

November 11, 2016

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

Ministry of Commerce
No. 2 Dong Chang'An Ave, Beijing 100731

Respected Leading Group Members:

Our organizations represent companies across a wide range of industries, with deep, long-standing commercial ties with China. We appreciate the Chinese government acknowledgment of international industry groups' concerns regarding China's Cybersecurity Law and related pending cybersecurity regulations and measures - including in the insurance and other sectors - as expressed in our letter to Chinese Premier Li Keqiang on August 10, 2016. We are disappointed, however, that the final law left serious substantive concerns of the foreign business community unaddressed.

Our members are steadfast in their commitment to work with the Chinese government to find solutions that not only support China's security, economic, and social goals but also address the legitimate concerns of international industry. However, we are deeply concerned that current and pending security-related rules, which effectively erect trade barriers along national boundaries, will fail to achieve legitimate security objectives (and even weaken security) while burdening industry and undermining the foundation of China's relations with its commercial partners. Indeed, our organizations are worried that China's current approach will lead to greater separation rather than integration among our economies. Further, at a time of significant political and social change globally, we are concerned such policies may exacerbate troubling trends in markets around the world that move away from cooperative trade and the benefits of globalization.

We have been and remain hopeful that the Chinese government at the highest levels will take concrete, meaningful steps to implement its past commitments to work with foreign counterparts to promote pro-competitive and non-discriminatory information communication technology (ICT) security policies. These commitments include ensuring that ICT security measures should be narrowly tailored, take into account international norms, be nondiscriminatory, and not unnecessarily impose nationality-based conditions or restrictions, on the purchase, sale, or use of ICT products by commercial enterprises.

It is critical that pending cybersecurity regulations—including those in the insurance, finance, and other sectors that promote or require the use of secure and controllable technologies as well as future implementing regulations and standards for the Cybersecurity Law—comply with China's WTO commitments and encourage the adoption of international models that support China's development as a global hub for technology and services. We are concerned that these commitments are undermined by public statements and other forms of high-level guidance that

call for indigenous and controllable substitution plans for information technology products and services. We remain particularly concerned about provisions in the new Cybersecurity Law and related measures that mandate broad data residency requirements and restrictions of cross-border data flows, trade-inhibiting security reviews and requirements for ICT products and services, and broad requirements for data sharing and technical assistance that may decrease the security of products and harm consumer privacy. Our organizations have detailed our concerns in numerous submissions and other communications to the Chinese government. A list of those submissions are below.

Our concerns encompass enormously consequential issues for China's economy, its relations with economic and commercial partners, and the global economy. We appreciate the challenges that regulators around the world face in managing new technologies and addressing legitimate security concerns. However, we respectfully urge that China's cybersecurity policies going forward better reflect a globalized information and communications technology sector, advance market competition, promote transparency, and allow commercial procurers to set their own requirements for the equipment and software they purchase. In our collective experiences, those economies that adhere to these principles will be both stronger and more secure than those that do not.

Thank you for your time and attention. We hope to be able to have further discussion with you and relevant senior officials on our concerns to provide proper context and detail. For reference, a more complete and detailed summary of our concerns with the aforementioned regulations can be found within the documents cited below.

Signed,

ACT | The App Association
American Chamber of Commerce in China
American Chamber of Commerce in Korea
American Chamber of Commerce in Shanghai
American Chamber of Commerce South China
American Council of Life Insurers (ACLI)
American Insurance Association (AIA)
Australian Chamber of Commerce and Industry
Australian Industry Group
BSA | The Software Alliance (BSA)
BusinessEurope
Canada-China Business Council (CCBC)
Coalition of Services Industries
Communications and Information Network Association of Japan (CIAJ)
Computer & Communications Industry Association
The Computing Technology Industry Association (CompTIA)
DIGITALEUROPE
European Services Forum (ESF)
Export Council of Australia
Financial Services Forum (FSF)

Information Technology Industry Council (ITI)
Internet Association
Japan Business Machine and Information System Industries Association (JBMIA)
The Japan Chamber of Commerce and Industry
Japanese Chamber of Commerce and Industry in China
Japan Electronics and Information Technology Industries Association (JEITA)
Japanese Information Technology Services Industry Association (JISA)
Keidanren
National Foreign Trade Council
Property Casualty Insurers Association of America
Reinsurance Association of America
Securities Industry and Financial Markets Association (SIFMA)
Semiconductor Industry Association (SIA)
Software and Information Industry Association (SIIA)
TechNet
techUK
Telecommunications Industry Association (TIA)
TheCityUK
Trans-Atlantic Business Council (TABC)
United States Council for International Business (USCIB)
U.S. Chamber of Commerce
US-China Business Council (USCBC)
United States Information Technology Office (USITO)

Previous Submissions and Communications:

Global Association Letters:

Global Business Association Letter to Premier Li Keqiang, August 10, 2016
Global Association Letter to CIRC Chairman Xiang Junbo, June 1, 2016
Global Association Letter to CBRC on Draft Regulations Affecting Technology Purchases, September 15, 2015

Comments on Draft Cybersecurity Law:

BSA Submission on 2nd reading of China's Draft Cybersecurity Law, August 4, 2016
Japanese Industry Comments on 2nd reading of China's Draft Cybersecurity Law, August 4, 2016
Japanese Industry Comments on the 1st reading of China's Draft Cybersecurity Law, August 5, 2015
US Chamber of Commerce Joint Submission on 2nd reading of Draft Cybersecurity Law, August 2016
USCBC Comments on the 2nd reading of the Draft Cybersecurity Law, August 4, 2016
USITO Comments on 2nd reading of the Draft Cybersecurity Law, August 1, 2016
USITO Comments on the 1st reading of the Draft Cybersecurity Law, August 5, 2015

Comments on The Provisions on Insurance System Informatization:

BSA / The Software Alliance's Comments on the Draft Supervision Rules on Insurance Institutions Adopting Digitalized Operations, November 2015

Japanese Industry Comments on Draft Supervision Rules on Insurance Institutions Adopting Digitalized Operations, October 30, 2015

Japanese Industry comments on TBT Committee on draft Provisions, June 3, 2016

US-China Business Council Comments to TBT Committee on draft Provisions, June 2016

US Chamber of Commerce Comments TBT Committee on draft Provisions, June 2016

USITO Comments to TBT Committee on draft Provisions, June 2, 2016

Comments on Regulations on Cybersecurity of Financial Institutions

Global Association Letter to CBRC on Draft Regulations Affecting Technology Purchases, September 15, 2015

Letter to G20 Organizers and International Cybersecurity, Data and Technology Principles released by Global Financial Services Association, International Swaps and Derivatives Association, and the European Banking Federation, August 25, 2016

Japanese Industry Comments on New Chinese Cybersecurity Regulations, March 3, 2015