

Re: Interim Final Rule – Implementation of Additional Export Controls: Certain Advanced Computing and Semiconductor Manufacturing Items; Supercomputer and Semiconductor End; Entity List Modification (October 7, 2022) (RIN 0694-AI94)

Thank you for the opportunity to comment on the Export Control Regulations introduced October 7, 2022. We are an American equipment manufacturer who is hoping to get further clarification on the January 25, 2023 and October 7, 2022 FAQ. (<https://www.bis.doc.gov/index.php/documents/product-guidance/3211-2023-1-25-updated-faqs-for-oct-7-advanced-computing-and-semiconductor-manufacturing-equipment-rule/file>). We are specifically looking for clarification on section II. Definitions of the FAQ (page 2 of the FAQ).

1. The answer in the FAQ Definitions section states “a semiconductor fabrication ‘facility’ is a building where the production at the restricted technology level occurs.” A semiconductor fabrication facility (FAB) is defined in the EAR where the first physical item is physically created such as a mask made from a GDSII file with the technology.
 - a. We would like to clarify that the FAB covered in the regulation is the front-end process only.
2. The answer in the FAQ Definitions section also states “Subsequent steps at the facilities also defined, such as assembly, test, and/or packaging facilities, that do not alter the technology levels are not covered.”
 - a. We would like clarification that the regulation is not focused on the back-end processes (e.g., assembly, test, and/or packaging). Furthermore, we would like clarification that the regulation does not cover back-end processes even if they reside in the same facility as a FAB.
 - b. We would like clarification that pre-production steps during the manufacturing of wafers/substrates before they are sent to a FAB are not covered by the regulation. For example, slicing of a silicon ingot into wafers, creation of panels, creation of other substrates, measuring for impurities in sliced wafers or substrates, inspecting substrates, and sorting of substrates (all before being sent to a FAB).
3. The answer in the FAQ Definitions section states, “that do not alter the technology levels are not covered.”
 - a. We would like to clarify that equipment that resides in a FAB, but that equipment does not alter, add, or create the technology level of the semiconductor are not covered by this export control regulation. For example, equipment that measures the semiconductor devices on the substrate, equipment that inspects the substrate after a processing step in the FAB, or software that classifies defects are not covered by this export control regulation. The measuring can be done to assure dimensional quality of layers and features. The inspection is done to ensure the substrate is free from scratches, debris, and similar defects. All of these have nothing to do with “alter[ing] the technology levels.”