

Key Findings
Workshop on Strategic Trade Controls in the Asia-Pacific
November 2-3, 2016
Howard Plaza Hotel
Taipei, Taiwan

The Pacific Forum CSIS and Chengchi University's Institute for International Relations, with support from Prospect Foundation and the US State Department's Export Control and Related Border Security Program, held a strategic trade control workshop on November 2-3, 2016 in Taipei. Some 40 participants from the Asia-Pacific region and beyond representing relevant government agencies and nongovernment organizations attended in their private capacities. The workshop discussions focused on intangible technology transfers, mechanisms for enhancing enforcement of strategic trade control measures, requirements associated with transit and transshipment facilities, government outreach programs, internal compliance programs (ICPs), implementation of UN sanctions, regional cooperation for capacity building, and the prospect for institutionalizing the STC in multilateral regimes. Key findings are summarized below.

Intangible technology transfer (ITT) is a growing concern for controlling strategic goods and technologies. Acquiring tacit knowledge (defined as "competence, skills, and experience," learned and transferred interpersonally) is crucial for operating and manufacturing advanced strategic technologies and goods. Increased access to knowledge through computer networks has lowered barriers to the acquisition of tacit knowledge. In this environment, it is necessary to identify and monitor dual-use sectors requiring tacit knowledge to ensure clear guidance for ITT control enforcement.

Controlling the output of laboratories and university-based research is an ongoing ITT challenge, especially in countries that host large numbers of foreign researchers. One solution is to consider residency as the distinction to determine access to information, although this does not fully address the problem of intangible transfer. Some universities have developed research steering committees to sensitize faculty and evaluate potential ITT violations. A good practice is to ensure STC compliance issues are addressed early in the grant proposal process and integrated into the research program before the grant is awarded.

Greater involvement by the private sector in STC detection and enforcement efforts is vital for accurate trade verification. The private sector is the source of more than 70 percent of the information required to ensure STC compliance, including information on legal trade (negative risk profiles), items and markets, and trade practices.

Different understanding of the terms transit, transshipment, and re-export among different stakeholders involved in managing transient trade has created confusion and could lead to gaps in controlling strategic goods. For example, the STC community considers transit as a scenario in which no change of transportation mode takes place and transshipment as a scenario where there is a change in transportation mode, while the customs community focuses on ensuring the absence of value-adding activities regardless of the transportation mode. Standard terminologies and mutual understanding between key players would enhance STC enforcement.

The high volume of transactions and pressure to facilitate transactions at global trade hubs and ports create an environment where verification of cargoes must be done with insufficient information within very limited timeframe. Limiting the scope of inspections by using exclusion lists for items or end-users for transit and transshipment control purposes is a good practice that increases the likelihood for efficient detection of violations.

Continual and mutually beneficial partnership between government and industry can enhance the secure trade environment without undue impediment to trade. Good practices for building such partnership are seeking inputs from industry representatives and provision of one-on-one counseling services via phone and email. In so doing, the industry can understand what to do for STC compliance while the government can learn up-to-date trends in industry for better controls.

It is important to ensure that political will for STC compliance is followed by proper practices in industry. In this regard, industry outreach should target not only the management level but also working level in companies. Incorporating demonstration of compliance practice into outreach activities is one good example for such efforts.

The national authority for STC needs to provide guidelines for establishing internal compliance programs (ICPs) that are tailored to the size of companies and types of industry. This approach enables small and medium enterprises (SMEs) to develop ICPs at the minimum cost while the government can ensure compliance in their business practices.

When establishing an ICP, creating a culture of compliance in the all divisions of the company is a fundamental requirement to ensure appropriate STC requirements are fulfilled. For multinational companies, this includes overseas branches and subsidiaries.

Integrating the use of Authorized Economic Operators (AEO) into an STC program can facilitate trade and ensure compliance with STC requirements. The AEO certification process can serve as a baseline for establishing reliable and responsible trading activity and governments can provide incentives to AEOs by offering more flexibility in licensing and simplifying export procedures.

Community-building within an industry is important for promoting STC compliance. The national authority can identify STC champions within industry sectors or encourage benchmarking or incorporating STC in their policies. For instance, manufacturers can leverage their customers to pursue compliance by specifying STC requirements as a condition of supply in their commercial contracts and similar companies can benefit from sharing good practices.

Standardizing STC practices in the areas of control list development, licensing procedures, organizational structure, and penalty structure can contribute to promoting better and coherent controls. However, different motives for implementing trade management (broad foreign policy objectives vs. narrow nonproliferation objectives) make harmonization difficult.

The financial sector is the weakest link in preventing proliferation and sanctions implementation. Excessive risk aversion can lead to loss of business opportunities and humanitarian consequences while lax controls can entail reputational costs. The government must provide financial institutions clear-cut guidance for proliferation financing controls.

Enhancing coordination between proliferation financing controls and STC regimes is mutually beneficial due to overlapped domains such as information related to proliferators and transactions. Information sharing between local and regional actors can be facilitated through establishment of communication channels treated with a proper level of confidentiality.

Personal relationship between government officials established through STC workshops contribute to promoting STC enforcement coordination. In this regard, regional STC seminars should be regularly held and include a session for enforcement coordination for practitioners.

There is a wide range of views in the region regarding the value of integrating strategic trade management requirements into the ASEAN Single Window initiative. There was general agreement that success or failure would depend on the specific ways in which strategic trade management principles were integrated into the ASEAN Economic Community. The most significant obstacle is the need for additional transparency in economic activity.