

**Policies of Encouraging the
Development of Software
and Integrated Circuit
Industries State Council of
the People's Republic of
China**



In order to promote the development of China's software industry and integrated circuit industry, boost the creative power and international competitiveness of the information industry, bring along the transformation of the traditional industries and product upgrading and further stimulate a sustainable, rapid and healthy development of the national economy, the following policies are hereby formulated:

Chapter One - Policy Objectives

Article 1 Through the policy guidance, it is encouraged to put financial and human resources into the software and integrated circuit industries to further promote the rapid development of China's information industry and strive to bring the R&D level and production capacity of the software industry to or close to advanced international levels by the year 2010 and make China one of the major integrated circuit development and production bases in the world.

Article 2 Domestic enterprises shall be encouraged to make full utilization of international and domestic resources, strive to open up both international and domestic markets and, through five-ten years' efforts, enable domestically produced software products to satisfy most of the demand on the home market and to be exported in large amounts and the domestically produced integrated circuit products to satisfy most of the home market demand and to be exported in a certain amount, and at the same time, efforts should be made to further narrow the gaps in development and production technology with developed countries.

Chapter Two - Investment and Financing Policies

Article 3 Raising funds through multiple channels and increasing investment in the software industry

(1) Set up risk investment mechanism in the software industry and encourage risk investment in the industry. The state shall support the establishment of risk investment companies and set up risk investment. At the initial period, the state may arrange part of the seed funds and at the same time raise funds by calling for share capital from the public and absorbing internal and external risk investment funds. Risk investment companies shall operate and be managed as enterprises according to the law governing the operation of risk investment and the shares of software enterprises held may be circulated on the market on the day when the software enterprises are listed for trading. But when risk investment companies are the initiators of the software enterprises, the related laws and regulations shall be implemented.

(2) Part of the budgetary funds for capital construction shall be arranged during the Tenth Five-Year Plan period for use in the construction of basic facilities and industrialization projects of the software and integrated circuit industries. In areas where institutions of higher learning and research institutes are concentrated, there shall be established a number of state-aided software parks. In making annual plans, the State Development Planning Commission, the Ministry of Finance, the Ministry of Science and Technology and the Ministry of Information Industry shall take out part of the science and technology

development funds at their disposal for use to support the development of basic software or as initial outlay for incubation of software industry.

Article 4 Create the conditions for software enterprises to be listed at home and abroad to raise funds

(1) Open the second board on the stock markets as soon as possible. All software enterprises, irrespective of ownership, shall be given priority in the listing on the stock markets so long as they meet the conditions for a listing on the second board market.

(2) In evaluating the property of software enterprises with good market prospects and human resources advantages, the investors shall fix the proportion of intangible assets in the net assets.

(3) Support software enterprises in getting a listing abroad. Software enterprises examined to be qualified for listing abroad are allowed to apply for floating their shares abroad to raise funds.

Chapter Three - Tax Policies

Article 5 The state encourages the development and production of software products inside the territory of China. The legal value-added tax rate shall be 17% before 2010 for selling software products developed and produced by the general value-added tax payers. The part paid that is 3% in excess of the actual tax amount shall be refunded immediately after payment and the money shall be used for R&D of software products and expanded re-production.

Article 6 Software enterprises established inside the Chinese territory shall enjoy preferential policies in business income tax. New software enterprises, after being certified, shall enjoy the preferential policy of exemption in the first two years and a 50% reduction in the following three years in business income tax starting from the profit-making year.

Article 7 For key software enterprises covered by the state planning, the business income tax rate shall be 10% when they have not enjoyed tax exemption in the year. The list of key software enterprises covered by the state planning shall be fixed jointly by the State Development Planning Commission, the Ministry of Information Industry, the Ministry of Foreign Trade and Economic Cooperation and the State General Tax Administration.

Article 8 The import duties and value-added tax in the import link shall be exempted on the equipment imported by software enterprises for their own use and on the technology (including software) and supporting parts and standby parts imported together with equipment according to contracts except those listed in the "Catalog of Imported Commodities that are not free from taxation for foreign-funded projects" and the "Catalog of Imported Commodities that are not free from taxation for domestically-funded projects".

Article 9 The salaries and remunerations and training fees of the personnel of software enterprises may be listed as expenses according to the actual amount that happened before paying business income tax.

Chapter Four - Industrial Technical Policies

Article 10 Support the development of major universally applicable and basic software. The state shall use science and technology funds to give priority support to the R&D of software technologies that are basic, strategic and perspective in nature and major, key and universally applicable, mainly including operating systems, large data bank management systems, network platforms, development platforms, information security, built-in systems, large application software systems. The R&D of the above software supported by the state should be undertaken mainly by enterprises, with the participation of research institutes and institutions of higher learning and project contractors shall be chosen on merit through open bidding.

Article 11 Support domestic enterprises, research academies and institutions, institutions of higher learning in establishing R&D centers in cooperation with foreign enterprises.

Chapter Five - Export Policy

Article 12 Software export shall be incorporated into the business of the China Import and Export Bank and enjoy credit support at preferential interest rates. The state export credit insurance organizations shall provide export credit insurance.

Article 13 Software production enterprises whose annual export of software exceeds one million US dollars (US\$ 1,000,000) shall enjoy the power of handling their own exports.

Article 14 The customs shall provide convenience services for the production and development of software and shall adopt bond measures for equipment used as simulated user environment at R&D centers established for accepting the software designing and services from foreign customers in software parks supported by the state.

Article 15 According to the actual needs of major software enterprises in participating in international exchange, the examination and approval procedures shall be simplified for the exit and entry of senior and intermediate management and technical personnel of enterprises and the validity period shall be extended appropriately. Specific methods for implementation shall be worked out separately by the Ministry of Foreign Affairs together with related departments.

Article 16 Adopt foreign exchange control measures best suited to the features of software trade. According to the characteristics of software product trade (including software outsourcing), foreign trade, customs and foreign exchange control methods different from other products shall be adopted for the export of software products in order to meet the demand of software enterprises in international commercial activities.

Article 17 Software export-oriented enterprises are encouraged to get GB/T19000-ISO9000 and CMM certification and the fees for certification shall be supported from the central foreign trade development fund.

Chapter Six – Income Distribution Policy

Article 18 Software enterprises may, according to the related laws and regulations of the state and in the light of the economic efficiency of their own enterprises and the social mean wage, decide on their own payrolls and wage levels independently.

Article 19 Software enterprises are encouraged to set up an incentive mechanism in income distribution for science and technology personnel and reward those who have made outstanding contributions.

Article 20 Software enterprises shall allow the use of patents and technical achievements as shares and give out the shares to inventors and contributors. For technical achievements made by an enterprise, the profits from the application of technical achievements over the past 3-5 years shall be converted into shares for distribution according to the provisions of the “Law of the People’s Republic of China on Promoting the Conversion of Scientific and Technical Achievements”.. Patented technologies and non-patented technologies brought in by groups or individuals into an enterprise may be converted directly into shares to be distributed.

Article 21 If a software enterprise listed on the second board introduces stock rights of internal senior management personnel and backbone technical personnel, it shall reveal in detail in the prospectus and provide necessary explanatory materials to the stock exchanges according to the rules of the second board. The proportion of stock rights in the initial public offering shall be decided by the board of directors.

Chapter Seven - Policies for attracting and training personnel

Article 22 State educational departments shall, according to market demand, further expand the personnel training scale and build a number of software personnel training centers in institutions of higher learning or research institutes.

(1) Display the advantages of educational resources at home and expand the enrolment for software specialty in the current institutions of higher learning, intermediate level specialized schools to train software personnel at multiple levels. For the present, the training scale for senior software personnel with master, doctor and post-doctorate degrees should be expanded as soon as possible and institutions of higher learning should be encouraged to open software colleges. Non-computer specialties of institutes of science and technology should offer software application courses to train people with multiple skills.

(2) Adult education and part-time education (TV university) should offer or strengthen the teaching of software and actively support enterprises, research institutes and social forces to carry out software technology training and step up knowledge renewal and re-education of staff members. In departments and regions where there are the conditions, modern remote education should be promoted. In determining the professional titles of engineering and technical personnel, software and computer application should be incorporated in the scope of assessment.

(3) The State Bureau of Foreign Expert Affairs and the Ministry of Education should set up a joint special fund to support senior software research personnel in pursuing further studies abroad, invite foreign software specialists to give lectures or work in China.

Article 23 Software system analyzers and systems engineers in the software development parks supported by the state, who hold technical titles of above intermediate level or who have major inventions or creations, may settle in the software parks together with their spouses and young children upon the recommendation by their work units and assessed by related departments.

Article 24 Implement global personnel strategy and attract software technical personnel at home and abroad to start software enterprises at home. Related departments shall give financial support to technical personnel of domestic institutions of higher learning and research institutes in starting software enterprises and relax conditions in the movement of personnel. Resident foreign students and foreign nationals who start software enterprises in China shall enjoy all kinds of preferential policies granted to software enterprises.

Chapter Eight - Procurement Policies

Article 25 Domestic enterprises shall be given priority to undertake major projects and major application systems financed by the state and when the performance/price ratios are equal, domestic software systems should be given priority in application. In compiling project estimates, software and technical service should be made independent budgetary items and efforts should be made to ensure that the expenses are put in place.

Article 26 If software purchased by institutions and enterprises has reached the standards of fixed assets or has formed intangible assets, it shall be accounted as fixed assets or intangible assets and, with the approval of tax authorities, the period of depreciation or amortization may be shortened properly, with the shortest being two years.

Article 27 Software purchased by government organs and software involving sovereignty or economic security of the state shall be procured by the government.

Chapter Nine - Software Enterprise Certification System

Article 28 The standards for certifying software enterprises shall be worked out by the Ministry of Information Industry together with the Ministry of Education, the Ministry of Science and Technology and the State General Tax Administration.

Article 29 Software enterprises shall be subject to annual checks. Enterprises failing the annual checks shall be disqualified as software enterprises and shall no longer enjoy the related preferential policies.

Article 30 Software enterprise certification and annual checks shall be organized by the software associations or related associations at the prefecture (city) level and above authorized by the department

in charge of information industry at a next higher level. The list of software enterprises shall be screened by the associations before being submitted to the departments in charge of information industry at the same level, which shall examine and award approval together with tax departments at the same level before publishing them.

Article 31 The Ministry of Information Industry and the State Quality and Technology Administration shall be responsible for drafting the state standards for software products.

Chapter Ten - Intellectual Property Rights Protection

Article 32 Copyright administrative management department of the State Council shall standardize and strengthen the system of copyright registration for software and encourage the registration of software copyrights and give priority protection to software registered according to the law of the state.

Article 33 In order to protect the lawful rights and interests of Chinese and foreign copyright holders, no unit is allowed to use in its computer systems software products without authorization.

Article 34 Strengthen smuggling and software piracy and strictly punish activities of organizing the making, production and sales of pirated software. Starting from the second half of 2000, the Ministry of Public Security, the Ministry of Information Industry, the State Administration for Industry and Commerce, the State Intellectual Property Right Office, the State Copyright Office and the State General Tax Administration shall launch regular joint struggles against software piracy.

Chapter Eleven - Organization and Management of the Software Industry

Article 35 Departments in charge of information industry at all levels shall exercise management and supervision of the software industry.

Article 36 Departments in charge of information industry shall give full scope to the roles of software industrial associations in market research, information exchange, consulting and evaluation, self-discipline, intellectual property right protection, qualification certification and policy research in promoting a healthy development of the software industry.

Article 37 The expenses needed by software industrial associations in carrying out activities shall be covered by association members, with proper support from local finances upon application by departments in charge.

Article 38 Software industrial associations shall perform its functions of enterprise certification according to the principle of openness, justice and fairness.

Article 39 The output value and export value of software products shall be incorporated into state statistics and be listed separately in the catalog of information industry.

Chapter Twelve - Policies concerning Integrated Circuit Industry

Article 40 Chinese and foreign enterprises are encouraged to start integrated circuit joint ventures or wholly owned enterprises inside the territory of China. Departments concerned shall carry out examination and approval as quickly as possible for those that meet the requirements.

Article 41 The legal value-added tax rate shall be 17% before 2010 for selling integrated circuits products (including monocrystal chips) software products developed and produced by the general value-added tax payers. The part paid that is 6% in excess of the actual tax amount shall be refunded immediately after payment and the money shall be used for R&D of integrated circuits and for expanded re-production.

Article 42 Integrated circuit production enterprises shall enjoy the preferential policies granted to foreign business people investing in energy and communications projects if they meet one of the following requirements:

(1) The investment has exceeded eight billion yuan;

(2) The width of integrated circuits is less than 0.25 μ m.

Article 43 The customs shall provide conveniences to production enterprises that meet the requirements of Article 42. The specific methods for implementation shall be worked out by the General Administration of Customs.

Article 44 In importing productive raw materials and consumption supplies, production enterprises that meet the requirements of Article 42 shall be free from import duties and VAT in the import link. The Ministry of Information Industry shall, together with the State Development Planning Commission, the Ministry of Foreign Trade and Economic Cooperation and the General Administration of Customs, draft the catalog of tax-free integrated circuit products, which shall be implemented after getting the approval of the State Council.

Article 45 In order to avoid exchange rate risks, enterprises that meet the requirements of Article 42 are allowed to deposit in foreign currencies in special accounts the after-tax profits ready for use as reinvestment in China, subjecting to the control of foreign exchange control departments.

Article 46 The shortest period for depreciation of productive equipment of integrated circuit production enterprises shall be three years.

Article 47 The integrated circuit technology and complete sets of production equipment and integrated circuit special equipment and instruments imported by integrated circuit production enterprises shall be free from import duties and VAT in the import link according to the provisions of the "Guide to the Catalog

of Industries for Foreign Investment” and the “Catalog of Industries, Products and Technologies Encouraged by the State for Priority Development at Present”.

Article 48 If the integrated circuits designed by enterprises inside the territory cannot indeed be produced inside the territory, the chips may be produced abroad and when they are imported, the import duties shall be levied according to the interim preferential rate after the processing contracts (including specifications and quantity) are confirmed by departments in charge of the industry.

Article 49 The certification of integrated circuit enterprises shall be finalized after the integrated circuit project examination and approval departments solicit the comments from tax departments at the same level.

Article 50 The integrated circuit designs and products shall be regarded as software products, subjecting to legal protection with regard to intellectual property rights. The state shall encourage assessment and registration of integrated circuit designs and products.

Article 51 Integrated circuit designing industry shall be regarded as software industry and related policies concerning software industry shall apply.

Chapter Thirteen - Supplementary Provisions

Article 52 All software and integrated circuit enterprises established inside the territory of China shall enjoy the above policies irrespective of ownership.

Article 53 The policies shall be implemented starting from the date of promulgation