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**T**his is to certify that I, Marco Antônio Rochadel, Official Public Translator, designated and installed in Office according to The Official Gazette of June 23, 1982, page 5428, have received and translated, to the best of my knowledge and belief, a document with the following contents:

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**PRESIDENCY OF THE REPUBLIC**

**CIVIL AFFAIRS MINISTRY**

**OFFICE OF THE DEPUTY HEAD FOR LEGAL MATTERS**

**LAW NO. 11,484, OF MAY 31, 2007**

Veto Message

Conversion of Provisional Measure no. 352, of 2007

See Decrees no. 6,233 and 6,234, of 2007.

Makes provisions on incentives granted to the of Digital TV and semiconductor electronic components industries and on protection to intellectual property on integrated circuit topography, by establishing the Semiconductor Industry Technological Development Support Program – PADIS and the Digital TV Equipment Industry Technological Development Support Program – PADTV; amends Law no. 8,666, of June 21, 1993 and revokes Article 26 of Law no. 11,196, of November 21, 2005.

THE PRESIDENT OF THE REPUBLIC

I make it known that the National Congress decrees and I sanction the following Law:

## CHAPTER I

### SEMICONDUCTOR INDUSTRY TECHNOLOGICAL DEVELOPMENT SUPPORT

#### Section I

##### Semiconductor Industry Technological Development Support Program

Article 1. The Semiconductor Industry Technological Development Support Program – PADIS, is hereby established under the terms and conditions mentioned in this Law ([See Decree no. 6,233, of 2007](#)).

Article 2. A beneficiary of PADIS is a legal entity that invests in Research and Development (R&D) under Article 6 hereof and conducts, either jointly or severally, in what regards:

- I - semiconductor electronic devices under headings 85.4 and 85.42 of the Mercosul Common Nomenclature – NCM, activities of:
  - (a) concept, development and design;
  - (b) diffusion or physicochemical processing; or
  - (c) encapsulation and test;
- II - displays mentioned by Paragraph 2 of this Article 2, activities of:
  - (a) concept, development and design;
  - (b) manufacture of photosensitive elements; photo- and electroluminescent and light emitters; or
  - (c) final assembly of displayer and electrical and optical tests.

Paragraph 1. For the purposes of this Article 2, a legal entity conducts activities either:

- I - severally, when performing all phases envisaged in the letter

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above ((a), (b) or (c)) where it is included; or

- II - jointly, when performing all activities envisaged in the item above (I or II) where it is included.

Paragraph 2. The provision of this Article 2(II):

- I - includes displays listed in an act of the Executive Branch, with technology based on liquid crystal component – LCD, photoluminescent (plasma display panel – PDP), electroluminescent (light emitting diode – LED, organic light emitting diode – OLED, or thin film electroluminescent display – TFEL), or similar technologies with electric field emitting microstructures designed as inputs to electronic equipment;
- II - does not include cathode ray tubes – CRT.

Paragraph 3. The legal entity mentioned in this Article shall conduct solely the activities envisaged thereby.

Paragraph 4. The investment in research and development mentioned in this Article and the performance of activities mentioned in this Article 2(I) and (II) shall be conducted according to projects approved under Article 5 hereof.

## Section II

### Application of PADIS

~~Article 3. In case of sale in the domestic market or import of new machinery, devices, instruments and equipment to be added to the fixed assets of the purchasing legal entity in the domestic market or the importer, destined to activities mentioned by Article 2(I) and (II) hereof, the following rates are reduced to zero: (Ruling)~~

Article 3. In case of sale in the domestic market of imported new

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machinery, devices, instruments or equipment, to be added to the fixed assets of the purchasing legal entity in the domestic market or of the importer, destined to activities mentioned by Article 2(I) and (II) hereof, the following rates are reduced to zero: [\(As amended by Provisional Measure no. 428, of 2008\)](#)

- I - Contribution for the Program for Social Integration and Civil Servant Asset Development – PIS/PASEP and Contribution for Social Security Funding – COFINS charged on revenues of the selling legal entity when the purchase is conducted by a legal entity beneficiary of PADIS;
- II - Contribution for PIS/PASEP – Import and COFINS – Import when the import is carried out by a legal entity beneficiary of PADIS; and
- III - Federal Excise Tax – IPI charged on imports or on the exit of the industrial or equivalent establishment when the import or purchase in the domestic market is conducted by a legal entity beneficiary of PADIS.

Paragraph 1. The rate reductions envisaged by this Article include software and inputs destined to activities mentioned by Article 2 hereof when imported or purchased in the domestic market by a legal entity beneficiary of PADIS.

Paragraph 2. The provisions of this Article 3 and its Paragraph 1 above include solely goods and inputs listed in an act of the Executive Branch.

Paragraph 3. The rate of Contribution for Intervention in the Economic Domain – CIDE destined to fund the Program for Encouraging University-Enterprise Integration for Supporting Innovation mentioned by [Article 2 of Law no. 10,168, of December 29, 2000](#), is reduced to zero in remittances abroad for payment of agreements related to exploitation of patents and use of trademarks

and agreements for the supply of technology and technical assistance, when conducted by a legal entity beneficiary of PADIS and linked to activities mentioned by Article 2 hereof. (Ruling)

Paragraph 4. For the purposes of this Article 3, an importer is equivalent to a legal entity purchaser of foreign goods in case of imports conducted on such importer name and account through the importing legal entity.

Paragraph 5. The rate of Import Tax – II may also be reduced to zero on new machinery, devices, instruments and equipment, mentioned in an act of the Executive Branch, in the conditions and for the term therein mentioned, imported by the legal entity beneficiary of PADIS for addition to its fixed assets and destined to activities mentioned in Article 2 and Article 2(I) and (II) hereof.

Article 4. In the sale of devices mentioned in Article 2 and Article 2(I) and (II) hereof, conducted by a legal entity beneficiary of PADIS, the following are reduced:

- I - to zero (0), the Contribution for PIS/PASEP and COFINS charged on revenues earned; (Ruling)
- II - in one hundred percent (100%), the income tax rates and additional tax charged on exploitation profits. (Ruling)

Paragraph 1. Rate reductions mentioned in this Article 4(I) and (III) are applicable to revenues resulting from the sale of design, when performed by a legal entity beneficiary of PADIS.

Paragraph 2. Rate reductions mentioned in this Article 4(I) and (II) related to sales mentioned in Article 2(II) hereof are applicable solely in case the activities mentioned in Article 2(II)(a) or (b) hereof have been conducted in Brazil.

Paragraph 3. In order to benefit from the rate reduction mentioned in this Article 4(III) a legal entity must record in its accounting, clearly and accurately,

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the elements of revenues, costs, expenses and results of the accounting period, related to the sales subject to the reduction, segregated from the remaining activities of the legal entity.

Paragraph 4. The amount of the unpaid tax related to the reduction mentioned in this Article 4(III) may not be distributed among stockholders and must be credited to the capital reserve of the legal entity, and may be used solely to cover losses or to increase the capital stock.

Paragraph 5. The following is deemed to be a distribution of the unpaid tax amount:

- I - reimbursement of capital to stockholders in case of reduction of capital stock, up to the amount increased by incorporation of capital reserve; and
- II - distribution of net assets of a dissolved legal entity, up to the amount of the capital reserve balance.

Paragraph 6. Lack of compliance with the provisions of Paragraphs 3 to 5 of this Article 4 implies loss of the right to reduced rates mentioned in this Article 4(II) and obligation to pay, as regards the amount reimbursed, the income tax the legal entity left unpaid, plus interests and arrears, according to the law.

Paragraph 7. Reduction of rates mentioned in this Article 4 are not additional to other reductions and benefits related to the same taxes and contributions, except for the provisions of this Article 4(I) and [Paragraph 2 of Article 17 of Law no. 11,196, of November 21, 2005](#).

**Section III**

**Approval of projects**

Article 5. Projects mentioned in Paragraph 4 of Article 2 hereof shall be

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approved by a joint act of the Ministry of Finance, Ministry of Science and Technology and Ministry of Development, Industry and Foreign Trade, under the terms and conditions established by the Executive Branch.

Paragraph 1. Approval of the project depends on fiscal regularity certification of the interested legal entity in what regards taxes and contributions managed by the Federal Revenue Secretariat of the Ministry of Finance and the Social Security Revenue Secretariat of the Ministry of Social Security.

Paragraph 2. The term for submitting projects is four (4) years, extendable for four (4) years by an act of the Executive Branch.

Paragraph 3. The Executive Branch shall establish, in a regulation, the procedures and terms for analyzing the projects.

**Section IV**

**Investment in Research and Development**

Article 6. A legal entity beneficiary of PADIS mentioned in Article 2 hereof shall invest, on an yearly basis, in research and development activities performed in Brazil not less than five percent (5%) of its gross revenues earned in the domestic market, less taxes charged in the trade of devices mentioned by Article 2(I) and (II) hereof and the purchase value of products benefitted with incentives under this Chapter.

Paragraph 1. Eligible investments are solely those directed to microelectronics research and development activities related to devices mentioned in Article 2(I) and (II) hereof, optoelectronic devices, software supporting such projects and manufacturing project and process methodologies of components mentioned in Article 2(I) and (II) hereof.

Paragraph 2. Not less than one percent (1%) of the legal entity gross revenues, less taxes charged in the trade as mentioned by this Article 6, shall be directed

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through agreement with Brazilian research centers and institutes or education institutions, either official or recognized, accredited by the Information Technology Area Committee – CATI, mentioned by [Article 30 of Decree no. 54,906 of September 26, 2006](#), or by the Amazon Research and Development Activities Committee - CAPDA, mentioned by Article 26 of Decree no. 6,008, of December 29, 2006.

Paragraph 3. Any intellectual property resulting from research and development conducted under projects approved according to this Chapter shall have its protection applied for before the appropriate agency in the Brazilian territory, as the case may be, by the Brazilian legal entity beneficiary of PADIS.

Article 7. The legal entity beneficiary of PADIS shall forward to the Ministry of Science and Technology, not later than July 31 each calendar year, the reports certifying compliance, during the previous year, with its obligations and conditions established by Article 6 hereof.

Article 8. In case the investment in research and development envisaged in Article 6 hereof fails, during a certain year, to reach the minimum percentage set, the legal entity beneficiary of PADIS shall invest the residual value into the National Science and Technology Development Fund – FNDCT (CT-Info or CT-Amazon), plus a fine of twenty percent (20%) and interests at the rate of the Special Settlement and Custody System – Selic, calculated from January 1 of the year subsequent to the one in which the percentage was not reached to the date of effective investment.

Paragraph 1. The legal entity beneficiary of PADIS shall make the investment mentioned in this Article 8 not later than the last day of March of the year following the one in which the minimum percentage was not reached.

Paragraph 2. For the purposes of this Article 8, in case of failure to make the



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investment mentioned within the term envisaged by Paragraph 1 above, a legal entity shall pay:

- I - Interest and penalty for arrears, according to applicable legislation, related to unpaid contributions and taxes as a result of the provisions of Article 4(I) and (II) hereof; and
- II - income tax and any addition tax unpaid as a result of the provisions of Article 4(III) hereof, plus interests and penalty for arrears, according to applicable legislation.

Paragraph 3. Interests and penalty for arrears mentioned in Paragraph 2(I) of this Article 8 shall be paid separately and shall be calculated:

- I - As from the date of effective sale, in case of Article 4(I) hereof, or from the date the product exits the plant, in case of Article 4(II) hereof; and
- II - On the value of unpaid contributions and taxes, in proportion to the difference between the lowest established investment in research and development and the amount effectively invested.

Paragraph 4. Payments made according to Paragraphs 2 and 3 hereof do not release the legal entity beneficiary of PADIS from investing in FNDCT (CT-Info or CT- Amazon), under this Article 8.

Paragraph 5. Lack of, or irregularity in making, the payment envisaged by Paragraph 2 above subjects the legal entity to an *ex officio* tax charge, with the corresponding fine according to applicable legislation.

Paragraph 6. Lack of compliance with the provisions of this Article 8 subjects the legal entity to the provisions of Article 9 hereof.

Section V

**Suspension and Cancellation of PADIS Benefits**

Article 9. The legal entity beneficiary of PADIS shall be punished, at any time, with suspension of the benefits of Articles 3 and 4 hereof, without prejudice of other specific penalties, in case of the following violations:

- I - A report mentioned in Article 7 hereof fails to be submitted or approved;
- II - The obligation to invest in research and development envisaged by Article 6 above, under the provisions of Article 8 hereof, is not complied with;
- III - violation of PADIS regulation provisions; or
- IV - default related to tax or contribution managed by the Federal Revenue Secretariat or the Secretariat of Social Security Revenue.

Paragraph 1. The suspension mentioned by this Article 9 shall be changed into cancellation of application of Articles 3 and 4 hereof in case the legal entity beneficiary of PADIS does not remedy the violation within ninety (90) days from the date the suspension is notified.

Paragraph 2. A legal entity incurring in two (2) suspensions within two (2) years, shall be punished with cancellation of application of Articles 3 and 4 hereof.

Paragraph 3. The penalty of cancellation of application shall only be reverted after the expiry of two (2) years from the date the violation causing such punishment has been remedied.

Paragraph 4. The Executive Branch shall regulate the provisions of this Article 9.

**Section VI**

**Miscellaneous Provisions**

Article 10. The Ministry of Science and Technology shall notify the Federal Revenue Secretariat in case of:

- I - lack of compliance by the legal entity beneficiary of PADIS with the obligation to forward compliance reports within the term mentioned by Article 7 hereof, or with the obligation of investing in FNDCT (CT-Info or CT-Amazon), under Article 8 hereof, within the term mentioned by Paragraph 1 of such Article 8, whenever the minimum percentage for investment in research and development has not been attained.
- II - lack of approval of compliance reports mentioned by Article 7 hereof; and
- III - violation of PADIS regulation provisions.

Paragraph 1. Cases envisaged by this Article 10(I) shall be notified not later than August 30 each calendar year, and other cases not later than thirty (30) days from the event.

Article 11. The Ministry of Science and Technology and the Ministry of Development, Industry, Foreign Trade shall publicize, each three (3) years, reports on the economic and technological results derived from the application of provisions of this Chapter.

Paragraph 1. The Executive Branch shall also publicize the modality and amounts of incentives granted and investments in R&D made, broken down by beneficiary legal entity and by project, under the regulations in effect.

**CHAPTER II**

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**SUPPORT TO TECHNOLOGICAL DEVELOPMENT OF DIGITAL TELEVISION  
EQUIPMENT INDUSTRY**

**Section I**

**Supporting Program for Developing the Digital TV Equipment Industry**

Article 12. The Supporting Program for Developing the Digital TV Equipment Industry – PATVD is established under the terms and conditions of this Law. [\(See Decree no. 6234, of 2007\)](#)

Article 13. A legal entity is a beneficiary of PATVD when it makes investments in research and development – R&D under Article 17 hereof and conducts activities of development and manufacture of radiofrequency signal transmitting equipment for digital TV, classified in NCM heading 8525.50.2.

Paragraph 1. For the purpose of this Article 13, the legal entity above shall comply with the Basic Productive Procedure – PPB established by a joint ministerial directive of the Ministry of Development, Industry and Foreign Trade and Ministry of Science and Technology or, alternatively, comply with the criteria of goods developed within Brazil, as defined by a directive of the Ministry or Science and Technology.

**Section II**

**Application of PATVD**

Article 14. In case of sale to the domestic market or import of new machinery, apparatus, instruments and equipment, to be incorporated to the fixed assets of the legal entity that purchases in the domestic market or of the importer, designed to manufacture the equipment mentioned in Article 13 hereof, the following rates are reduced to zero (0): [\(Ruling\)](#)

I - Contribution to PIS/PASEP and COFINS charged on the revenue

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of the legal entity that sells the good, when the purchase is made by a legal entity beneficiary of PATVD;

- II - Contribution to PIS/PASEP-Import and COFINS-Import when the import is made by a legal entity beneficiary of PATVD; and
- III - Federal Excise Tax – IPI charged on imports or exit of the industrial or similar establishment when the import or purchase in the domestic market is conducted by a legal entity beneficiary of PATVD.

Paragraph 1. Rate reductions envisaged in this Article 14 also reach the software and inputs designed to manufacture equipments mentioned in Article 13 hereof when purchased in the domestic market or imported by a legal entity beneficiary of PATVD.

Paragraph 2. Rate reductions mentioned by this Article 14 and its Paragraph 1 reach only those goods and inputs listed in an act of the Executive Branch.

Paragraph 3. The rate of Contribution for Intervention in the Economic Domain – CIDE designed to fund the Program for Encouraging University-Enterprise Integration for Supporting Innovation mentioned by [Article 2 of Law no. 10,168, of December 29, 2000](#), is reduced to zero in remittances abroad for payment of agreements related to exploitation of patents and use of trademarks and agreements for the supply of technology and technical assistance, when conducted by a legal entity beneficiary of PADIS and linked to activities mentioned by Article 13 hereof.

Paragraph 4. For the purposes of this Article 14, an importer is equivalent to a legal entity purchaser of foreign goods in case of imports conducted on such importer's name and account through the importing legal entity.

Paragraph 5. The rate of import tax – II charged on new machinery, apparatus,

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instruments and equipment, listed in an act of the Executive Branch, under the conditions and for the term therein established, imported by a legal entity beneficiary of PATVD for incorporation to its fixed assets and designed to be used in activities mentioned in Article 13 hereof, may be also reduced to zero (0).

Article 15. In the sale of transmitting equipment mentioned by Article 14 hereof, conducted by a legal entity beneficiary of PATVD, the following rates are reduced to zero (0): **(Ruling)**

- I - Contributions to PIS/PASEP and COFINS charged on revenues earned; and
- II - Excise tax – IPI charged on the exit of the industrial establishment.

Paragraph 1. Rate reductions mentioned in this Article 15 do not apply in addition to other reductions or benefits related to the same tax or to the same contributions.

**Section III**

**Approval of Projects**

Article 16. Projects listed on Paragraph 2 of Article 13 hereof shall be approved in a joint act of the Ministry of Finance, Ministry of Science and Technology and Ministry of Development, Industry and Foreign Trade, under the terms and conditions established by the Executive Branch.

Paragraph 1. Approval of projects shall be conditioned to production of evidence of fiscal regularity of the interested legal entity regarding taxes and contributions managed by the Federal Revenue Secretariat and Social Security Revenue Secretariat.

Paragraph 2. The Executive Branch shall regulate the establishment of

procedures and terms for assessing the related projects.

#### Section IV

##### Investment in Research and Development

Article 17. A legal entity beneficiary of PATVD shall invest, on an yearly basis, in research and development activities to be conducted within the country, not less than two point five percent (2.5%) of its gross revenues in the domestic market, less taxes charged on marketing the transmitting equipment mentioned by Article 13 hereof.

Paragraph 1. Eligible investments are solely those made in research and development activities on equipment mentioned in Article 13 hereof, software and inputs for such equipment.

Paragraph 2. Not less than one percent (1%) of gross revenues, less taxes charged in marketing as defined in this Article 17, shall be invested through agreement with Brazilian research centers of institutes or educational institutions, either official or recognized, accredited by the Information Technology Area Committee – CATI or the Amazon Research and Development Activities Committee – CAPDA.

Paragraph 3. Intellectual property resulting from research and development conducted through projects approved under the terms of this Chapter shall have its protection within the national territory requested before the appropriate body, as the case may be, by the Brazilian legal entity beneficiary of PATVD.

Article 18. The legal entity beneficiary of PATVD shall forward to the Ministry of Science and Technology, not later than July 30 each calendar year, reports evidencing compliance, during the preceding year, with the obligations and conditions established in Article 17 hereof.

Article 19. In case the investments in research and development envisaged

in Article 17 hereof fail to reach, in a certain year, the lowest established percentage, the legal entity beneficiary of PATVD shall invest the residual value with FNDCT (CT-Info or CT-Amazon), plus a twenty percent (20%) fine and interests equivalent to the Selic rate calculated from January 1<sup>st</sup> of the year subsequent to the year in which the percentage failed to be reached to the date of the effective investment.

Paragraph 1. A legal entity beneficiary of PATVD shall make the investment mentioned in this Article 19 not later than the last day of March the year subsequent to the one in which the minimum percentage was not reached.

Paragraph 2. In the case mentioned in this Article 19, a failure to make the investment therein mentioned within the term envisaged by Paragraph 1 hereof subjects the taxpayer to pay interests and arrears, according to applicable legislation, related to contributions and taxes not paid under the provisions of Article 15(I) and (II) hereof.

Paragraph 3. Interests and arrears mentioned by Paragraph 2 above shall be paid separately and calculated:

- I - From the date of the sale, in case of Article 15(I) hereof, or from the date of exit of the product from the industrial establishment, in case of Article 15(II) hereof; and
- II - On the value of contributions and taxes not paid in proportion to the difference between the lowest established percentage of investment in research and development and the one effectively invested.

Paragraph 4. Payments made according to Paragraphs 2 and 3 above do not release the legal entity beneficiary of PATVD from its duty to invest in FNDCT (CT-Info or CT-Amazon) according to the provisions of this Article 19.



Paragraph 5. The lack or irregularity in the investment envisaged by Paragraph 2 above subjects the legal entity to an *ex officio* charge of *ex officio* fines envisaged by applicable legislation.

Paragraph 6. The lack of compliance with the provisions of this Article 19 subjects the legal entity to the provisions of Article 20 hereof.

## Section V

### Suspension and Cancellation of PATVD Application

Article 20. A legal entity beneficiary of PATVD shall be punished, at any time, with suspension of the benefits mentioned in Articles 14 and 15 hereof, without prejudice of other specific penalties, in case of the following violations:

- I - lack of compliance with the conditions established in Paragraph 1 of Article 13 hereof;
- II - lack of compliance with the obligation to invest in research and development as mentioned by Article 17 hereof, under the provisions of Article 19 hereof;
- III - lack of submission or lack of approval of the reports mentioned by Article 18 hereof;
- IV - violation of the provisions of PATVD regulations;
- V - violation related to tax or contribution managed by the Federal Revenue Secretariat or by the Social Security Revenue Secretariat.

Paragraph 1. The suspension of benefits mentioned in this Article 20 shall be changed into cancellation of application of benefits mentioned by Articles 14 and 15 hereof in case the legal entity beneficiary of PATVD fails to remedy the default within ninety (90) days from the date the suspension is notified.

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Paragraph 2. A legal entity giving cause to two (2) suspensions within two (2) years shall be punished with cancellation of application of the benefits mentioned by Articles 14 and 15 hereof.

Paragraph 3. The penalty of cancellation of application may not be reverted earlier than two (2) years after the cause for the cancellation is remedied.

Paragraph 4. The Executive Branch shall regulate the provisions of this Article 20.

**Section VI**

**Miscellaneous**

Article 21. The Ministry of Science and Technology shall notify the Federal Revenue Secretariat in the following cases:

- I - lack of compliance by the legal entity beneficiary of PATVD:
  - (a) with the conditions established in Paragraph 1 of Article 13 hereof;
  - (b) with the obligation to forward the reports within the term mentioned by Article 18 hereof, or with the obligation of investing in FNDCT (CT-Info or CT-Amazon) as mentioned by Article 19 hereof, under the term set by Paragraph 1 of such Article 19 whenever the lowest percentage invested in research and development has not been met;
- II - lack of approval of the reports mentioned by Article 18 hereof; and
- III - violation of the provisions of the PATVD regulation.

Paragraph 1. Cases envisaged by this Article 21(I)(b) shall be notified not later

than August 30 each calendar year and, in the remaining cases, not later than thirty (30) days from the event.

Article 22. The Ministry of Science and Technology and the Ministry of Development, Industry and Foreign Trade shall publish, each three (3) years, a report containing the economic and technological outcomes derived from application of the provisions of this Chapter II.

Paragraph 1. The Executive Branch shall publish, in addition, the modalities and amounts of incentives granted and investments made in Research & Development broken down by beneficiary legal entity and by project, under applicable regulation.

### CHAPTER III

#### TOPOGRAPHY OF INTEGRATED CIRCUITS

##### Section I

##### Definitions

Article 23. This Chapter sets the protection conditions for integrated circuit topographies.

Article 24. Rights established in this Chapter are secured to:

- I - Brazilian nationals and foreigners domiciled in Brazil; and
- II - individuals domiciled in a country that, reciprocally, grants Brazilians or individuals domiciled in Brazil equal or equivalent rights.

Article 25. The provisions of this Chapter also apply to registration applications originated abroad and deposited in Brazil by those who have such protection secured by a treaty currently effective in Brazil.

Article 26. The following definitions are adopted for the purpose of this Chapter III:

- I - integrated circuit is a product, in either an intermediary or final form, containing elements of which at least one is active and with some or all its interconnections entirely built over the surface or in the interior of a piece of material, the purpose of which is the performance of an electronic function;
- II - integrated circuits topography means a series of related images, built or codified by any means or form, representing the three-dimension configuration of the layers forming an integrated circuit, in which each image represents, in whole or part, the geometric positioning or surface arrangements of an integrated circuit in any phase of its design or manufacture.

## Section II

### Ownership of Right

Article 27. The creator of integrated circuit topography shall be secured a protection-granting registration under the conditions of this Chapter III.

Paragraph 1. Save evidence to the contrary, the registration applicant shall be presumed to be the creator of the topography.

Paragraph 2. In case of a topography created jointly by two (2) or more individuals, the registration may be requested by either one individual through nomination and qualification of the remaining creators for the sake of protection of their respective rights.

Paragraph 3. The protection may be requested in the applicant's own name, in the name of the creator's heirs or successors, of an assignee, or in the name of whom the law or labor, service agreement or civil servant statutory agreement

shall establish to be the holder of the right, being released the consular legalization of the related documents.

Article 28. Save stipulation to the contrary, rights related to an integrated circuit topography developed under a labor, service or civil servant statutory agreement, in which the creative activity results from the nature itself of the duties implied by those labor bonds, or when there is the use of resources, technological information, industrial or business secrets, materials, facilities or equipment of the employer, hirer of the services or bond-generating entity shall belong exclusively to such employer, hirer or entity.

Paragraph 1. Except adjustment to the contrary, compensation of the labor or service rendered shall be limited to the previously agreed pay.

Paragraph 2. Rights related to an integrated circuit topography developed without relation to the labor or service agreement and without the use of resources, technological information, industrial or business secrets, materials, facilities or equipment of the employer, service hirer or entity generating the statutory bond shall belong exclusively to the employee, service provider or civil servant, as the case may be.

Paragraph 3. The provisions of this Article 28 are also applicable to recipients of scholarships, interns and individuals in similar positions.

### Section III

#### Protected Topographies

Article 29. The protection envisaged in this Chapter III applies solely to an original topography, resulting from the intellectual effort of its creator or creators, being not common or ordinary to technicians, specialists of manufacturers of integrated circuits at the moment of its creation.

Paragraph 1. A topography resulting from the combination of common

elements and interconnections or that incorporates, with due authorization, third parties' protected topographies, shall be protected only in case the combination, taken as a whole, complies with the provisions of this Article 29.

Paragraph 2. The protection shall not be extended to concepts, processes, systems or techniques in which the topography was based or to any information stored by employing such protection.

Paragraph 3. The protection granted in this Chapter III is independent from the topography fixation.

Article 30. The protection depends on a registration to be conducted by *Instituto Nacional da Propriedade Industrial – INPI*, the Brazilian National Institute of Industrial Property.

#### Section IV

##### Application for Registration

Article 31. The application for registration shall refer to a single topography and comply with the legal conditions regulated by the Brazilian National Institute of Industrial Property – INPI containing:

- I - document requesting the registration;
- II - description of the topography and related operation;
- III - topography pictures or photographs to enable its identification and characterize its originality;
- IV - statement of a previous exploitation, as the case may be, indicating the date of start; and
- V - evidence of payment related to submitting the application for registration.

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Paragraph 1. The application and any accompanying document shall be written in the Portuguese language.

Article 32. Upon request by the interested party, at the event of filing the application, the request may be kept secret for a term of six (6) months from the date of filing, after which time the request shall be processed according to the provisions of this Chapter.

Paragraph 1. During the secrecy period, the request may be withdrawn, returning the documentation to the interested party, without producing any effect, provided the request for withdrawn is filed with INPI not later than one (1) month before the end of the secrecy period.

Article 33. Once an application for registration is filed, INPI shall conduct a formal review and may make demands that shall be fully fulfilled within sixty (60) days under the penalty of filing definitely the application as cancelled.

Paragraph 1. An application indicating a date for start of exploitation that is more than two (2) years before the date of such application shall also be filed as cancelled.

Article 34. In case there are no demands or in case such demands are entirely fulfilled, INPI shall grant the registration, publishing it in its entirety and issued the appropriate certificate.

Paragraph 1. The certificate of registration shall contain the registration number and date; name, nationality and domicile of the holder; date of beginning of exploitation, as the case may be, or of the filing of the application; and the title of the topography.

**Section V**

**Rights Granted by Protection**

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Article 35. Protection of topography shall be granted for a term of ten (10) years from the earlier of either the date of the related application or the date of the first exploitation.

Article 36. The registration of an integrated circuit topography grants its holder an exclusive right to explore such topography, being any third party, without express consent of the holder, prohibited to:

- I - reproduce the topography, in whole or part, by any means, and incorporate the topography to an integrated circuit;
- II - import, sale and otherwise distribute, for commercial purposes, a protected topography or an integrated circuit of which a protected topography is part; or
- III - import, sale and otherwise distribute, for commercial purposes, a product incorporating an integrated circuit of which a protected topography is part to the extent, and only to such extent, such product keeps incorporating an illicit reproduction of the topography.

Paragraph 1. Performance of any act envisaged in this Article 35 by an unauthorized third party, between the date of beginning of exploitation or filing of the application for registration and the date in which the registration is granted authorizes the holder to receive, after such granting, an indemnification to be determined in courts.

Article 37. Effects of protection envisaged in Article 36 hereof shall not apply:

- I - to acts conducted by unauthorized third parties with the purpose of analysis, review, education and research;
- II - to acts of creation of exploitation of a topography resulting from



analysis, review and research of a protected topography, provided the resulting topography is not substantially identical to the protected one;

- III - to acts of import, sale or distribution by other means, for commercial or private purposes, of integrated circuits or products incorporating such circuits, put into circulation by, or with the consent of, the holder of the registration of the integrated circuit topography; and
- IV - acts described in Article 36 and Article 36(II) and (III), performed or caused to be performed by a person who was unaware, at the time of the integrated circuit or product was obtained, or failed to have reasonable basis to be aware, that the product or integrated circuit incorporates an illicitly reproduced protected topography.

Paragraph 1. In case mentioned in this Article 37(IV), after duly notified, the person responsible for performing the acts, or for causing such acts to be performed, may conduct such acts in what regards products or integrated circuits in stock or previously ordered, provided that, regarding such products or circuits, the person pays the holder of the right the remuneration equivalent to the one that would be otherwise payable in case a voluntary license had been granted.

Paragraph 2. The holder of the right on an integrated circuit topography may not exercise his or her rights related on an identical original topography that had been independently created by a third party.

## Section VI

### Extinction of Registration

Article 38. A registration is extinguished:

- I - upon expiry of the term of the registration; or

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- II - upon renunciation of its holder, through an appropriate document, preserved third party rights.

Paragraph 1. Extinguished the registration, the products shall fall into public domain.

## Section VII

### Nullity

Article 39. An integrated circuit topography registration shall be judicially deemed null and void if granted in violation to the provisions of this Chapter, especially when:

- I - the presumption of Paragraph 1 of Article 27 hereof shall be proven false;
- II - the topography fails to comply with the requisite of originality under Article 29 hereof;
- III - the documents produced according to the provisions of Article 31 hereof are not sufficient to identify the topography; and
- IV - the application for registration has not been filed within the term mentioned in Paragraph 1 of Article 33 hereof.

Paragraph 1. The nullity may be either partial or total.

Paragraph 2. Partial nullity happens only when the remaining part constitutes protected matter *per se*.

Paragraph 3. Nullity of registration shall be effective on the date the protection defined on Article 35 hereof begins.

Paragraph 4. In case of lack of compliance with the provisions of Paragraph 1 of Article 27 hereof, the creator may, alternatively, demand the registration to be

adjudicated.

Paragraph 5. An argument favorable to nullity may only be formulated during the term in which protection remains effective or, as a matter of defense, at any time.

Paragraph 6. Federal Courts with jurisdiction over the head office of the Brazilian National Institute of Industrial Property– INPI, which must be a party to the action, are competent to judge actions demanding nullity.

Article 40. Once a registration is held null and void, the respective certificate shall be cancelled.

## **Section VIII**

### **Assigning and Changing a Registration**

Article 41. Any rights on an integrated circuit topography may be assigned.

Paragraph 1. Assignment may be in full or in part and, in this case, the corresponding percentage shall be mentioned.

Paragraph 2. The instrument of assignment shall be executed by both the assignor and assignee and by two (2) witnesses, released the legalization by a Brazilian Consulate abroad.

Article 42. The Brazilian National Institute of Industrial Property – INPI shall make records:

- I - on the assignment, mentioning the full identification of the assignee;
- II - on any limitation or lien that may affect the registration; and
- III - on the change of the holder's name, headquarter or address.

Article 43. Such records shall produce effects before third parties following

their publication in the INPI official journal or, lacking such publication, sixty (60) days after the filing of the petition.

## **Section IX**

### **Licenses and Unauthorized Use**

Article 44. The holder of a registration of an integrated circuit topography may enter into a license exploitation agreement.

Paragraph 1. Except provisions to the contrary in the legislation, the licensee shall be a legitimate defender of the registration.

Article 45. The Brazilian National Institute of Industrial Property – INPI shall register license agreements so that such agreements may be effective before third parties.

Article 46. Except provision to the contrary in the agreement, in case of crossed licenses, compensation related to the licensed protected topography may not be charged by a third party purchaser of an integrated circuit incorporating such topography.

Paragraph 1. The charging by a third party purchaser of the integrated circuit may only be admitted in case such purchaser, upon the purchase, is expressly notified of this possibility.

Article 47. The Public Authority may make public and noncommercial use of protected topographies, either directly or through agreements with, or authorization to, third parties, under the provisions of Article 49, Article 49(III) to (VI) and Article 51 hereof.

Paragraph 1. The holder of the topography registration to be used by the Public Authority under this Article 47 shall be promptly notified.

Article 48. Compulsory licenses may be granted to secure free competition

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and prevent right, or economic power, abuse by the holder of the right, including lack of fair supply as far as price, quantity or quality are concerned.

Article 49. In the granting of compulsory licenses, the following conditions and requisites shall be complied with:

- I - the application for a license shall be examined based on its individual merit;
- II - the applicant shall prove that applicant's attempts to obtain the license under normal commercial practices for a reasonable period of time have failed;
- III - the reach and term of the license will be restricted to the purpose to which the license is to be authorized;
- IV - the license shall be non-exclusive;
- V - the license shall not be subject to transfer, except in conjunction with assignment, disposal or leasing of the enterprise or the party exploring thereof; and
- VI - the license is granted mainly to supply the domestic market.

Paragraph 1. Conditions established in this Article 49(II) and (VI) hereof are not applicable in case the license is granted with the purpose to remedy noncompetitive or disloyal practice, recognized in legal or administrative proceedings.

Paragraph 2. Conditions established in this Article 49(II) do not apply in case the license is granted in a domestic emergency or other circumstances of extreme urgency.

Paragraph 3. In case of domestic emergency or other circumstances of extreme urgency, the holder of the rights shall be notified as soon as practicable.

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Article 50. The application for a compulsory license shall mention the conditions offered to the holder of the registration.

Paragraph 1. Filed the application, the holder shall be notified to give his or her opinion within sixty (60) days, at the expiry of which term, in the absence of manifestation of the holder, the proposal shall be deemed accepted under the conditions as offered.

Paragraph 2. A license applicant mentioning, in his or her application, noncompetitive or disloyal commercial practice shall enclose sufficient documental evidence thereof.

Paragraph 3. Whenever a compulsory license applied for under Article 48 hereof involves allegations of lack of, or inefficient, exploitation, the burden of proving such allegation false rests on the owner of the license.

Paragraph 4. In case of contestation, the Brazilian National Institute of Industrial Property – INPI shall conduct the necessary investigation to settle the controversy and, if necessary, appoint a commission of experts, either of INPI employees or otherwise.

Article 51. The holder of the topography shall be adequately compensated according to the circumstances of each use, the economic value of the license so granted to be mandatorily taken into account in determining such compensation.

Paragraph 1. Whenever a license is granted based on noncompetitive or disloyal practice, the fact shall be taken into consideration in establishing the compensation.

Article 52. Without prejudice to adequate protection of the legitimate interests of the licensee, the license may be cancelled, by duly documented application by the holder of the topography rights, when the circumstances that

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gave reason to such granting have ceased to exist and are unlikely to resume.

Paragraph 1. The cancellation mentioned in this Article 52 may be refused in case the conditions that gave cause to its granting are likely to resume.

Article 53. The licensee shall start exploiting the subject of the protection within one (1) year, being admitted:

- I - one (1) extension for an equal term provided the licensee has made substantial and effective preparations to start exploitation or there are other reasons to justify such extension;
- II - one (1) interruption of exploitation, for an equal term, provided there are legitimate reasons to justify such interruption;

Paragraph 1. Exceptions mentioned in this Article 53(I) and (II) above may only be exercised through duly documented application to the Brazilian National Institute of Industrial Property – INPI, evidencing the allegations justifying such exceptions.

Paragraph 2. Expired the terms mentioned in this Article 53, and having the licensee failed to start or resume the exploitation, the license shall be terminated.

Article 54. A person who, without authorization of the holder of an integrated circuit topography, practices any act mentioned in Article 36 hereof, observed the provisions of Article 37 hereof, commits violation of the holder's right.

Paragraph 1. In case the violation consists of reproduction, import, sale, maintenance in stock or distribution for commercial purposes, of a protected topography or an integrated circuit incorporating such topography:

Penalty: detention from one (1) to four (4) years and fine;

Paragraph 2. The detention penalty shall be extended from one third (1/3) to one half (1/2) of the original term in case:

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- I - The offender is or had been a representative, assign, person in charge, partner or employee of the registration holder, or the licensee thereof; or
- II - the offender has already incurred in the same violation.

Paragraph 3. The value of fines, as well as their updating and increase, shall follow the provisions of Decree-Law no. 2,848, of December 7, 1940, the Brazilian Penal Code.

Paragraph 4. In violations mentioned in this Article 54, action may be taken only through complaint, except in case of prejudice to a public law entity, public company, public and private joint stock corporation or foundation established by the Public Authority.

Paragraph 5. Notwithstanding any penal action, the party in prejudice may bring action before courts to prevent the violator from practicing the transgression, with application of fine and indemnification for damages in case of violation.

**Section X**

**General Provisions**

Article 55. Acts foreseen in this Chapter III shall be practiced by the parties or their duly qualified representatives.

Paragraph 1. A power of attorney worded on a foreign language shall not need to be legalized in a Brazilian Consulate abroad but shall be accompanied by a translation prepared by a Public Translator.

Paragraph 2. When not submitted at the start, the power of attorney shall be delivered within sixty (60) days from the filing of the application for registration, under the penalty of definite filing such application as cancelled.



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Article 56. For the purposes of this Chapter III, a person domiciled abroad shall appoint and maintain an attorney, duly qualified and resident within Brazil, with powers to represent such person in courts and otherwise, including for being served legal notices.

Article 57. The Brazilian National Institute of Industrial Property – INPI shall not acknowledge a petition:

- I - submitted after the legal term;
- II - submitted by a person without a legitimate interest in the procedural relation; or
- III - not accompanied by document evidencing the appropriate payment of the value in effect at the date of its submission.

Article 58. Except for express stipulation to the contrary in this Chapter III, the term for practicing acts envisaged in this Chapter III shall be sixty (60) days.

Article 59. Terms established in this Chapter III are continuous and the right to practice an act is automatically terminated upon expiry of such term, except in case the party may prove that a legitimate reason has prevented it from acting.

Paragraph 1. Acknowledged the legitimate reason, the party shall act within the term indicated by the Brazilian National Institute of Industrial Property – INPI.

Article 60. Except provision to the contrary, terms mentioned in this Chapter III start on the first business day following service of the legal notice.

Paragraph 1. Except provision to the contrary, legal service shall be made by publication in INPI official journal.

Article 61. Services rendered according to this Chapter III shall be paid at values and according to methods as established by the Minister of State to whom the Brazilian National Institute of Industrial Property – INPI then reports.

CHAPTER IV

FINAL PROVISIONS

Article 62. Article 24 of Law no. 8,666, of June 21 1993 is changed to add the following item XXVIII: (Ruling)

“Article 24. ....

XXVIII – regarding supply of goods and services, manufactured or rendered within Brazil involving, cumulatively, high technological complexity and national defense, according to an opinion of a commission specially appointed by the higher authority of the agency.

.....” (NR)

Article 63. (VETOED)

Article 64. Provisions of Article 3 and Article 4(I) and (II) hereof shall be effective until January 22, 2002.

Article 65. Provisions of Paragraph 3 of Article 3 and Article 4(III) hereof shall be effective for:

- I - sixteen (16) years from the date the project is approved, in case of projects under the activities mentioned by:
  - (a) Article 2(I)(a) or (b) hereof; or
  - (b) Article 2(II)(a) or (b) hereof;
- II - twelve (12) years from the date the project is approved, solely in case of projects under the activities mentioned in:
  - (a) Article 2(I) hereof; or
  - (b) Article 12(II) hereof.

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Article 66. Provisions of **Articles 14** and **15** hereof shall be effective until January 22, 2017.

Article 67. This Law is force upon publication, producing effects as regards its **Article 62** as from February 19, 2007.

Brasília, May 31, 2007, 186<sup>th</sup> of the Independence and 119<sup>th</sup> of the Republic.

LUIZ INÁCIO LULA DA SILVA

*Tarso Genro*

*Miguel Jorge*

*Sergio Machado Rezende*

**This text is not a substitute for the one published in the Federal Official Gazette of 05.21.2007, special edition.**

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In Witness Whereof, I have hereunto set my hand and seal in this City of Brasília, Federal District, Brazil, this Monday, November 03, 2008.

Fees according to

Official Gazette of 11/10/2003

Marco Antônio Rochadel

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Public Translator