
- Without the intent and knowledge to unlawfully export, tranship or bring into transit without a permit:
  - Imprisonment of not less than 5 years or fine of not less than RM5 million or both (body corporate - RM10 million)

# CONT...

## For strategic items and unlisted items

- With the intent and knowledge to unlawfully export, transship or bring into transit without a permit:
  - imprisonment for a term of not less than 10 years or a fine of not less than RM10 million or both (body corporate – RM20 million)
- Without the intent and knowledge to unlawfully export, transship or bring into transit without a permit:
  - imprisonment of not less than 5 years or fine of not less than RM5 million or both (body corporate - RM10 million)

# REFERENCE

- [www.miti.gov.my](http://www.miti.gov.my) > Guidelines > Strategic Trade Act
- A copy of the Strategic Trade Act 2010, Regulations and Orders can be purchased from Percetakan Nasional Berhad or is available upon subscription at <http://www.lawnet.com.my/lawnetPublic/>
- Feedback and comments on this subject can be sent to [admin.sts@miti.gov.my](mailto:admin.sts@miti.gov.my).
- **STS Hotline** – 03-6203 9846
- **STS Client Day**, every **fourth Wednesday of the month, 10 a.m. to 12 noon** in the Strategic Trade Secretariat Office, MITI.

THANK YOU

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STRATEGIC TRADE SECRETARIAT, MITI