

MEMORANDUM CIRCULAR NO. 20-60
Series of 2020

Subject: GUIDELINES ON WARNING LETTERS AND ORDERS FOR CORRECTIVE ACTION

WHEREAS, pursuant to Section 8 of Republic Act No. 10697, otherwise known as the Strategic Trade Management Act (STMA), the Strategic Trade Management Office (STMO) is 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.

WHEREAS, by virtue of Section 9 (h) of the STMA, one of the powers and functions of the STMO is to **issue Warning Letters and Orders for Corrective Action**.

WHEREAS, Rule VI, Section 2 of the STMA Implementing Rules and Regulations, a Warning Letter may be issued by the STMO where the issuance thereof will achieve the desired result, in lieu of filing an administrative or criminal complaint.

NOW, THEREFORE, this Circular is hereby issued for the information, guidance, and compliance of all covered persons.

1. Purpose

The guidelines set out in this document shall be used by STMO and industry stakeholders engaged in strategic trade activities as reference for effective issuance of Warning Letter, Order for Corrective Action, and filing of corresponding comments thereto.

2. Scope

- 2.1. Any 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;
- 2.2. Any person engaged in the re-export of strategic goods that have been imported from the Philippines to a foreign country, and the reassignment of strategic goods imported from the Philippines to a new end-user in the country of import subject to authorization under the STMA; and

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- 2.3. Any person dealing with unlisted items that meets any of the four (4) conditions set forth under Section 11 of the STMA.

3. Grounds for the Issuance of Warning Letter

The STMO may issue a warning letter based on the following circumstances:

- 3.1. An apparent violation of a technical nature, provided there are efforts to comply with the law in good faith and cooperate with the investigation;
- 3.2. Where the investigation commenced as a result of voluntary self-disclosure;
- 3.3. Where a person attempted to export strategic goods without registration or authorization.
- 3.4. Violation committed/omitted through inadvertence or misinterpretation of the STMA and its IRR discovered during the conduct of Licensing and Audit procedures; or
- 3.5. Such other analogous circumstances.

*N.B. This warning letter shall not apply to persons engaged in exporting strategic goods until **July 2021** notwithstanding the absence of authorizations issued by the STMO provided that said persons have pending application or undertake to register with and apply for export authorization from the STMO, and provided further that they inform the STMO of actual export shipments of strategic goods that were processed by the Bureau of Customs.*

4. Warning Letter

- 4.1. A warning letter refers to a letter issued by the STMO that an apparent violation has occurred.
- 4.2. A warning letter shall:
 - 4.2.1. Contain the specific violation of the STMA or its IRR;
 - 4.2.2. State the relevant and essential facts constituting the alleged violation;
 - 4.2.3. Be duly signed by the STMO Director or his duly authorized representative;

- 4.2.4. Have attached copy/ies of piece/s of evidence which support the allegation; and,
- 4.2.5. Be served personally or sent via registered mail/ e-mail to the authorization holder.

5. Comment

- 5.1. A Comment, to be considered by the STMO, shall be verified and contain the following:
 - 5.1.1. Date of receipt of the warning letter;
 - 5.1.2. Antecedent/ relevant facts;
 - 5.1.3. Defenses/ undertaking;
 - 5.1.4. Documents supporting the defenses/ undertakings; and,
 - 5.1.5. Date and signature of Person Responsible for STMA Compliance.
- 5.2. All defenses not alleged in the comment will not be appreciated in favor of the respondent authorization holder;
- 5.3. Comments shall be filed personally or through registered mail at 3rd Floor 389 Tara Bldg., Sen. Gil J. Puyat Avenue, Makati City. Advance copy may be sent via email at stmo@dti.gov.ph copy furnishing the STMO-Investigation and Compliance Division at stmo_icd@dti.gov.ph ;
- 5.4. The respondent/authorization holder shall be given ten (10) calendar days from receipt of the warning letter within which to file his comments/Affidavit of Undertaking. Failure to file a comment within the reglementary period shall warrant the issuance of an Order for Corrective Action.

6. Grounds for the Issuance of Order for Corrective Action:

The STMO shall issue an Order for Corrective Action against person/s who, after receiving the Warning Letter:

- a. Fail to file Comment within (10) days;
- b. The comment was found unsatisfactory by the STMO; or,
- c. such other circumstances as may be determined by the STMO.

7. Effectivity

This Circular shall take effect immediately until lifted by the STMO.

Recommending Approval:



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Director III

Approved by:



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