

The U.S. Ban is Escalated Again, and Specific Chinese fabs May Not See "American People"

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"American people" export control is wide, how does it affect Taiwan factories?

On October 7, the U.S. Department of Commerce launched a new wave of semiconductor export controls to China, restricting the development of China's semiconductor manufacturing toward more advanced processes. Among them, the restrictions on U.S. persons are particularly worth discussing, and the possibility of affecting Taiwan's semiconductor supply chain is not ruled out.

The specification states that U.S. persons who want to "support" the "development" or "production" of a particular Chinese semiconductor manufacturing plant should obtain a U.S. government license. According to the U.S. Department of Commerce, U.S. persons include U.S. citizens, green card holders, legal entities governed by U.S. law (including foreign affiliates), and anyone in the United States.

The most direct interpretation is that Chinese-Americans, or green card holders, who work in specific Chinese semiconductor manufacturing plants, face a dilemma: choose a job or choose American status.

Further impact on the supply chain depends on how much direct or indirect "support" will step on the U.S. redline, especially Chinese-American executives working in Chinese semiconductor equipment companies are most likely to would be affected. Because many senior executives in the semiconductor industry in China and Taiwan have returned home after working in the United States for many years, most of them have American citizenships or green cards, so the impact will be wide-ranging.

Even Taiwanese companies may not be spared. Richard Thurston, former chief counsel of TSMC, believes that Taiwanese semiconductor IP integration service companies that develop specific IP for specific Chinese fabs may be subject to this rule if they have American engineers or management with green cards that supply back-end equipment for Chinese factories that package and produce 14-nanometer chips.

Mi-Yong Kim, at Bass Berry & Sims law firm, and a former official at the U.S. Department of Commerce, pointed out that many Americans in administrative and management positions in China who are not directly involved in the development and production of chips may still be included in this regulation, and there is still a lot to be clarified in the rule. The U.S. government needs to clarify as soon as possible the level of "support" and which "services" fall under U.S. person controls.

美禁令再升級，中國特定晶圓廠恐看不到「美國人士」

「美國人士」出口管制廣，如何波及台廠？

美國商務部10月7日祭出新一波對中國的半導體出口管制，限制中國半導體製造朝更先進製程發展。其中，針對「美國人士（U.S. persons）」的限制特別值得討論，且不排除波及台灣半導體供應鏈的可能。

該規範指出，美國人士若要「支援（support）」特定中國半導體製造廠的「開發」或「生產」，應取得美國政府的許可證。美國商務部指出，美國人士包含美國公民、綠卡持有者、美國法律管轄的法人（含外國分支機構）與美國境內任何人。

最直接的解讀是，在特定中國半導體製造廠內工作的美籍華人、或綠卡持有者，都會面臨兩難：選工作，或者選美國身分。

更進一步對供應鏈的影響，則取決多直接或間接的「支援」會踩到美方紅線，尤其在中國半導體設備商工作的美籍華人高階主管最可能受衝擊。由於中國和台灣許多半導體業高階主管都曾在美國工作多年後歸國，多半有美籍或綠卡，使影響層面甚廣。

甚至台灣業者也可能無法倖免於難。台積電前法務長杜東佑（Richard Thurston）認



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■生產28奈米和16奈米晶片的台積電南京廠，已取得美方授權繼續進口美國設備。

為，與特定中國晶圓廠開發特定IP（矽智財）的台灣半導體IP整合服務公司，若公司內有美籍工程師或持有綠卡的管理階層，就可能受此規範限制；為封裝生產14奈米晶片的中國廠提供後段設備的台灣廠商當中，若有美籍工程師或管理階層也可能被影響。

曾任職美國商務部的Bass Berry & Sims法律事務所顧問金美英（Mi-Yong Kim）指出，許多在中國擔任行政、管理職的美國人士並不直接參與晶片的開發與生產，卻仍可能會被納入這規定，該規範仍有許多待釐清之處，美國政府須盡快澄清「多直接的支援」、以及哪些「服務」在管制內。 （文●李玟儀）

不只管晶片、還管人！1張表看懂美國晶片禁令衝擊

出口管制規範	相應衝擊
1.擴大對超級電腦用的晶片管制	輝達（Nvidia）、超微（AMD）的特定超高階晶片出口至中國受管制，法人估影響台積電1%至2%營收
2.銷往中國、製造以下晶片的美國設備需取得許可證： ● 16或14奈米以下非平面電晶體的邏輯晶片 ● 18奈米或以下的DRAM記憶體 ● 128層以上的NAND快閃記憶體	長江存儲、長鑫存儲等中國特定半導體製造廠的設備取得受限。美國半導體設備廠應用材料、科磊（KLA）、科林研發（Lam）等出口中國受限
3.美國人士（美國公民、綠卡持有者、美國境內任何人、美國公司）若要「支援（support）」前述3類中國半導體製造廠的「開發」或「生產」，應取得許可證	中國特定半導體廠工作的美國人士將面臨選邊抉擇：選工作或選美國身分

註：表格僅列舉部分規範 資料來源：美國商務部 整理：李玟儀