

REPUBLIC ACT NO. 10697

Strategic Trade Management Act

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24th Export Control Conference
Tokyo, Japan

Outline of Presentation

- I. STMA Overview
- II. NSC-STMCom and the Strategic Trade Management Office
- III. Draft Registration and Licensing Procedures
- IV. Review of Possible Dual Use Goods on Exports and Imports
- V. Proposed ICP Elements
- VI. Status/Next Steps

REPUBLIC ACT NO. 10697

Strategic Trade Management Act

“An act preventing the proliferation of weapons of mass destruction by managing the trade in strategic goods, the provision of related service, and for other purposes.”

Legal Bases for the Enactment of the STMA

- **Section 8, Article II of the 1987 Constitution**
- **United Nations Security Council Resolution 1540**

Constitutional Basis for R.A. No. 10697

Section 8, Article II of the **1987 Constitution** provides that consistent with the national interest, the Philippines adopts and pursues a policy of **freedom from nuclear weapons in its territory.**

UN Security Council Resolution 1540

Establishes **legally binding obligations** on all UN Member States to have and enforce appropriate and effective measures **against the proliferation** of nuclear, chemical, and biological weapons (**WMD**), and **their delivery systems** by **establishing export controls.**

Scope and Coverage

SCOPE:

- | | |
|--------------------------------------|--------------------------------------|
| 1) Any natural/ juridical person; | 1) All Filipino persons; |
| 2) who engages or intends to engage; | 2) providing the activities covered; |
| 3) in the activities covered. | 3) wherever located. |

ACTIVITIES COVERED:

- export, import, transit or transshipment;
- provision of related services; and,
- re-export or reassignment of goods.

Activities Covered

EXPORT –

- 1) actual shipment of strategic goods out of the Philippines, or
- 2) transmission of software and technology by electronic media to a destination outside the Philippines.
 - Includes making available in electronic or non-electronic form such software and technology outside the Philippines.

Activities Covered

IMPORT – shipment of

- 1) strategic goods or
- 2) transmission of software or technology by any means

from a foreign country into the Philippines.

Activities Covered

TRANSIT – 1) shipment of strategic goods

- 2) passing through Philippine territory
- 3) where ***the goods remain at all times in or on the same carrier***

4) that is bound for an ultimate destination outside the Philippines.

Activities Covered

- TRANSSHIPMENT** – 1) shipment of strategic goods
2) passing through Philippine territory
3) where *the good is unloaded from the carrier and*
4) *reloaded in the same or on another carrier*
5) that is bound for an ultimate destination outside the Philippines.

Activities Covered

RELATED SERVICES – 1) brokering, 2) financing, and 3) transporting in relation to the movement of strategic goods between two foreign countries and providing technical assistance.

RE-EXPORT – export to a foreign country of strategic goods previously imported to or exported from the Philippines.

REASSIGNMENT – reallocation of strategic goods previously exported from the Philippines from one person to another person in a single foreign country.

Definition of Strategic Goods under R.A. No. 10697

STRATEGIC GOODS refer to:

- 1) products that for security reasons or due to international agreements, are
- 2) considered to be of such military importance, that
- 3) their export is either prohibited altogether or subject to specific conditions.

Included in the National Strategic Goods List (**NSGL**)

National Strategic Goods List

1. **Annex 1 - EU Military Goods List**
2. **Annex 2 - EU Dual Use Goods List**
3. **Annex 3 - Nationally Controlled Goods**
4. **Unlisted Goods under Section 11 of R.A. No. 10697**

Types of Strategic Goods

1. **Military goods** - items, software, and technology that are specifically designed, developed, configured, adapted, or modified for a military end-use.
2. **Dual use goods** - items, software, and technology which can be used for both civil and military end-use for WMD.
3. **Nationally controlled goods** – strategic goods placed under unilateral controls for reasons of national security, foreign policy, anti-terrorism, crime control and public safety.
4. **Unlisted goods under Section 11** of R.A. No. 10697.

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Unlisted Goods under Section 11

- a) The **principal party has been informed by the STMO** that the goods or services may be used in-connection with the acquisition, development, production of WMDs or their means of delivery;
- b) The recipient is subject to an **international sanction or an arms embargo** or that the goods in question are or may be used for a **military end-use**;
- c) The exporter has been informed that the goods in question are or may be used as parts or components of military items, listed in the NSGL, that have been exported from the Philippines **without or in violation of a license**; and,
- d) The principal party has **knowledge or has grounds for suspecting** that unlisted goods proposed for export may be used, partly or entirely, for any of the uses referred to in paragraphs (a) and (b), or for suspecting that the provision of related services will facilitate that use.

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Central Authority.

National Security Council-Strategic Trade Management Committee (NSC-STMCom) - A permanent committee under the NSC acting as the central authority on all matters relating to strategic trade management

National Security Council – Strategic Trade Management Committee (NSC-STMCom)

Chairperson	: Executive Secretary
Vice-Chairperson	: Secretary of Trade and Industry
Members	: Secretary of Foreign Affairs
	Secretary of Justice
	Secretary of National Defense
	Secretary of the Interior and Local Government
	Secretary of Finance
	Secretary of Transportation and Communications
	Secretary of Environment and Natural Resources
	Secretary of Science and Technology
	Secretary of Agriculture
	Secretary of Health
	National Security Adviser
Secretariat	: Anti-Terrorism Council – Program Management Center (ATC-PMC)

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Powers and Functions of the NSC-STMCom

- **Formulate strategies, policies and guidelines.**
- Establish, publish, review and update the NSGL.
- **Decide appeals on decisions of the STMO.**
- Establish exemptions from authorization.
- Monitor the STMO.
- Coordinate, assist and cooperate with other government agencies as well as other nations in the implementation of this act.

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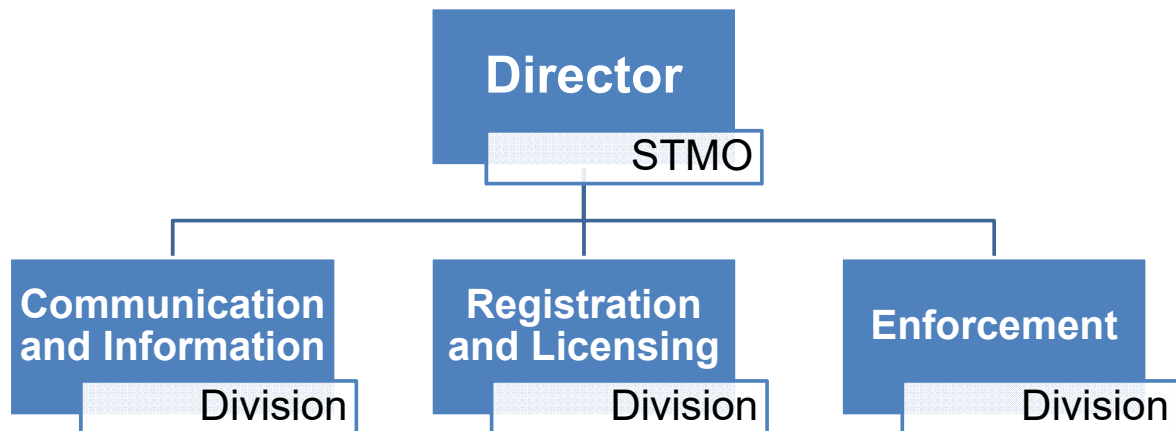
Executive and Technical Arm

Strategic Trade Management Office - a bureau under the administrative supervision of the Department of Trade and Industry that serves as the executive and technical agency of the national government for the establishment of the management systems for the trade in strategic goods.

Powers and Functions of the STMO

- Implement strategies, policies and guidelines of NSC-STMCom.
- **Establish and maintain a database on strategic goods and on persons engaged in strategic goods trade.**
- **Issue authorizations or deny applications for authorizations.**
- Undertake enforcement of provisions of the Act.
- Coordinate, cooperate, provide assistance and share information with ATC and other agencies.
- Coordinate with industry and the public.

Strategic Trade Management Office Proposed Organizational Structure



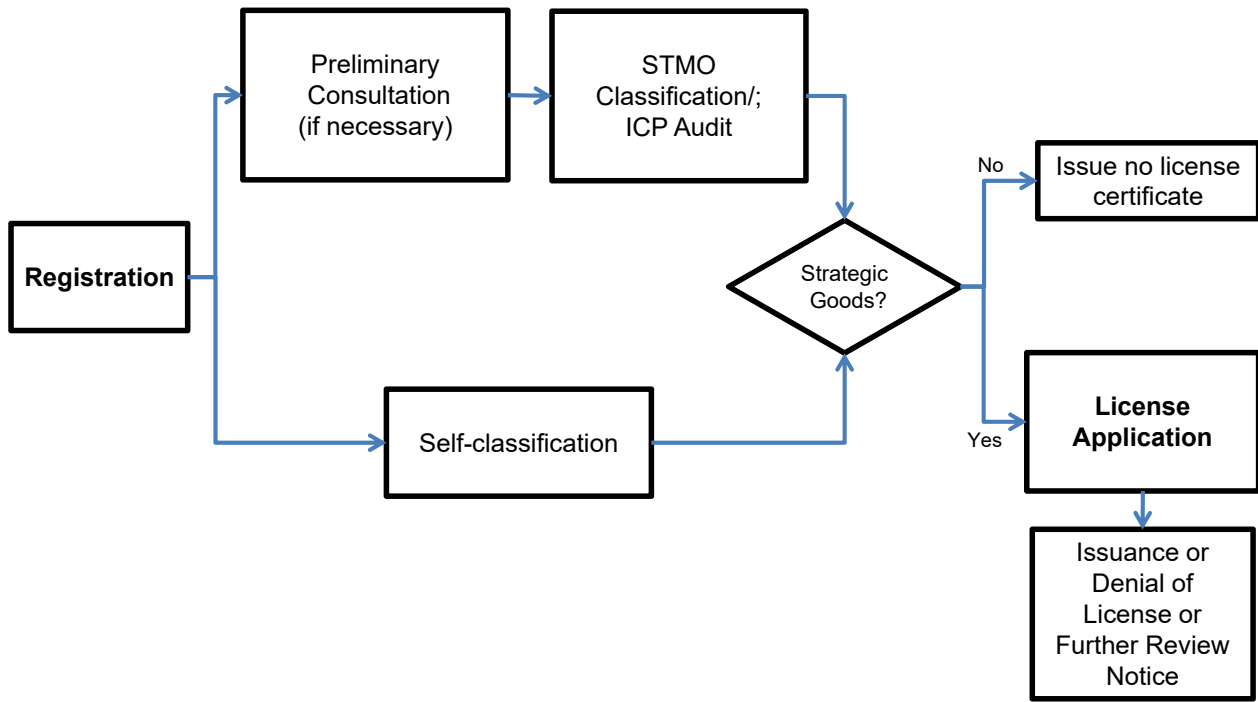
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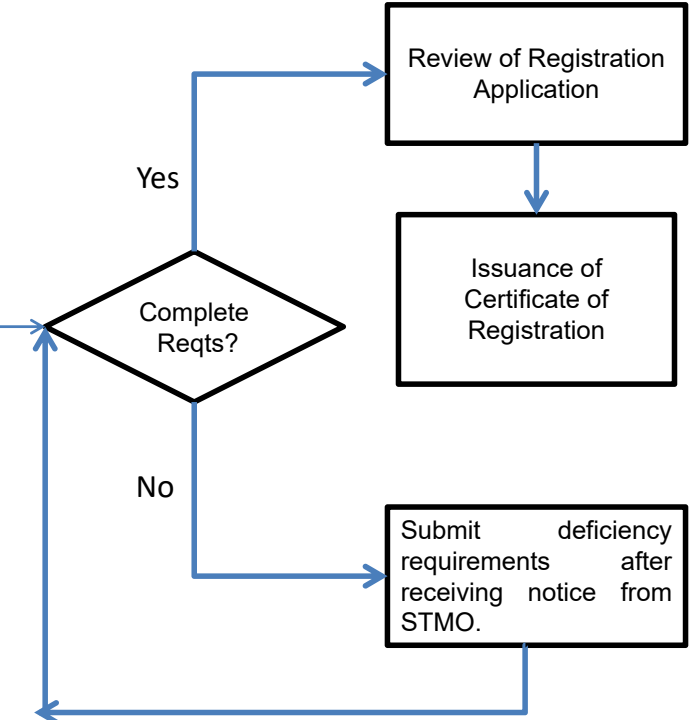
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General Overview of STMO's Registration and Licensing Procedures



Registration Flowchart

- Requirements for Registration:**
1. Accomplished registration form.
 2. Description of strategic trade relevant commercial activities of the applicant.
 3. Appointment of a senior manager as the responsible person for STMA compliance (if the applicant is a juridical person).
 4. List of natural persons engaged in providing services related to strategic goods (if the applicant is a juridical person).
 5. Copy of relevant license/s or business permits.
 6. Proof of payment of the registration fee.



Timeline of Review of Applications for Registration

Review and decision on application: 30 calendar days from the date of acceptance.

If additional information is needed: period of review may be extended for an additional 30 calendar days.

Grounds for Denial of Registration

- Concealment of material facts or forging of documents.
- Violation of the STMA or other laws related to national security in the past 5 years.
- Violation of international embargo/ sanctions in the last 5 years.
- Commencement of national security related civil/ criminal proceedings against the applicant.
- Any other national security concern.

Authorization/License

Any person prior to engaging in the regulated acts shall apply for authorization with the STMO.

The STMO may

- 1) authorize or
- 2) deny the application or
- 3) impose conditions on the authorization.

Authorization/License

The STMO may also

- 1) modify, 2) limit, 3) suspend,
 - 4) revoke, or 5) annul
- authorizations that have been issued.

Types of Licenses

Authorization	Description	Validity
Individual License	<ol style="list-style-type: none"> 1. given to a specific person; 2. engaged in the regulated activities; 3. with respect to one end-user/consignee; 4. covering one or more strategic goods. 	<ul style="list-style-type: none"> • Maximum of 2 years • Maximum of 6 months (for transit and transshipment)
Global License	<ol style="list-style-type: none"> 1. given to a specific person; 2. engaged in the regulated activities; 3. with respect to one or more specified end-users and exported to or originating one or more countries; 4. covering one or more strategic goods. 	<ul style="list-style-type: none"> • Maximum of 5 years
General License	<ol style="list-style-type: none"> 1. can be used by any specific person; 2. engaged in the regulated activities; 3. covering low risk strategic goods destined to one or more low-risk countries; 4. subject to the conditions specified in the general license. 	<ul style="list-style-type: none"> • Lifetime until revoked or amended by the STMO.

Risk Assessment Criteria

- National security or foreign policy interests of the Philippines;
- Preservation of regional peace, security and stability;
- Internal tensions or armed conflict in the destination country;
- Human rights and international humanitarian law;
- Terrorism or organized criminal activities;
- Security interest of a country which is an ally to the Philippines;
- **Risk of illegal end-use or by a restricted party;**

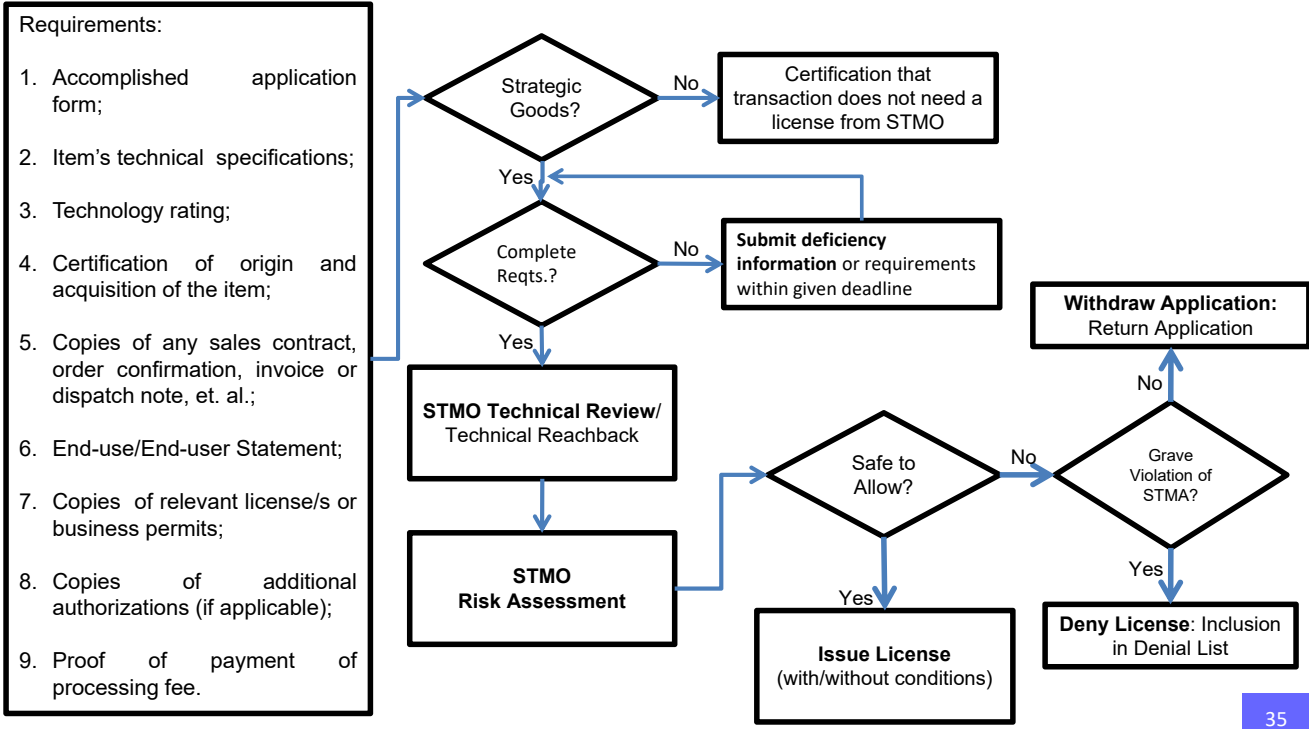
Risk Assessment Criteria

- **Risk of diversion to an unauthorized end-user/ end-use;**
- Technical capacity of the recipient country;
- Applicant submitted false documents/made misleading representations;
- Applicant has violated the STMA/ its IRR/ any other legal provisions;
- Applicant has violated an international embargo/ sanction;
- Criminal/ civil proceedings related to national security; and,
- Goods are under police investigation or subject of court proceedings.

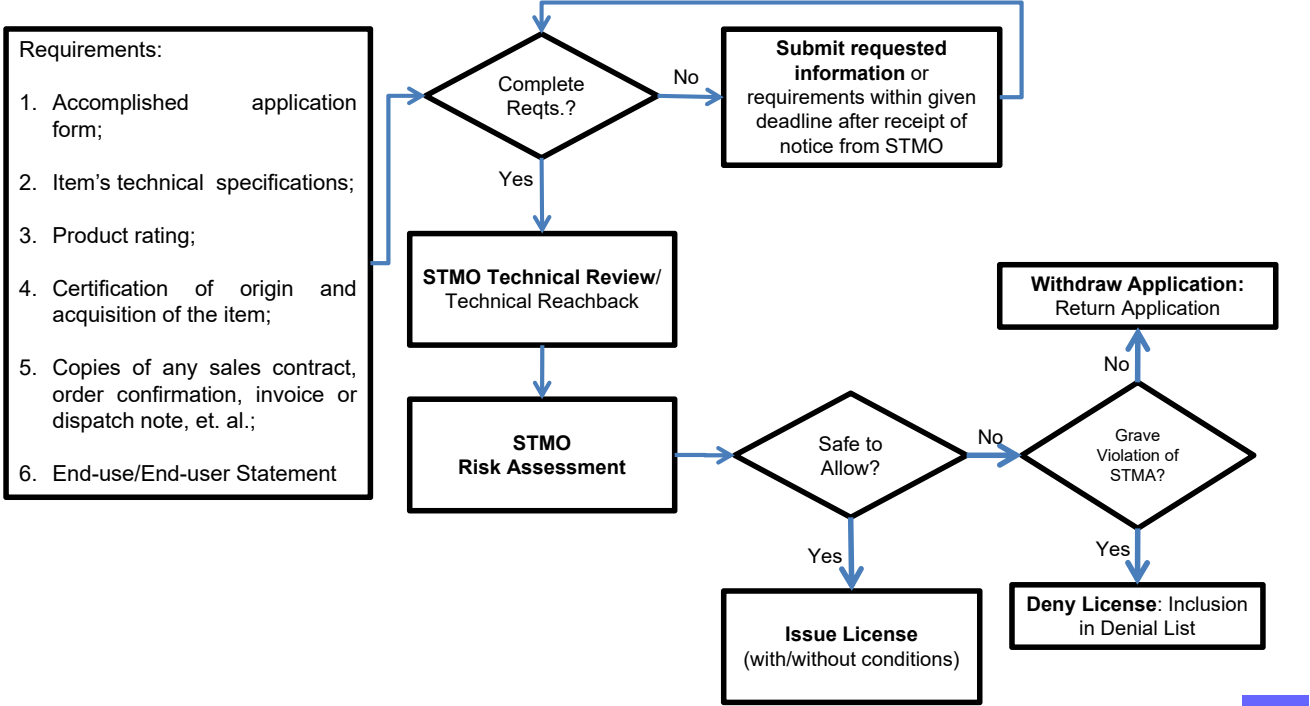
Grounds for Denial of License

- Failure to fulfill the requirements established by the STMA and its IRR.
- Acts are in breach of UNSC sanctions or embargoes.
- Proposed transaction will impede fulfillment of other Philippine international commitments/obligations.
- Acts will endanger national/ international security, regional stability, or contribute to terrorist acts.
- The transaction will result in the **diversion of strategic goods to an unauthorized end user/ end use.**

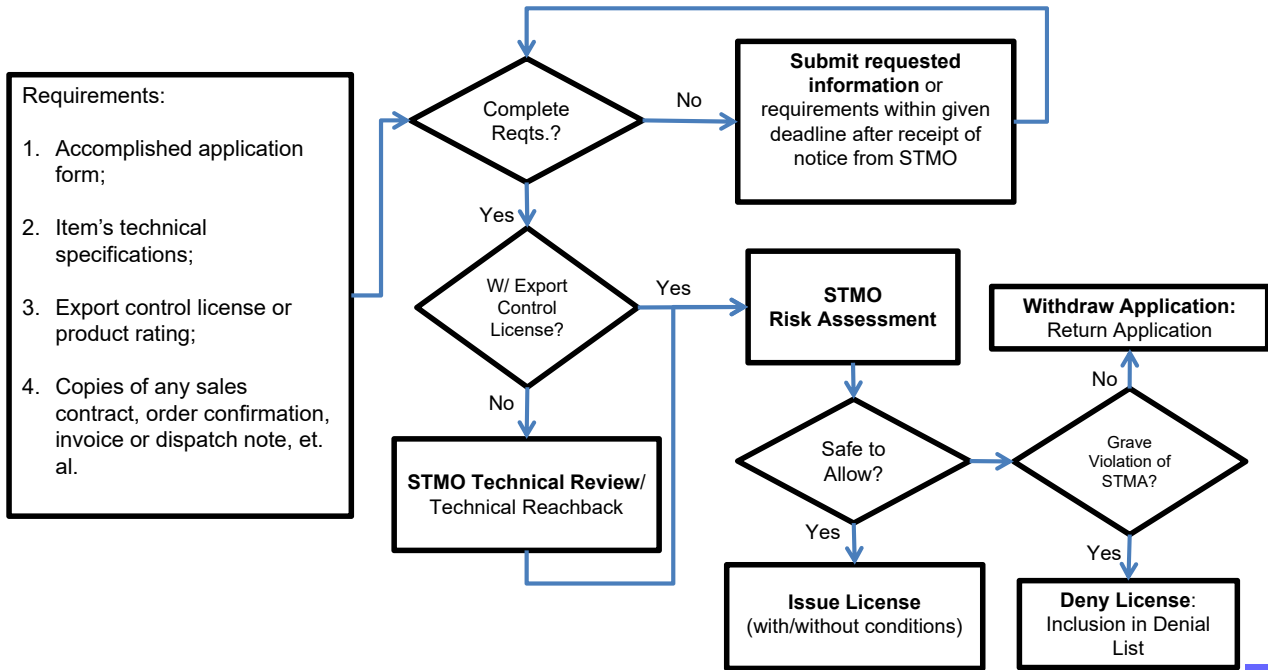
Individual Export License Procedure



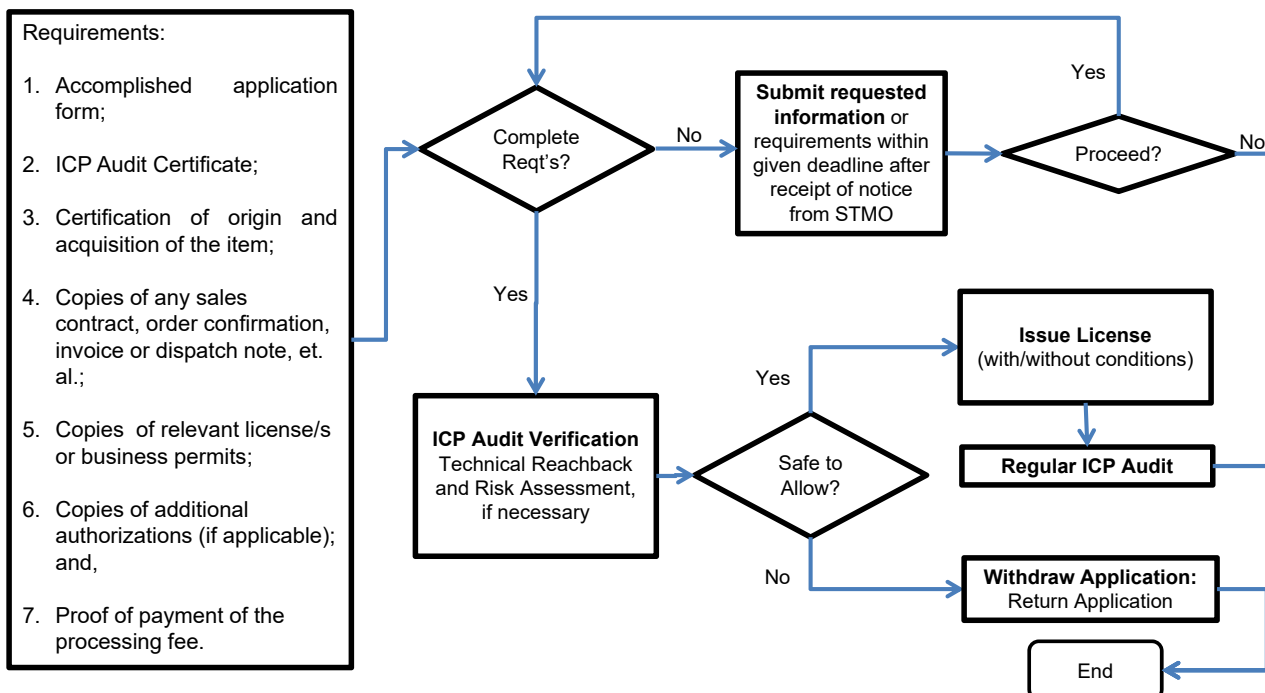
Individual Export License Procedure



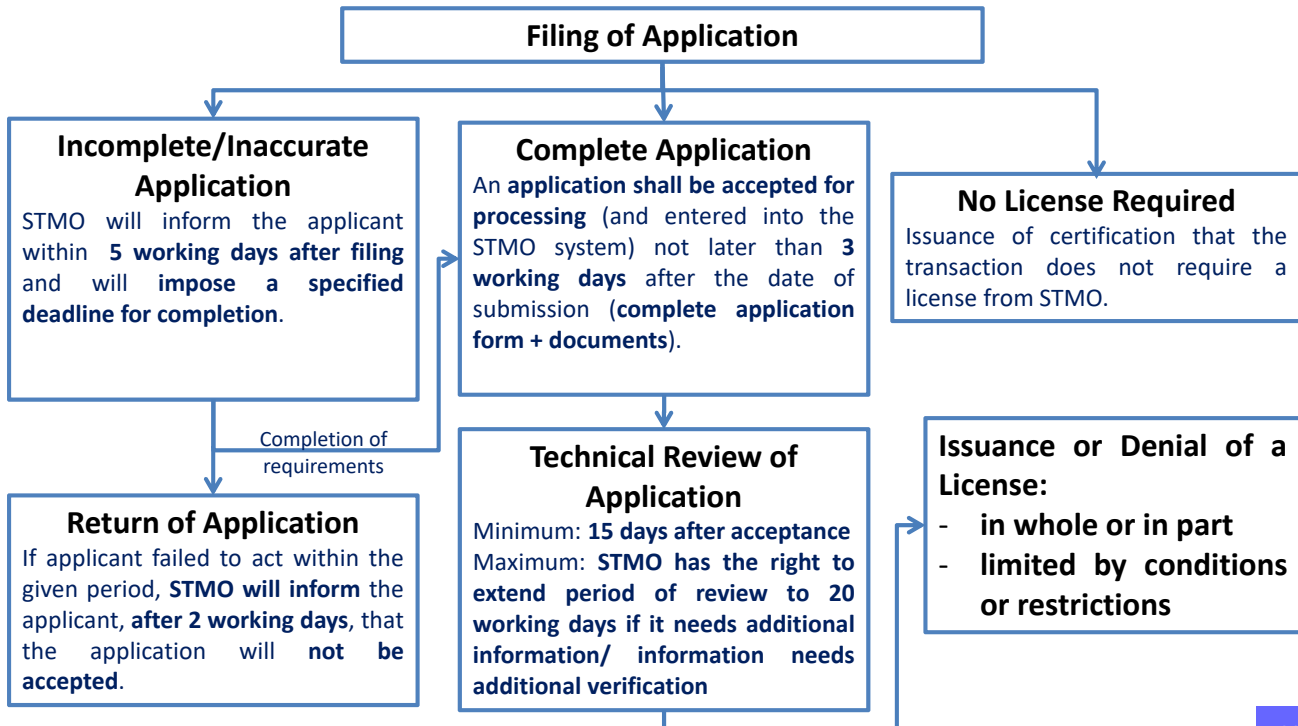
Individual Import License Procedure



Global Export License Procedure



Licensing Procedure Timeframe



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Administrative Appeals

Any person

- whose registration or authorization has been denied, suspended, modified, limited, revoked, or annulled, and

any person

- upon whom administrative penalties have been imposed shall have the right to appeal

in accordance with the IRR.

The decision on the appeal is final and executory.

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Administrative Appeals

- 1) Administrative appeals may be lodged with the NSC-STMCom within 20 working days after receipt of notice of the decision of the STMO;
- 2) The applicant may appeal the decision of the NSC-STMCom, with the Court of Appeals or the Supreme Court.

Administrative Penalties

- 1) Limitation, revocation or annulment of authorization;
- 2) Fines of up to 1) Php 250,000.00 or 2) twice the value of the strategic good or related service under the contract or 3) as assessed by the STMO; and,
- 3) Cancellation or suspension of the registration and license to operate the partnership, corporation, association or other juridical entity.

The imposition of administrative penalties shall be without prejudice to the filing of criminal charges against persons responsible.

Phased Implementation of the STMA

Activity	PHASE							
	1	2	3	4	5	6	7	8
Registration of all Stakeholders								
Export Licensing								
Import Licensing								
Transit and Transshipment								
Re-export and Reassignment								
Brokering								
Technical Assistance								
Financing								

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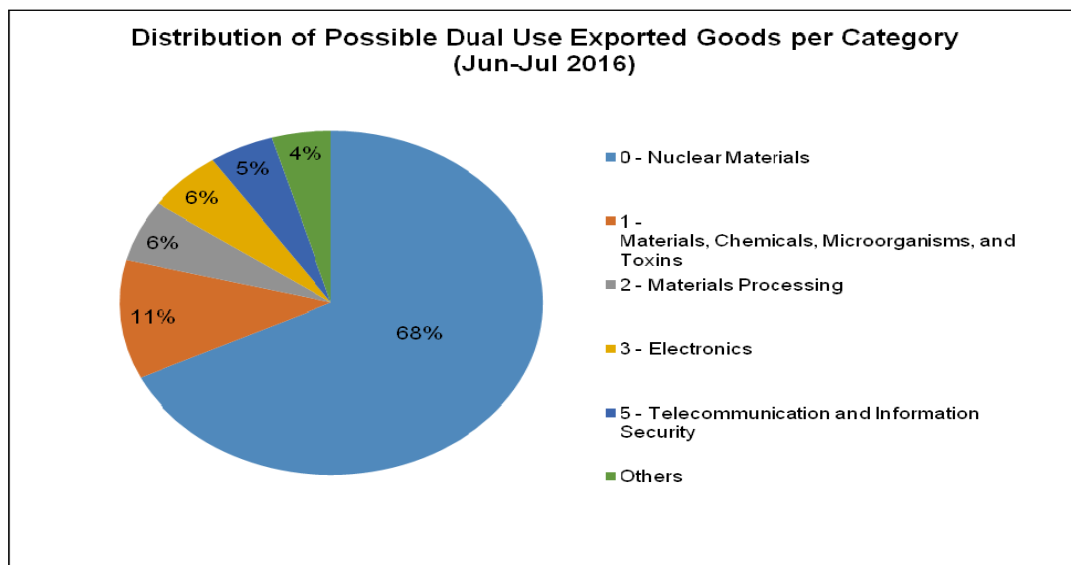
STMA's Scope on Philippine Exports and Imports

Report on Possible Strategic Goods from
Export Transactions (June-July 2016)

Report on Possible Strategic Goods from
Import Transactions (September 2016)

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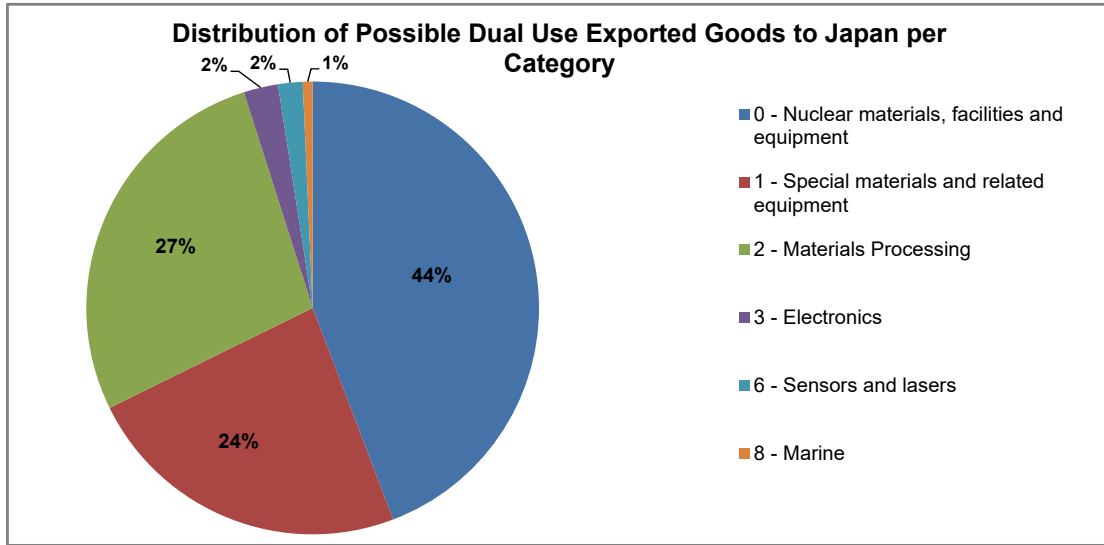
Dual Use Goods Exports to the World



Most of the possible dual use items are covered by
Category 0 – Nuclear Materials, Facilities and Equipments

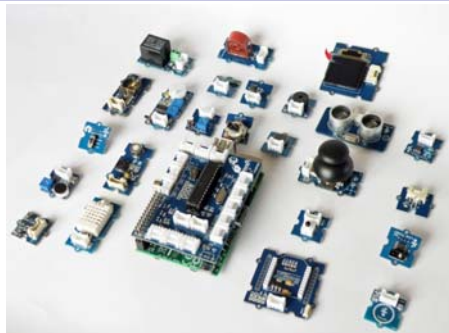
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Dual Use Goods Exported to Japan



Most of the possible dual use items **exported to Japan** are covered by **Category 0 – Nuclear materials, facilities and equipment**

Top 5 Dual Use Exported Goods



Sensors



Dosing Unit

- Sensors
- Capacitors
- Compressors
- Pumps
- Evaporator dosing units

Dual Use Exported Goods to Japan

Sensors
Hall Effect GTS
Integrated Circuits
Pumps
Cylinders

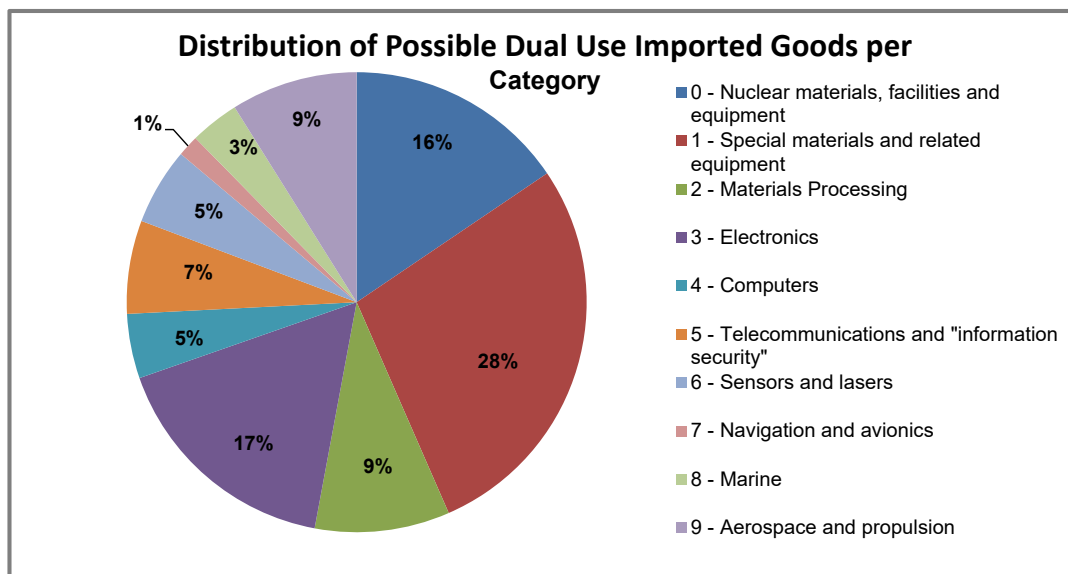


Sensors



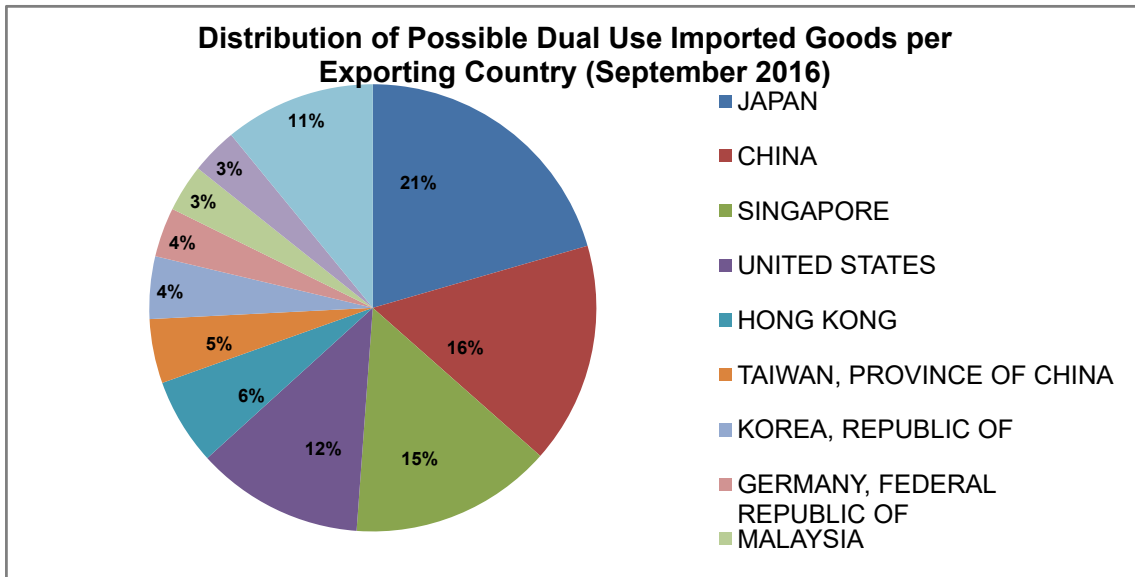
Hall Effect GTS

Categories of Dual Use Goods Imported Worldwide



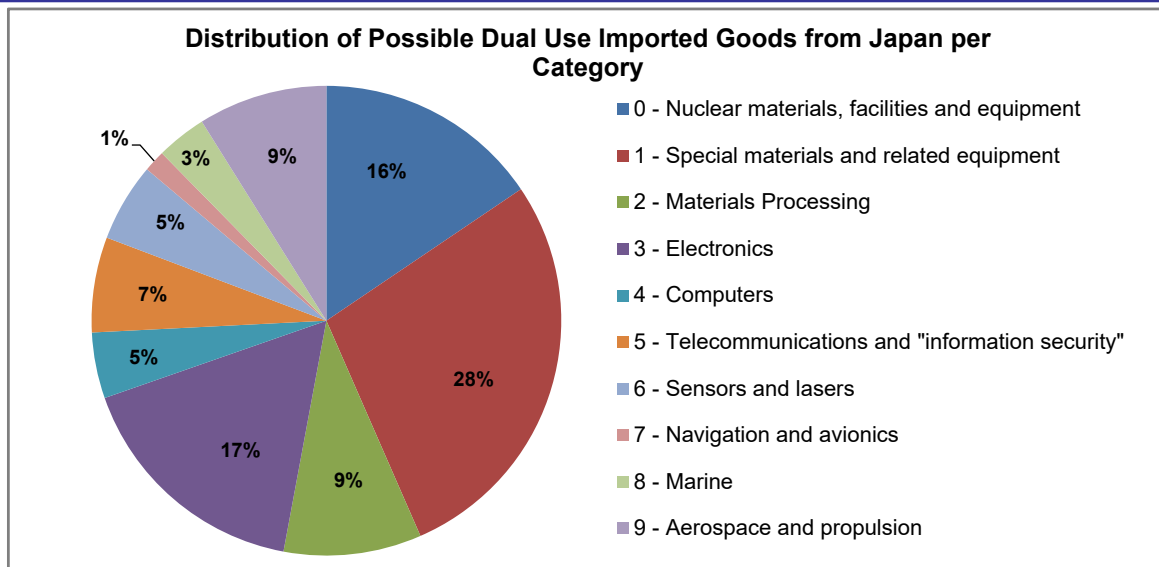
Most of the possible dual use items are covered by **Category 1 – Special materials and related equipment.**

Top Countries of Origin



Japan is the **top country of origin**, accounting **21%** of possible dual use import transactions.

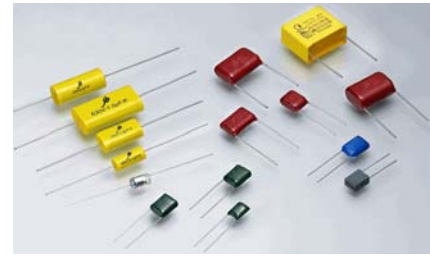
Dual Use Goods Imported from Japan



Most of the possible dual use items **imported from Japan** are under **Category 1 – Special materials and related equipment**.

Top 5 Dual Use Goods Imported Worldwide

Wiring Harnesses
Aluminum Alloy
Aerospace parts (valves)
Transistors
Capacitors



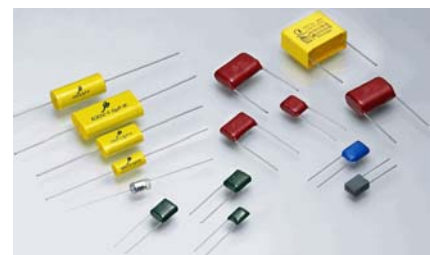
Capacitors



Automotive Wiring Harness

Dual Use Imported Goods from Japan

Wiring Harnesses
Wire Accessories
Aerospace parts (valves)
Transistors
Capacitors



Capacitors



Automotive Wiring Harness

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Internal Compliance Program

The STMO may require the establishment of an Internal Compliance Program as a precondition for the issuance of a global license.

Mitigating circumstance in administrative penalties- an effective Internal Compliance Program

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Proposed ICP Elements

- 1) Company/ Management Commitment
- 2) Product Screening
- 3) End-User Screening
- 4) Awareness and Training
- 5) Written Export Control Manual
- 6) Recordkeeping
- 7) Internal Audit
- 8) Reporting and Corrective Action

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Status/ Next Steps

- 1) Finalization and Approval by the NSC-STMCom of the Implementing Rules and Regulations;
- 2) Submission and endorsement of the proposed organizational structure and budget of the STMO to the NSC-STMCom;
- 3) Finalization of Registration and Licensing Procedures and Forms
- 4) Establishment of the IT Infrastructure for online registration and licensing

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MANY THANKS
FOR YOUR ATTENTION.
Q & A

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