



# STRATEGIC TRADE ACT 2010

## Implementation Updates, Issues and Challenges

Muthafa Yusof  
Strategic Trade Controller  
Strategic Trade Secretariat



# CONTENTS

---



- **Implementation Updates**
  - **Background of STA**
  - **Trade Facilitative Measures**
  - **Audit Exercises**
  - **Review of STA**
  
- **Issues and Challenges**
  
- **Factors for Effective Implementation of the STA**

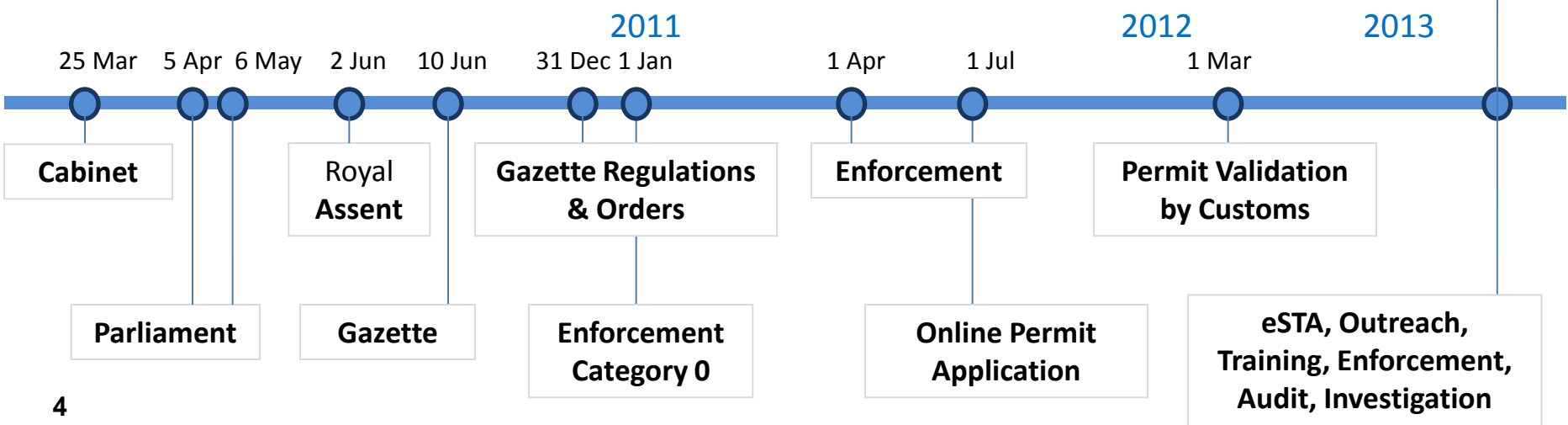
# **IMPLEMENTATION UPDATES**

---



**STA 2010**

**2  
0  
1  
4**



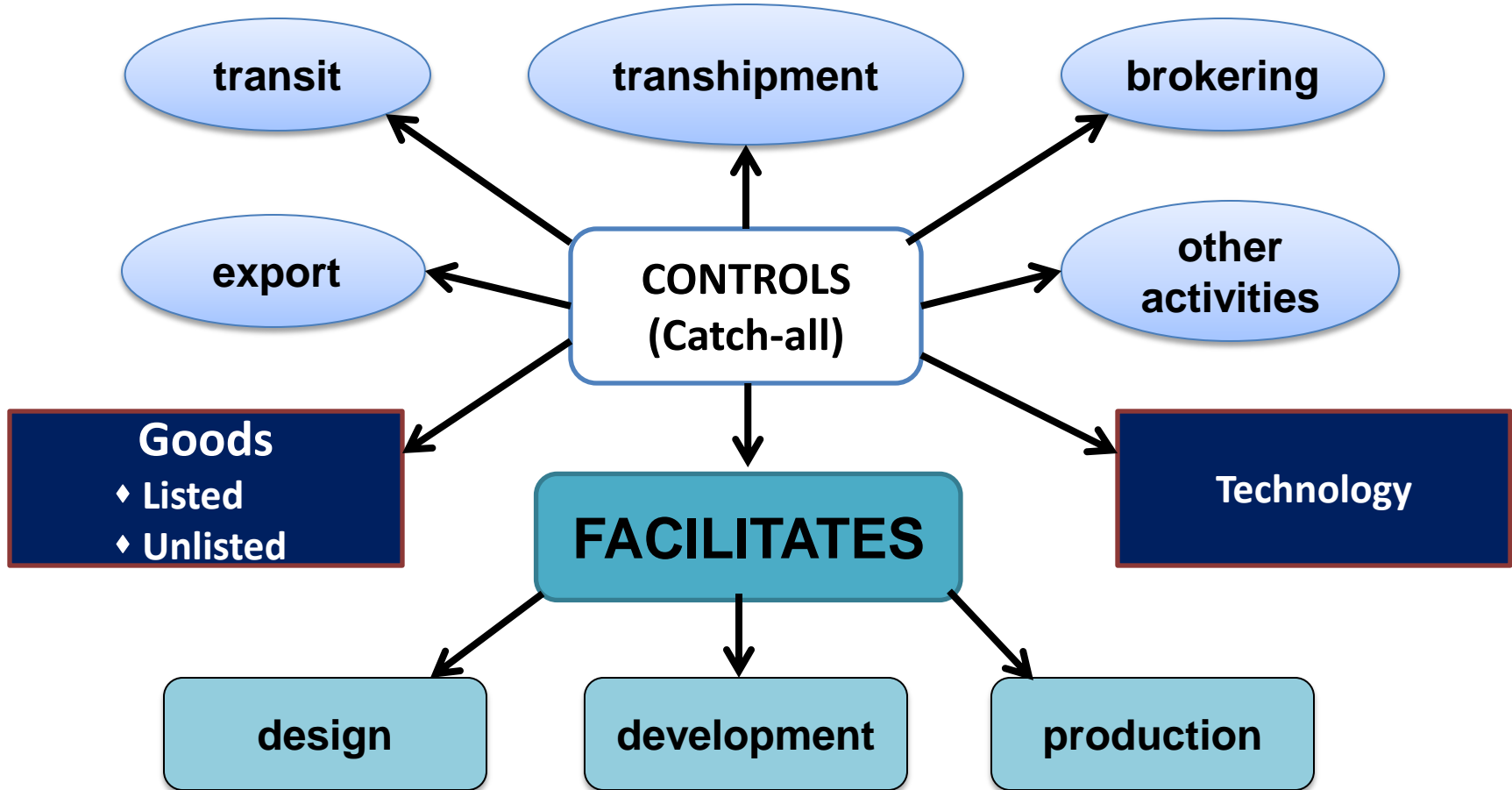
# UN SECURITY COUNCIL RESOLUTION

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



*With the implementation of the STA 2010 since January 2011, Malaysia has met the requirement of having a comprehensive export control legal framework*

# OBJECTIVE OF STA 2010



**WEAPONS OF MASS DESTRUCTION (WMD) & ITS DELIVERY SYSTEMS**

# REGULATIONS AND ORDERS



## STA 2010

### Strategic Trade Regulations 2010

Prescribes:

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

Minister of International Trade and Industry

**Strategic Trade Secretariat**

Partner Licensing Agencies

Enforcement



Pharmaceutical Services Division

Poisons



Malaysian Communications and Multimedia Commission

Telecommunications & Electronics



Nuclear related Items / Materials



Royal Malaysian Customs



Royal Malaysia Police



Malaysian Maritime Enforcement Agency



Malaysian Communications and Multimedia Commission

**Other officers specified by the Controller**



# STRATEGIC TRADE ACTION COMMITTEE



1. **Ministry of International Trade and Industry**
2. **Ministry of Foreign Affairs**
3. **National Authority, CWC, Ministry of Foreign Affairs**
4. **Disease Control Division, Ministry of Health**
5. **Pharmaceutical Services Division, Ministry of Health**
6. **Pesticide Control Division, Ministry of Agriculture**
7. **Veterinary Services Division, Ministry of Agriculture**
8. **Attorney General Chambers**
9. **Atomic Energy Licensing Board**
10. **Royal Malaysian Customs**
11. **Royal Malaysian Police**
12. **Science and Technology Research Institute for Defence**
13. **Malaysia Maritime Enforcement Agency**
14. **Malaysia Communication and Multimedia Commission**
15. **National Security Council**

# OUR APPROACH

*“Facilitating trade  
in a secure trading  
environment”*



## **(1) STRATEGIC ITEMS LIST**

### **Adopt EU Control list:**

- Commonly used list in the region i.e. Hong Kong, Singapore.
- Consolidated list of items from control regimes and conventions.
- The list is updated annually.

### **The Strategic Trade (Strategic Items) 2011**

- In the process of being gazetted.

### **Assistance in Product Classification:**

- Commodity expert is available within the Secretariat to advice, based on technical specifications provided.

## (2) EXEMPTION

### Regulation 25: STA Permit Exemption for Transit & Transshipment

- arrive in a FCZ or brought immediately into FCZ;
- remain in the FCZ; and
- not exceeding 30 days  
*(95% of transit & transshipment of strategic items are exempted from applying for permits).*

### **However, no exemption for:**

- North Korea, Iran, Congo, Ivory Coast, Lebanon, Sudan, Afghanistan, Iraq, Liberia, Rwanda, Somalia, Eritrea and Libya.
- items in Schedule Three of the STA Regulations 2010 (e.g. military items, nuclear reactors, gas centrifuge plant, uranium, maraging steel, tungsten, molybdenum and toxic chemicals, human pathogens).

## **(3) AMENDMENTS OF STR – Effective 01 Dec '11**

Based on the feedback from business community the following amendments were undertaken:

- (a) Additional provision in Regulation 11 to allow applicants to apply bulk and multiple permit for transit;
- (b) New format for **Form 5** (End-Use Statement) and **Form 6** (Delivery Verification Statement) that are simplified and business friendly; and
- (c) To exclude **ECCN 5A2** (systems, equipments and components) and **5B2** (test, inspections and production equipment) from the Third Schedule.

## (4) INTERNAL COMPLIANCE PROGRAM (ICP)

- A set of procedures that have to be implemented within a company before an application for multiple-use or bulk permit is made.
- Ensures that the company has control procedures in place that are in compliance with the STA 2010 and associated Regulations.
- The controls can be done:
  - manually, or
  - electronically.



## (5) EASY SELF-DECLARATION

- 1 July 2011: compulsory product declaration field in the Customs declaration forms - strategic item or non-strategic item.
- If declared as strategic items, the system will prompt for the STA permit number.

Container no.:		FEX:	0.0374	JPY	
Exemption Type: <input type="checkbox"/> (General) <input type="checkbox"/> (Treasury)		Receive:	62044885.00	JP	
(LMW)		Equivalent:	2320478.69		
Export Permit 1:	SPM - 141 - 701M0036/12	FOB:	2320478.70		SMKGuide Check STS
Export Permit 2:		Insurance:	23204.79	Gr. Wght (KG):	454.0000
Bank Guarantee:		Freight:	3160.43	Measure (M3):	0.0000
Other Form No.:		Registration: 24/04/12 12:47			
Sp. Treatment:		Approval:			
WH Licence:		Receiving:			
ADM No.:		Release:			
Invoice No.:		Block/Cancel:			
Invoice Date:	24/04/12				

1 Menu | 2 Clear | 3 Close | 4 Tab | 5 | 6 Cancel | 7 Bk/Hld | 8 Approve | 9 | 10 Update | 11 Create | 12 Inquir

## (6) ePERMIT STA – ONLINE REGISTRATION/ PERMIT APPLICATION SYSTEM

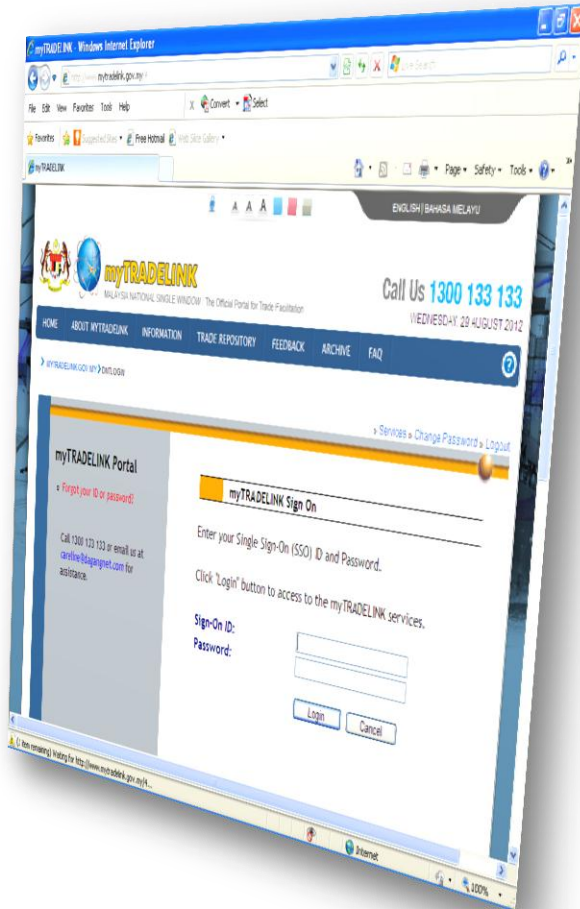
- Web-based pre-registration
- Web-based system for the application and approval of permits
- Approved permits will be transmitted to Customs Information System for cross-reference purposes against Customs declaration
- Designed to meet the specific requirements of STA for the purposes of products monitoring and standard
- Creates a virtual community for key players in the trade supply chain - paper-less environment





**ePermitSTA™**

**(SINGLE ONLINE SYSTEM)**



**PRE-REGISTRATION**

**REJECT**

**APPROVE**

**PERMIT APPLICATION  
(SINGLE / MULTIPLE-USE / BULK / SPECIAL\*)**

**REJECT**

**APPROVE**

**CUSTOMS**

**APPLICANT**

# STA PERMIT AND REGISTRATION (as at 07 Dec '13)



<b>Companies Registered</b>	<b>426</b>
<b>Approvals</b>	
<b>- STA Permits</b>	<b>5,722</b>
<b>- Broker Certificates</b>	<b>15</b>
<b>- Internal Compliance Program (ICP)</b>	<b>93</b>
<b>- Permit Exemptions</b>	<b>21</b>

## **(7) CONTINUOUS OUTREACH PROGRAMMES**

- **Since July 2010 nearly 160 outreach programmes have been held with over 4,000 participants from Trade / Industry Associations and companies.**
- **Besides the outreach programmes, the ‘Meet the Client’ sessions are held every month and number of participants who have attended these sessions number over a 1,000.**
- **These programmes and sessions will be on-going as we reach out to a wider scope of stakeholders in the industry as well as in the Government.**



## (8) REFERENCES ON STA 2010

- [www.miti.gov.my](http://www.miti.gov.my) > Strategic Trade Act
  - ✓ ICP guidelines
  - ✓ FAQ
  - ✓ Recent announcements
  - ✓ Strategic items list
  - ✓ How to register and apply for permits
  - ✓ Forms
- Enquiries can be sent to [admin.sts@miti.gov.my](mailto:admin.sts@miti.gov.my).
- **STS Hotline** – +603.6200.0585



# AUDIT EXERCISE

A total of 103 companies have been audited in the year of 2012 and 2013.

Among the key findings:

- **Records are not kept for easy retrieval**  
Records need to be kept for at least 6 years and easy to retrieve
- **Improper collection and retention of end use statement (Form 5)**  
All Form 5 need to be made available and kept before any shipment is made
- **Too many multiple-use permits**  
Defeat the purpose of having multiple-use permit; may want to consider consolidation



## Cont....

- **Changes/resignation of authorised applicant**  
New authorisation letter and digital signature token reformatting is required
- **Level of awareness of export control within organisation**  
The awareness should be extended to everyone within the organisation.
- **Lack of training on export control**  
Training to export control officer can be done internally
- **Issuance of delivery verification statement (Form 6)**  
All STA permit need to submit/keep Form 6.
  - single-use/special: 2 months after shipment
  - multiple/bulk: kept by co, submit upon request by the Authority



## GOOD REGULATORY PRACTICE – REGULATORY IMPACT ASSESSMENT (GRP-RIA) PROJECT

- To ensure the regulatory regime effectively support the country's aspirations to be a high income and progressive nation.
- Greater coherence among policy objectives in various ministries and agencies.
- Proposed Amendments to STA 2010:
  - Discretion to the Strategic Trade Controller to determine the requirement of the Form 5 (End-Use Statement) esp. in transit and transshipment cases;
  - Include a voluntary disclosure clause
  - Include administrative/compoundable penalties
  - Redefine brokering.





# ISSUES AND CHALLENGES

---



- ❑ **Export of high tech goods very important to Malaysia's economy**
  - reluctant to block shipments without clear proof that they are destined for restricted purposes.
  
- ❑ **It's new to us**
  - lack of expertise and experience esp. in ITT, brokering etc;
  - difficult to enforce the law, e.g. control on transit and transshipment; and
  - lack of commitment from Malaysian industry, need a change in mindset.

- ❑ **Updating of Strategic Item List**
  - Technical constraints and time consuming.
- ❑ **STA does not sufficiently cover certain important areas such as proliferation financing**
- ❑ **Capacity of Malaysian companies esp SME in establishing internal control system**



## □ **The Challenge of balance, coordination and awareness:**

- a delicate balance between security and economic interests;
- lack of awareness – both public and private sector; and
- coordination with multiple agencies (licensing and enforcement) and other domestic laws.

# FACTORS FOR EFFECTIVE IMPLEMENTATION OF THE STA

---



- **Inter-agency cooperation is vital and indispensable for effective implementation and enforcement of the STA.**
- **Formulate SOPs – better coordination among agencies especially in investigation process and procedures.**
- **Working closely and continuous consultations with the industry.**
- **To use assistance available from various donor countries and UN organisations to build expertise.**
- **Outreach is a vital tool for industry awareness and compliance.**

# Cont....

---



- **Information technology should be utilised to the fullest. On-line registration, application for permits and approval is key to facilitating trade.**
- **Developing expertise among the implementing and enforcement agencies by capitalising on support and assistance available from the various sources.**
- **Continue cooperation with US, EU, Japan and Australia in implementing the Act.**



**THANK YOU**