

## Taiwan is to list core key technologies such as semiconductors by the end of 2023 to safeguard against foreign forces and protect its competitiveness

Employment and Compensation | Taipei

Taiwan's National Security Act (**NSA**) has been amended in recent years to prevent the leakage of national core key technologies (**NCKT**). The government is still reviewing the scope of NCKT and is expected to publish a list to define NCKT by the end of 2023. The latest developments in NCKT and their impact on the high-tech industries are summarized below:



### 1. The NSA was amended on June 8, 2022, with the effective date pending the Executive Yuan's decision. The critical points of the NSA are as follows:

- a. Specifies NCKT, which refers to those technologies that would seriously damage national security, industrial competitiveness, or economic development if flown into a foreign country, Mainland China, Hong Kong, Macau, or foreign hostile forces. NCKTs are subject to control based on international conventions, national security needs, or national critical infrastructure security considerations, or they may lead to the creation of leading-edge technology or significantly enhance the competitiveness of key industries in Taiwan.
- b. Introduces the crime of economic espionage to deter the illegal transfer of NCKT.  
  
The amended NSA stipulates that no one may commit acts against NCKT for a foreign country, mainland China, Hong Kong, Macau, foreign hostile forces, or attempt to use NCKT's trade secrets in a foreign country, mainland China, Hong Kong, or Macau.
- c. Violating the above illegal transfer of NCKT will result in imprisonment for 5–12 years and a fine of NT\$5–NT\$100 million.



### 2. The National Science and Technology Council (NSTC) established the Core Key Tech Recognized Regulations (Regulations) on April 26, 2023, to identify the scope of NCKT.

- a. NSTC establishes the Core Key Tech Committee (**Committee**), which is responsible for the recognition and change of NCKT, and the Core Key Tech Office (**Office**), which is responsible for analyzing the development of related technologies and researching and drafting key technology projects.
- b. NCKT should be examined by the expert examination committee of the agency and then submitted to the Office for the review of the relevant documents, which will later be submitted to the Committee and then published by the Executive Yuan.



### 3. The Committee will publish a list of NCKTs by the end of 2023, covering the semiconductor industry.

- a. In the latest update, the Secretary of the National Security Council (**NSC**) announced that the Committee will publish a list of NCKTs by the end of 2023, covering semiconductor, agriculture, aerospace, and ICT industries, and dealing with investment, manpower, operations, and technology transfers in these industries, to ensure that foreign forces will not obtain these NCKTs. The NSC also indicated that it expects the Committee to finalize the NCKTs list in December this year and will send it to the Executive Yuan for approval.
- b. Regarding the scope of the included technologies, the Secretary of the NSC emphasized that, from a national defense perspective, the export of Taiwan's core technologies to foreign forces was not the only area under review for the time being. The government is working to prevent Taiwan's semiconductor products and technologies from being used by foreign forces for defense or military purposes. It can therefore be inferred that, in addition to Taiwan's core key technologies, all semiconductor core key technologies related to Taiwan will also be included in the list.



#### 4. Other critical impacts of NCKT on the high-tech industry.

- a. Though the illegal transfer of NCKT is subject to imprisonment for 5–12 years and a fine of NT\$5–NT\$100 million, nevertheless, the NSA does not restrict companies from investing in or exporting to China, and companies should comply with existing regulations such as the Trade Law of the Ministry of Economic Affairs and the Act Governing Relations between the People of the Taiwan Area and the Mainland Area (AGRP) of the Mainland Affairs Council.
- b. Note that the NCKT also affects the personnel engaged in NCKT business. The newly amended AGRP stipulates that individuals or entities who are entrusted, subsidized, or financed by the government to engage in business involving NCKT should obtain governmental approval before entering China. The same applies to those who leave the entities for less than three years.

If a more detailed explanation or further assistance is required, please feel free to contact us.

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