

January 28, 2015

TO: Chinese Communist Party Central Leading Group for Cyberspace Affairs

By CC to: Office of the Central Leading Small Group for Cyberspace Affairs
225 Chaoyangmen Nei Dajie, Dongcheng District, Beijing 100010

To the Honorable Members of the Chinese Communist Party Central Leading Group for Cyberspace Affairs,

The undersigned trade associations, representing leading segments of the global business community, request urgent discussion and dialogue regarding the growing trend of Chinese government policies requiring use of “secure and controllable” or Chinese- developed and/or controlled Internet and information communications technology (ICT) products, solutions, and services based on “cybersecurity” justifications. Internet and ICT technologies have the most globalized supply chains of any industry, and China is an integral and inseparable part of this ecosystem. It is one of the world’s largest ICT markets and home to many global Internet and ICT firms’ research, development, and supply chains. These technologies play an increasingly critical role in growth of economies around the world, just as they impact China’s broader economic, social, environmental development, and reform agendas. As such, cybersecurity policies in China have significant impact on the global ICT ecosystem and on the global economy.

So far, emerging examples of these “secure and controllable” initiatives include sectorial policies in banking and telecommunications, and more broadly the establishment of an overarching “Cybersecurity Review Regime” to assess Internet and ICT products and services for security risks through a testing and auditing process that emphasizes “security and controllability.” Our concern is not with the goal of enhancing security, but with the means to reach it. An overly broad, opaque, discriminatory approach to cybersecurity policy that restricts global Internet and ICT products and services would ultimately isolate Chinese ICT firms from the global marketplace and weaken cybersecurity, thereby harming China’s economic growth and development and restricting customer choice. Furthermore, achieving a “secure and controllable” ICT supply chain through complete indigenous production and control is simply not feasible— for any country. It is in the interest of the global ICT industry to work with all countries to ensure that the ICT supply chain produces secure and trustworthy products for all our customers around the world.

In a competitive Internet and ICT market such as China’s, firms and service providers have an inherent self-interest in providing and procuring secure, trustworthy products and services that allow customers to build resilient networks. The domestic purchasing and related requirements proposed recently for China’s banking sector, to potentially be expanded to other sectors under the “secure and controllable” policies, would unnecessarily restrict the ability of Chinese entities to source the most reliable and secure technologies, which are developed in the global supply chain. The above policies dictate that in order to qualify as “secure and controllable,” ICT products and services must undergo intrusive security testing, contain indigenous Chinese intellectual property (IP) (e.g., local encryption algorithms), comply with Chinese national standards, and restrict the flow of cross-border commercial data. The same policies also mandate that vendors file sensitive IP, such as source code, with the Chinese government.

Sovereign interest in a secure and development-friendly cyber economy is best served, in any country, by policies that encourage competition and customer choice, both of which necessitate openness to non-indigenous technologies, as well as close collaboration between industry and government in formal and informal public-private partnerships and other mechanisms.

Continued technological innovation needed to protect against increasingly sophisticated bad actors and threats can only be achieved through commitment to an open market and global trade. Moreover, in line with China's World Trade Organization (WTO) commitments, it is of critical importance that policies be developed in a transparent and open manner with adequate public consultation; not interfere with the procurement activity of commercial entities; not discriminate or provide questionable subsidies to domestic products; and not create technical barriers to trade that are more trade restrictive than necessary. Indeed, China's technology sector has greatly benefited from global integration through the WTO, as evidenced by its global share of ICT exports increasing from just 2 percent in 1996 to 30 percent in 2012.

The tremendous growth of China's Internet and ICT sectors in the 30 years since reform and market opening have contributed significantly to all sectors of China's economy, and to a deeper integration of the economies, businesses, and peoples of the world. These contributions have brought us closer to solutions for critical global problems in education, healthcare, the environment, and poverty reduction. Achieving the proper balance on cybersecurity policy will be key to continuing those positive trends.

In conclusion, we urge the Chinese leadership to postpone implementation of the above measures and grant an opportunity for discussion and dialogue for interested stakeholders with agencies responsible for the initiatives. We stand ready to work with the Chinese government and China's domestic Internet and ICT sector to discuss constructive, alternative approaches toward the goal of enhanced security.

Signed,

American Chamber of Commerce in China
American Chamber of Commerce in Shanghai
BSA | The Software Alliance
Coalition of Services Industries (CSI)
Consumer Electronics Association (CEA)
Emergency Committee for American Trade (ECAT)
Information Technology Industry Council (ITI)
National Association of Manufacturers (NAM)
National Foreign Trade Council (NFTC)
Semiconductor Industry Association (SIA)
Software and Information Industry Association (SIIA)
TechAmerica, powered by CompTIA
TechNet
Telecommunications Industry Association (TIA)
US-China Business Council (USCBC)
United States Chamber of Commerce
United States Council for International Business (USCIB)
United States Information Technology Office (USITO)

CC:

The Honorable Wang Yang, Vice-Premier of the PRC State Council
The Honorable Yang Jiechi, State Councilor of the PRC
The Honorable Gao Hucheng, Minister, PRC Ministry of Commerce
The Honorable Cui Tiankai, Ambassador Extraordinary and Plenipotentiary of the People's Republic of China to the United States of America