

**CHINA – MEASURES AFFECTING TRADING RIGHTS  
AND DISTRIBUTION SERVICES FOR CERTAIN PUBLICATIONS  
AND AUDIOVISUAL ENTERTAINMENT PRODUCTS**

Notification of an Other Appeal by the United States  
under Article 16.4 and Article 17 of the Understanding on Rules  
and Procedures Governing the Settlement of Disputes (DSU),  
and under Rule 23(1) of the *Working Procedures for Appellate Review*

The following notification, dated 5 October 2009, from the Delegation of the United States, is being circulated to Members.

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Pursuant to Rule 23 of the *Working Procedures for Appellate Review*, the United States hereby notifies its decision to appeal to the Appellate Body certain issues of law covered in the Report of the Panel in *China – Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products* (WT/DS363/R & Corr.1) ("Panel Report") and certain legal interpretations developed by the Panel.

The United States seeks review by the Appellate Body of the Panel's legal conclusion that the State plan requirement in Article 42 of the *Publications Regulation* can be characterized as "necessary" to protect public morals in China within the meaning of Article XX(a) of the *General Agreement on Tariffs and Trade 1994*.<sup>1</sup> This conclusion is in error and is based on erroneous findings on issues of law and legal interpretations, and on the Panel's failure to carry out its obligations under Article 11 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* to make an objective assessment of the matter before it.

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<sup>1</sup>See, e.g., Panel Report, paras. 7.829-7.836.