



European Semiconductor Industry Association

# ***Industry's challenges: Controls on intangible items & emerging technologies***

Export Control Forum 2020

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# European Semiconductor Industry Association

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## The Semiconductor Voice of Europe

- Key enabling technology for Europe
- Remains at the core of the EU digital & manufacturing transformation
- Top leaders for AI, IoT, connected and automated mobility, industry 4.0, etc
- Important for EU to maintain its competitive advantage and value chains
- Global industry and global supply chain
- Cutting-edge technology & products, many of which classified as Dual Use

# From bows to emerging technologies: The evolution of Export Controls

*"No one shall dare to sell armaments, shields, bows, arrows, sabers, swords or weapons of any sort to foreign barbaric tribes of any people, coming to this holiest city [...]."*  
- **Martianus (Roman Sovereign, 161-180 AD)**



*"“Humanity is acquiring all the right technology for all the wrong reasons.”*  
- **R. Buckminster Fuller**



*"The technology at the leading edge changes so rapidly that you have to keep current after you get out of school."*  
- **Gordon Moore**



**Stage 1**  
Control of tangible items  
(arms, then products)

**Stage 2**  
Control of intangible items  
(technology, Software)

**Stage 3 ?**  
New & Emerging  
Technology

# Stage 2: Industry challenges on controls of intangibles

## Legal Definitions

### Areas where enhanced EU-wide guidance would be welcome:

- **Determination of “export” and “exporter”** especially in Research&Development collaborations (R&D) and cloud services
- **Determining if/when to apply for license** in relation to GTN, where „required“; „development“; „peculiarly responsible for“ can be interpreted differently, leading to different results

## Global concepts

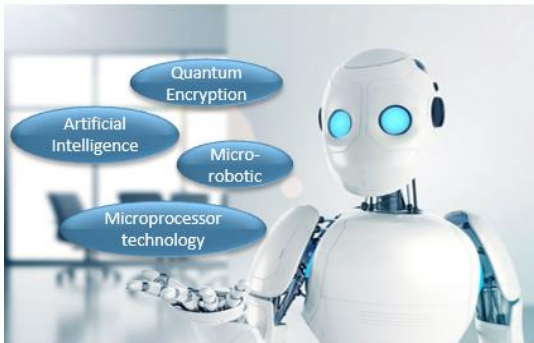
### Areas where enhanced intern. alignment would be welcome:

- **Similar concepts with different interpretations in foreign Export Reg.** increase burden for global operating European companies
- **Examples:**  
EU “In the public domain” vs. US “publicly available”;  
EU “Basic scientific research” vs. US “Fundamental research”

## “New” Emerging Technologies: How & What to control?



- How to control?
  - Alignment within Export Control Regimes (emerging tech. are currently controlled in WA)
  - Coordination with third countries?



- What to control?
  - Determine (new) interests that shall be protected
  - Define & identify „emerging“ technology
  - Define appropriate controls (e.g. list-based controls, end-use(r) controls?)

## To be discussed...

### ESIA's Questions:



- Why separating „emerging“ tech. from other tech.? Will the controls be different?
- How long is a technology considered „emerging“?
- How to deal with the protection of industry secrets?
- What do future controls mean for Academia, Research and Science?



### ESIA's priority:

- ✓ Alignment within the export control Regimes
- ✓ Industry consultation
- ✓ No impediment to legitimate trade
- ✓ Protection of trade secrets



# ESIA

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