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Committee on Trade-Related Investment Measures

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CHINA – PROVISIONS ON INSURANCE SYSTEM INFORMATIZATION

QUESTIONS FROM THE UNITED STATES

The following communication, dated 2 June 2016, is being circulated at the request of the Delegation of the United States.

On 19 April 2016, China notified the WTO Committee on Technical Barriers to Trade (TBT Committee) of a draft measure entitled Provisions on Insurance System Informatization, G/TBT/N/CHN/1172 (19 April 2016). This provision relates to technical requirements for information technology that must be observed by companies in the insurance sector. Having reviewed this submission, and the underlying measure, the United States observed a provision of potential relevance to the Committee on Trade Related Investment Measures. Specifically, Article 53 of the measure notified to the TBT Committee states:

Article 53 [Secure and controllable] Insurance institutions shall give first priority to the procurement of secure and controllable hardware equipment and software products, steadily introduce the application of secure and controllable products; actively create conditions to raise the indigenous research and development level, and continuously enhance insurance institutions' strength in security and controllability of informatization.

The United States observes that the phrase "secure and controllable" technology, in conjunction with the reference to "conditions to raise the indigenous research and development level," could be read in context as a reference to indigenous or local technology. The U.S. seeks clarification on whether this phrase would be understood as a requirement to use indigenous or local hardware equipment and software products.

The United States is also concerned that provisions in Articles 25(2) and 54 would require purchase of indigenous encryption technology, and that such technology may be incompatible with the systems used by international insurance companies. These provisions state:

Article 25 [Security Protection]: An insurance institution shall establish and perfect security management mechanisms including information system backup, antivirus, encryption management, intrusion detection and system logs in accordance with the following requirements:

- (2) strengthen cryptographic equipment and user management, employing technologies and products that are in compliance with State standards and encryption requirements.

Article 54 [Encryption Application]: Insurance institutions shall gradually achieve full application of encryption technology in electronic policies and the insurance sector in strict accordance with the State work program for encryption application in the financial sector.

Questions for China:

Question 1

The draft Provisions on Insurance System Informatization have elicited a great deal of concern from international stakeholders. Can China please confirm that China is not planning to move forward quickly with any such draft?

Question 2

What was the intended meaning of the phrase "secure and controllable products" in Article 53 of the draft measure?

Question 3

Could China please explain the reference in Article 53 to creating conditions to raise the indigenous research and development level? What would the relationship be between indigenous research and development levels, and the use of secure technology by participants in the insurance industry?

Question 4

Does this reference in Article 53 imply that indigenously-developed technologies are different than those developed or imported from abroad in a relevant way? If so, please explain the basis for this assumption.

Question 5

How would China define the obligation in Article 53 to "give first priority" to secure and controllable products? How would China guarantee that a participant in the insurance industry would have the freedom to make use of the most secure technology, including technology developed or imported from outside China?

Question 6

Please describe the "State standards and encryption requirements" referenced in Article 25. How would China guarantee that international companies could meet these standards and requirements?

Question 7

Please identify and describe the "State work program for encryption application in the financial sector," referenced in Article 54. Would the requirements imposed by this work program require purchase of indigenous encryption technology, which may be incompatible with the overall systems used by international insurance companies?

Question 8

Would the provisions cited above apply equally to domestic and foreign-owned insurance companies in China? Would foreign-owned companies face any different requirements?
