



STRATEGIC TRADE MANAGEMENT GUIDE

STMA OVERVIEW



VOLUME 1

Proliferation Threat



Among the most important security challenges countries face today are preventing the proliferation of weapons of mass destruction (WMD), controlling the spread of conventional arms, and regulating transfers of goods, software, and technologies that can be used for WMD or military purposes.



Confronting these challenges effectively is critical to protecting a country's national security, foreign policy, international commitments, population, environment, allies, and friendly states.



WMD are weapons that can cause widespread damage to human and animal life, infrastructure, environment, and evoke terror in a population. The main types of WMD are nuclear and radiological weapons, biological weapons, and chemical weapons.



Many items that can be used in developing WMD and conventional arms and enhancing military programs have peaceful applications. These are "dual-use items" – goods, software, and technologies that are normally used for commercial purposes but can also be used for a WMD or military purpose.



The international community has responded to WMD and arms proliferation challenges by calling upon countries to manage and control trade in military and dual-use items, which are called "strategic goods."

STRATEGIC TRADE MANAGEMENT IN THE PHILIPPINES



In response to proliferation threats, the Philippines enacted Republic Act No. 10697, otherwise known as the Strategic Trade Management Act (STMA).

The STMA is an “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.”

The STMA was enacted consistent with the Philippines’ national interest and to fulfill its international commitments and obligations, including United Nations Security Council Resolution (UNSCR) 1540.



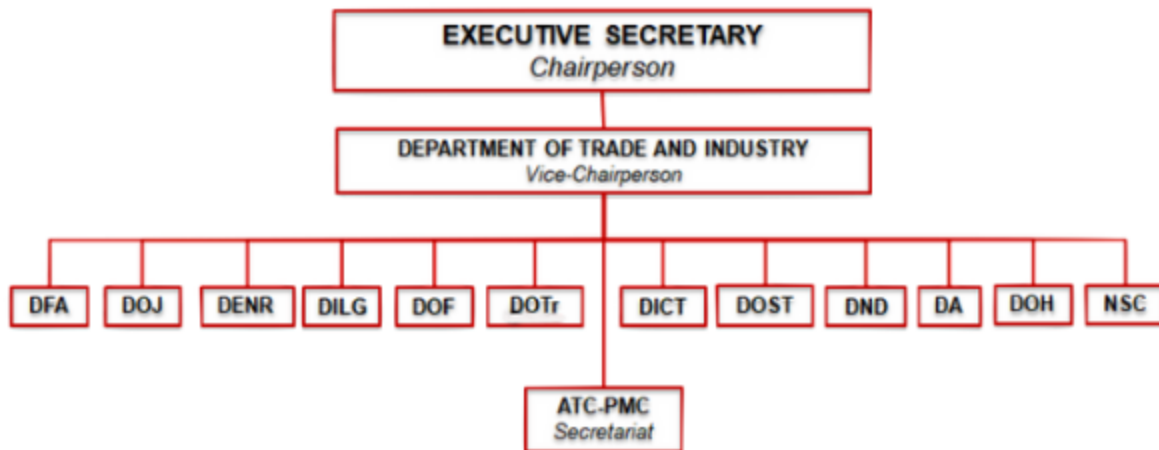
The STMA enforces measures to establish domestic controls to prevent the proliferation of weapons of mass destruction (WMD) and their means of delivery from or within the Philippines.



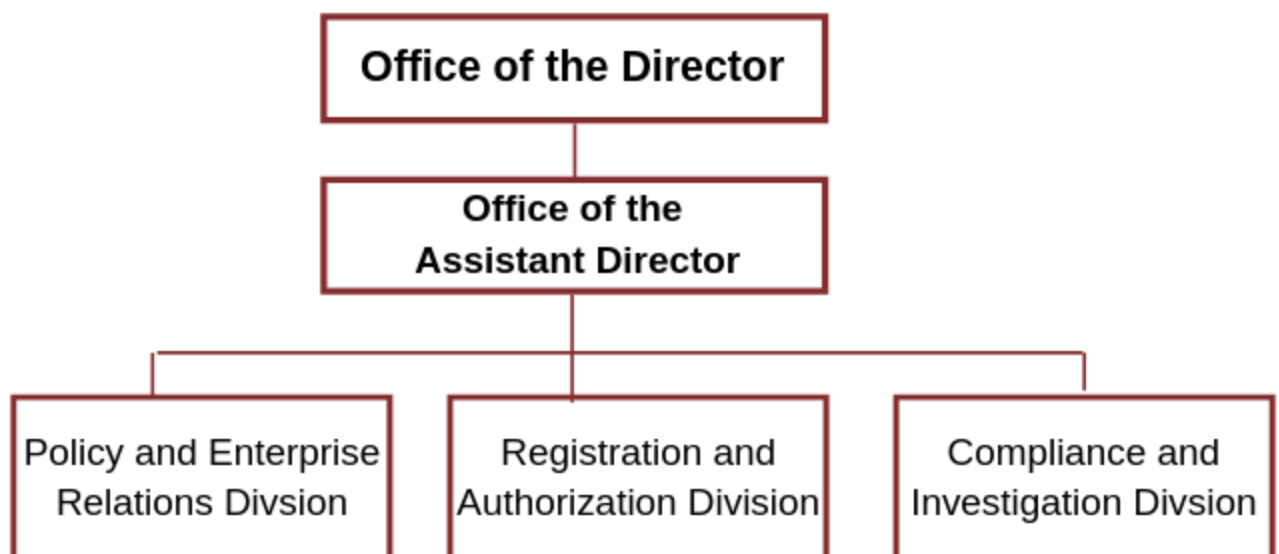
The STMA’s main objective is to maintain international peace and security, and promote economic growth by facilitating trade and investment through the responsible management of strategic goods and the provision of related services.

STRATEGIC TRADE MANAGEMENT IN THE PHILIPPINES

The National Security Council – Strategic Trade Management Committee (NSC-STMCom) is the central authority on any and all matters relating to strategic trade management with the following composition:



The Strategic Trade Management Office (STMO), a bureau created under the administrative supervision of the Department of Trade and Industry, serves as the executive and technical agency for the establishment of management systems for the trade in strategic goods. It supervises the implementation of the licensing system, verifies compliance with the law, and provides information to industry, among others. Below is the composition of the STMO:



STRATEGIC TRADE MANAGEMENT IN THE PHILIPPINES



The STMA establishes a strategic trade management system in the Philippines. It is based on international standards and best practices and is consistent with UN Security Council Resolutions, international treaties, and legal principles.

The STMA aims to regulate the export, import, transit and transshipment, re-export and reassignment of strategic goods, software and technology and the provision of related services to prevent the proliferation of weapons of mass destruction.

There are three important things to remember regarding the STMA:

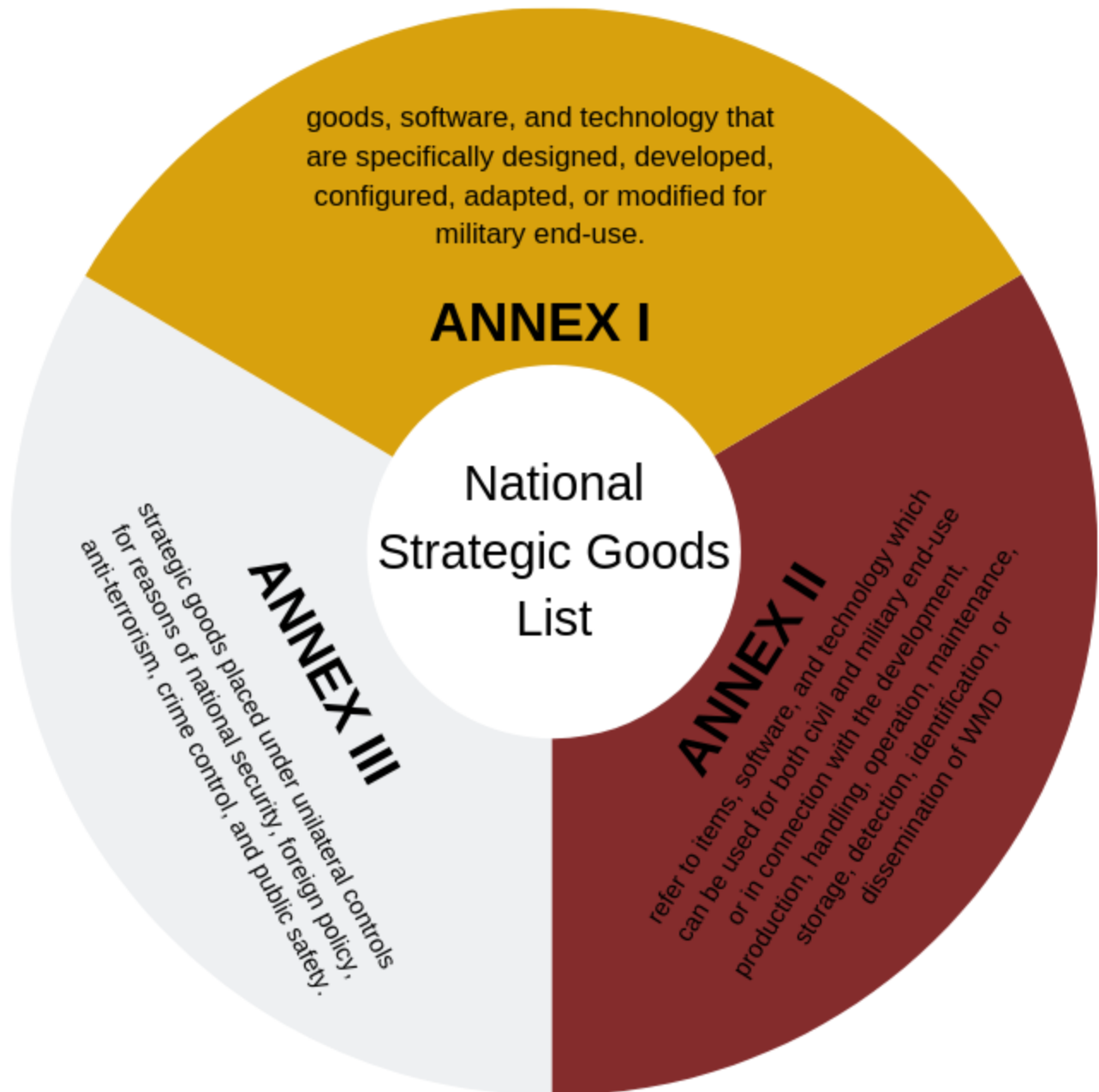
Which items are covered under the STMA?

Who are the persons covered under the STMA?

Which activities are covered under the STMA?



ITEMS COVERED BY THE STMA



The STMA covers items, software, and technology which are referred to as strategic goods.

“Strategic goods” are 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. Simply put, strategic goods are items listed in the National Strategic Goods List (NSGL).

ITEMS COVERED BY THE STMA

However, it is important note that there are items not listed in the NSGL but are subject to authorization by the STMO. These items are covered in the “catch-all provision” under Section 11 of the STMA.

An authorization for unlisted items under the “catch-all provision” is required in the following instances:

If the exporter/ principal party has been informed by the 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.

If the purchasing country/ country of destination or juridical/ 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.

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.

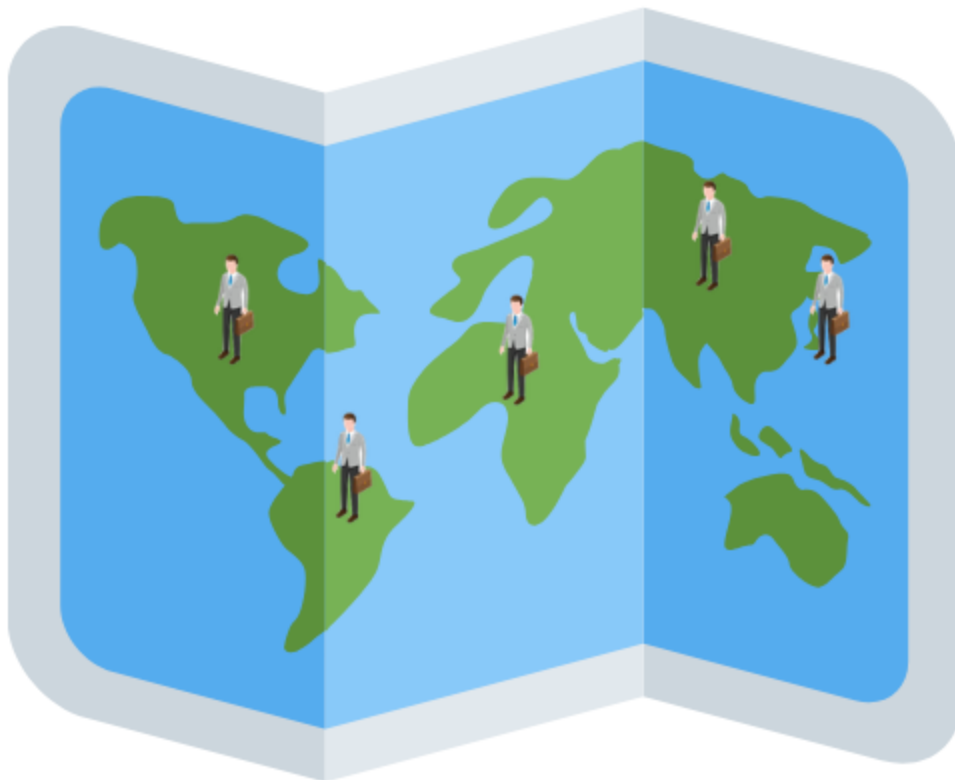
If an exporter/ principal party knows or suspects that unlisted goods proposed for export are or may be used, partly or entirely, for any of the uses referred to in 1.3.9.a and 1.3.9.b, or suspects that the provision of related services will facilitate that use.

PERSONS COVERED BY STMA

The STMA has both territorial jurisdiction (legal ability of a State to exercise its authority within the boundaries of its territory) and extraterritorial jurisdiction (legal ability of a State to exercise its authority beyond its territorial limits).

The STMA has territorial jurisdiction over natural and juridical persons that engages or intends to engage in the trade of strategic goods or provision of related services. Juridical person may refer to partnership, cooperative, corporation, government-owned and controlled corporation that engages or intends to engage in strategic trade.

The STMA has extraterritorial jurisdiction over all Filipino persons, wherever located.



Activities covered under the STMA

The following are the activities covered under the STMA: registration, export, import, transit, transshipment, re-export, reassignment, and provision of related services. Related services cover brokering, financing, transporting and provision of technical assistance.

Under the STMA, registration with the STMO is the first mandatory step for any person who engages or intends to engage in the export, import, and re-export of strategic goods or provide related services. Only after a person is registered with the STMO can it apply for an authorization with the STMO.

Further, an application for authorization shall be filed prior to engaging in the activities covered under the STMA.

“Export” refers to an actual shipment of strategic goods out of the Philippines, or to a transmission of software and technology either by electronic media or non-electronic means.

Transmission of software and technology can be done either in electronic or non-electronic form.

Electronic transmission can be done through fax, telephone, electronic mail, or any other electronic means to an ultimate destination outside the Philippines.

Non-electronic transmission covers face-to-face communication, personal demonstration, or handing over material information to a foreign person wherever located.

Activities covered under the STMA

“Import” refers to the shipment of goods or transmission of software and technology by any means from a foreign country into the Philippines.

“Transit” refers to the shipment of strategic goods within the Philippines and those entering and passing through the territory of the Philippines with an ultimate destination outside of the Philippines in such a manner that the strategic goods remain at all times in or on the same carrier.

“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.

“Re-export” refers to the export to a foreign country of strategic goods either previously imported to or exported from the Philippines. As an illustration, a strategic good is being exported from the Philippines to country X, then from country X, the strategic good will again be exported to country Y. This transaction is called re-export which requires an authorization from the STMO.

“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. For instance, a strategic good is being exported from the Philippines to Company A in country Y. Subsequently, Company A wants to transfer the strategic good to Company B in the same country Y. This transaction is called reassignment and would require an authorization from the STMO.

“Related services” refer to brokering, financing, transporting in relation to the movement of strategic goods between two foreign countries and providing technical assistance.



Related Services

Activities covered under the STMA



“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, or (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. The definition of brokering under the STMA differs from the definition of brokers under the Customs Modernization and Tariff Act and Comprehensive Firearms and Ammunition Regulation Act.



“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 for a destination subject to a UN Security Council embargo or to prohibited/restricted end-users.



“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.



“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. This can be provided through verbal, written, or electronic means.



For more inquiries connect
with us at



stmo@dti.gov.ph



[in/stmo](https://www.linkedin.com/company/stmo)



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