

national market system or prints in the primary market for a security.¹⁵ CHX specialists also would not act as agent for the orders in other markets. The Exchange believes that CHXpress orders would be used by order-senders that want either immediate executions against available interest or instantaneous order display, but do not want their orders to be placed on hold while a specialist seeks liquidity in other markets nor require that a specialist provide order execution guarantees of the type otherwise available to agency orders.

The Exchange has designed the CHXpress functionality to permit specifically-designated orders to immediately access available liquidity at the Exchange. The Exchange believes that this functionality would provide an important new way for eligible orders to interact within the Exchange's systems and that it would protect investors and the public interest by providing fair, automatic execution of those orders.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with section 6(b) of the Act¹⁶ in general, and furthers the objectives of section 6(b)(5) of the Act¹⁷ in particular, because it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change, as amended.

III. Date of Effectiveness of the Proposed Rule Change and Timing of Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an E-mail to rule-comments@sec.gov. Please include File Number SR-CHX-2004-12 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-CHX-2004-12. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the CHX. All comments

received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CHX-2004-12 and should be submitted on or before May 12, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁸

Margaret H. McFarland,
Deputy Secretary.

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS-309]

WTO Dispute Settlement Proceeding Regarding China—Value-Added Tax on Integrated Circuits

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that on March 18, 2004, in accordance with the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement), the United States requested consultations with the People's Republic of China (China) regarding its value-added tax (VAT) on integrated circuits (ICs).

USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before May 17, 2004, to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to FR0419@ustr.gov, with "China VAT (DS309)" in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395-3640, with a confirmation copy sent electronically to FR0419@ustr.gov, in accordance with the requirements for submissions set out below.

FOR FURTHER INFORMATION CONTACT: David L. Weller, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395-3582.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round

¹⁵ Under the Exchange's existing rules, a specialist can engage an automated functionality in the MAX system to provide price improvement to eligible agency orders and can use automated functionalities to provide agency orders with protection against trades in the primary market for both listed and Nasdaq/NM securities. See CHX Article XX, Rule 37(d) (describing the SuperMAX price improvement functionality) and Rule 37(a)(3) (setting out the limit order protections otherwise guaranteed to limit orders, such as protections against primary market trades at or through a limit order's price).

¹⁶ 15 U.S.C. 78f(f)(b).

¹⁷ 15 U.S.C. 78f(b)(5).

¹⁸ 17 CFR 200.30-3(a)(12).

Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, but in an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO Dispute Settlement Understanding (DSU). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meeting in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

Major Issues Raised by the United States

On March 18, 2004, the United States requested consultations with the Government of China pursuant to Articles 1 and 4 of the 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 VAT on ICs.

China provides for a 17 percent VAT on ICs. However, USTR understands 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 favorable treatment to imported ICs.

In addition, USTR understands 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 favorable treatment of imports from one Member than another, and discriminating against services and service suppliers of other Members.

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

- Document 18 (June 24, 2000), Notice of the State Council Regarding Issuance of Certain Policies Concerning the Development of the Software Industry and Integrated Circuit Industry;
- Document 25 (September 22, 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 (March 7, 2002), Notice of the Ministry of Information Industry Regarding Issuance of Regulations on Certification of Integrated Circuit Design Enterprises and Products;
- Document 70 (October 10, 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 (October 25, 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 (December 23, 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.

USTR 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 to the WTO, and Article XVII of the GATS.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Persons submitting comments may either send a copy by fax to Sandy McKinzy at (202) 395-3640, or transmit a copy electronically to FR0419@ustr.gov, with "China VAT (DS309)" in the subject line. For documents sent by fax, USTR requests that the submitter provide a confirmation copy to the electronic mail address listed above.

USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Comments must be in English. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business

confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly designated as such and "BUSINESS CONFIDENTIAL" must be marked at the top and bottom of the cover page and each succeeding page.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

- (1) Must clearly so designate the information or advice;
- (2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" at the top and bottom of the cover page and each succeeding page; and
- (3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/DS-309, China VAT Dispute) may be made by calling the USTR Reading Room at (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel E. Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending April 9, 2004

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within