



MEASURES ON TRANSSHIPMENT CONTROL (UNDER MALAYSIA'S STA 2010)

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Importance of Effective Transit & Transshipment Management for Malaysia



- Regional trading hub - transit and transshipment main activities
- High volume of transit and transshipment trade
- High proportion of violation cases on strategic trade involve transit and transshipment
- Security implications on ports and supply chain
- Effect on country's image and reputation

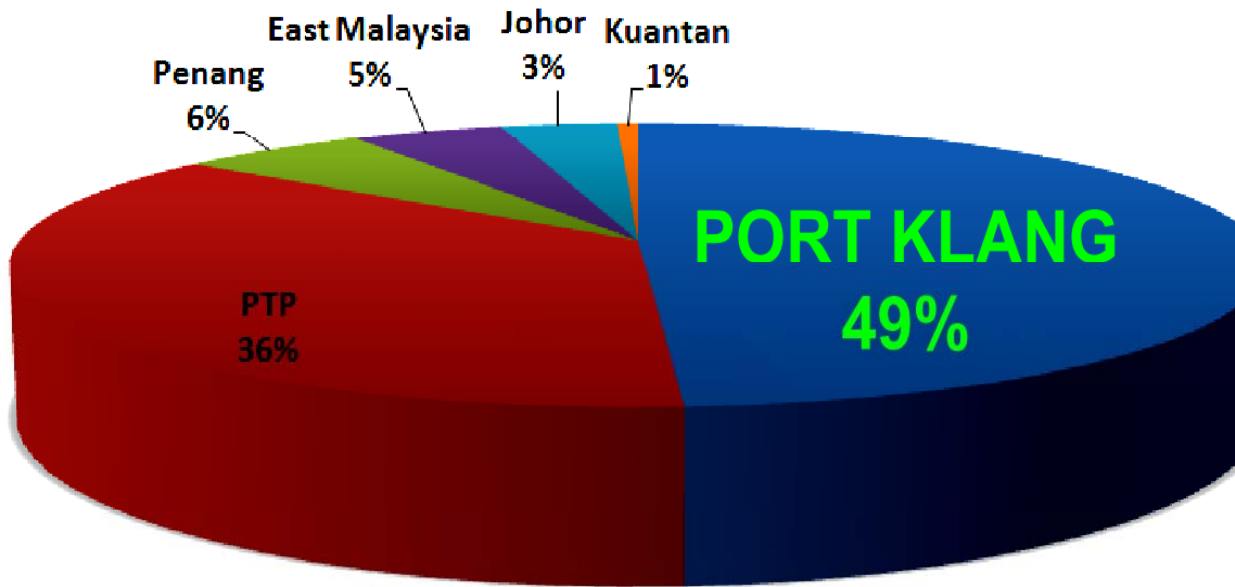
Facilitating Trade in a Secure Trading Environment

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MAP OF PENINSULAR MALAYSIA



M'SIA CONTAINER



21.08 Mil TEU In 2013

WORLD PORT RANKING

Ranking	Port	Volume
1	Shanghai	32,575
2	Singapore	31,649
3	Hong Kong	23,100
4	Shenzhen	22,941
5	Busan	17,023
6	Ningbo	16,830
7	Guangzhou	14,744
8	Qingdao	14,502
9	Dubai	13,280
10	Tianjin	12,289
11	Rotterdam	11,866
12	Port Klang	10,001
13	Kaohsiung	9,781
14	Hamburg	8,900
15	Antwerp	8,635

	1980	:	57th
	1990	:	35th
	1995	:	26th
	2008	:	15th
	2011	:	13th
	2012	:	12th
	2013	:	12th (TBC)

TOTAL TEU PORT KLANG

Year	Import	Export	Transshipment	Total
2010	1,716,304	1,718,845	5,436,596	8,871,745
2011	1,794,508	1,720,542	6,088,876	9,603,926
2012	1,872,867	1,821,995	6,306,210	10,001,072
2013	1,915,603	1,860,613	6,224,314	10,000,530
2014	1,962,431	1,942,773	6,621,522	10,526,726
2015*	1,489,710	1,454,846	5,552,283	8,496,839

AVERAGE TEU'S PER DAY IMPORT & EXPORT 10,000 TEU'S
TRANSSHIPMENT 17,000 TEU'S

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Malaysian Freight Forwarders Implicated in Scheme to Export Aircraft Parts to China and Iran



- On August 28, 2008 **Desmond Dinesh Frank – Freight Forwarder based in Penang, a citizen and resident of Malaysia was sentenced to 23 months in prison in the US** after pleading guilty to **several felonies** in connection with a plot to **illegally export aircraft parts (military items) to China and Iran**
- Desmond the **operator of Asian Sky Support Sdn Bhd, Malaysia** conspired in 2007 to **illegally export C-130 military aircraft training equipment to China, illegally exporting defense articles, smuggling** and two counts of **money laundering**. He also conspired to **illegally export and cause the re-export of goods, technology and services to Iran without** first obtaining the **required authorisation** from the US Treasury Department. He was **also found guilty of conspiring to illegally export military training components** used in military flight simulators **from the USA to Malaysia and ultimately to Hong Kong China without the required license** from the US
- There were two other Malaysians involved and were formally charged (indicted) in 2008 but were not extradited. Several accomplices from Hong Kong have also been indicted. In Oct 2007 **Desmond was arrested by ICE (US Immigration and Customs enforcement) agents in Hawaii**

Source: Bureau Of Industry And Security , US Dept of Commerce and various others

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Related Cases in 2011

Malaysia Seen as Possible WMD Transport Hub

<http://www.nti.org/gsn/article/malaysia-seen-as-possible-wmd-transport-hub/>

- Malaysian Home Minister Datuk Seri Hishammuddin Hussein on Monday said his **country was probably used as a midshipment point for the illicit movement of WMD materials**, *The Star* newspaper reported (see [GSN](#), March 18)
- "Authorities in the Southeast Asian state last week announced they had seized two containers from a Malaysian-flagged ship that were filled with technology that could have applications in the building of nuclear weapons. Reports indicated the vessel was heading from China to Iran
- Kuala Lumpur has been criticized in the past for an absence of export control regulations that allowed smugglers to use Malaysia as a transit point in the shipment of WMD technology to nations such as North Korea, Iran and Libya. **A strategic trade law passed last year was intended to address the concern by setting significant financial penalties and jail sentences for traffickers** (see [GSN](#), March 17; [The Star](#), March 22)



Why Malaysia Requires STA

- UNSCR 1540 – OP3(d) requires all States to:

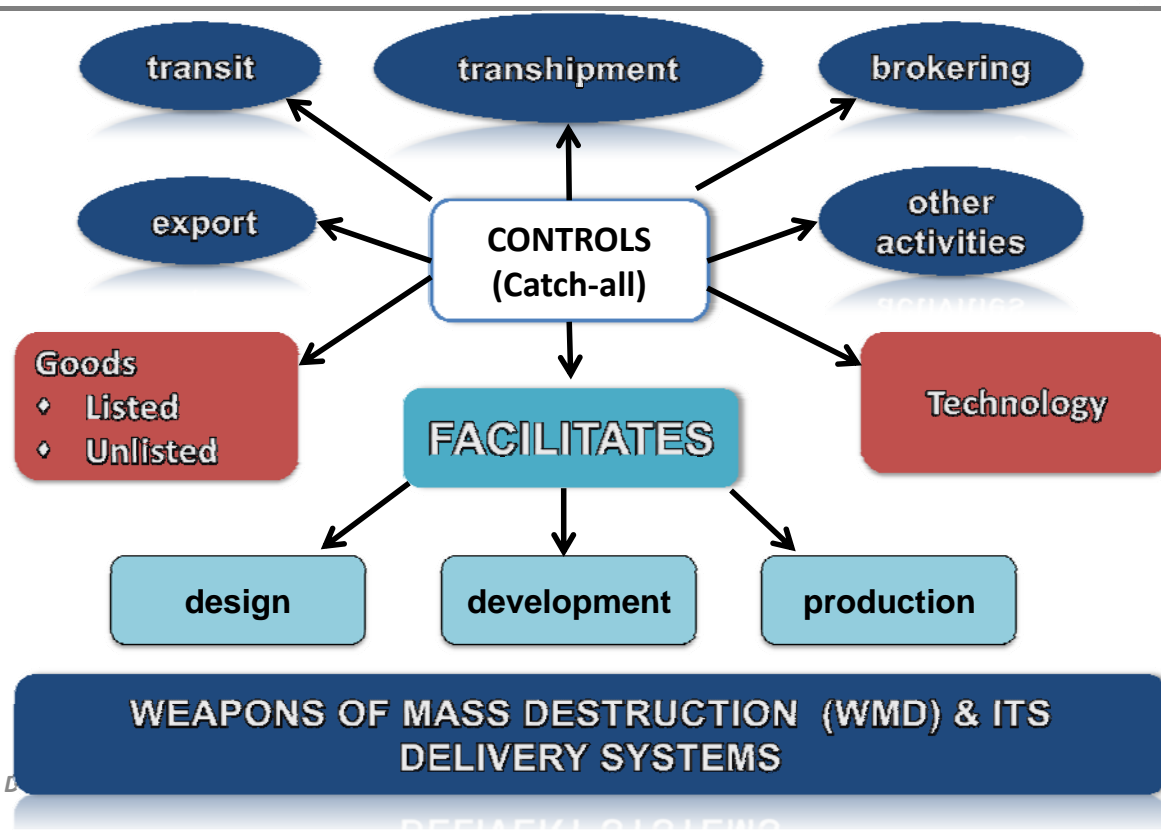


United Nations
Security Council
Resolution 1540

“take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall: establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export.....”

As the UN Member State Malaysia is bound by Article 25 and 48 of the UN Charter to comply with and implement these obligations.

Objective of STA 2010



Definition

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 on the same conveyance on which they are brought into Malaysia

Tranship

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



Transit and Transshipment Control

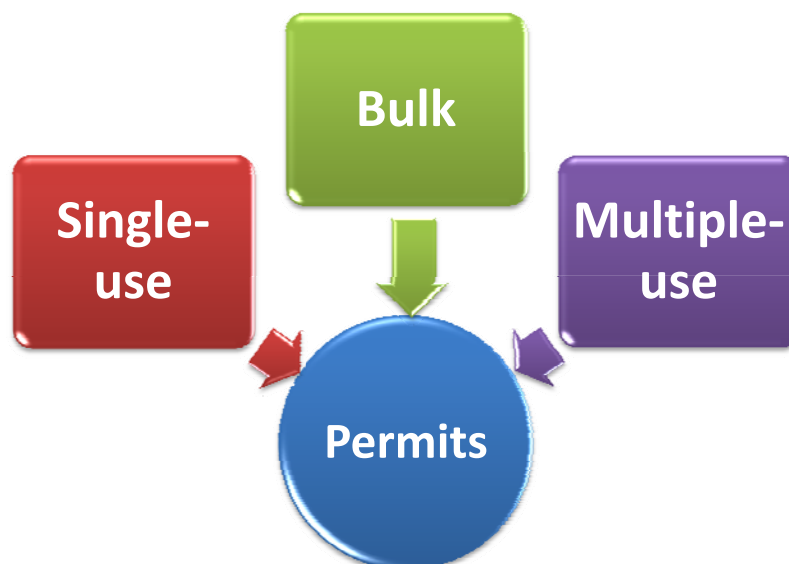
Malaysia's STA 2010

- Article 9 (1): no person shall export, tranship or bring in transit any strategic items unless he obtains a permit
- Article 9 (2): no person shall export, tranship or bring in transit strategic items or un listed items to a restricted end-user specified in subsection 8(1) unless he obtains a permit
- Article 9 (3): no person shall export, tranship or bring in transit strategic items or unlisted items to prohibited end-user specified in subsection 8(2)
- Article 9(4): a person who contravenes subsection (1) commits an offence, and shall on conviction, subject to penalties (including death or life imprisonment and/or fine, depending on the violation)
- Article 20: a person convicted of an export, transshipment or transit offence may be disqualified from holding or obtaining a permit under this Act



Transit and Transshipment Permits

- Transit: Regulation 11 STA 2010
- Transshipment: Regulation 12 STA 2010





Regulation 25 - Exemption

Conditions for non-requirement of Transit and Transhipment Permit

- Goods arrive in a FCZ or taken into FCZ immediately after they have been brought into Malaysia
- Remain in the FCZ at all times before they are removed from FCZ for export out of Malaysia
- The period remain in FCZ not exceeding 30 days, whether the strategic items are brought into Malaysia by sea, air or land

Note:

95% of transit and transhipment of strategic items are exempted from applying for export permit



Exemption does not apply

- to any items or end-users subject to the Strategic Trade (restricted end-user and prohibited end-users) Order 2010 and unlisted items (section 12 of the Act):
 - ❖ Individuals/entities/countries (North Korea, Iran, Congo, Ivory Coast, Lebanon, Sudan, Afghanistan, Iraq, Liberia, Rwanda, Somalia, Eritrea, Libya)
 - ❖ 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



Challenges in Managing Transit & Transshipment

- **High volume of transactions and speed of transfers**
- **Involve many actors (exporters, brokers, customs agent, freight forwarders, shippers etc.)**
- **Transshipment in FTZ is not under Customs jurisdiction**
 - ❖ **Governed by FZ Authority - Free Zone Act 1990**
- **Challenges for Customs**
 - ❖ **short time to review documents, undertake risk assessment and detain cargo for inspection**
 - ❖ **difficulties to identify strategic items, esp. dual-use items**
 - ❖ **Coordination with licensing/other agencies due to short time period goods under customs custody**
- **Lack of resources and facilities**
- **Poor intelligence - lack of capacity, insufficient information**
- **Balancing control (security) with economic interests**



Measures to Improve Management of Transit and Transshipment

- **Review of Customs Act 1967**
 - ❖ **Better coordination between Customs and FZ authority**
 - ❖ **Customs will have more control over management and transshipment activities in FTZ**
- **Enhance cooperation between Customs and licensing/technical and other relevant agencies**
- **Container Control Program (CCP) – UNODC/WCO**
 - ❖ **National Targeting Centre (Cyberjaya)**
 - ❖ **Port Control Unit in major ports**
 - ❖ **Pilot project at Port Klang**
- **Mega Port Initiatives**
 - ❖ **Radiation Port Monitor (RPM)**
 - ❖ **Container Security Initiative (CSI)**

Continue...



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- Capacity building and training for Customs and other relevant agencies – CIT, enforcement
 - Enhance intelligence sharing on violation of transit and transshipment of strategic items
 - Establish greater cooperation among Export Control or Strategic Trade Management (STM) authorities
 - Targeted outreach for port authorities, shippers, freight forwarders, customs agents etc.

Thank you

