

**Sensitive Technologies and Strategic Trade Controls
Virtual Workshop (Webex)**

January 11, 2022 (US) | January 12, 2022 (Asia)

Co-hosts: Pacific Forum and Institute of International Relations, National Chengchi University

The Pacific Forum and the Institute of International Relations at National Chengchi University, with support from Taiwan's Ministry of Foreign Affairs, held a virtual workshop, *Sensitive Technologies and Strategic Trade Controls* on January 11, 2022 (US) | January 12, 2022 (Asia). Over 40 participants from relevant government agencies, industry, academia, and nongovernmental organizations attended in their private capacities. Discussions focused on two thematic areas, 1) regional perspectives on the Strategic Trade Control (STC) regime and 2) semiconductors and STCs. Key findings and recommendations are described below.

Strategic Trade Controls, Competition, and Technologies

The protracted US-China trade war and the COVID-19 pandemic will continue to reshape the global supply chain in 2022 toward increased polarization and politicization of strategic trade. US concerns over China's civil-military fusion have prompted new measures on export controls focused on emerging technology. The US government is in the process of developing a more consistent approach to defining emerging and foundational technologies across relevant agencies.

China has been undertaking reciprocal measures against recent US export controls, releasing new controls on dual-use items, military products, nuclear materials, technologies, and services in 2021. China's Ministry of Commerce also issued the Guiding Opinions on Establishing the International Compliance Program for Export Control by Exporters of dual-use items, which increased the number of compliance elements to nine.

There is an urgency to devise new STC tools to manage the risks and challenges of emerging technologies. The traditional focus on Weapons of Mass Destruction (WMD) must adapt to the proliferation of military and dual-use items. With the growing challenges of regulating dual-use and sensitive items, it was raised during the plenary that a modern STC framework should include emerging and foundational technologies, research and development, Foreign Direct Investments (FDI), and cybersecurity.

International Responses to Declining US-China Relations

With the rapid decline of US-China relations and growing sensitivities around emerging technologies and export controls, Japan and the European Union (EU) are taking concrete steps to navigate this complex environment.

Japan has recently promulgated its Economic Security Law. The legislation aims to bolster Japan's supply chain for important commodities, ensure the safety of its critical national infrastructure, nurture critical technologies, and protect its patents. Japanese companies are also reviewing their internal systems of export controls and risk management.

The EU is pursuing a number of initiatives to address concerns over sensitive technologies but is mindful of ramifications to existing multilateral regimes. The EU Parliament is currently expanding its dual-use export control regulation framework to include catch-all controls for cyber-surveillance and emerging technologies, developing national export controls similar to the United States, and introducing new Foreign Direct Investment screening regulation. Under the EU-US Trade and Tech Council, the EU will launch an Exports Control and Human Rights Initiative to integrate human rights considerations in licensing decisions.

Southeast Asia is perturbed by the growing bifurcation of regional and global supply chains. Industries across the region have expressed anxiety that the near-hostile relationship of the two superpowers undermines healthy competition. The region hopes that the STC regime or export controls are not politicized and instead serve their purpose of countering WMD proliferation.

Situated at the crossfires of the US-China strategic competition, Taiwan has recalibrated its investment strategies. According to publicly available data from Taiwan's Ministry of Economic Affairs, Taiwanese investments in China fell by 14.5% in 2021, while investments in ASEAN, Australia, and New Zealand jumped 115.6%. Taiwan has also explored India as an alternative investment destination. Yet Taiwanese companies are pragmatic regarding the prevailing challenges in Southeast Asia and India given the lack of infrastructure, domestic policy support, human resources, and the insufficient and checkered STC systems.

STCs and the semiconductor industry

Taiwan's investments in the United States have also increased with the initial investment of the Taiwan Semiconductor Manufacturing Company in Arizona. Taiwan and the United States have established a new bilateral cooperation mechanism called the Technology, Trade and Investment

Collaboration (TTIC) Framework to develop commercial programs and strengthen critical technology supply chains. With semiconductors becoming a vital national security asset, the United States must deepen its ties with countries like Taiwan, South Korea, and Japan. The US government must cultivate an environment ripe for industry competition, streamline its approach to US electronics research, and invest in human capacity. The US government must also practice fiscal discipline to accrue high savings—a formula that continues to fuel advanced Asian economies' bullish performance in the semiconductor industry.

As the leading supplier of semiconductors in the world, Taiwan is cognizant of the challenges presented by the prevailing geostrategic undercurrent. Major concerns over the safety of semiconductor supply chains and the protection of intellectual property (IP) on sensitive technologies have produced four main issues among Taiwanese companies: (1) effects of US laws and regulations; (2) sharing of export-controlled information; (3) management of talent and human resources; and (4) outdated laws and regulatory controls over private tech companies. Recognizing the challenges of increasing leakage of IP and poaching of human talent to mainland China, Taiwan has launched several technology protection laws and regulations involving relevant government ministries to fortify its export controls, foreign investment screening, trade secrets, and research and development integrity.

Industry is bearing the brunt of the seismic shift in STC, especially with the increased emphasis on economic security. Current trends suggest that states are moving away from the multilateral STC regime into less-defined spaces. Unilateral restrictions have led to mistrust and decoupling, and industry now must compete in American and Chinese markets with two distinct sets of STC laws. Therefore, the best path forward is to remain committed to the multilateral STC regime while exercising flexibility on issues of national security.

This report was prepared by Mark Manantan. For more information, please contact Crystal Pryor [crystal@pacforum.org]. The findings reflect the view of the organizers; this is not a consensus document.