Comparison Between the new Cryptography Law of China (Draft for comments) and the Regulation on the Administration of Commercial Cryptography Codes

Draft by SESEC

<table>
<thead>
<tr>
<th>Definition of cryptography</th>
<th>Cryptography Law of China (Draft for comments)</th>
<th>Regulation on the Administration of Commercial Cryptography Codes</th>
</tr>
</thead>
</table>
| Article 2                 | For the purposes of this Law, "cryptography" means product, technology and service that effect encryption protection or security certification of information and the like using specific conversion. | Article 2  
Commercial cryptography referred to in this regulation means cryptography techniques and cryptography products used for the protection or the security certification of information not involving state secret. |

| Classification and application of cryptography | Article 6  
Cryptography may be core cryptography, ordinary cryptography or commercial cryptography. The state shall place cryptography under classification administration. | Article 3  
The technique of commercial cryptography is deemed as state secret. The research, production, sale and use of commercial cryptography techniques are under the exclusive administration of the state. |
|                                           | Article 7  
Core cryptography and ordinary cryptography shall be | |


used to secure state secret information, the highest classification level of core cryptography-secured information shall be top secret, and the highest classification level of ordinary cryptography-secured information shall be secret.

Core cryptography and ordinary cryptography shall be state secrets. The cryptographic administrative authorities shall strictly and uniformly administer the research on, production, testing, equipment, use, destruction and the like of core cryptography and ordinary cryptography in accordance with this Law and the relevant laws, administrative regulations, and relevant provisions issued by the state.

**Article 8**

Commercial cryptography shall be used to secure information other than state secrets. A citizen, legal person or any other organization may use commercial cryptography according to the law to protect cyber and information security.

<table>
<thead>
<tr>
<th>Supervision and management</th>
<th>Article 7</th>
<th>Article 3</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

2 / 9
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**Article 8**

Commercial cryptography shall be used to secure information other than state secrets. A citizen, legal person or any other organization may use commercial cryptography according to the law to protect cyber and information security.

**Article 21**

The state shall encourage the research on, development and application of commercial cryptography, improve the unified, open, competitive and orderly commercial cryptography market system, and encourage and promote the development of the commercial cryptography industry.

The research on, production, sale, service, import or export of commercial cryptography shall not prejudice national security, the public interest or the lawful rights and interests of any citizen, legal person or other as state secret. The research, production, sale and use of commercial cryptography techniques are under the exclusive administration of the state.

**Article 5**

The units, designated by the State Bureaus of Commercial Cryptography, shall take the research work of commercial cryptography. The designated units aforesaid must posses adequate techniques and equipment, must be able to employ advanced coding theories and techniques and their algorithmic of commercial cryptography must have a high strength of secrecy and own strong power to resist attacks.

**Article 7**

Commercial cryptography products shall only be produced by the units designated by the State Bureaus of Commercial Cryptography. Any unit or individual, without authorization from the State Bureaus of Commercial Cryptography, shall not produce such products. The designated units must possess adequate techniques, appropriate equipment, manufacture techniques, and a system of quality guarantee in order to ensure high quality of these products.
<table>
<thead>
<tr>
<th>Import and export of cryptography products</th>
<th>Article 10</th>
<th>Article 13</th>
</tr>
</thead>
<tbody>
<tr>
<td>The commercial cryptography product shall be sold by the units permitted by the State Bureaus of Commercial Cryptography only. Without permission of the State Bureaus of Commercial Cryptography, any unit or individual must not sell commercial cryptography product.</td>
<td>Article 14</td>
<td>Any unit or individual shall only use the commercial cryptography product recognized by the State Bureaus of Commercial Cryptography and shall not use those self-created or those made outside China.</td>
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<td>Article 28</td>
<td>The commerce department of the State Council and the national cryptographic administrative authority shall, according to the law, subject commercial cryptography with encrypted protection functionality relating to national security or the public interest to import licensing and impose export control on commercial cryptography relating to national security or the public interest, or with respect to which China has an international obligation. A</td>
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<td>In importing cryptography products or equipment containing cryptography techniques or exporting commercial cryptography products, units or individuals must apply to the State Bureaus of Commercial Cryptography for permission. Any unit or individual shall not sell cryptography products made outside of China.</td>
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<td>Articles related to cryptography standardization</td>
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</tbody>
</table>

**Article 22**

The state shall establish and improve a system of commercial cryptography standards.

The standardization department of the State Council and the national cryptographic administrative authority shall organize the development of national standards and industry standards for commercial cryptography according to their respective duties.

The state shall support social groups and enterprises in using independent innovative technology to develop group standards or enterprise standards for commercial cryptography that are higher than the relevant technical requirements of national standards or industry standards.
**Article 23**

The state shall promote participation in activities for international standardization of commercial cryptography, participate in the development of international standards for commercial cryptography, and advance the conversion of Chinese standards for commercial cryptography to foreign standards, vice versa, and their application.

The state shall encourage enterprises, social groups, educational and research institutions and the like to participate in activities for international standardization of commercial cryptography.

**Article 24**

A commercial cryptography practicing entity shall engaging in activities such as the research on, production, sale, service, import, export or the like of commercial cryptography according to the relevant laws, administrative regulations, compulsory national standards for commercial cryptography, and technical requirements of the open standards of the practicing entity.
The state shall encourage commercial cryptography practicing entities to adopt voluntary national standards and industry standards for commercial cryptography, enhance their capabilities to secure commercial cryptography, and maintain the lawful rights and interests of users.

**Article 25**

The state shall advance the building of the testing and certification system for commercial cryptography, develop technical specifications and rules for testing and certification of commercial cryptography, encourage commercial cryptography practicing entities to voluntarily accept the testing and certification of commercial cryptography, and improve market competitiveness.

A commercial cryptography testing and certification institution shall obtain relevant qualifications according to the law and carry out testing and certification of commercial cryptography in accordance with the provisions of the laws and administrative regulations and the technical specifications and rules for testing and certification of commercial cryptography.
### Article 26

Any commercial cryptographic product relating to national security, national economy and people's livelihood, or the public interest shall be put on the list of critical network equipment and products intended exclusively for cybersecurity, and may be sold or provided only after a qualified institution finds the product to have passed security authentication or have complied with the requirements in security testing.

Any commercial cryptographic service used for critical network equipment and products intended exclusively for cybersecurity may be provided only after a commercial cryptography testing and certification institution finds the service to have passed security authentication or have complied with the requirements in security testing.

### Article 27

The operator of any critical information infrastructure shall use commercial cryptography to secure the critical information infrastructure, if any law, administrative regulation or relevant provision issued by the state so requires, and conduct security assessment of the
application of commercial cryptography.

The operator of any critical information infrastructure, or a commercial cryptography-related network product or service procured or used by any state agency, which may affect national security, shall pass the national security review organized by the national cyberspace authority in conjunction with relevant authorities including the national cryptographic administrative authority.