

# IMPLEMENTING RULES AND REGULATIONS

of

## Republic Act No. 10697

*"An Act Preventing the Proliferation of Weapons of Mass Destruction by Managing the Trade in Strategic Goods, the Provision of Related Services, and for Other Purposes"*

### INTRODUCTION

Pursuant to Sections 7 and 30 of Republic Act No. 10697, otherwise known as the Strategic Trade Management Act of 2015 (STMA), the following Implementing Rules and Regulations (IRR) are hereby prescribed by the National Security Council-Strategic Trade Management Committee (NSC-STMCom).

### RULE I GENERAL PROVISIONS

**Section 1. Declaration of Policy.** - It is declared a policy of the State to be free from Weapons of Mass Destruction (WMD) in its territory, consistent with the national interest, to fulfill its international commitments and obligations, including United Nations Security Council Resolution (UNSCR) 1540, to take and enforce effective measures to establish domestic controls to prevent the proliferation of WMDs and their means of delivery; and to maintain international peace and security and promote economic growth by facilitating trade and investment through the responsible management of strategic goods and the provision of related services.

Toward this end and consistent with its foreign policy and national security interests, and in support of efforts to counter terrorism, control crime, and safeguard public safety, the State shall manage the trade of strategic goods and provision of related services in accordance with international standards and best practices.

**Section 2. Scope and Coverage.** - The rules shall apply to:

- a. Any natural or juridical person operating within the Philippines who engages or intends to engage in the export of strategic goods from the Philippines including designated special economic and freeport zones; the import of strategic goods into the Philippines; or the transit or transshipment of strategic goods through the territory of the Philippines and the provision of related services; and all Filipino persons providing these services wherever located; and,
- b. The re-export of strategic goods that have been exported from the Philippines to a foreign country, and the reassignment of strategic goods exported from the Philippines to a new end-user in the country of import subject to the provisions of the STMA.

**Section 3. The National Strategic Goods List.** - There shall be a National Strategic Goods List (NSGL) to describe with specificity the strategic goods subject to authorization. The NSGL shall be in conformity with international commitments and non-proliferation obligations pursuant to bilateral and multilateral treaties, international conventions and international non-proliferation regimes.

Upon its establishment, the NSGL shall be published in the Official Gazette and in at least two (2) newspapers of general circulation. The NSGL shall be reviewed and updated on a regular basis by the NSC-STMCom.

Updates and revisions to the NSGL shall also be published in the Official Gazette and in at least two (2) newspapers of general circulation.

The NSGL shall comprise three (3) annexes: Military Goods (Annex 1), Dual Use Goods (Annex 2), and Nationally Controlled Goods (Annex 3).

**Section 4. Definition of Terms.** - As used in the STMA:

- a. *Authorization* refers to an individual, global, or general authorization issued by the STMO for the export, import, transit, transshipment, re-export, reassignment of strategic goods and provision of related services;
  1. *Individual authorization* shall mean the authorization granted to one specific person to engage in the export, import, transit, transshipment, re-export, reassignment of strategic goods, and the provision of related services with respect to one end-user, consignee and covering one or more strategic goods.
  2. *Global authorization* shall mean the authorization granted to one specific person or entity to engage in the export, import, transit, transshipment, re-export, re-assignment of strategic goods, and the provision of related services regarding strategic goods which may be valid for the export, transit, transshipment, re-export, re-assignment and provision of related services to one or more specified end users and/or in one or more countries, and for imports from one or more foreign exporters and/or from one or more countries.
  3. *General authorization* shall mean the authorization to import, export, transit, transship, re-export, reassign specified strategic goods or to provide certain related services to destination countries under the conditions specified in the general authorization.
- b. *Brokering* refers to activities such as: (a) negotiating or arranging transactions that involve the shipment of strategic goods from a foreign country to any other foreign country; (b) selling or buying with the intent to move strategic goods that are in a broker's possession or control from a foreign country to any other foreign country;
- c. *Carrier* refers to any vessel, train, vehicle, aircraft, or other modes of transportation;
- d. *Document* refers to any record on paper or in electronic form, kept on any magnetic, optical, chemical or other medium; photograph map, plan, graph, picture, drawing, or device;
- e. *Dual-use goods* refer to items, software, and technology which can be used for both civil and military end-use or in connection with the development, production, handling, operation, maintenance, storage, detection, identification, or dissemination of WMD or their means of delivery. These goods are listed in Annex 2 of the NSGL;
- f. *End-use controls* refer to a specific procedure authorizing the establishment of controls over any item, software, and technology not listed in the NSGL (unlisted goods) based on concerns related to WMD, their means of delivery, or military end-use in destinations subject to embargoes decided by the United Nation (UN) Security Council, or to prohibited/restricted end-users;
- g. *End-user* refers to a person who is outside or inside the Philippines and is the recipient and ultimate user of the strategic goods and related services that are exported from or imported to the Philippines;

- h. *End-user certificate* refers to a document which contains confirmation of the following: (a) that the end-user has undertaken to import the goods with specific value and amount; (b) the purpose of the use of the goods; and, (c) that the end-user shall not re-export or re-assign the goods without prior written authorization. The certificate likewise refers to a document that verifies the end-use and end-user of military and dual-use items as defined by the STMA;
- i. *Export* refers to an actual shipment of strategic goods out of the Philippines, or to a transmission of software and technology by electronic media, including by fax, telephone, electronic mail or any other electronic means to an ultimate destination outside the Philippines. The term includes making available in electronic form such software and technology to persons outside the Philippines. It also applies to non-electronic reassignments of software or technology through face-to-face communication, personal demonstration, or handing over material or information to a foreign person wherever located;
- j. *Financing* refers to making available or providing funds to facilitate the movement/flow of (a) strategic goods and/or related service if this contributes to WMD or their means of delivery; or, (b) military goods if destined for a destination subject to a UN Security Council embargo or to prohibited/ restricted end- users;
- k. *Governmental End-Use Assurance* refers to a formal security guarantee issued by the STMO, in consultation with the NSC - STMCom, upon request of the country of origin of the strategic items, certifying the end use of those goods in the Philippines based on the International Import Certificate, End-Use Certificate, and Delivery Verification Certificate submitted by the applicant;
- l. *Import* refers to the shipment of strategic goods or transmission of software or technology by any means from a foreign country into the Philippines;
- m. *Internal Compliance Program* refers to an effective, appropriate, and proportionate means and procedures, including the development, implementation, and adherence to standardized operational compliance policies, procedures, standards or conduct, and safeguards, developed by exporters to ensure compliance with the provisions and with the terms and conditions of authorizations set out in the STMA;
- n. *Juridical person* refers to either: (a) a partnership, a cooperative, and a private corporation, to which the law grants a juridical personality, separate and distinct from that of each shareholder, partner, or member; or, (b) a government-owned and -controlled corporation created by law that engages or intends to engage in the trade of strategic goods or provision of related services;
- o. *Knowledge* refers to awareness or cognizance that a circumstance exists or is substantially certain to occur. It is also an awareness or cognizance of facts and circumstances that would lead a reasonable person to believe its existence or factual occurrence. It also refers to the willful disregard of facts known to a person or willful avoidance of facts;
- p. *Military goods* refer to items, software, and technology that are specifically designed, developed, configured, adapted, or modified for military end-use. These goods are listed as Annex 1 of the NSGL;
- q. *Military end-use* refers to: (a) incorporation into "military goods" listed in the NSGL; (b) use of production, test, or analytical equipment and its components for the development, production, or maintenance of "military goods" listed in the NSGL; and, (c) use of any unfinished products in a plant for the production of "military goods" listed in the NSGL;

- r. *Nationally controlled goods* refer to strategic goods placed under unilateral controls for reasons of national security, foreign policy, anti-terrorism, crime control, and public safety;
- s. *Orders for corrective action* refers to an order to the authorization holder to make necessary corrective measures to ensure compliance with the STMA;
- t. *Premises* refer to any land, place or building, whether open or enclosed, and whether built on or not, including any free trade zones within the territory of the Philippines;
- u. *Reassignment* refers to the reallocation of strategic goods previously exported from the Philippines from one person to another within a single foreign country by any means, including the electronic transmission of software and technology;
- v. *Re-export* refers to the export from a foreign country to another of strategic goods previously exported from the Philippines;
- w. *Registration* refers to the act of entering the exporters, importers and brokers of strategic goods and providers of services into the registry established by the STMO;
- x. *Related services* refer to brokering, financing, and transporting in relation to the movement of strategic goods between two (2) foreign countries and providing technical assistance;
- y. *Software* refers to a collection of one or more programs or microprograms fixed in any tangible medium of expression;
- z. *Strategic goods* refer to products that, for security reasons or due to international agreements, are considered to be of such military importance that their export is either prohibited altogether or subject to specific conditions. Such goods are generally suitable to be used for military purposes or for the production of WMD, and for the purposes of the STMA, are goods listed in the NSGL under Annex 1 (Military Goods); Annex 2 (Dual Use Goods); Annex 3 (Nationally Controlled Goods); and any unlisted goods as provided for in Section 11 of the STMA;
- aa. *Technical assistance* refers to any support provided in relation to strategic goods such as repair, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take such forms as instruction, training, transmission of working knowledge or skills, or consulting services. Technical assistance can be provided by *inter alia* verbal, written, or electronic means;
- bb. *Technology* refers to specific information and processes necessary for the development, production, or use of strategic goods, and may take such forms as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, and instructions written or recorded on other media or devices such as disk, tape, read-only memories;
- cc. *Transporting* refers to the act of moving the strategic goods, agreeing to move them, any supporting services being provided to the transport provider, and any act calculated to promote their supply or delivery if this contributes to WMD, or means of their delivery, or military goods if destined to an embargoed destination subject to a UN Security Council embargo, or to prohibited/ restricted end-users;
- dd. *Transit* refers to shipment of strategic goods within the Philippines and those entering and passing through the territory of the Philippines with an ultimate



destination outside the Philippines in such a manner that the strategic goods remain at all times in or on the same carrier;

ee. *Transshipment* refers to a mode of shipping a good on a carrier which enters the territory of the Philippines, wherein the good is unloaded from the carrier and reloaded in the same or on another carrier that is bound for an ultimate destination outside the Philippines;

ff. *Unlisted goods* refer to goods that are not in the NSGL and may be subject to an authorization requirement under Section 11 of the STMA;

gg. *Warning letter* refers to a letter issued by the STMO that an apparent violation of the STMA has occurred; and,

hh. *WMD* refers to any destructive device or weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors, any weapon involving a biological agent, toxin, or vector, or any weapon that is designed to release radiation or radioactivity at a level dangerous to human life. This includes, but not limited to: (a) nuclear and radiological explosive devices and their major sub-systems; (b) chemicals covered by Schedule I, II and III of the Chemical Weapons Convention; and (c) biological agents and biologically derived substances specifically developed, configured, adapted, or modified for the purpose of increasing their capability to produce casualties in humans or livestock, degrade equipment, or damage crops.

## **RULE II IMPLEMENTING STRUCTURE AND MECHANISM**

**Section 1. Central Authority.** - A permanent committee under the National Security Council (NSC), to be known as the National Security Council - Strategic Trade Management Committee (NSC-STMCom), is hereby constituted and deemed the central authority on any and all matters relating to strategic trade management with the following composition: 1) the Executive Secretary, as Chairperson; 2) the Secretary of Trade and Industry, as Vice Chairperson; and 3) the Secretary of Foreign Affairs; 4) the Secretary of Justice; 5) the Secretary of National Defense; 6) the Secretary of the Interior and Local Government; 7) the Secretary of Finance; 8) the Secretary of Transportation; 9) the National Security Advisor; 10) the Secretary of Environment and Natural Resources; 11) the Secretary of Science and Technology; 12) the Secretary of Agriculture; and, 13) the Secretary of Health, as Members. The Anti-Terrorism Council - Program Management Center (ATC-PMC) shall serve as the Secretariat of the NSC-STMCom.

However, by virtue of Section 15 of Republic Act No. 10844, "*An Act Creating the Department of Information and Communications Technology, Defining its Powers and Functions and Appropriating Funds therefor, and for other Purposes,*" the communications part of the Department of Transportation and Communications (DOTC) has been transferred to the Department of Information and Communications Technology (DICT), and thus, renaming the former as the Department of Transportation (DOTr). Accordingly, the Secretary of Information and Communications Technology is hereby added as a member of the NSC-STMCom.

The members may designate a representative to the NSC-STMCom, who shall have a rank not lower than an Undersecretary. Five (5) members of the NSC-STMCom shall constitute a quorum for the transaction of business.

The NSC-STMCom shall be complemented by the following support agencies and bureaus:

- a. Armed Forces of the Philippines (DND-AFP)
- b. Bureau of Animal Industry (DA-BAI)
- c. Bureau of Customs (DOF-BOC)
- d. Bureau of Quarantine (DOH-BOQ)
- e. Environmental Management Bureau (DENR-EMB)
- f. Food and Drug Administration (DOH-FDA)
- g. National Bureau of Investigation (DOJ-NBI)
- h. National Intelligence Coordinating Agency (OP-NICA)
- i. Office for Transport Security (DOTr-OTS)
- j. Office of the Special Envoy on Transnational Crime (OP-OSETC)
- k. Philippine Center on Transnational Crime (OP-PCTC)
- l. Philippine Coast Guard (DOTr-PCG)
- m. Presidential Legislative Liaison Office (OP-PLLO)
- n. Philippine National Police (DILG-PNP)
- o. Philippine Nuclear Research Institute (DOST-PNRI)
- p. Such other offices, agencies or units as necessary.

**Section 2. Powers and Functions of the NSC-STMCom.** - As the central authority focused on the country's international commitment towards the promotion of a secure and safe environment for the trade in strategic goods consistent with the objectives of the STMA, the NSC-STMCom shall have the following powers and functions:

- a. Formulate and adopt strategies, policies, and guidelines for the effective implementation of the STMA;
- b. Establish, publish, review, and update the NSGL;
- c. Develop a standard end-users' certification;
- d. Monitor and evaluate the implementation of plans, programs, and activities of the STMO;
- e. Review and decide appeals on decisions made by the STMO;
- f. Establish exemptions from an authorization requirement as provided for in Section 15 of STMA, and taking into consideration national security, foreign policy, and law enforcement concerns. These exemptions shall be published, reviewed, and updated;
- g. Create working groups on specific issues by enlisting the assistance and support of government agencies, the academe, as well as private institutions, or persons to carry out its functions;
- h. Establish and maintain coordination, cooperation, assistance, and information sharing with government agencies in the implementation of the STMA;
- i. Establish and maintain coordination, cooperation, assistance, and information sharing with other nations in the regulation of strategic goods; and,
- j. Perform such other tasks and functions it may deem necessary to effectively carry out the provisions of the Act.

**Section 3. Executive and Technical Arm.** - The Strategic Trade Management Office {STMO) is hereby created as a bureau under the administrative supervision of the Department of Trade and Industry (DTI) to serve as the executive and technical agency of the national government for the establishment of the management systems for the trade in strategic goods pursuant to STMA. The STMO shall be headed by a Director who shall be responsible for the pursuit of the office mandate, the discharge of its duties and functions and the exercise of supervision and control over the STMO and its constituent units. The STMO, through the Secretary of Trade and Industry, shall submit periodic updates to NSC-STMCom.

The organizational structure and staffing pattern of the STMO shall be formulated by the DTI Secretary in coordination with the NSC-STMCom, subject to the approval by the Department of Budget and Management (DBM) in accordance with Executive Order No. 292 (Administrative Code of 1987).

**Section 4. Powers and Functions of the STMO.** - The STMO shall have the following powers and functions:

- a. Implement strategies, policies, and guidelines formulated by the NSC-STMCom and develop, evaluate, and monitor corresponding programs and activities;
- b. Develop and maintain the register and carry out registration activities to include registration, registration with conditions, denial of registration, modification, suspension, revocation, or annulment of registration;
- c. Establish and maintain a comprehensive database information system on strategic goods and on persons engaged in the trade of strategic goods and the provision of related services;
- d. Issue or deny issuance of authorizations for the trade of strategic goods and the provision of related services;
- e. Modify, condition, limit, suspend, revoke, or annul authorizations that have been issued as circumstances warrant in consultation with NSC-STMCom;
- f. Issue, modify, suspend, and revoke governmental end-use assurances in consultation with the NSC-STMCom;
- g. Ensure and operate end-use/ end-user controls and establish compliance checks and exercise authority to enter premises for such purposes;
- h. Issue warning letters and orders for corrective action;
- i. Conduct investigation into violations committed under STMA;
- j. Undertake the enforcement of the provisions of the STMA in cooperation with other agencies;
- k. Coordinate, cooperate, provide assistance, and share information with ATC and other Departments/ Agencies;
- l. Conduct capacity building and training of personnel for the effective implementation of the STMA;
- m. Coordinate with the industry and the public regarding their obligations under the STMA;
- n. Encourage and facilitate international cooperation, including the exchange of assistance such as information on matters regarding the implementation and application of the STMA or its IRR; and,
- o. Perform such other tasks and functions necessary to effectively carry out the provisions of the STMA.

### **RULE III REGISTRATION**

**Section 1. Registration.** - Any person who engages or intends to engage in the export, import, and re-export of strategic goods or provides related services shall register directly with the STMO prior to applying for an authorization or a governmental end-use assurance.

**Section 2. Requirements for Registration.** - In order for a natural or juridical person to be registered, a standard format application shall be submitted to the STMO. The application shall be signed by the applicant or an authorized representative. Information which does not fit in the data fields of an application form may be provided on one or several additional sheets of paper signed by the same person/s who sign/s the application. The application form for registration shall be in the manner and form as prescribed by the STMO. Further, the STMO shall require the applicant to provide other documentary requirements relevant to their application for registration. Applications and any materials attached to an application must be submitted in English.

**Section 3. Review of Applications and Grounds for Refusal.** - The STMO shall be responsible for maintaining the Register and carrying out registration activities.

The STMO may refuse to enter a person into the Register in connection with the application for registration based on the following reasons:

- a. If the applicant falsely represents or conceals any material fact or submits misleading information, including the submission of forged documents;
- b. In the past five years, the applicant has been held responsible for violating an international embargo or sanction binding on the Philippines;
- c. National security related civil or criminal proceedings have commenced against the applicant; and,
- d. Any other national security concerns that may exist.

The STMO may refer the application for an advisory opinion to any government agency, as needed.

The STMO shall review an application and make a corresponding decision within thirty (30) calendar days from the date the application was accepted for processing.

If the STMO requires additional information to make a decision, or if the submitted information requires additional verification, the STMO shall have the right to extend the term of review of the application for an additional thirty (30) calendar days. In case of extension, the STMO shall notify the applicant within two (2) calendar days from the time the decision to extend the term of review is made. If the applicant fails to complete the requested information and requirements, the STMO can send a follow-up letter specifying the deadline for the submission of the required information or document before closing down the application.

Upon approving the application, the STMO shall enter the juridical or natural person into the Register and issue the registration certificate to the applicant.

After the STMO renders a decision to register the applicant, a paper or electronic Register entry certificate shall be issued by the STMO bearing the registration number, date of registration, and other relevant information. The applicant shall provide the registration number when submitting an authorization application or in any other communication with the STMO.

**Section 4. *Amendment of Register Entry.*** - In order to amend a Register entry, a written application shall be submitted to the STMO. The STMO may request additional documents, if necessary.

The STMO may refuse to amend a register entry on the grounds specified in Section 3 (b), Rule 111.

**Section 5. *Revocation of the Register Entry.*** A registration entry may be revoked by the STMO on the following grounds:

- a. At the request of the person entered into the Register;
- b. If the person entered in the register has not applied for any authorization from the STMO within two (2) years from its issuance;
- c. If new facts emerge which would have resulted in a denial to enter the person into the Register at the time of application;
- d. If the person entered into the Register is held responsible for violating any legal provisions related to national security;
- e. If the person entered into the Register is held responsible for violating an international sanction or embargo binding on the Philippines;
- f. The natural person who is entered into the Register dies;
- g. The juridical person who is entered into the Register is dissolved;
- h. By order of a competent court; and,



- i. Any other national security, foreign policy, counter-terrorism, crime control, or public safety related concerns.

#### **RULE IV**

### **AUTHORIZATIONS AND GOVERNMENTAL END-USE ASSURANCES**

**Section 1.** *Application for Authorization and Governmental End-Use Assurances.* -Any person, prior to engaging in the export, import, transit, transshipment, re-export, and reassignment of strategic goods, or the provision of technical assistance or related services shall apply for authorization from the STMO.

In order to obtain an individual authorization, global authorization, or a governmental end-use assurance, a person shall submit a standard format application, including documents meeting the relevant requirements, to STMO on paper or electronically. The application shall be signed personally by the applicant, be it a natural person or a duly authorized legal representative of a juridical person. Applications in electronic form shall be accompanied by a digital signature, in accordance with applicable laws and rules and regulations. Information which does not fit in the data fields of an application form may be provided on one or several additional sheets of paper signed by the same person/s who sign/s the application. Applications and any materials attached to an application must be submitted in English.

The application forms and the format of the authorizations and end-use documents shall be provided by the STMO.

An applicant, or its duly authorized legal representative, must include in the application a written statement that the applicant will immediately inform the STMO if he or she becomes aware of information concerning the use of the goods, in whole or in part, for the development, production, use, maintenance, stockpiling, detection, identification, or dissemination of weapons of mass destruction, means of their delivery, for military purposes in an embargoed destination, or for purposes of endangering national security.

A person intending to obtain a governmental end-use assurance shall confirm in the corresponding application that he will comply with the terms and conditions specified in the document. In addition to the governmental end-use assurances contained in the document, the STMO may add other terms and conditions in order to meet the requirements of the exporting country and protect the national security interests of Philippines.

The STMO may require among others establishment of an Internal Compliance Program as a precondition for the issuance of a global authorization, on a case-by-case basis.

After the export, transit, transshipment, re-export, or reassignment of goods, the STMO may require the authorization holder to submit a delivery verification certificate issued by the appropriate authorities of the destination country or any form of document to show proof of delivery to the end-user.

**Section 2.** *Additional Application Requirements.* - The following documents shall be appended to the application for authorization:

- a. Export or re-export authorization application:
  - 1) Technical specifications, allowing the STMO to classify the commodity against the control list;
  - 2) Documents certifying the origin and acquisition of the strategic goods, when appropriate;

- 3) Copies of relevant commercial documents, in particular, any sales contract, order confirmation, invoice, or dispatch note, if available;
- 4) Original End-Use Statement or End-User Certificate, for individual authorizations;
- 5) Copy/ies of relevant license/s or business permits, if applicable;
- 6) Copies of additional authorizations such as transit and/or import authorizations, if applicable;
  - (a) Technology Control Plan, in case of technology transfer;
  - (b) Network Security Plan, in case of intangible software transmission; and,
- 7) Proof of payment of the processing fee.

b. Reassignment authorization application:

- 1) Copy/ies of relevant commercial documents, in particular, any sales contract, order confirmation, invoice, or dispatch note, if available;
- 2) Original End-Use Statement or End-User Certificate;
- 3) Copy/ies of relevant license/s or business permits, if applicable; and,
- 4) Proof of payment of the processing fee.

c. Transit, transshipment, or transportation authorization application:

- 1) Technical specifications, allowing the STMO to classify the commodity against the control list;
- 2) Copy/ies of relevant commercial documents, in particular, any sales contract, order confirmation, invoice, or dispatch note, if available;
- 3) Copy/ies of the End-Use documents;
- 4) Copy/ies of authorizations from exporting country and importing country, if applicable;
- 5) Copy/ies of transit authorization from the next country in the shipment route, if applicable;
- 6) Copy/ies of authorization to transport dangerous or hazardous items, if applicable; and,
- 7) Proof of payment of the processing fee.

d. Brokering authorization application:

*Note:* Availability of supplementary documentation is dependent on the role of the broker in the transaction, and in which phase the broker is involved to arrange the transaction (e.g. negotiating contract, arranging the shipment after the conclusion of the contract).

- 1) Technical specifications, allowing the STMO to classify the commodity against the control list, if available;
- 2) Copy/ies of relevant commercial documents, in particular, any sales contract, order confirmation, invoice, or dispatch note, if available;
- 3) Copy/ies of the End-Use documents, if available;
- 4) Copy/ies of authorizations from exporting, importing, and transiting country, if applicable;
- 5) Copy/ies of transit authorization form the next country in the shipment route, if applicable; and,
- 6) Proof of payment of the processing fee.

e. Import authorization application:

- 1) Technical specifications, allowing the STMO to classify the commodity against the control list;
- 2) Copy/ies of relevant commercial documents, in particular, any sales contract, order confirmation, invoice, or dispatch note, if available;

- 3) Copy/ies of export control license if the goods come from a country with export control laws;
- 4) Copy/ies of relevant license/s or business permits, if applicable; and,
- 5) Proof of payment of the processing fee.

f. Technical assistance authorization application:

- 1) Copy/ies of relevant commercial documents, in particular, any contract, order confirmation, or invoice, if available;
- 2) Original End-Use Certificate;
- 3) Copy/ies of relevant license/s or business permits, if applicable; and,
- 4) Proof of payment of the processing fee.

g. Financing authorization application:

- 1) Copy/ies of relevant commercial documents, in particular, any contract;
- 2) Copy/ies of the End Use documents, if available; and,
- 3) Proof of payment of the processing fee.

The STMO may request additional documents or information from the applicant or the applicant may submit other documents which may be relevant to review and assess the application for authorization.

Documents submitted by electronic means shall be in the Portable Document File (**PDF**) format or other formats where information cannot be tampered. The STMO shall subsequently require the submission of the original document on paper in order to verify the authenticity of the documents.

At the request of the STMO, a certified copy or an original document shall be submitted on paper. Only an original end-use control document issued by the relevant authority of a foreign state and a confirmation by the end-user shall be submitted.

**Section 3. *Application Procedures.*** - After receipt of an application, the STMO shall conduct an initial screening for completeness of the documentary requirements within seven (7) calendar days following the date of submission of the properly completed application form with all supplementary documentation/s.

If the application is incomplete or inaccurate, the STMO shall, within seven (7) calendar days, inform the applicant and request for the submission of complete or correct information and/or documents.

If the applicant fails to act in accordance with the request of the STMO within fourteen (14) calendar days, the application shall be returned without action.

If the applicant submits an application for the transaction, which is not subject to an authorization requirement, the STMO shall advise accordingly.

**Section 4. *Review of Applications.*** - After receipt of the complete documents or information, the STMO shall review the application for authorization taking into consideration the sensitivity of the goods, end-use, end-user, and the reliability of each party to the transaction. In reviewing the application, the STMO may consider any pertinent information available to it.

Upon acceptance of the application, the STMO must determine, whether there is any additional end-use and end-user information that is needed to review and assess the application. The STMO will then promptly request such information from the applicant, other government agencies, or subject matter experts. The time that elapses between the date the information is requested by the STMO and the date such information is

received will not be counted in the processing timeframe. If the STMO needs additional information for making a decision, or if the submitted information needs additional verification, the applicant will be informed immediately.

The STMO will provide a recommendation concerning the application within thirty (30) calendar days for individual authorizations and ninety (90) calendar days for global authorizations.

Prior to denial of an application, the applicant shall be initially informed by the STMO through a letter specifying the reasons for the denial thereof. The period to decide shall be suspended until the requested information is received by the STMO.

Should the application be denied, the denial must state the reasons thereof in accordance with the provisions of the STMA, its IRR, and/ or the NSC-STMCom policies and guidelines.

The STMO may seek transaction-specific policy guidance from the NSC-STMCom.

**Section 5. Issuance of Authorizations and Governmental End-Use Assurances.** - An authorization shall be issued when an application is approved by the STMO. An authorization permits only a specific transaction, or series of transactions, as described in the application and any supporting documents. An application may be approved in whole or in part, or limited by conditions, or other restrictions appearing in the authorization itself.

After an authorization or governmental end-use assurance application is approved, a paper and/or electronic authorization shall be issued by the STMO bearing the authorization number, validation date, expiration date, and other relevant information. When necessary, attachments to an authorization will also be validated with the STMO seal and the date of validation.

A holder of the authorization/end-use control document must use the designated authorization/end-use control document number when preparing customs and relevant documents, and in communicating with the STMO.

An authorization or governmental end-use assurance shall be sent to the applicant by registered mail or electronically.

The STMO shall provide a copy to the BOC and other relevant government agencies upon issuance of authorizations and governmental end-use assurances.

**Section 6. Grounds for Refusal to Issue an Authorization or Governmental End-Use Assurance.** - The STMO shall refuse to issue an authorization or governmental end-use assurance on the following grounds:

- a. The applicant does not fulfill the conditions or requirements established by the STMA or its IRR;
- b. The strategic goods exported, transited, transshipped, re-exported, reassigned, or related services provided are in breach of UN Security Council sanctions or embargoes;
- c. The proposed export, import, transit, transshipment, re-export, reassignment, or provision of related services will impede the fulfillment of other Philippine international commitments or obligations;
- d. There is credible information that the strategic goods or related services will endanger national or international security, regional stability, or contribute to terrorist acts; and,
- e. There is credible information or risk that the proposed transaction will result in the diversion of strategic goods to an unauthorized end-user or end-use.



In deciding whether or not to grant the authorization, the STMO shall take into account all relevant considerations including the following:

- a. The national security or foreign policy interests of the Philippines, in particular, respect for international obligations and commitments under the UN Security Council sanctions, or relevant international treaties and non-proliferation agreements;
- b. Preservation of regional peace, security, and stability;
- c. Internal tensions or armed conflict in the destination country;
- d. The human rights and international humanitarian law;
- e. Terrorism or organized criminal activities;
- f. Security interests of a country which is an ally to the Philippines;
- g. Risk of illegal end-use or by a restricted party;
- h. Risk of diversion to an unauthorized end-user or end-use;
- i. Technical capacity of the recipient country;
- j. The applicant submitted false documents, made misleading representations, or concealed material facts in the application or appended materials;
- k. In the past five years, the applicant has violated the STMA or its IRR, or any other legal provisions related to state security;
- l. In the past five years, the applicant has violated an international embargo or sanction binding on the Philippines;
- m. Criminal or civil proceedings related to national security have commenced against the applicant;
- n. The goods for which the authorization is requested are under a police investigation procedure or court proceedings; and,
- o. Other relevant national security or foreign policy reasons.

**Section 7. *Validity of Authorizations and Governmental End-Use Assurances.*** - An individual authorization for export, import, re-export, or re-assignment of strategic goods or for the provision of related services shall be valid for a maximum period of two (2) years.

An individual authorization for transit or transshipment shall be valid for a maximum period of six (6) months.

A global authorization shall be valid for a maximum period of five (5) years.

The governmental end-use assurances issued by the STMO must be presented to the appropriate authorities within six (6) months.

**Section 8. *Extension of an Authorization.*** - In order to extend the term of an authorization, the authorization holder shall provide the original copy of the authorization and a written application to the STMO not later than fifteen (15) calendar days before the expiration of the authorization.

The STMO shall make a decision on the application taking into consideration the circumstances as specified in Section 6, Rule IV.

If the extension is approved, the STMO shall issue a new authorization with validity terms established in Section 7, Rule IV and send the same to the applicant either by registered mail or electronically.

Control over end-use of the imported strategic goods is exercised by the relevant agencies on the basis of end-use control documents. If enforcement agencies discover any violations relating to strategic goods, they shall notify the STMO immediately.

**Section 9. *Annulment, Revocation, Limitation, or Modification of an Authorization.*** - An authorization may be annulled by the STMO if it was obtained under false pretenses,

misleading representation, or concealment of material facts. In such a case, the authorization is null and void and any activity thereunder is deemed illegal.

An authorization may be revoked by the STMO, if:

- a. The authorization holder requests its termination;
- b. New facts emerge which, had they been known or existed at the time of the application, would have resulted in its denial;
- c. A substantive change to the information in the authorization occurs;
- d. The authorization holder fails to comply with the obligations, terms, or conditions of the authorization;
- e. The authorization holder is held responsible for violating the STMA, its IRR, or other national security-related legal provisions;
- f. The authorization holder fails to comply with request of the STMO for additional information about the activities conducted under the authorization;
- g. The authorization is destroyed or lost;
- h. The natural person who is the authorization holder dies;
- i. The juridical person who is the authorization holder is dissolved;
- j. International sanctions are introduced or amended on a specific country; and,
- k. The STMO becomes aware of violations of other national security-related concerns.

An authorization may be limited by the STMO pursuant to **paragraph b** of this section.

The STMO shall immediately notify the BOC and other relevant government agencies of the annulment, revocation, or limitation of an authorization.

An authorization may be modified by the STMO, in case of a change in the destination or end-user or for other reasons.

The STMO shall notify the authorization holder in writing, within five (5) calendar days, of the annulment, revocation, limitation, or modification of an authorization.

**Section 10. *Revocation of Governmental End-Use Assurance.*** - A governmental end-use assurance issued by the STMO can be revoked only to the extent that the strategic goods covered by the end-use documents have not been imported into the Philippines.

The STMO shall be responsible for informing the competent authority of the exporting country in case of:

- a. Revocation of the governmental end-use assurance; or,
- b. Substantial change to the end-use occurs regarding strategic goods imported into the Philippines on the basis of a governmental end-use assurance issued by the STMO.

**Section 11. *Suspension of an Authorization.*** - Authorizations may be suspended under the following circumstances:

- a. When the authorization holder has received a warning letter identifying failure to comply with a request for corrective action. Failure to comply with the warning letter may result in authorization being suspended until the authorization holder can show compliance to the satisfaction of the STMO.
- b. In case of information that the export, import, transit, transshipment, re-export, reassignment, or provision of related services is or will be conducted in contravention of existing authorization conditions, the STMO may order to stop a shipment of strategic goods or provision of related services at any stage in the process in order to verify its legality. If a shipment is already en route, the STMO is authorized to order the return or unloading of such shipment at any port of call.

- c. When the strategic goods are destined to countries experiencing a sharp deterioration in security or stability.

In the event that the authorization is suspended, the authorization holder will be notified in writing, within five (5) calendar days of the fact of suspension and the initial period of suspension.

Where at the end of the initial period, the grounds for suspension still stand, the period of suspension may be extended. The authorization holder shall be notified of such an extension in writing.

The suspension shall be lifted where the STMO considers it appropriate to do so.

In case of suspension of an authorization, the STMO shall immediately notify the BOC and other relevant agencies of such suspension.

**Section 12. *Notice to Limit, Suspend, Revoke or Annul Authorization or Governmental End-Use Assurance.*** - The STMO shall notify the authorization or governmental end-use assurance holder in writing, within five (5) calendar days, of the decision to limit, suspend, revoke, or annul such document and the reasons thereof.

**Section 13. *Return of an Authorization or Governmental End-Use Assurance.*** - The authorization holder shall return the authorization to the STMO within five (5) calendar days under the following circumstances:

- a. After official notification of the revocation, annulment, or suspension of the authorization, unless the authorization is destroyed or lost. In case the authorization is lost or destroyed, the authorization holder shall execute an affidavit of loss in lieu of the authorization. However, if the authorization is subsequently found, it shall be returned immediately.
- b. The authorization holder decides not to use the authorization.
- c. If the authorization expires without being used.
- d. If a governmental end-use assurance is not submitted to the appropriate foreign authorities within 6 months from issuance or when the goods are not imported into the Philippines.

**Section 14. *Use of the Authorization.*** - In order to export strategic goods, a person shall submit a copy of the authorization to the BOC and to any other relevant authorities. The customs declaration shall include a reference to the use of the relevant authorization, including a general authorization, as appropriate.

In order to import strategic goods, a person shall submit a copy of the authorization to the BOC in the course of customs formalities upon entry into the national territory and to any other relevant authorities for the release of goods from Customs supervision. The customs declaration shall include a reference to the use of the relevant authorization, as appropriate.

In order to transit or transship strategic goods, a person shall submit a copy of the authorization to the BOC before the shipment exits the port of entry. The customs declaration shall include a reference to the use of the relevant authorization, as appropriate.

A provider of related services shall submit a copy of the authorization to the relevant supervisory agency, upon the request of that agency.

A person that transfers technology electronically shall submit an authorization to the relevant supervisory agency, upon the request of that agency.

**Section 15. *Description Requirement.*** - The relevant commercial documents relating to export, re-export, import, transit, or transshipment of strategic goods shall clearly indicate that those goods are strategic and subject to controls; relevant commercial documents include, in particular, any sales contract, order confirmation, invoice, or dispatch note.

**Section 16. *Authorization Form.*** - The authorization forms shall be annexed in the Registration and Authorization Manual to be issued by the STMO.

**Section 17. *Exemption from Authorization Requirement.*** - An authorization is not required under the following circumstances:

- a. Import of strategic goods by the government for the use of the Philippine military or police forces;
- b. Temporary export of strategic goods by the government for the use of the Philippine military or police forces assigned outside of Philippine jurisdiction;
- c. Export, transit, and transshipment of strategic goods which are provided in connection with a military, peacekeeping, or government humanitarian mission;
- d. Export, import, transit, and transshipment of strategic goods by the government in connection with law enforcement activities; and,
- e. Any other circumstances as provided by the NSC-STMCom pursuant to Section 2(f), Rule II.

**Section 18. *Control Over End-Use of Strategic Goods in the Philippines Under Governmental End-Use Assurances.*** - The STMO, in consultation with the NSC-STMCom as may be necessary, is authorized to certify the end-use of strategic goods in the Philippines based on the International Import Certificate, End-Use Certificate and Delivery Verification Certificate.

The STMO, within the limits of its competence on the basis of end-use licensing documents, shall exercise the function of certification of the end-use of strategic goods. In addition to the standard end-use certification assurances contained in the end-use documents, the STMO, in consultation with the NSC-SIMCom, may add other terms and conditions in order to meet the requirements of the exporting country of the goods and the security interest of the Philippines.

The STMO shall be responsible for informing the competent authority of the end-use country and all countries through which the goods will be transhipped or transited. In fulfilling this responsibility, the STMO may request additional documents such as declarations of the shippers or refer to other relevant information obtained in the course of performing their functions under this Act.

The application, issuance, modification, suspension, or revocation procedures of end-use certification documentation shall be in accordance with the IRR and in consultation with the NSC-STMCom as may be necessary.

**Section 19. *Liability Limitation.*** - If the STMO denies, suspends, limits, revokes or annuls an authorization or registration, it shall not be liable for damages that may be caused by such acts.

**Section 20. *Confidentiality of Business Proprietary Information.*** - Any information obtained under the STMA and its IRR that are marked as confidential business information shall not be disclosed to any other party except in the furtherance of justice and law enforcement, national security, or foreign policy interest, as determined by the STMO, unless the party providing such information has consented to its disclosure.



**RULE V**  
**RESPONSIBILITIES OF PERSONS IN STRATEGIC TRADE TRANSACTIONS**

**Section 1. *Securing an Authorization.*** - It shall be the responsibility of any person, subject to the STMA, who intends to engage in the export, import, transit, and transshipment of strategic goods, under the NSGL, or the provision of related services to obtain an authorization from the STMO as provided in the STMA and as prescribed herein. In addition, any person who intends to engage in the re-export or reassignment of strategic goods is required to obtain an authorization when this has been made a condition for the authorization of the exports from the Philippines.

**Section 2. *Placing Strategic Goods on Carriers.*** - No person shall be allowed to place any strategic goods in or on any carrier located within the territorial and economic jurisdiction of the Philippines without the consent of the owner or operator of the carrier. Such owners and operators shall be prohibited from allowing the placement of strategic goods in or on any carrier unless the person presents an authorization issued by the STMO to export, import, transit or transship strategic goods.

**Section 3. *Recordkeeping Requirements for the Authorization Holder.*** - All persons engaged in the business involving strategic goods are required to keep at their principal place of business in a secure manner, the details of which will be provided in a guideline to be formulated by the STMO, for a period of ten (10) years from the date of completion of the transaction, all records, in both hard copy and electronic copy, of the transaction and/or books of accounts, business and computer systems and all commercial and technical data related to the transaction including:

- a. The description of the strategic goods or related services;
- b. The quantity and the value of the strategic goods or value of the related service provided;
- c. The name and address of the parties in the transaction or activity;
- d. The end-use and end-user of the strategic goods or related services; and,
- e. The date of the transaction or activity.

**Section 4. *Submission of Documents.*** - The customs broker or any authorized agent of any entity engaged in the trade of strategic goods shall submit to the BOC, a copy of the authorization and a copy of the extract of the manifest of the carrier, in or on which the strategic goods were loaded prior to its departure or arrival.

**Section 5. *End-Use Controls.*** - End-use controls may be imposed on strategic goods that are not listed in the NSGL and related services, and shall apply as follows:

- a. An individual authorization shall be required for the export, re-export, reassignment, transit and transshipment of unlisted goods, or the provision of technical assistance or related services if the exporter or principal party has been informed by the Strategic Trade Management Office (STMO) that the goods or services are or may be used, partly or entirely, in connection with the acquisition, development, production, handling, operation, maintenance, storage, detection, identification or dissemination of WMDs or their means of delivery;
- b. An individual authorization shall also be required for the export, re-export, reassignment, transit and transshipment of unlisted goods, or the provision of technical assistance or related services if the purchasing country or country of destination or juridical or natural person receiving the goods is subject to an international sanction or an arms embargo imposed by a binding resolution of the UN Security Council and if the exporter or principal party has been informed by the STMO in close consultation with the NSC-STMCom that the goods in question are or may be used, partly or entirely, for a military end-use;

- c. An individual authorization shall also be required for the export of unlisted goods, or the provision of related services if the exporter has been informed by the STMO that the goods in question are or may be used, partly or entirely, as parts or components of military items listed in the NSGL, that have been exported from the territory of the Philippines without authorization or in violation of an authorization; and
- d. If an exporter or principal party has knowledge or has grounds for suspecting that unlisted goods proposed for export are or 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, the exporter or principal party must notify the STMO. The STMO shall decide whether or not such goods are subject to an authorization.

## **RULE VI ADMINISTRATIVE PENALTY GUIDE INES**

**Section 1. *Administrative Penalties.*** - The STMO shall impose on any person found to have committed violations under the STMA the following administrative penalties:

- a. Limitation, revocation, or annulment of any authorization and/or registration;
- b. Imposition of fines of up to two hundred fifty thousand pesos (P250,000.00) or twice the value of the strategic good or related service under the contract, or as assessed by the STMO; and,
- c. Upon request by the Securities and Exchange Commission and/or the Department of Trade and Industry or any other relevant agencies, order the cancellation or suspension of the registration and authorization to operate of the partnership, corporation, association, and other juridical entity.

The imposition of the penalty shall be without prejudice to the filing of appropriate criminal charges against the persons responsible for the violation.

**Section 2. *Warning Letter and Orders for Corrective Action.*** - In the exercise of its discretion, the STMO may determine in certain instances that issuing a warning letter, instead of filing an administrative or criminal complaint, will achieve the desired result.

A warning letter shall fully explain the apparent violation of the STMA or its IRR.

The STMO may issue a warning letter for an apparent violation of a technical nature, provided there are efforts to comply with the law in good faith and cooperate with the investigation, or where the investigation commenced as a result of voluntary self-disclosure.

The authorization holder shall be given ten (10) calendar days from receipt of the warning letter within which to file his comments.

In the following instances, the STMO shall issue an order for corrective action:

- a. Failure to file a comment within the prescribed period; or,
- b. The comment was found unsatisfactory by the STMO.

**Section 3. *Limitation, Revocation, or Annulment of Authorization and/or Registration.*** - The STMO shall issue an order limiting, revoking, or annulling authorization or registration under Rule IV.

**Section 4. *Suspension of Administrative Penalty Order.*** - In exceptional circumstances, the STMO shall suspend an administrative penalty order to limit, revoke, or annul

authorizations and/or registration after the finality of the administrative appeals. The period of suspension shall be determined by the NSC-STMCom.

**Section 5. *Fines.*** - The STMO shall assess a fine for each violation of the STMA and its IRR taking into account the circumstances provided under Section 6, Rule VI.

**Section 6. *Attendant Circumstances.*** - In determining the appropriate administrative penalties to apply, the STMO may consider the following or other similar circumstances:

- a. The person made a voluntary disclosure of any violation of the STMA or its IRR;
- b. Level of compliance with the documentary requirements of, and/or responsibilities imposed by the STMA or its IRR;
- c. Prior violations of the STMA;
- d. Quantity and/or value of the transaction; and,
- e. Potential harm to the Philippines' national security or foreign policy interest.

## **RULE VII ADMINISTRATIVE APPEALS**

**Section 1. *Who May File an Administrative Appeal.*** - 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.

**Section 2. *Filing and Content of Administrative Appeals.*** - The aggrieved applicant or the authorization holder may file a motion for reconsideration within fifteen (15) calendar days from receipt of the decision from the STMO.

A decision or order of the STMO denying the motion for reconsideration may be appealed administratively to the NSC-STMCom within fifteen (15) calendar days from receipt of said decision or order.

Within the period for filing an appeal, a filing fee shall be paid by the aggrieved applicant or authorization holder in the amount to be determined by the NSC-STMCom.

The administrative appeal is taken by filing a position paper with the Secretariat of the NSC-STMCom within fifteen (15) calendar days from receipt of the decision of the STMO denying the aggrieved applicant's or authorization holder's motion for reconsideration.

Within five (5) calendar days from receipt of the position paper, the NSC-STMCom, through the Secretariat, shall request the STMO to forward the records of the case to the NSC-STMCom. STMO shall forward the records of the case within fifteen (15) calendar days.

The administrative appeal shall be considered as filed and perfected, upon receipt by the Secretariat of the position paper of the aggrieved applicant or authorization holder and proof of payment of the filing fee.

**Section 3. *Review of Appeals.*** - To assist the NSC-STMCom in deciding an appeal, an *ad hoc* committee shall be created by the NSC-STMCom Chairperson to review the appeal. The members of the *ad hoc* committee shall be composed of three (3) or five (5) designated representatives from member and support agencies. The *ad hoc* committee shall make a recommendation on whether to uphold, reverse or modify the decision of the STMO, stating the reasons therefor. Said recommendations shall then be submitted to the NSC-STMCom for its consideration.

The *ad hoc* committee's recommendation shall be based on the aggrieved applicant's or authorization holder's position paper, the records of the case from the STMO, and if necessary, expert opinion as may be requested by the *ad hoc* committee.

The *ad hoc* committee shall submit its recommendation to the NSC-STMCom within thirty (30) calendar days.

**Section 4. Decisions.** - The *ad hoc* committee's recommendation shall be deemed adopted after approval by a majority of the members of the NSC-STMCom.

The NSC-STMCom may reverse, affirm or modify the decision of the STMO. The Chairperson or Vice-Chairperson shall sign the decision of the NSC-STMCom.

The decision of the NSC-STMCom shall be final and executory, without prejudice to judicial appeal.

## **RULE VIII LIABILITIES, VIOLATIONS, PENALTIES AND SANCTIONS**

**Section 1. Unlawful Act and Penalties.** - Any person who willfully and intentionally engages in any of the following activities shall be imprisoned for a period of six (6) years and one (1) day to twelve (12) years imprisonment, and a fine of one million pesos (P1,000,000.00) to five million pesos (P5,000,000.00):

- a. To engage in any of the regulated activity prohibited by, or in contravention of the STMA and its IRR, including: failure to register; acts without an authorization; or acts in breach of the conditions and terms of an authorization or governmental end-use assurances;
- b. To make false or misleading representations or conceal any material fact, including in the submission of any document, to the NSC-STMCom, the STMO, or any other Philippine government agency;
- c. To engage in any activity prohibited by, or in contravention of, any orders or regulations issued by the NSC-STMCom to implement the provisions of the **STMA**;
- d. To conspire or act in concert with one or more persons in any manner or for any purpose to bring about or to do any act that constitutes a violation of the STMA, or any order, regulation, or authorization issued thereunder;
- e. To forge or alter any authorization, registration, certificate or any or other document issued under the provisions of the STMA;
- f. To obstruct or hinder the NSC-STMCom or any government agency in the execution of its powers conferred under the STMA; or,
- g. To induce a violation of the STMA or any order, regulation, or authorization issued thereunder.

Any person found guilty of committing any of the following shall be imprisoned for a period of six (6) months and one (1) day to six (6) years imprisonment, and a fine of one hundred thousand pesos (P 100,000.00) to one million pesos (P1,000,000.00):

- a. To fail to report or notify the STMO as required by the STMA;
- b. To fail to comply with record keeping requirements as provided in the STMA; or,
- c. To engage in any activity with intent to evade the provisions of the STMA, or any order, regulation, or authorization issued thereunder.

**Section 2. Attempt to Commit Violations of the STMA.** - Any attempt to commit any crime under Section 19(a) of the STMA shall be penalized by imprisonment for a period from six (6) months and one (1) day to six (6) years, and a fine from one hundred thousand pesos (P100,000.00) to one million pesos (P1,000,000.00).



**Section 3. *Investigation.*** - If in the course of conducting an investigation for violations committed under the STMA, the STMO comes across evidence of possible criminal violations, it shall refer the matter and turn over all available evidence to the following agencies:

- a. BOC on matters involving violations of import and export provisions of the STMA as well as the Tariff and Customs Code;
- b. PCG on matters involving violations that pertain to physical or outright smuggling on border security; or,
- c. PNP/ NBI on acts involving violations outside the "jurisdiction of the BOC and PCG.

After a finding that a *prima facie* case exists, the aforementioned agencies shall refer such case to the Department of Justice (DOJ) for preliminary investigation.

Appropriate forfeiture proceedings for materials and goods confiscated shall be filed in accordance with existing laws, rules, and regulations.

**Section 4. *Criminal Liability of Officers of Partnerships, Corporations, and Other Juridical Entities.*** - In case any of the violations of the STMA is committed by a partnership, corporation, association, or any other juridical persons, the partner, president, director, manager, trustee, administrator, or officer who willfully and intentionally consents to, or tolerates such violation shall be held criminally liable as co-principal. The penalty provided for the offense shall be imposed upon the responsible officers who participated in the commission of the crime or who have willfully and intentionally permitted its commission.

**Section 5. *Administrative Liability of Government Officials and Employees.*** - Any government official or employee who commits, or facilitates the commission of, any violation of the STMA shall be administratively liable under Civil Service rules, without prejudice to criminal liability under the STMA. The concerned government official or employee shall, upon conviction, be dismissed from the service.

**Section 6. *Additional Penalty if Offender is an Alien/ Foreign National.*** - In addition to the penalties prescribed in the STMA, any alien/foreign national who violates any provision of the STMA shall, after service of sentence, be deported immediately without further proceedings, and be barred permanently from entering the country.

**Section 7. *Forfeiture.*** - In addition to imprisonment and fine, the strategic goods subject of the offense, including the proceeds derived therefrom, shall be forfeited in favor of the government.

After conviction, the Regional Trial Court shall enter a judgment of forfeiture of the goods, including its proceeds, in favor of the Government of the Philippines and shall authorize the forfeiture of the seized goods.

Following the seizure of the strategic goods, the relevant government agency shall direct the disposition of the property by sale or other commercially feasible means. The offender or any person acting on behalf of the offender shall not be eligible to purchase the forfeited property. The proceeds of any sale or disposition of any property confiscated or forfeited under this section shall be paid directly to the National Treasury. All proper expenses incurred in the proceedings for the confiscation, forfeiture, custody, and maintenance of the property pending disposition, as well as expenses for publication and court costs shall be taken from the General Appropriations Act (GAA).

If the strategic goods are located outside of the Philippines, the court may order the convicted offender to pay to the National Treasury the amount equal to the value of the

strategic goods or related services under the contract or as assessed by the STMO, whichever is greater.

**Section 8. *Protection of Officers.*** - No action or prosecution shall be brought, instituted, or maintained against the NSC-STMCom, the STMO, or an authorized officer for or on account of or in respect of any act ordered or done for the purpose of carrying into effect the STMA or the IRR if the act was done in good faith and under a reasonable belief that it was necessary for the purpose intended to be served thereby.

**Section 9. *Jurisdiction.*** - The Regional Trial Court shall have jurisdiction over criminal prosecutions for violation of any provision of the STMA, as well as over applications for the issuance and grant of applicable provisional remedies under the Rules of Court.

**Section 10. *Mutual Legal Assistance in Criminal Matters.*** - The DOJ, through the Office of the Chief State Counsel (Legal Staff), shall make and receive requests for assistance, and to execute or arrange for the execution of such requests.

a. Types of Assistance -

- 1) Take evidence to obtain voluntary statements from persons;
- 2) Make arrangements for persons to give evidence or to assist in criminal matters;
- 3) Effect service of judicial documents;
- 4) Execute searches and seizures;
- 5) Examine objects and sites;
- 6) Provide or obtain original or certified true copies of relevant documents, records, and items of evidence;
- 7) Identify or trace property derived from the commission of an offense and instrumentalities of crime;
- 8) Restrain dealings in property or freeze property derived from the commission of an offense that may be recovered, forfeited or confiscated;
- 9) Recover, forfeit, or confiscate property derived from the commission of an offense; and,
- 10) Locate and identify witnesses and suspects.

b. Requirements for Requests - The request for assistance from a foreign state shall contain the following:

- 1) Name of the authority conducting the investigation, prosecution, or judicial proceeding to which the request relates, including contact details of the person capable of responding to inquiries concerning the request;
- 2) Specific purpose of the request and the nature of the assistance sought;
- 3) Confirmation that the person named therein is under investigation or prosecution or said person has been convicted for violation of any of the regulated particulars, if known;
- 4) Specify the manner in which and to whom said information, document, material or object obtained pursuant to the request, is to be produced;
- 5) All particulars necessary for the issuance by the court in the Philippines of the writs, orders or processes needed by the requested State; and,
- 6) Such other information as may assist in the execution of the request.

c. Authentication of documents - Any document submitted by the foreign state pursuant to Section 29 of the STMA shall be admissible as evidence in any proceeding, without the need for further authentication.

d. In any request for legal assistance from a foreign state, the DOJ -

- 1) Shall endeavor to promptly execute the request or arrange for its execution;

- 2) Shall inform the requesting State of a decision not to comply, in whole or in part, with a request for assistance and the reason or reasons for that decision; and,
- 3) May refuse to grant the request if the assistance sought or the execution of the request contravenes any provision of the Constitution or is likely to prejudice the national interest of the Philippines;

e. The request shall be executed in accordance with the laws of the Philippines.

**Section 11. Extradition.** - Subject to the provisions of the extradition law and the applicable extradition treaty, the offenses defined in the STMA shall be deemed included as an extraditable offense defined in an extradition treaty in which the Philippines is a party.

## RULE IX FINAL PROVISIONS

**Section 1. Separability Clause.** - If any provision of the STMA is held to be invalid or unconstitutional, the provisions not otherwise affected shall remain valid and subsisting.

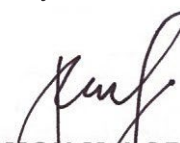
**Section 2. Suppletory Application.** - For purposes of this Act, the Revised Penal Code and other applicable laws shall have suppletory application.


**Section 3. Repealing Clause.** - All laws, decrees, executive orders, rules and regulations and other issuances or parts thereof which are inconsistent with the provisions of the STMA are hereby repealed, amended, or modified accordingly.


**Section 4. Effectivity Clause.** - This IRR shall take effect after fifteen (15) days from its publication in the *Official Gazette* or in a newspaper of general circulation.

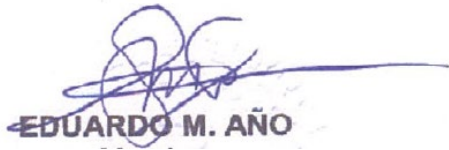
This "**Implementing Rules and Regulations of Republic Act No. 10697**" is hereby approved by the **NATIONAL SECURITY COUNCIL - STRATEGIC TRADE MANAGEMENT COMMITTEE** this 31st day of August 2017 in the City of Manila, Philippines.

**SALVADOR C. MEDIALDEA**  
Chairman,  
(Executive Secretary, Office of the President)

  
**RAMON M. LOPEZ**  
Vice-Chairman  
(Secretary, Department of Trade and Industry)

  
**VITALIANO N. AGUIRRE II**  
Member  
(Secretary, Department of Justice)

  
**ALAN PETER S. CAYETANO**  
Member  
(Secretary, Department of Foreign Affairs)



**EDUARDO M. AÑO**

Member  
(OIC, Department of the Interior and Local Government)



**CARLOS G. DOMINGUEZ**

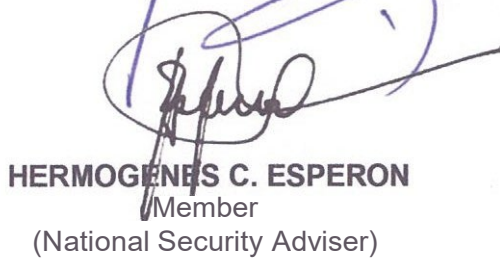
Member  
(Secretary, Department of Finance)



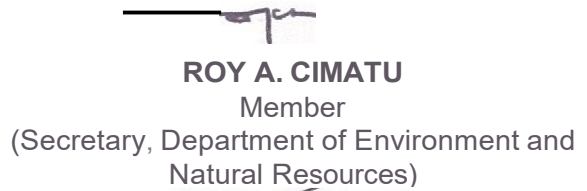
**ARTHUR P. TUGADE**  
Member  
(Secretary, Department of Transportation)



**ELISEO M. RIO JR.**  
Member  
(Secretary, Department of Information and Communications Technology)



**HERMOGENES C. ESPERON**  
Member  
(National Security Adviser)




**ROY A. CIMATU**  
Member  
(Secretary, Department of Environment and Natural Resources)

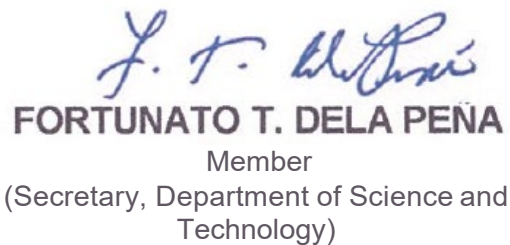


**DELFIN N. LORENZANA**

Member  
(Secretary, Department of National Defense)



**EMMANUEL F. PIÑOL**  
Member  
(Secretary, Department of Agriculture)



**FORTUNATO T. DELA PEÑA**  
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**FRANCISCO T. DUQUE III**  
Member  
(Secretary, Department of Health)