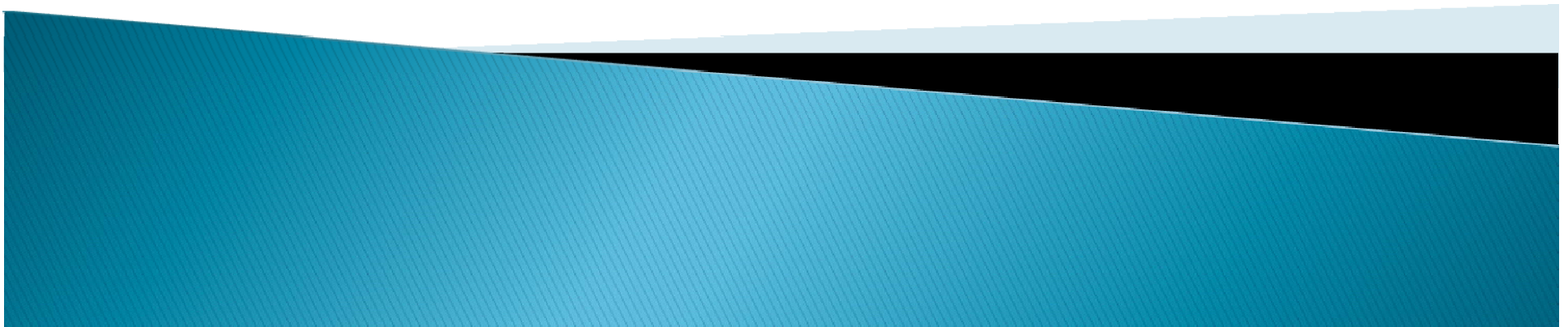


The Draft Strategic Trade Security Management Act (STMA)

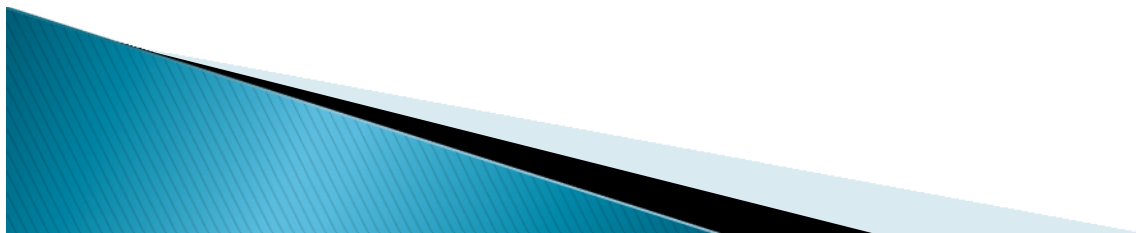


TITLE IV – LIABILITIES, VIOLATIONS, PENALTIES AND SANCTIONS




Acts Constituting Violations

- Failure to register;
- Engaging in the covered acts without authorization;
- Committing acts in breach of the terms and conditions of authorization;
- Misrepresentation or concealment of any material fact;
- To engage in any activity prohibited by orders/ regulations of the Authority;



Acts Constituting Violations

- Conspiracy to commit a violation;
 - Forging authorizations, registrations, certificates or other documents issued under this Act;
 - Obstruct or hinder the Authority or any government agency in the execution of its powers
 - induce a violation of this Act or any order, regulation, or authorization issued ;
 - failure to comply with record keeping requirements.
- 

Criminal Enforcement

- ▶ Bureau of Customs – violations of import/export provisions of this Act and the Tariff and Customs Code;
- ◉ Coast Guard – physical smuggling and border security violations;
- ◉ Philippine National Police/National Bureau of Investigation – violations of the Revised Penal Code and related laws.



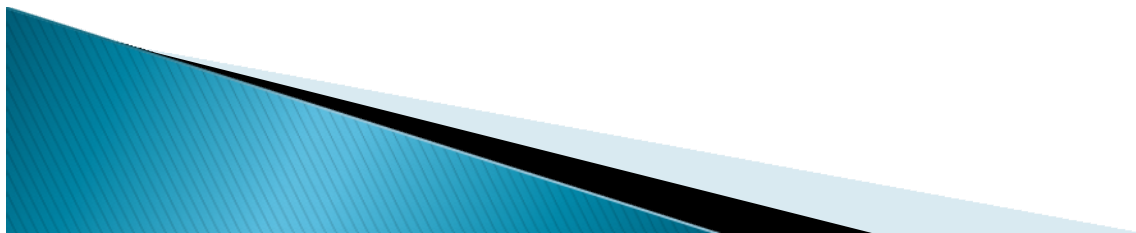
Penalties

- a) Willful & intentional violations - >6 to 12 years imprisonment and fine of P1 million-5 million;
- b) Other violations - >6 months to 6 years imprisonment and fine of P100,000.00 - 1 million.



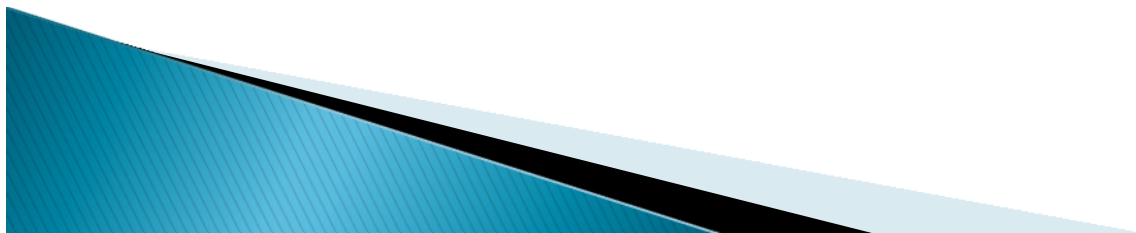
Administrative Penalties

- Limitation, revocation, annulment of authorization or registration;
- Fines of twice the value of the strategic good under the contract;
- Cancellation, suspension, revocation of registration to operate as a partnership, corporation, association and other juridical entity.



Liabilities of Officers– Juridical Entities

- Officer who willfully and intentionally consented to, tolerated violations shall be made liable as co-principal
- Partner;
- President;
- Director;
- Manager;
- Trustee;
- Administrator;



Liabilities of Government Officials

A government official or employee who commits, or facilitates the commission of, any violation under of this Act shall be:

- a) administratively liable under Civil Service rules;
- b) without prejudice to criminal liability.
- c) The official or employee shall, upon conviction, be dismissed from the service.



Liability if offender is Alien

- Service of sentence;
- Deportation;
- Permanently barred from the country.



Forfeiture

In addition to imprisonment and fine, the strategic goods subject of the offense, including the proceeds shall be forfeited in favor of the Government.

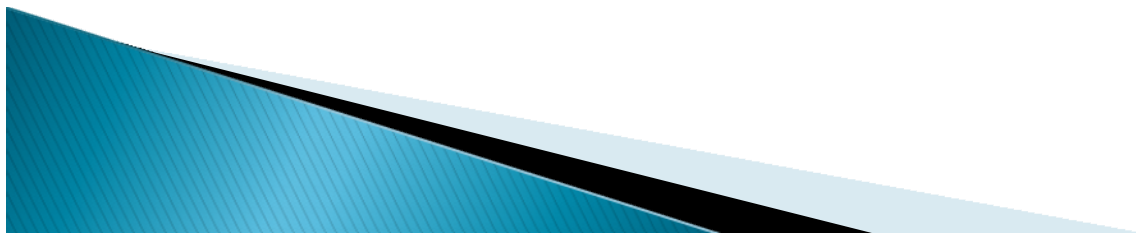
If the strategic goods are outside of the Philippines, the court may order the convicted offender to pay the amount equal to the value of the strategic goods or as assessed by the Authority.



Protection of Officers

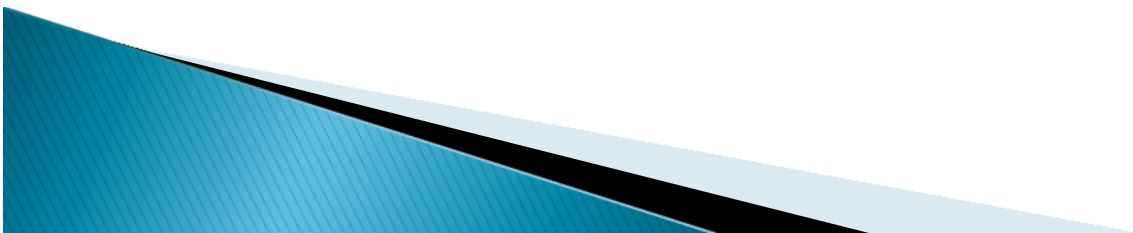
No action or prosecution shall be brought, instituted or maintained against the Authority or an authorized officer for any act ordered or done to carry out this Act or IRR if:

- a) the act was done in good faith and in a
- b) reasonable belief that it was necessary for the purpose intended to be served.



Jurisdiction

The Regional Trial Court shall have jurisdiction over criminal prosecutions for violation of any provisions of this Act, as well as over applications for the issuance and grant of applicable provisional remedies under the Rules of Court.



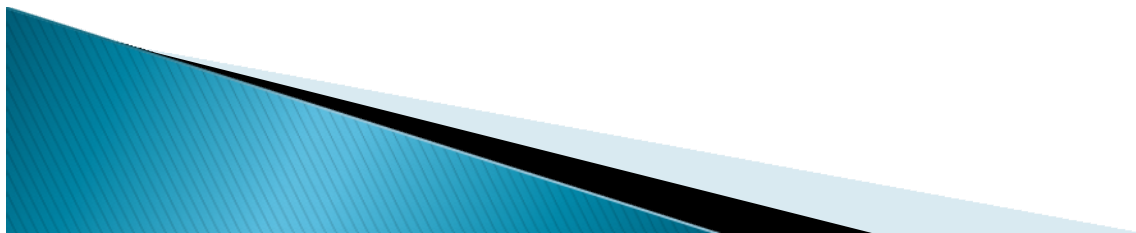
International Legal Cooperation

- Request for assistance from a foreign state– Dept of Justice (DoJ) executes the request or refuse to execute for a valid reason;
- DOJ may request for assistance from a foreign state in the investigation or prosecution of violations under the Act.




Types of Assistance

1. Taking of evidence or obtaining voluntary statements;
2. Arrangement for persons to give evidence;
3. Service of judicial documents;
4. Executing search & seizure;
5. Examining objects and sites;



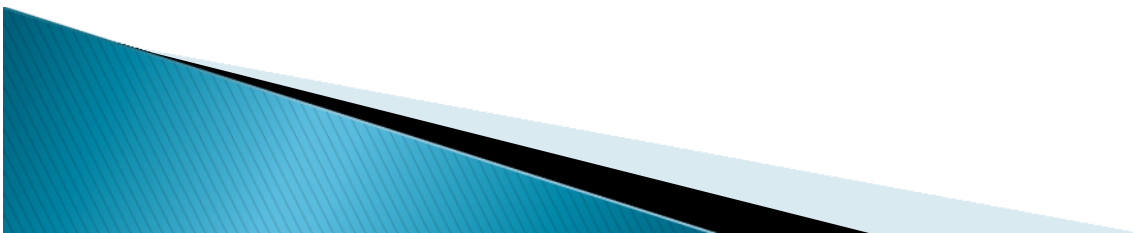
Types of Assistance

6. Providing original or certified true copies of relevant documents;
 7. Identifying or tracing property derived from the commission of an offense;
 8. Restraining of dealings in property or freezing of property derived from the commission of an offense;
 9. Recovery, forfeiture or confiscation of property derived from the commission of an offense;
 10. Locating & identifying witnesses & suspects.
- 


International Administrative Cooperation & Assistance

Authority to encourage and facilitate international cooperation on:

- Matters regarding implementation of the Act;
- Information in implementation measures;
- Sharing of best practices & lessons learned from implementation



Potential benefits Strategic Trade Legislation

- Philippines is viewed positively as a country with reduced risk of diversion of dual-use goods;
 - Opens up the country for possible investments in high-technology dual use items;
 - Enhances employment opportunity for highly skilled professionals e.g. scientists and engineers
 - Exposes the country to high-technology items contributing to economic development & national security.
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Thank you

