

MEMORANDUM CIRCULAR NO. 20-26
Series of 2020

SUBJECT: **GUIDELINES ON EXPORT AUTHORIZATION**

WHEREAS, according to Section 8 of Republic Act No. 10697, otherwise known as the Strategic Trade Management Act (STMA), the Strategic Trade Management Office (STMO) is created as a bureau under the administrative supervision of the Department of Trade and Industry (DTI) to serve as the executive and technical agency of the national government for the establishment of the management systems for the trade in strategic goods.

WHEREAS, under Section 3 of the STMA, the following activities shall be subject to an authorization issued by the STMO: export, import, transit, transshipment, re-export, reassignment, and the provision of related services.

WHEREAS, Section 4 of the STMA creates a National Strategic Goods List (NSGL), which describes with specificity the strategic goods subject to authorization. The NSGL is composed of three (3) annexes: Military Goods (Annex 1), Dual-Use Goods (Annex 2), and the Nationally Controlled Goods (Annex 3).

WHEREAS, Section 9(d) of the STMA vest the STMO with the power and function to issue or deny issuance of authorizations for the trade of strategic goods and the provision of related services.

WHEREAS, under the Department Administrative Order (DAO) 19-07, the STMO shall adopt a phased implementation of the activities under the STMA, starting with the registration of stakeholders and followed by export authorization.

NOW, THEREFORE, this Circular is hereby issued for the information, guidance, and compliance of all covered persons.

1. Start of Export Authorization

The STMO shall start accepting export authorization applications from STMA-registered persons on 01 July 2020.

2. Regulated Activities

Export refers to the following activities:

2.1. An actual shipment of strategic goods out of the Philippines (Fig. 1); or

2.2. Transmission of software and technology (Fig. 2) via:

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- 2.2.1. Electronic media, including by fax, telephone, electronic mail, or any other electronic means to an ultimate destination outside the Philippines.
- 2.2.2. Non-electronic reassignments through face-to-face communication, personal demonstration, or handing over material or information to a foreign person, wherever located.

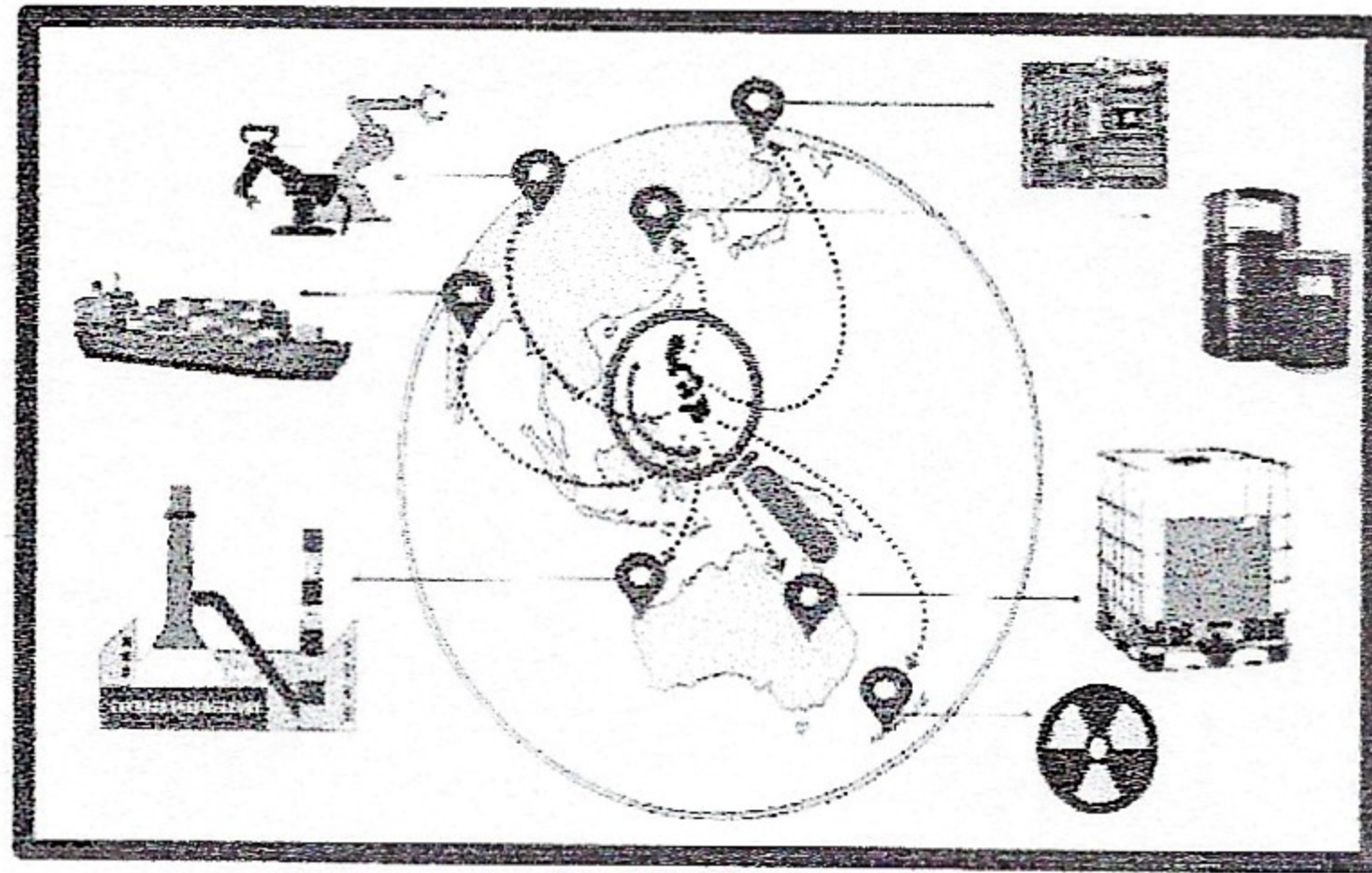


Fig. 1. Tangible Export

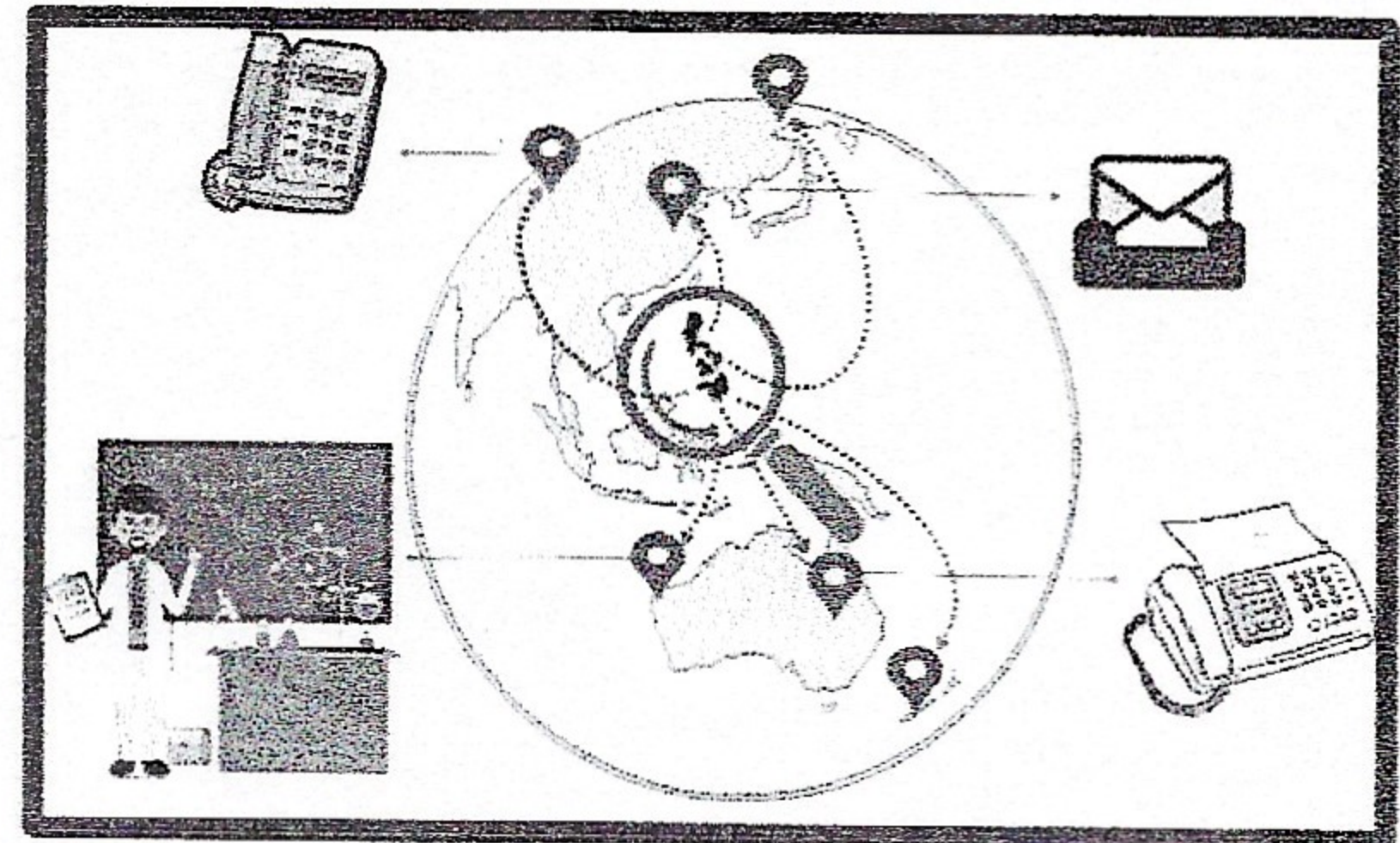


Fig. 2. Intangible Export

3. Covered Persons

All persons who engage or intend to engage in the export of strategic goods shall apply for authorization prior to undertaking the regulated activities referred to in paragraph 2 above.

4. Types of Export Authorization

Export authorization is the authorization issued by the STMO to a person before engaging in the export of strategic goods. There are three (3) types of authorizations:

- 4.1. **Individual authorization** is a license granted to one specific person or entity to engage in the export of strategic goods to one end-user, consignee and covering one or more strategic goods;
- 4.2. **Global authorization** is a type of license granted to one specific person or entity to engage in the export of strategic goods to two or more specific end-users and/ or in one or more countries. This type of authorization requires an Internal Compliance Program (ICP) before application.
- 4.3. **General authorization** is a license to export specific strategic goods to destination countries under the conditions specified in the general authorization. This type of authorization may be used by STMO-registered persons if they comply with two requirements: (1) notify the STMO before the use of such authorization, and (2) comply with the conditions set forth therein. The STMO will publish this type of authorization on its website.

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Table 1. Types of Authorization

Types of Authorization	Individual	Global	General
No. of End-user/s	1	Two or more	Limited to specific countries upon compliance with certain conditions specified in the authorization
Requires ICP?	Recommended	Yes	No, but with a reporting requirement
Validity	up to 2 yrs.	up to 5 yrs.	Lifetime until revoked/amended
Processing Time	30 calendar days	90 calendar days	N/A

e. Pre-Authorization Procedures

5.1. All persons who engage or intend to engage in the export of strategic goods shall register with the STMO before applying for an authorization, see *Guidelines on STMO Registration*.

5.2. Upon issuance of the Certificate of Registration by the STMO, the STMO shall advise the registered person on the next steps before applying for authorization. The advice will vary depending on the type of authorization the registered person will apply for.

5.2.1. For individual authorization:

- i. The registered person shall self-classify each of their items as a strategic good or not. For step-by-step self-classification procedure, see *Guidelines on Commodity Classification*.
- ii. For items not listed under the NSGL, the STMA requires registered persons to assess if their trade transactions fall under any of the conditions provided under Section 11 of the STMA or the End-Use/Catch-all Controls, see *Guidelines on End-use/ Catch-all Controls*.
- iii. If the item is an intangible strategic good, the STMO shall assess the registered person's Technology Control Plan (TCP) and conduct a TCP Pre-Audit Check. A registered person must obtain a satisfactory mark in the TCP Pre-Authorization Audit to proceed with the export authorization application process, see *Guidelines on Technology Control Plan*.

5.2.2. For Global Authorization:

- i. If the registered person has an existing ICP for export control or strategic trade management, the STMO shall conduct an ICP Pre-

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Authorization Audit to verify if the registered person's ICP adheres to the ICP elements required by the STMO. A registered person must obtain a satisfactory mark in the ICP Pre-Authorization Audit to proceed with the export authorization application process, see *Guidelines on the Pre-Audit of Internal Compliance Program*.

- ii. if the registered person has no existing ICP in place, the registered person may refer to the *Guidelines on Internal Compliance Program Set-up* published by the STMO. The registered person may also seek the assistance of the STMO Policy and Enterprise Relations Division (PERD) if it needs further help in setting-up its ICP.

6. Export Authorization Application Process

- 6.1. The registered person shall submit a standard-format application form (*Form A2*) and the authorized representative shall sign said application form.
- 6.2. The following relevant documents shall be appended to the application form and shall be submitted in English:
 - 6.2.1. Technical specifications of the item/ commodity, allowing the STMO to verify the classification of the commodity against the control list;
 - 6.2.2. Commodity classification form (*Form A2-1*) for individual authorization;
 - 6.2.3. Documents certifying the origin and acquisition of the strategic goods, when appropriate;
 - 6.2.4. Copies of relevant commercial documents, in particular, any sales contract, order confirmation, invoice, or dispatch note, if available;
 - 6.2.5. Original End-Use Statement/ End-User Certificate for individual authorization (*Form A2-2*);
 - 6.2.6. Copies of relevant license/s or business permits, if applicable;
 - 6.2.7. Copies of additional authorization such as transit, transshipment or import authorization, if applicable:
 - i. Technology Control Plan, in case of technology transfer
 - ii. Network Security Plan, in case of intangible software transmission
 - 6.2.8. Proof of payment of the processing fee; and,
 - 6.2.9. Other documents that may be required by the STMO, which may be relevant to the review and assessment of the application for authorization.

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6.3. The standard forms are available on the STMO webpage at <https://www.dti.gov.ph/trabaho/strategic-trade-management/>.

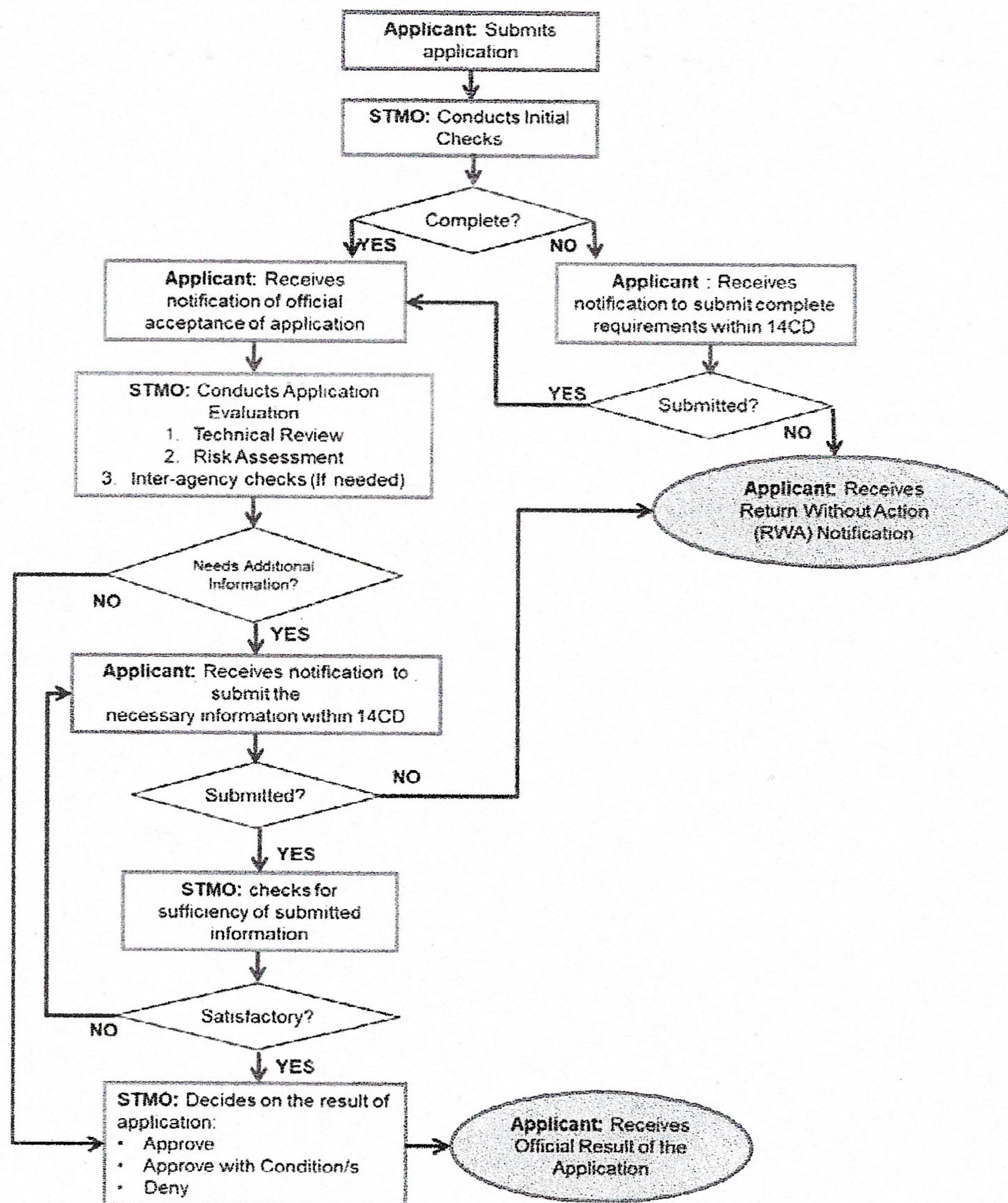
Table 2. List of Standard Forms for Export Authorization Application

Form Code	Description
Form A2	Application for Export Authorization
Form A2-1	Commodity Classification Form
Form A2-2	End-Use Statement or End-User Certificate Template

6.4. The applicant shall submit the application form (both in Excel and scanned signed PDF) along with other documentary requirements to stmo_rad@dti.gov.ph.

7. Review of Export Authorization Application

7.1. The review process for export authorizations is illustrated below:



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- 7.2. The STMO shall conduct initial screening for completeness of the documentary requirements within seven (7) calendar days following the date of submission of the completed application form with all the supplementary requirements.
- 7.3. For submitted applications with incomplete requirements, the STMO shall notify the applicant to provide the necessary information or documents within fourteen (14) calendar days. Failure to comply within the given deadline will result in a return of application without action.
- 7.4. During the review of the application, the STMO may request additional information from the applicant. The STMO may also ask other government agencies or subject matter experts to comment on specific aspects of the application. The time that elapses between the date the STMO requests the information, either from the applicant/ other government agencies/ subject matter experts, and the date such information is received shall not be counted in the processing timeframe.
- 7.5. The STMO may approve in whole or in part, approve with conditions, or deny the authorization application based on the risk assessment criteria provided under Rule IV, Section 6 of the STMA Implementing Rules and Regulations.
- 7.6. The STMO shall immediately notify the applicant on the decision of the application. For approved application, the STMO shall issue a paper and electronic authorization certificate bearing the authorization number, validation date, expiration date, and other relevant information. The issued authorization certificate also includes the general and specific conditions the authorization holder must comply with before, during, and after the export of strategic good/s.

8. Amendment of Issued Export Authorization

Export authorization holders may request the STMO to amend the authorization if any change occurs on the information submitted during the application process (e.g., addition or removal of covered strategic good or end-user). The authorization holder shall apply for amendment of the authorization using Form A2.

9. Responsibilities of Export Authorization Holder

- 9.1. The authorization holder shall ensure that customs broker or its authorized agent shall submit to the Bureau of Customs (BOC) the following documents before its departure: (1) a copy of the authorization, and (2) extract of the manifest of the carrier, see *Supplementary Guidelines on the Use of Export Authorization*.

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- 9.2. Upon request of the STMO, the authorization holder shall submit a delivery verification certificate issued by the appropriate authority/ authorities of the destination country or any form of document that states the declared end-user received the strategic good.
- 9.3. The authorization holder shall keep all records of the transaction and/ or books of accounts, business and computer systems and all commercial and technical data related to the transaction for ten (10) years from the date of the completion of the transaction, including:
 - 9.3.1. The description of the strategic goods or related services.
 - 9.3.2. The quantity and the value of the strategic goods or value of the related service provided.
 - 9.3.3. The name and address of the parties in the transaction or activity.
 - 9.3.4. The end-use and end-user of the strategic goods or related services.
 - 9.3.5. The date of the transaction or activity.

10. Extension of the Validity of Export Authorization

An authorization may be extended provided that the applicant shall inform the STMO and submit an accomplished Form A2, not later than fifteen (15) calendar days before the expiration of the authorization.

11. Exemptions from Export Authorization Requirement

- 11.1. The STMA exempts the following transactions from the export authorization requirement:
 - 11.1.1. Temporary export of strategic goods by the government for the use of the Philippine military or police forces assigned outside of Philippine jurisdiction.
 - 11.1.2. Export of strategic goods made in connection with a military, peacekeeping, or government humanitarian mission.
 - 11.1.3. Export of strategic goods by the government in connection with law enforcement activities.
 - 11.1.4. Any other circumstances, as provided by the National Security Council-Strategic Trade Management Committee (NSC-STMCom), according to Section 7(f) of the STMA.

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11.2. Any person covered by the exemptions may notify the STMO before shipment of strategic goods through a letter submitted to stmo_rad@dti.gov.ph. The STMO may also issue a Certificate of Exemption upon request.

12. Suspension of Export Authorization

12.1. The STMO may suspend an export authorization under any of the following circumstances:

12.1.1. When an authorization holder fails to comply with the corrective actions stated in the warning letter issued by the STMO. Lifting the suspension of the authorization will only be possible once the application holder complies with the request for corrective action.

12.1.2. The STMO may issue an order to stop a shipment of strategic goods or provision of related services when such is done in contravention of existing authorization conditions. It can also request the return or unloading of shipment at any port of call, even if the shipment is already *en route*.

12.1.3. When the strategic goods are destined to countries experiencing a sharp deterioration in security or stability.

12.2. The STMO shall notify the authorization holder in writing within five (5) calendar days of the fact of suspension and the initial period of suspension. The STMO shall also notify the authorization holder in case there is an extension of suspension.

13. Grounds for Annulment, Revocation, Limitation or Modification of Export Authorization

The STMO shall notify the authorization holder in writing, within five (5) calendar days, of the annulment, revocation, limitation, or modification of an authorization. The table below shows the grounds or conditions for annulment, revocation, limitation, or modification of an authorization.

DECISION	CONDITION/S
13.1. Annulment	1. An authorization obtained under false pretenses, misleading representation, or concealment of material facts.
13.2. Revocation	1. The authorization holder requests its termination. 2. New facts emerge which, had they been known or existed at the time of the application, would have resulted in its denial. 3. A substantive change to the information in the authorization occurs. 4. The authorization holder fails to comply with the obligations, terms, or conditions of the authorization.



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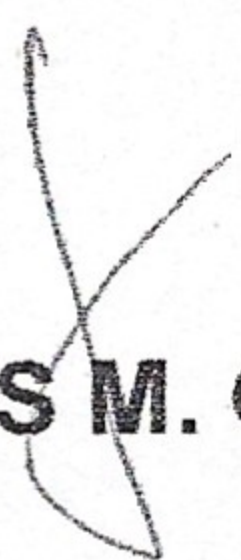
	<ol style="list-style-type: none"> 5. The authorization holder is held responsible for violating the STMA, its IRR, or other national security-related legal provision. 6. The authorization holder fails to comply with the request of the STMO for additional information about the activities conducted under the authorization. 7. The authorization is destroyed or lost. 8. The natural person who is the authorization holder dies. 9. The juridical person who is the authorization holder is dissolved. 10. International sanctions are introduced or amended on a specific country. 11. The STMO becomes aware of violations of other national security-related concerns.
13.3. Limitation	<ol style="list-style-type: none"> 1. New facts emerge which, had they been known or existed at the time of the application, would have resulted in its denial.
13.4. Modification	<ol style="list-style-type: none"> 1. In case of a change in the destination or end-user or for other reasons.

This Circular shall take effect immediately.
15 May 2020, Makati City.

Recommending Approval:


ATTY. JANICE S. DIMAYACYAC
Director III 

Approved by:


ATTY. LUIS M. CATIBAYAN
Director

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