

The Draft Strategic Trade Security Management Act (STMA)



Background: Strategic Trade Controls

- **UN Security Council Resolution 1540**
 - enforce measures to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery,
- **Multilateral Export Control Arrangements**
 - an informal, non legally binding framework for States to combat problems on export control and proliferation of weapons of mass destruction

Multilateral Export Control Arrangements

Regime	Established	Membership	Controls
Missile Technology Control Regime (MTCR)	1987	34	Missiles and missile Technologies
Nuclear Suppliers Group (NSG)	1975	46	Nuclear goods and technologies
Australia Group (AG)	1985	40	Chemical and biological technologies
Wassenaar Arrangement	1996	40	Conventional weapons and dual use goods and technologies


Mandate

Article II Sec. 8 of Philippine Constitution – The Philippines, adopts and pursues a policy of freedom from nuclear weapons in its territory.

Status of the Bill

- ▶ Identified as one of the priority bills in the legislative agenda of the President


What are considered Strategic Goods?

- a) Military goods
 - b) Dual Use goods
 - c) Other goods regulated for reasons of national security, foreign policy, anti-terrorism, crime control or public safety
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Strategic Trade Management Authority – composition

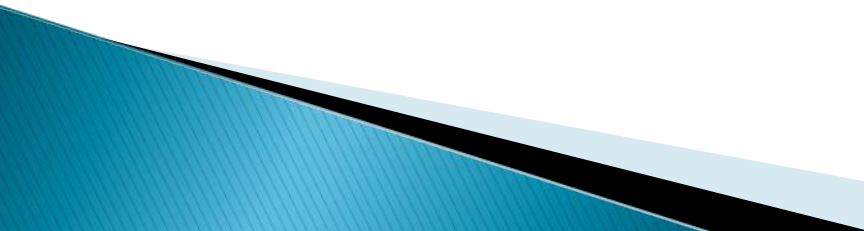
- ▶ Strategic Trade Management Board
 - ▶ Strategic Trade Management Office
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The Strategic Trade Management Board – Functions

- ▶ Adopt strategies, policies and guidelines;
 - ▶ Establish the National Strategic Goods List;
 - ▶ Coordinate with other government agencies;
 - ▶ Coordinate with governments of other countries;
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Strategic Trade Management Office

– Functions

- ▶ Implement policies, strategies by the Board;
 - ▶ Register persons;
 - ▶ Issue/deny/modify authorizations;
 - ▶ Establish compliance checks– end–user controls;
 - ▶ Investigate administrative violations;
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Strategic Trade Management Office


- Functions

- **Conduct enforcement;**
 - **Conduct capacity building of personnel;**
 - **Coordinate with industry.**
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The Strategic Trade Management Authority

- ▶ Strategic Trade Management Board
 - 3 Permanent Members Appointed by the President
 - OES, DND, DFA, DILG, DOF & DTI
 - Support Agencies
- ▶ Strategic Trade Management Office
 - Headed by a Director General
 - 2 Deputies Director General


Responsibilities of Persons

- ▶ Ascertain if goods require authorization;
 - ▶ Obtain authorization;
 - ▶ Obtain carrier consent;
 - ▶ Keep records of transactions;
 - ▶ Present authorization to Customs.
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The National Strategic Goods List (NSGL)

- list of goods subject to authorization under this Act;
 - established by the Strategic Trade Management Authority
 - adopted from the EU Control List.
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Who are covered?

- any person engaged in the trade of strategic goods and related services operating within the Philippines;
 - Filipino citizens wherever located and foreign persons not in the Philippines but doing business within the Philippines involving strategic goods.
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Activities Covered – strategic goods

- ▶ *Export;*
 - ▶ *Import;*
 - ▶ *Re-export;*
 - ▶ *Transfer;*
 - ▶ *Transit;*
 - ▶ *Transshipment.*
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Definitions

Export – shipment of goods from the Philippines to another country;

Transmission of software & technology to persons outside the Philippines.

Import – shipment of goods from a foreign country into the Philippines;

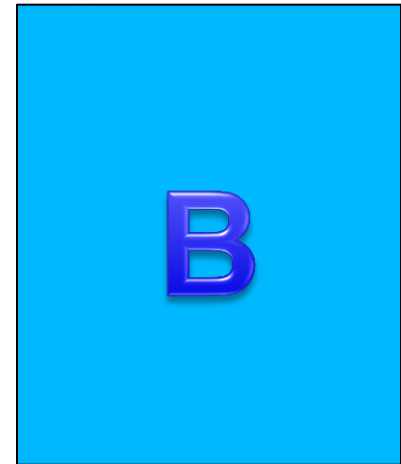
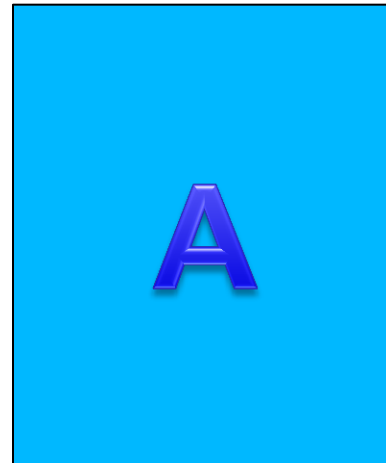
Transmission of software & technology from a foreign country into the Philippines.



Definitions

Re-export - shipment of goods from the Philippines to a foreign country from which such goods are shipped to another foreign country.

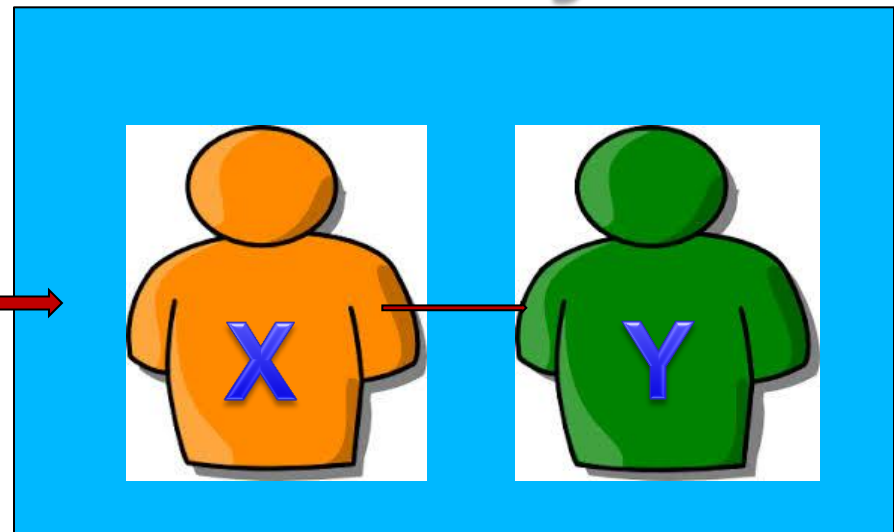
Country



Definitions

Transfer – shipment of goods or transmission of software/technology previously exported from the Philippines from one person to another person within a single foreign country


Country A



Definitions

Transit – shipment of goods entering and passing through Philippine territory with a final destination outside the Philippines and the goods **REMAINING IN THE CARRIER AT ALL TIMES**;

Transshipment – shipment of goods on a carrier entering Philippine territory and the goods are **UNLOADED FROM THE CARRIER AND RELOADED IN THE SAME CARRIER BOUND FOR A FOREIGN COUNTRY**.



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;
- Conspiracy to commit a violation;
- Forging authorizations, registrations, certificates or other documents issued under this Act.

Criminal Enforcement

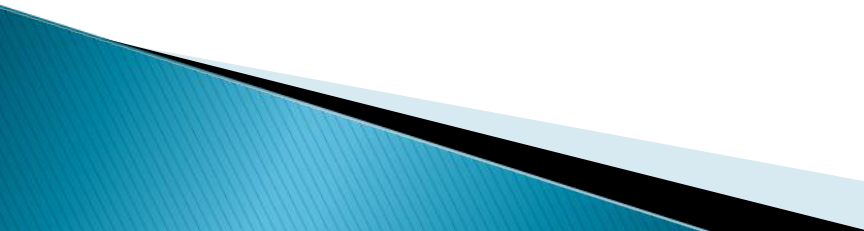
- ▶ **Bureau of Customs** – violations of import/export provisions of this Act and the Tariff and Customs Code;
- **Coast Guard** – physical smuggling and border security violations;
- **Philippine National Police/National Bureau of Investigation** – violations of the Revised Penal Code and related laws.

Penalties

- a) Major violations – 6 to 12 years imprisonment and fine of P1 million–5 million.
- a) Minor violations – 6 months to 6 years imprisonment and fine of P100,000.00 – 1 million.

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.
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Other Considerations

Compliance with international obligations under UNSCR 1540 which is more than 10 years old.

Thank you

A decorative graphic at the bottom of the slide consisting of several overlapping, wavy shapes. The largest shape is a dark teal color with a fine, diagonal hatched pattern. Above it is a solid black shape, and further up is a light blue shape. The overall effect is a modern, layered background element.