

CHINA – VALUE-ADDED TAX ON INTEGRATED CIRCUITS

Request for Consultations by the United States

The following communication, dated 18 March 2004, from the delegation of the United States to the delegation of China and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with the Government of the People's Republic of China ("China") pursuant to Articles 1 and 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), Article XXII:1 of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), and Article XXII:1 of the *General Agreement on Trade in Services* ("GATS") regarding China's value-added tax ("VAT") on integrated circuits ("ICs").

China provides for a 17 per cent VAT on ICs. However, we understand that enterprises in China are entitled to a partial refund of the VAT on ICs that they have produced, resulting in a lower VAT rate on their products. China therefore appears to be subjecting imported ICs to higher taxes than applied to domestic ICs and to be according less favourable treatment to imported ICs.

In addition, we understand that China allows for a partial refund of VAT for domestically-designed ICs that, because of technological limitations, are manufactured outside of China. China thus appears to be providing for more favourable treatment of imports from one Member than another, and discriminating against services and service suppliers of other Members.

We understand that China implements its preferential tax for domestically-produced or designed ICs through the following measures:

- Document 18 (24 June 2000), *Notice of the State Council Regarding Issuance of Certain Policies Concerning the Development of the Software Industry and Integrated Circuit Industry*;
- Document 25 (22 September 2000), *Notice of the Ministry of Finance, State Administration of Taxation, and General Administration of Customs on Relevant Tax Policy Issues Concerning Encouraging the Development of the Software Industry and the Integrated Circuit Industry*;
- Document 86 (7 March 2002), *Notice of the Ministry of Information Industry Regarding Issuance of Regulations on Certification of Integrated Circuit Design Enterprises and Products*;

- Document 70 (10 October 2002), *Notice of the Ministry of Finance, State Administration of Taxation Regarding Furthering Tax Policies to Encourage the Development of the Software Industry and Integrated Circuit Industry*;
- Document 140 (25 October 2002), *Notice of the Ministry of Finance, State Administration of Taxation Regarding Tax Policies for Imports of Integrated Circuit Products Domestically Designed and Fabricated Abroad*; and
- Document 1384 (23 December 2003), *Notice of the State Administration of Taxation Regarding Issuance of the Catalogue of Integrated Circuit Products Enjoying Preferential Tax (First Batch)*;

as well as any amendments, related measures, or other implementing measures.

The United States therefore believes that these measures are inconsistent with the obligations of China under Articles I and III of the GATT 1994, the Protocol on the Accession of the People's Republic of China (WT/L/432), and Article XVII of the GATS.

We look forward to receiving your reply to this request and to fixing a mutually acceptable date for consultation.
