



PUBLIC VERSION

April 29, 2024

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Carlos Monroy
Bureau of Industry and Security (BIS)
U.S. Department of Commerce
1401 Constitution Ave. NW
Washington, DC 20230

RE: Comments on Implementation of Additional Export Controls: Certain Advanced Computing Items; Supercomputer and Semiconductor End Use; Updates and Corrections; and Export Controls on Semiconductor Manufacturing Items; Corrections and Clarifications (89 Fed. Reg. 23876, Apr. 4, 2024; BIS-2023-0016-0001; RIN 0694-AJ23)

Dear Mr. Monroy:

KLA Corporation (“KLA”) submits the following comments in support of, and to otherwise advance, the policy and compliance objectives of the above-captioned interim final rule (“Corrections Rule”), dated April 4, 2024.

- BIS should revise Note 1 to section 744.23(a)(4) to reflect the exclusion of tools that are unrelated to setting the technology level of the integrated circuit (“IC”) produced, even if such tools may be used on a semiconductor production line. In addition, we recommend that section 744.23(a)(4) should exclude tools that are not used on an IC-production line, such as benchtop or single-load wafer systems used in R&D or to test samples, as well as metrology and inspection systems used in the non-EUV reticle-manufacturing process. Alternatively, BIS should issue an FAQ that makes clear that equipment that only inspects, measures, or detects defects or process errors in connection with the ‘production’ of masks, wafers, and integrated circuits, is not within the scope of the “front end” equipment controls in section 744.23(a)(4).
- BIS should further clarify and refine the “indirect exports” provision of section 744.23(a)(4)(ii).
- BIS should, at a minimum, extend the Temporary General License at section (d)(1) of Supplement No. 1 to Part 736 through December 31, 2028 to allow U.S. industry sufficient time to transition their supply chains and other operations out of China without significant disruptions to their business, as well as allow BIS

further time to evaluate the economic impacts on US industry and fully analyze complexities of this rule and the required time to implement without harming US industry. Again, section 744.23(a)(4) should not apply to systems that are specified on the Commerce Control List as only controlled for antiterrorism reasons and that do not alter the technology level of ICs.

- BIS should add a note to section 744.23(a)(4) making clear that ‘development’ and ‘production’ activities do not include the upgrade of 3B equipment already installed and in operation.
- BIS should return the foreign availability license review policy in sections 744.23(d)(3)(ii) and 744.6(e)(3)(ii)(B) to a presumption of approval until and unless the countries with competitor companies adopt comparable controls.
- BIS should add a note to section 742.6(a)(6)(iii) making clear that this section does not apply to exports, reexports, or transfers for end uses in inspection, metrology, or defect-review equipment.

Conclusion

KLA thanks BIS for the opportunity to comment on the Corrections Rule. We believe that our comments and recommendations, if adopted, will make the new controls more effective and less counter-productive. If you have any questions about this comment or its attachments, please contact us any time at (408) 875-9649.

Sincerely yours,

Mark Gursky [digital signature]

Mark Gursky
Vice President & Chief Compliance Officer
KLA Corporation