

Strategic Trade Control System in Hong Kong, China

As an active and responsible trading partner, the Government of the Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China is fully committed to upholding an effective system of control on strategic commodities. Our control system aims to prevent Hong Kong from being used as a conduit for the proliferation of weapons of mass destruction, and to ensure our continued access to high technology which is essential to our economic development. Under the "One Country, Two Systems" principle enshrined in the Basic Law, our mini-constitution, the HKSAR remains a separate customs territory and an autonomous trading entity. We maintain our own autonomous strategic trade control system.

2. Our strategic trade control system is built on four pillars: a comprehensive legal framework, an efficient licensing system, a vigorous enforcement system, and effective international co-operation.

(a) Comprehensive Legal Framework

3. Our control system is law-based. The import and export of strategic commodities are regulated under the Import and Export Ordinance (the Ordinance) and its Strategic Commodities Regulations. While the HKSAR is not a member of any of the international non-proliferation regimes, our control list mirrors those of the regimes.

4. The Ordinance imposes both import and export control on strategic commodities on individual consignment and pre-shipment basis. It also maintains stringent licensing control over transshipment and transit of sensitive strategic commodities. In addition, the Ordinance prohibits carriers from releasing goods in their custody or accepting goods for export until they are provided with valid licences. The comprehensive legal requirements enable us to monitor the flow of strategic commodities and prevent illegal diversion of sensitive goods.

5. On top of the Ordinance, the import and export of chemicals are also controlled by the Chemical Weapons (Convention) Ordinance. The Weapons of Mass Destruction (Control of Provision of Services) Ordinance is another dedicated piece of legislation prohibiting the provision of services (e.g. brokering activities, financial services, intangible transfer of technology, etc.) relating to weapons of mass destruction.

(b) Efficient Licensing System

6. The licensing system, which is administered by the Trade and Industry Department of the HKSAR Government, involves technical and risk assessment of licence applications. First, the technical capabilities of a product are examined to ascertain whether it is subject to control. Second, we assess the legitimacy of the end use of the product and determine whether its technical capabilities are suitable for the end use declared. Information on the licensing parties and the risk of diversion of the goods is carefully examined before we decide whether the licence applications can be approved. Applications involving sensitive goods or dubious exporters/ consignees are subject to closer scrutiny and more intensive vetting. With a view to complementing the control of our trading partners, for re-export of sensitive commodities, Hong Kong adopts the "no-undercutting" principle and will not grant approval if the goods involved are authorised by the originating countries for use in Hong Kong only or the destination is subject to denial or sanction by the originating countries.

7. A good understanding amongst the business community on the need to maintain stringent control system is conducive to compliance. We have therefore put in place an

industry awareness programme and a customer liaison mechanism to foster such understanding. In maintaining a comprehensive and stringent control system, we are constantly mindful of the need to provide adequate facilitation to our trade as far as possible. For instance, we have implemented an electronic application system since 2004 for submitting license applications electronically. In addition, we plan to launch a new Approval-in-principle Arrangement for bulk users around the middle of 2007. Companies which frequently import or export a product in less sensitive categories from the same supplier or to the same consignee can apply for an “approval in principle” for such consignments. The Department will issue the licenses to the importers/exporters electronically if their subsequent license applications match with the approval-in-principle granted after vetting. This new arrangement will enhance the efficiency of our licensing system, without compromising or relaxing the existing level of control.

(c) Vigorous Enforcement System

8. The strategic trade control system is vigorously enforced by the Hong Kong Customs. Hong Kong Customs are conferred under our law with extensive enforcement powers. Apart from the general powers of inspection and investigation, Customs could enter and search premises (except domestic premises) without warrants; stop, board and search vessels, vehicles or aircraft for investigation purposes; and issue direction orders to detain the goods for further investigation, etc. These are powerful tools which enable Hong Kong Customs to take prompt actions and to effectively carry out investigation on suspected cases with a view to preventing illegal diversion.

9. Our laws impose heavy penalties on offences relating to illegal import and export of strategic goods. The maximum penalties are mandatory forfeiture, unlimited fine and imprisonment for seven years.

(d) Effective International Co-operation

10. Our success in maintaining an effective control system on strategic trade also relies on international co-operation. Over the years, we have developed various co-operative arrangements with our trading partners in terms of information and intelligence sharing. We have regular inter-agency meetings with our major trading partners. We maintain close liaison with our major trading partners who are the key members of the various non-proliferation regimes. They keep us up-to-date on the developments and changes in the scope of control agreed at such regimes and share with us information and intelligence on strategic trade control. We have also secured bilateral arrangements with sixteen trading partners for exchange of denial information and licensing statistics on trade in strategic commodities. This helps ensure that our licensing system does not undercut the control of our trading partners.

11. There are regular secondment arrangements of technical experts from our major trading partners to work in the HKSAR Government. Such arrangements have provided valuable opportunities for exchange of technical expertise and have fostered closer working relation with the relevant governments. In addition, we have been actively participating in various international and regional forums and seminars. Through these opportunities, we share with others our experience in maintaining our control system.