



# EU-China Information Society Project

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## Information Governance and 'Informatisation' in China: Solutions and Plans

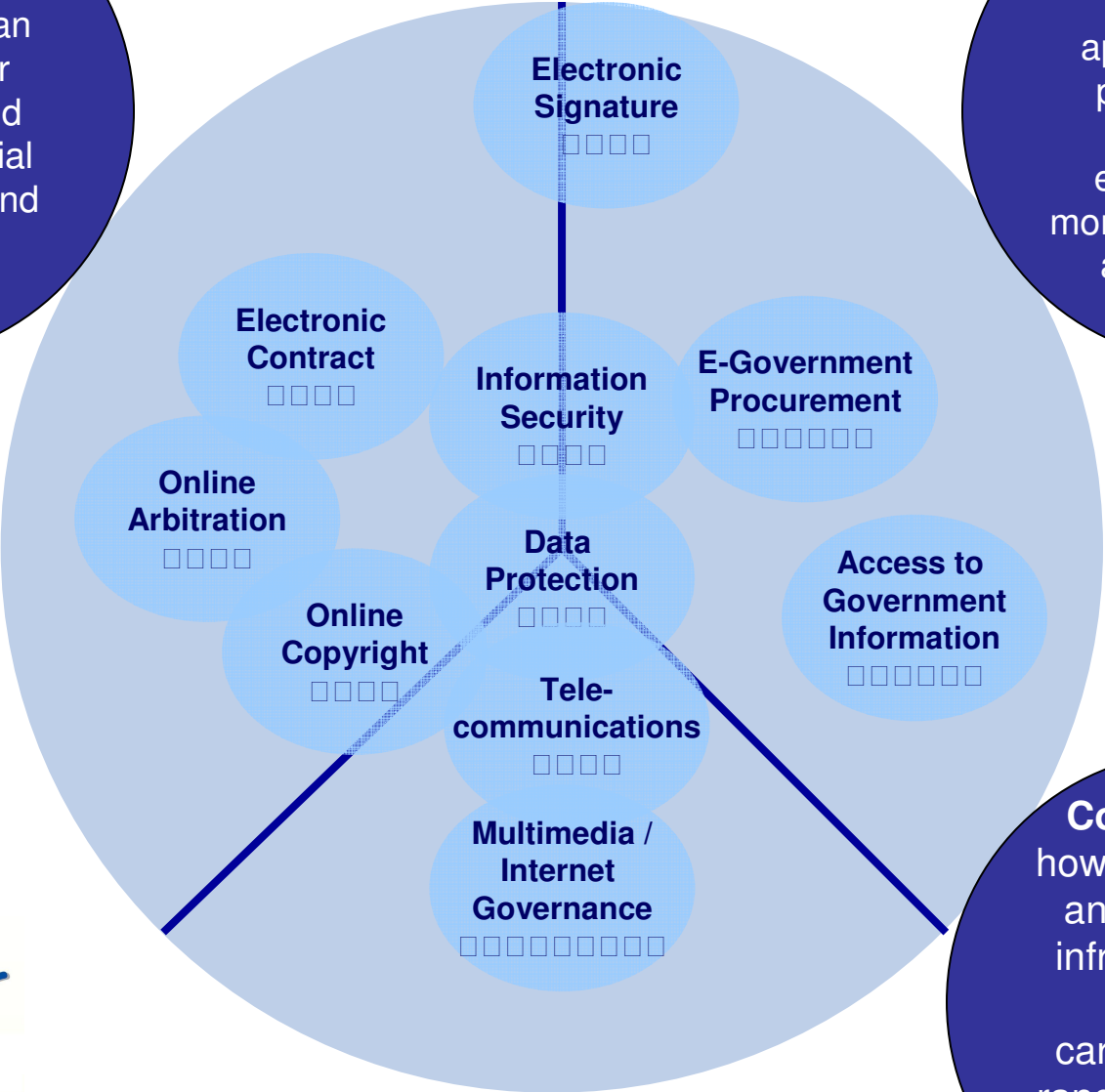
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**E-Commerce:**  
How to support an environment for reliable, safe and mutually beneficial e-commerce in and with China?

**E-Government:**  
How can E-Government applications and procedures be made more efficient, safer, more citizen-friendly and resource-saving?



**Convergence:**  
how can a modern and convenient infrastructure be supported, carrying a broad range of beneficial and innovative services?





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## E-Signature Law (Apr. 1st , 2005)

### Basic Rules□

- **Technology Neutrality**
- **Equal Function**
  - reliable e-signature has the same effect with the handwritten signatures
- **License Scheme**
  - those who intend to engage in the e-certification service must obtain a license from MII

### What is Being Done□

- **Research on E-signature Legislation**□
  - electronic certification service carry-on;
  - Interoperation of electronic certificates, incl. cross-border recognition of certificates
- **Research on Services Supervision** □
  - certificates validation platform;
  - supervision technology means;
- **Research on the Market:**
  - Promote e-signature application in key areas
  - e-signature application standards



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## Existing Data Protection Provisions

Name of the law / regulation	What does it cover?	Adopted by or enforced by	Provisions
<b>Constitution of the People's Republic of China</b>	Citizens' freedom and privacy	The National People's Congress of the People's Republic of China	Article 40: Freedom and privacy of correspondence of citizens of the People's Republic of China are protected by law. No organization or individual may, on any ground, infringe citizens' freedom and privacy of correspondence, except in cases where, to meet the needs of State security or of criminal investigation, public security or procuratorial organs are permitted to censor correspondence in accordance with the procedures prescribed by law.
<b>The supreme court's explanation about the compensation to the mental damage of the victim</b>	Citizens' freedom and privacy	The supreme Court	Article 1 (2): If anyone violates the social public interest and the social morals to violate the other people's privacy or other personal interests and the victim sues in the people's court by the reason of the infringement to request the compensation to his mental damage, the people's court must accept it according to the law.



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## Existing Data Protection Provisions

<p><b>Law of the People's Republic of China on Resident Identity Cards</b></p>	<p>Citizen's personal information on their ID card.</p>	<p>Standing Committee of the National People's Congress</p>	<p>Article 6 (3): Public security organs and people's police shall keep confidential citizen's personal information gained through making, issuing, examining or seizing resident identity cards.</p> <p>Article 19: Any police officer who commits one of the following acts shall, according to the seriousness of the circumstances, be given administrative sanctions in accordance with law; and if a crime is constituted, he shall be investigated for criminal responsibility in accordance with law: (5) divulging a citizen's personal information gained through making, issuing, examining or seizing his resident identity card and thus infringing the citizen's lawful rights and interests.</p>
<p><b>Postal Law</b></p>	<p>Personal data</p>	<p>Standing Committee of the National People's Congress</p>	<p>Article 4: Freedom and privacy of correspondence shall be protected by law. No organization or individual shall infringe the freedom and privacy of correspondence of other persons for any reason, except when the inspection of correspondence in accordance with legal procedures by the public security organ, the State security organ or the procuratorial organ is necessary for the State's safety or the investigation of a criminal offence.</p>



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## Existing Data Protection Provisions

<b>Postal Law Implementation Details</b>	Personal data	State Council	Article 7: Any organization or individual has the responsibility to protect the freedom and privacy of correspondence and the safety of the mail.
<b>National People's Congress Standing Committee's decision on safeguarding Internet security</b>	Data material and e-mail	Standing Committee of the National People's Congress	Article 4: Any of the following acts which constitute a crime will be prosecuted for criminal liability in accordance with provisions of the Criminal Law: illegally intercepting, tampering with and deleting e-mail or other data materials of others constitute an infringement of freedom and privacy of correspondence
<b>Interim Measures to administrate the basic database of the personal credit information</b>	Personal bank account data	The People's Bank of China	Article 4: Personal credit information includes basic personal information, personal credit and transaction information and other information that can reflect personal credit status. Article 5: The People's Bank of China, and commercial banks should keep secret the personal credit information which they get through their work.



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## Existing Data Protection Provisions

<b>Regulation for the protection to AIDS</b>	Data of the people infected with HIV / AIDS	State Council	Article 39: When disease control and prevention organizations and the enter-exit inspection and quarantine organizations carry out HIV / AIDS epidemiology investigation, the bodies and the individuals inspected should offer the relevant information according to the facts. No organisation or individual should publish the name, address, occupation, and profile, materials of the medical history of someone suffering from AIDS or information that allows their personal identity to be known.
<b>Law of the People's Republic of China on Protection of the Rights and Interests of minors</b>	Minors' privacy	Standing Committee of the National People's Congress	No organization or individual should disclose the privacy of minors.



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## Existing Data Protection Provisions

<b>Regulation of the Hunan Province on Protecting Consumers' Rights and Interests</b>	Consumer data	Standing Committee of the Hunan Province's Congress	Article 27: Businesses may not ask customers to provide personal information unrelated to business transactions. Except where laws and regulations have stipulated, businesses may not for any reason disclose customers' personal information to a third party without the customer's consent. This personal information includes information relevant to the consumer and their family such as name, gender, age, address, school record, occupation, marital status, income and property condition, contract method, medical history, or medical condition of the customer etc.
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## Related Information Society Regulations

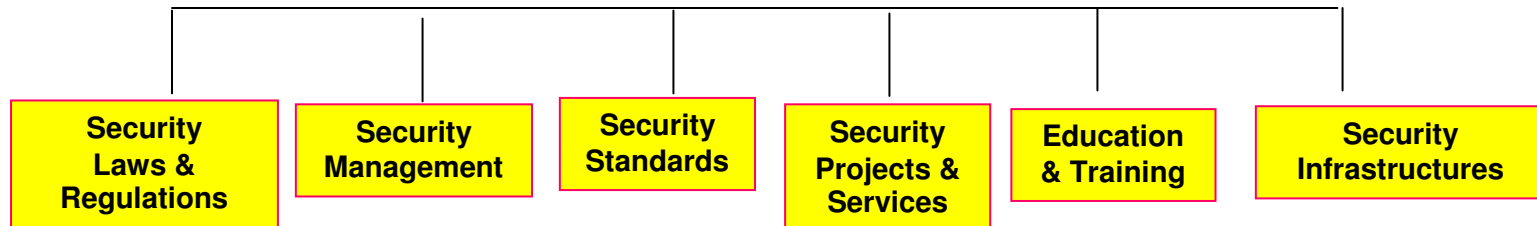
- February 21, 2006, MII “Internet e-mail service management approach”
- May 2006: State Council promulgated “ internet information disseminating Protection Ordinance” to improve copyright protection.
- November 2006, Culture Ministry issued “ views on the online music development and management
- *Information Security Law* to Cover a wide range of related issues: Data Protection, Cybercrime, youth Protection, Network Information Security, Information Security Standards



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## Framework of e-Government Security System



- Opinions on Working on Information Security Risk Evaluation (SCITO [2005] #1)
- The (Provisional) Management Methods for Hierarchical Information Security Protection (GTZ [2006] #7)
- Notice on the Work of Disaster Backup of the Key National Information Systems
- The Law of the People's Republic of China on Keep State Secrets (revision)
- E-Signature Law (April 1, 2005)
- Regulations on Government Information Release (April 1, 2008)
- *Information Security Law (Information Security Regulations)*
- *Personal Data Protection Law*



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## **The State Information Security Standardization Committee**

**(Founded on April 15, 2002, with 10 working groups)**

- 1 Standard systems & coordination (credibility calculation)
- 2 Security protection of information systems involving classified information (classification of content)
- 3 Password algorithms and modules
- 4 PKI/PMI
- 5 Security evaluation
- 6 Emergency response
- 7 Security management (disaster recovery and risk evaluation)
- 8 Electronic evidences
- 9 Identity marks and authentication
- 10 Operating systems and data



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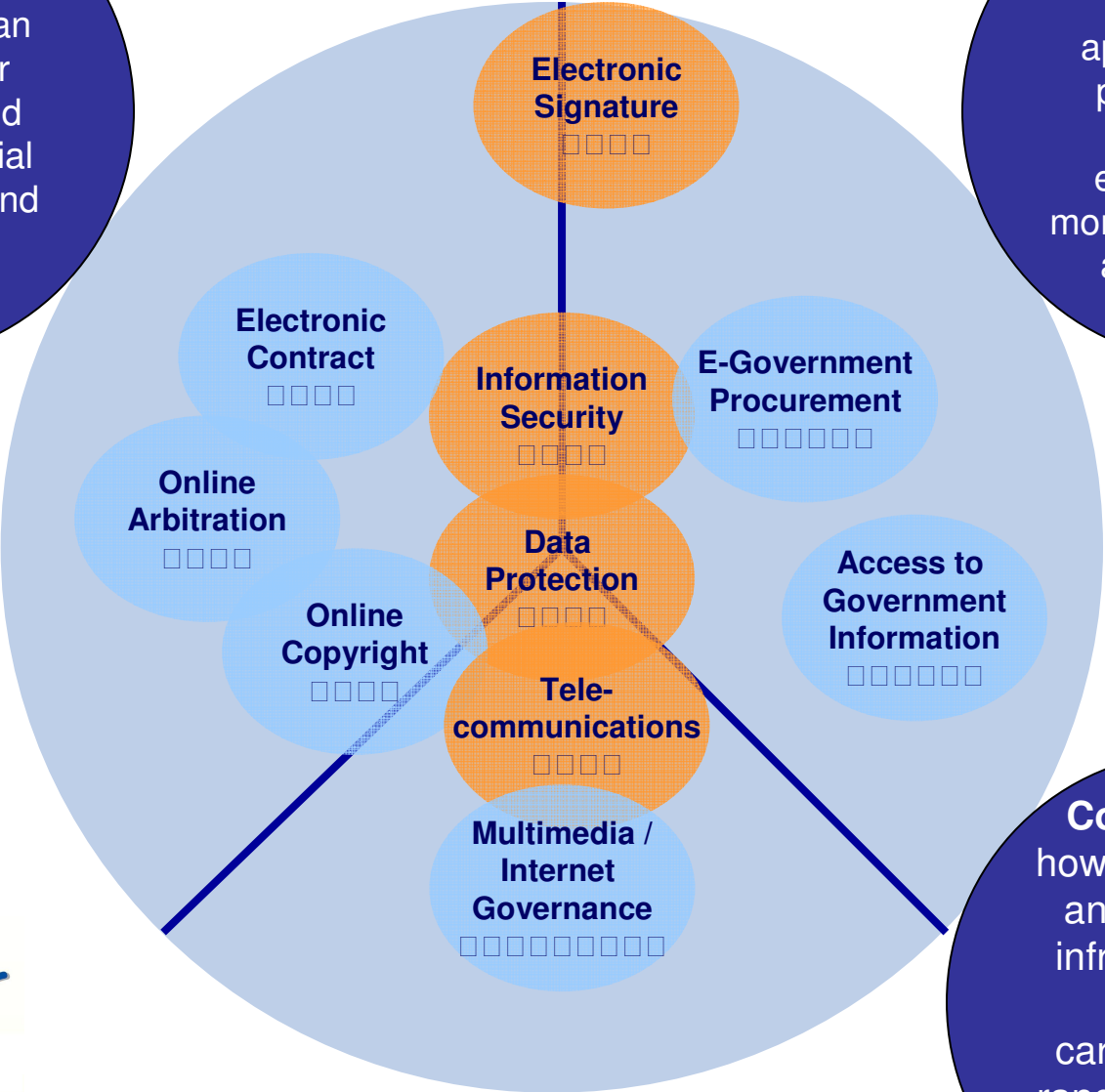
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## Assessment of the CH Informatisation Policy?

- Strategic Bracket through **11<sup>th</sup> 5-year Plan** and “**Strategic plan for state informatization development** (2006-2020)”
- High on the agenda: The Informatization Leading Group under the State Council.
- But still **no comprehensive framework** based on common principles, few inter-institutional synergies
- There is “**static protection**”, but **no “dynamic” system** providing mechanisms for allowing (and limiting) the processing of data
- Internal provisions (“**regulations**”) more easy to achieve, but with less impact (e.g. Access to Government Information) than “**laws**”
- "Informatization is the mega-trend of world development and a key factor in promoting social and economic development and reform,"  
Wen Jiabao

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Thank you□

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For more information, contact:

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