

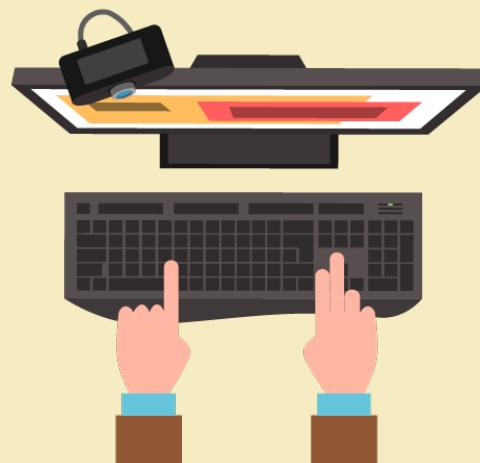
# **INTANGIBLE TRANSFER OF TECHNOLOGY (ITT)**

# WHAT IS ITT

The Intangible Transfer of Technology (ITT) is the electronic transmission of controlled strategic goods technology in Singapore such as email or fax, or the act of making the controlled strategic goods technology available in Singapore on a computer or server, so that it becomes accessible to a person in a foreign country.

# WHY IS THERE A NEED TO CONTROL ITT?

Given Singapore's high internet connectivity and relatively significant industry and research presence in advanced technology areas, it is crucial that **Intangible Transfer of Technology (ITT)** be controlled to prevent any unauthorised transfers that could possibly aid the development or production of **Weapons of Mass Destruction (WMD)**.



# WHAT ARE SINGAPORE'S LEGAL PROVISIONS IN CONTROLLING ITT?

The transfer and brokering of strategic goods technology are governed by the **Strategic Goods Control Act (SGCA)**.



## Under Section 5 of the SGCA, no person shall:

- Export any document in which any strategic goods technology is recorded, stored or embodied, or transmit any strategic goods technology unless authorized by a permit.
- Export any document in which any technology is recorded, stored or embodied, or transmit any technology if -
  - i. he has been notified by an authorised officer or a senior authorised officer that the goods or technology is intended or likely to be used, wholly or in part, for or in connection with a relevant activity;
  - ii. he knows that the goods or technology is intended to be used, wholly or in part, for or in connection with a relevant activity; or
  - iii. he has reasonable grounds to suspect that the goods or technology is intended or likely to be used, wholly or in part, for or in connection with a relevant activity.

# Under Section 6 of the SGCA, no person shall:

- Arrange or negotiate, or do any act to facilitate the arrangement or negotiation of a contract for the acquisition, disposal or transmission of strategic goods technology as may be specified by the Minister by order published in the Gazette unless you are a registered broker.
- Arrange or negotiate, or do any act to facilitate the arrangement or negotiation of a contract for the acquisition, disposal or transmission of any technology which -
  - i. that person has been notified by an authorised officer or a senior authorised officer is intended or likely to be used, wholly or in part, for or in connection with a relevant activity; or
  - ii. he knows is intended to be used, wholly or in part, for or in connection with a relevant activity; or
  - iii. he has reasonable grounds to suspect is intended or likely to be used, wholly or in part, for or in connection with a relevant activity.

# WHO SHOULD BE AWARE?



SCIENTISTS/CONSULTANTS

Data, experiment results, collaboration with foreign scientists, conferences and discussions



INDUSTRY

Consultancy, manuals/training materials to buyers, after sales services, troubleshooting



ACADEMIA

Courses and projects, research materials



BROKERS

Facilitate transfers by sharing information regarding suppliers of controlled technology or setting up a controlled transaction

# WHAT IS STRATEGIC GOODS TECHNOLOGY?

“Strategic goods technology” refers to any technology prescribed under Section 4A in the Strategic Goods (Control) Act.

Here are some examples of these technologies:

- i. Technology using encryption functionalities
- ii. Technology required for the production of valves with characteristics under DL2B350.g
- iii. Technology relating to the manufacture of hollow fan blade

Any military or dual-use technology listed in the Strategic Goods (Control) Order are strategic goods technology.

# **“TECHNOLOGY”**

refers to information (*including information comprised in such documents as specifications, blueprints, plans, manuals, models, diagrams, formulae, tables and designs*) that is necessary for the development, production or use of any goods, and includes software.

# **“DOCUMENT”**

refers to

- a) document or record in an electronic form or kept on any magnetic, optical, chemical or other medium;
- b) photograph
- c) map, plan, graph, picture or drawing or
- d) device

## “DEVELOPMENT”

in relation to any goods, refers to any stage prior to the serial production of the goods, including design, design research, design analysis, development of a design concept.

## “PRODUCTION”

in relation to any goods, refers to any stage of production of the goods, including construction, production engineering, manufacture, integration, assembly, mounting, inspection, testing, and quality assurance.

## **“USE”**

in relation to any goods, refers to the operation, installation, maintenance, inspection, repair, overhaul or refurbishing of the goods.

## **“SOFTWARE”**

refers to a collection of one or more programs or microprograms recorded, stored or embodied in any device.

# “DEVICE”

refers to any tangible medium in which information, visual images, sounds or other data is or are recorded, stored or embodied in any form so as to be capable (with or without the aid of other equipment) of being retrieved or produced therefrom.

## “TRANSMIT”

in relation to any technology, means to

- a) transmit it in Singapore by **electronic means**; or
- b) make it available in Singapore **on a computer**,

so that it becomes **accessible (whether on a request, or subject to a pre-condition, or otherwise) to a person in a foreign country**, whether he is a specific person, a person within a specific class, any person in general or the person who carries out the transmission

If you are unable to determine whether your technology is controlled as strategic goods technology after going through the Strategic Goods (Control) Order, you may submit an Application for Determination of Strategic Goods at

<https://www.customs.gov.sg/businesses/strategic-goods-control/strategic-goods-control-list/determination-of-strategic-goods>



for advice on the control status.

# WHEN DO YOU NEED TO APPLY FOR AN ITT PERMIT?

***An ITT permit would be required for the scenarios listed below, but not limited to:***



Electronically transmit strategic goods technology, such as blueprints, diagrams, models and formulae, from Singapore to another entity in a foreign country;



Upload or store strategic goods technology onto a server, located in Singapore or otherwise, such that the strategic goods technology is accessible to another entity in a foreign country;



Landline phone calls or conduct virtual meetings, via means such as Skype, Zoom, Whatsapp or WebEX (audio/video calls), relating to strategic goods technology with persons located in a foreign country;



Modify strategic goods technology in Singapore stored on a collaborative software, such as Google Drive, which is accessible to an entity in foreign country;



Export (via hand-carry of device/document - laptop) strategic goods technology out of Singapore.

# WHEN DO YOU NEED TO APPLY FOR AN ITT PERMIT?

*An ITT permit is also required for the transmission of any technology from Singapore if the person:*

- I. Has been notified by an authorised officer;
- II. Knows; or
- III. Has reasonable grounds to suspect that the technology is intended or likely to be used, wholly or in part, for or in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of any nuclear, chemical or biological weapon or the development, production, maintenance or storage of missiles which are capable of delivering any such weapons.

An ITT permit  
is required to  
be applied at  
least



before the transmission of  
the controlled strategic  
goods technology from  
Singapore.

You are encouraged to submit the application as early as possible prior to any intended transfer to avoid possible delays.

Once the permit is approved, the ITT permit is valid for



You may apply for an ITT permit via Singapore Customs' website at

<https://www.customs.gov.sg/businesses/strategic-goods-control/permit-and-registration-requirements/intangible-transfer-of-technology-itt>



# **WHAT DO I NEED TO TAKE NOTE WHEN APPLYING FOR AN ITT PERMIT?**

You will require the following information to fill in the form when applying for an ITT permit:

- Particulars of your company**
- Information on the software or technology you will be exporting or transmitting**
- End user's information and the intended end-use of software or technology**
- Detailed technical specifications or write-up of the software or technology**

# WHAT DO I NEED TO TAKE NOTE WHEN APPLYING FOR AN ITT PERMIT?

- Export license (and its English translation) from the originating country, or a confirmation from the originating country that they do not control the re-transfer of the software or technology
- End-user statement for Strategic Trade Scheme Individual Permit from the party that you are transmitting the software/ technology to
- Other relevant supporting documents

Your application should be processed within 7 working days if the information and documents provided are complete. However, some applications may take longer to process, depending on the nature of the item, destination or parties involved in the transaction.

## WHAT IF I AM A CORPORATE ENTITY AND ENGAGE IN FREQUENT ITT ACTIVITIES?

If your company engages in frequent ITT activities/transactions, you may wish to consider applying for an ITT bulk permit under the Strategic Trade Scheme (STS).

The bulk permit scheme will help facilitate your transactions as there will be a shorter lead time prior to the transfer and is valid for up to 3 years.

An individual ITT permit would require more lead time, i.e. 7 working days before the scheduled transfer and is only valid for a year.

# WHAT IF I AM A CORPORATE ENTITY AND ENGAGE IN FREQUENT ITT ACTIVITIES?

However, to qualify for the STS Bulk Permit, you will need to undergo the *TradeFIRST Assessment* administered by Singapore Customs and have a strong *Internal Compliance Program (ICP)* in place.

You may apply for the ITT bulk permit at

<https://www.customs.gov.sg/businesses/strategic-goods-control/permit-and-registration-requirements/intangible-transfer-of-technology-itt>



# ARE THERE ANY PERMIT EXEMPTIONS FOR ITT?

Not all electronic transmissions of strategic goods technology require an ITT permit. Transmission pertaining to the following are **exempted** from this requirement:

- Technology in the public domain;
- Installation, operation, maintenance or repair of goods for which a permit for their physical transfer has already been obtained or is not required;
- Research into technology, the results of which have no practical application; and
- Application for a patent

# BEST PRACTICES

Before applying for an ITT permit to transmit strategic goods technology to any parties, you should:

Ensure that the strategic goods technology is classified in accordance to the latest Strategic Goods (Control) Order.

Screen the parties who are on the receiving end of the technology against denied or sanctioned parties list and to see if they are of WMD proliferation risk. You may rely on third party software/website for such screenings.

Assess if the profiles of the parties receiving the technology are consistent with the nature of the technology.

Inform Customs if you know or suspect that the transmission may be or likely to be of WMD proliferation risk.

Check if there are any accompanying strategic goods to be exported as they may require a strategic goods permit.

If you are unsure whether you should proceed with the transmission of the technology, you may submit an application to Customs to seek preliminary advice on the transaction at

<https://www.customs.gov.sg/businesses/strategic-goods-control/permit-and-registration-requirements/preliminary-advice-for-strategic-goods-transaction>



# PENALTIES

Under Section 5(6) of the Strategic Goods (Control) Act, any person who fails to take up an ITT permit when required to is subjected to:

A FINE OF UP TO \$100,000 OR 3 TIMES THE VALUE OF THE GOODS (WHICHEVER IS GREATER), OR

IMPRISONMENT FOR UP TO 2 YEARS, OR

BOTH

FOR THE 1<sup>ST</sup> CONVICTION

Harsher penalties are imposed for second or subsequent convictions.

# CASE STUDY EXAMPLES

## BACKGROUND

A local company exported a strategic good (under product category code DL5A002) from Singapore to their customer in another country. The export was covered by a strategic goods export permit.

The company wishes to send a patch to their customer to upgrade the strategic good. The patch must be sent via electronic transmission and is a strategic good technology.

## IS AN ITT PERMIT REQUIRED?

If the patch is used for the installation/operation/maintenance/repair of the same controlled good exported previously, an ITT permit is not required. The ITT permit exemption applies in this case as the transmission pertains to the installation, operation, maintenance or repair of goods for which a permit for their physical transfer had already been obtained.

# CASE STUDY EXAMPLES

## BACKGROUND

A local company uploads/stores strategic goods software/technology onto a cloud environment which belongs to the company and users outside Singapore are able to access the contents.

## IS AN ITT PERMIT REQUIRED?

As the uploaded/stored strategic goods software/technology is made accessible to a person in a foreign country, an ITT permit is required.

# CASE STUDY EXAMPLES

## BACKGROUND

A local company subscribes to a cloud computing provider in Singapore and uploads strategic goods technology for storage in the provider's server. Users outside Singapore are not able to access the software.

## IS AN ITT PERMIT REQUIRED?

As the uploaded/stored strategic goods technology is not accessible by a person in a foreign country, an ITT permit is not required.

# CASE STUDY EXAMPLES

## BACKGROUND

A local cloud provider provides a server/cloud for users outside Singapore to upload and retrieve strategic goods technology.

## IS AN ITT PERMIT REQUIRED?

As the server/cloud is located in Singapore and the strategic goods technology is accessible by a person in a foreign country, the local cloud provider/cloud users are required to take up an ITT permit.

# CASE STUDY EXAMPLES

## BACKGROUND

A staff in a local company will be travelling to a foreign country for an external meeting. The staff will be carrying a laptop containing strategic goods technology (blueprints/ models) for the meeting.

## IS AN ITT PERMIT REQUIRED?

The export (via hand-carry of device/document) of strategic goods technology out of Singapore will require an ITT permit.

# CASE STUDY EXAMPLES

## BACKGROUND

A researcher in a local academic institution will be conducting a virtual meeting via Skype with fellow researchers in a foreign country. Strategic goods technology (e.g. formulae which could be used in bio-toxin weapons) will be shared with the foreign researchers during the meeting.

## IS AN ITT PERMIT REQUIRED?

As the strategic goods technology is being transmitted by electronic means to a person in a foreign country, an ITT permit is required.