

## **ANNOUNCEMENT 2021-01**

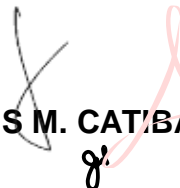
### **ON THE PUBLICATION OF ANNEX 3 OF THE NATIONAL STRATEGIC GOODS LIST AND MEMORANDUM CIRCULAR ON THE IMPLEMENTATION OF FINANCING AND BROKERING UNDER THE STRATEGIC TRADE MANAGEMENT ACT**

To further implement the United Nations Security Council Resolutions on Countering the Proliferation of Weapons of Mass Destruction, the National Security Council – Strategic Trade Management Committee has adopted and published Annex 3 of the National Strategic Goods List (NSGL Annex 3) or the Nationally Controlled Goods List. The export, import, transit, and transshipment of items listed in NSGL Annex 3 shall require an authorization from the Strategic Trade Management Office (STMO).

Moreover, the STMO has issued Memorandum Circular No. 21-06 on the Implementation of Financing and Brokering under the Strategic Trade Management Act as guidelines expanding the covered activities and prohibited acts in relation to goods under NSGL Annex 3.

The Memorandum Circular No. 21-06 sets forth policy and procedures on the application for authorization of persons engaged in brokering and making available or providing funds to facilitate the movement/flow of strategic goods and/or related services to designated persons.

If you need additional information, please email the STMO for advice at [stmo@dti.gov.ph](mailto:stmo@dti.gov.ph)

  
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Catibayan Luis Mella  
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**ATTY. LUIS M. CATIBAYAN**

#### **STRATEGIC TRADE MANAGEMENT OFFICE**

**MEMORANDUM CIRCULAR NO. 21-06**

Series of 2021

**SUBJECT: IMPLEMENTATION OF FINANCING AND BROKERING UNDER  
REPUBLIC ACT NO. 10697 OTHERWISE KNOWN AS STRATEGIC TRADE  
MANAGEMENT ACT (STMA)**

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**WHEREAS**, Section 2 of Republic Act No. 10697, otherwise known as the Strategic Trade Management Act (STMA), declares as State policy the fulfillment of 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 Weapons of Mass Destruction (WMD) and their means of delivery, 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;

**WHEREAS**, Section 4 of the STMA mandates establishing a National Strategic Goods List (NSGL) that will describe with specificity the strategic goods subject to authorization. The NSGL shall conform with international commitments and non-proliferation obligations under bilateral and multilateral treaties, international conventions, and non-proliferation regimes. The NSGL is composed of three (3) annexes: Military Goods (Annex 1), Dual-Use Goods (Annex 2), and Nationally Controlled Goods (Annex 3);

**WHEREAS**, Section 5(o) of the STMA defines Nationally Controlled Goods (Annex 3) as strategic goods placed under unilateral controls for reasons of national security, foreign policy, anti-terrorism, crime control, and public safety;

**WHEREAS**, Section 5(t) of the STMA defines related services as brokering, financing, and transporting in relation to the movement of strategic goods between two (2) foreign countries and providing technical assistance;

**WHEREAS**, Section 6 of the STMA designates the National Security Council – Strategic Trade Management Committee (NSC-STMCom) as the central authority on all matters relating to the strategic trade management;

**WHEREAS**, Section 7 of the STMA gives the NSC-STMCom the power to formulate and adopt strategies, policies, and guidelines for effective implementation of the STMA and establish, publish, review, and update the NSGL;

**WHEREAS**, Sections 8 of the STMA designates the Strategic Trade Management Office (STMO) as the executive and technical arm for the establishment of the management systems for the trade in strategic goods under the STMA;

**STRATEGIC TRADE MANAGEMENT OFFICE**

**WHEREAS**, Sections 9 of the STMA grants the STMO the power and function to implement strategies, policies, and guidelines formulated by the NSC-STMCom, including the issuance or denial of authorizations for the trade of strategic goods and the provision of related services;

**WHEREAS**, Section 11(a) of the STMA provides that 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 STMO has informed the exporter or principal party 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;

**WHEREAS**, Section 6(b) Rule VI of the STMA Implementing Rules and Regulations (STMA IRR) states that the STMO shall refuse to issue an authorization or governmental end-use assurance if the strategic goods are to be exported, transited, transshipped, re-exported, reassigned, or related services provided are in breach of UN Security Council sanctions or embargoes;

**WHEREAS**, NSC-STMCom issued Resolution No. 4 s. 2021 or the Approval and Publication of the National Strategic Goods List Annex 3 (Nationally Controlled Goods) of the STMA to cover strategic goods subject to unilateral controls for reasons of national security, foreign policy, anti-terrorism, crime control, and public safety;

**WHEREAS**, the STMO, with its mandate, to inform the public regarding their obligations under the STMA, especially those persons engaged or intending to engage in the trade of strategic goods by performing related services as earlier defined, deemed it necessary to provide guidelines on the implementation of *financing and brokering* in connection with the covered activities, goods and prohibited acts under *Annex III* of the National Strategic Goods List (NSGL);

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

## **1. Definition of Terms**

- a *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; or (c) any activity to include the financing, transportation, freight forwarding or taking any other action that facilitates the manufacture, export, or import of a **strategic good**, irrespective of its origin and which may include preliminary discussions, introductory meetings, and other very basic sales activities by intermediaries.

- b. *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 prohibited/restricted end-users.
- c. **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;

## 2. Application for Individual Authorization

Any natural or juridical person operating within the Philippines or any Filipino person wherever located **SHALL APPLY FOR AN INDIVIDUAL AUTHORIZATION** from the STMO for engaging in the following activities:

- a. *Brokering* 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; or (c) any activity to include the financing, transportation, freight forwarding or taking any other action that facilitates the manufacture, export, or import of a **strategic good**, irrespective of its origin and which may include preliminary discussions, introductory meetings, and other very basic sales activities by intermediaries; or
- b. making available or providing funds to facilitate the movement/flow of any **strategic good** and/or related services.

If the parties involved in the transaction/s is any of the following:

- a. a designated person under UNSCR 1718 and its subsequent resolutions;
- b. a designated person under UNSCR 2231 and its subsequent resolutions;
- c. any entity owned or controlled by a designated person;
- d. any individual or entity who acts on behalf of or under the direction of a designated person; or
- e. any person in, or who is a national of, the Democratic People's Republic of Korea.

### 3. Authorization application process

- a. Except for documentary requirements, the application of individual authorization for goods under Annex III shall be the same process provided under the STMO's **Memorandum Circular No. 20-26** (Annex B).
- b. The following relevant documents shall be appended to the application form and shall be submitted in English:
  - i. Brokering authorization application:
    - 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 from the next country in the shipment route, if applicable; and,
    - 6. Proof of payment of the processing fee.

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

- ii. 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.

### 4. **Prohibition.** Any natural or juridical person operating within the Philippines or any Filipino person, wherever located, is prohibited from engaging in brokering and financing activities, if the parties involved in the transaction/s is any of the following:


- a. a designated person under UNSCR 1718 and its subsequent resolutions;
- b. a designated person under UNSCR 2231 and its subsequent resolutions;
- c. any entity owned or controlled by a designated person;
- d. any individual or entity who acts on behalf of or under the direction of a designated person; or
- e. any person in, or who is a national of, the Democratic People's Republic of Korea.

5. **Penalties.** Any violation of the foregoing provisions, shall be considered an unlawful act under Section 19 of the STMA, and penalized accordingly.



This Circular shall take effect immediately.

28 January 2021, Makati City.

Recommending Approval:

  
**ATTY. JANICE S. DIMAYACYAC**  
Director III

Approved by:

  
  
Digitally signed by  
Catibayan LuisMella  
Date: 2021.01.28  
15:40:30 +08'00'  
**ATTY. LUIS M. CATIBAYAN**  
Director IV