

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 are maintaining an 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 trade movement of strategic commodities and prevent illegal diversion of sensitive goods.

5. On top of the Import and Export 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 governing brokering activities 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 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 to foster such understanding. Through seminars, publications, company visits and liaison through a dedicated customs liaison group, we explain to traders the rationale and requirements of the control system. We have also issued guidelines on internal compliance programme and encouraged companies to implement it.

(c) Vigorous Enforcement System

8. The strategic trade control system is enforced by the Customs and Excise Department of the HKSAR Government. As empowered by the laws, the Department can conduct different types of licensing inspections, including pre-shipment/ post-shipment checks, post-importation checks and delivery verification checks as well as physical inspection of goods. They can also conduct cargo inspections at the exit/ entry checkpoints at the airport, container terminals and land control points.

9. Moreover, the Customs and Excise Department is empowered to enter and search premises (except domestic premises) without warrants or to stop, board and search vessels, vehicles or aircraft for investigation purposes. They also have the authority of seizure of offending goods or evidence. These are powerful tools which enable the Department to take prompt actions and to effectively carry out investigation on suspected cases with a view to preventing illegal diversion.

10. Our laws impose heavy penalties on offences relating to illegal import and export of strategic goods. The maximum penalties are unlimited fine and seven years' of imprisonment, and offending goods are subject to compulsory forfeiture.

(d) Effective International Co-operation

11. 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 development and changes in 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.

12. 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 forums and outreach seminars organised by control regimes or major supplier countries. Through these opportunities, we share with others our experience in maintaining our control system.