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A Thesis presented to the Faculty of Humanities
President University in partial fulfillment of the requirements for Bachelor Degree in International Relations Major in Diplomacy Studies

2017
This thesis entitled “THE EFFECTS OF CHINA’S INTERNET CENSORSHIP POLICY ON GOOGLE AS THE U.S. BASED COMPANY (2000 – 2010)” prepared and submitted by Izzati Robbi Hamiyya in partial fulfillment of the requirements for the degree of Bachelor of Arts in International Relations in the Faculty of Humanities has been reviewed and found to have satisfied the requirements for a thesis fit to be examined. I therefore recommend this thesis for Oral Defense.

Cikarang, Indonesia, January 25th, 2017

Recommended and Acknowledged by,

Hendra Manurung, S.IP, M.A.
DECLARATION OF ORIGINALITY

I declare that this thesis, entitled “THE EFFECTS OF CHINA’S INTERNET CENSORSHIP POLICY ON GOOGLE AS THE U.S.-BASED COMPANY (2000 – 2010)” is, to the best of my knowledge and belief, an original piece of work that has not been submitted, either in whole or in part, to another university to obtain a degree.

Cikarang, Indonesia, January 25th, 2017

Izzati Robbi Hamivya
PANEL OF EXAMINER APPROVAL SHEET

The Panel of Examiners declare that the thesis entitled “THE EFFECTS OF CHINA’S INTERNET CENSORSHIP POLICY ON GOOGLE AS THE U.S. BASED COMPANY (2000 – 2010)” that was submitted by Izzati Robbi Hamiyya majoring in International Relations from Faculty of Humanities was assessed and approved to have passed the Oral Examinations on January 30th 2017.

Hendra Manurung, S.IP., M.A.
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ABSTRACT


The economic relation between the United States and China has given China an opportunity to open its market by joining the WTO. In attempting to modernize, China views Internet to be controlled by regulating various Internet censorship policies and techniques to restrict information through the Internet, which was known as the “Great Firewall of China” in filtering contents that could harm the state’s cyber security. While on the other hand, U.S. sees the Internet as an open, global space for freedom of expression and made Internet freedom as its agenda to be promoted. Therefore, Google at this point as the U.S. based company decided to comply with Chinese Internet censorship regulations in order to provide free Internet information towards Chinese citizens. In this thesis, the researcher attempts to analyze the effects of Internet censorship policy towards foreign company like Google that also considered affecting the relations between U.S. and China. The researcher uses Internet research and reviewing reports, articles and journals as the instruments in collecting and completing the data and information. The researcher viewed the data from 2000 until 2010 based on Google’s presence in China until its withdrawal from Chinese Mainland to Hong Kong. The result of this thesis is expected to give a better understanding about the effects of two countries with different perspectives to have relations through the foreign company by implementing China’s censorship policy on Google’s business in order to support the national interests of the U.S.

Keywords: Internet censorship policy, Cyber security, Internet freedom, China, the U.S., Google.

Hubungan ekonomi antara Amerika Serikat dan Tiongkok telah memberikan Tiongkok kesempatan untuk membuka pasarnya dengan bergabung ke WTO. Dalam percobaan modernisasi, Tiongkok melihat Internet untuk diawasi dengan mengatur berbagai kebijakan sensor Internet dan teknik untuk membatasi informasi melalui Internet, yang diketahui sebagai the “Great Firewall of China” dalam menyaring konten yang dapat merugikan keamanan siber Negara. Di sisi lain, Amerika Serikat melihat Internet sebagai tempat yang terbuka dan global untuk kebebasan dalam berekspresi dan membuat kebebasan Internet sebagai agenda yang dipromosikan. Maka, pada titik ini Google sebagai perusahaan dari Amerika Serikat memutuskan untuk menuruti kebijakan sensor Internet Tiongkok untuk dapat menyediakan informasi Internet bebas kepada warga Negara Tiongkok. Dalam tesis ini, peneliti mencoba untuk menganalisa efek dari kebijakan sensor Internet kepada perusahaan asing seperti Google yang dianggap dapat mempengaruhi hubungan antara Amerika Serikat dan Tiongkok. Peneliti menggunakan penelusuran Internet dan tinjauan laporan, artikel dan jurnal sebagai sumber dalam mengumpulkan dan melengkapi data dan informasi. Peneliti melihat data dari 2000 sampai 2010 berdasarkan kehadiran Google di Tiongkok sampai penarikannya dari daratan Tiongkok ke Hong Kong. Hasil dari tesis ini diharapkan untuk dapat memberikan pemahaman yang baik tentang efek dari dua Negara yang berbeda perspektif dalam hubungan melalui perusahaan asing dengan pelaksanaan kebijakan sensor Internet Tiongkok pada bisnis Google dalam mendukung kepentingan nasional Amerika Serikat.

Kata kunci: Kebijakan sensor Internet, Keamanan siber, Kebebasan Internet, Tiongkok, Amerika Serikat, Google.
ACKNOWLEDGEMENT

Bismillahirrahmanirrahim

First of all, I would like to express my greatest gratitude to Allah SWT for all His blessings, strength, and grace to me in letting me to pass this process until I can come to this point. The process during the making of this thesis made me realize on how grateful I am to believe on everything that is meant to be, it will be with His permission. That is why, let me thank Allah SWT as the best director of this life in deciding my life to turn out this way. Alhamdulillahi Rabbil ‘Alamin.

Then, during the making process of my thesis, there are so many people that I want to thank them, for all their supports, encouragement and guidance until I could make this thesis as the last stage I have to pass in my last year of university life. Thus, this grateful acknowledgement is made to those people who helped me during my thesis writing and during my university life.

1. During this thesis making, the support from my parents became my motivation to keep on struggling completing this thesis. Thank you so much, Abi for the support and encouragement you gave until I can stand at this point and to Umi, for always praying the best. Your words and calls are always the medicine when I feel down.

2. To Om Imam and Tante Henny, my parents in Depok with their children, Salwa, Dinda and Rafi that always gave me support during my thesis making progress. I really owe both of you a lot.

3. For my brothers, Zidni, Syahid and Azmi for their supports, love and entertainment to release my stress during my thesis progress and also Dini, my one and only sister.

4. Mr. Hendra Manurung for being my great supervisor in this thesis, who gave a lot of attention and advice during the progress of my thesis. Thank you so much and keep the spirit Sir! 😊

5. Special thanks to Mr. Haris Rahmat Pratama, my second adviser who also took care of me by giving advices and directions to complete my thesis. Thank you so much for your guidance Sir.

6. To the dean, Mr. Teuku Rezasyah and the lecturers of International Relations Study Program for their great efforts in delivering their knowledge to me and my IR friends.
7. Especially to my sister from a different mother, Iranti Mantasari for all the ‘intense’ conversations and ‘lame’ jokes we had together. I thank Allah for letting me to meet someone like you in my university life.

8. For Jessica Samtani, my one and only India friend for her support and advise regarding my thesis.

9. For Shely Fritania Hidayat, my little companion from the same high school, Husnul Khotimah Islamic Boarding School for her support. Hope your study in this university will succeed until graduation. Good luck for your internship!

10. To all my beloved sisters and brothers from PUMUN 2014/2015 that gave me the memories and experience on being the real IR student. Especially to Lidya Sophiani for her support and permission to have this kind of experience. Also to Dilla, Winie, Jaja, Sasa, Echa, Fiqa, Novy and others.

11. Then, to my Muslim family in Zahirul Ma’ala 2014/2015, for their supports and prayers with the memories on being with this remarkable family. Thank you to Ucy, Tiara, Ahdha, Emil and others.

12. Not to forget my lovable friends, Mutsla, Rayhanah, Maula, Sumayah, Fiqih, Shidqi, Alfina and others that always be my closest friends even though we’re afar.

13. To Nathan, Velozi and Jet my items that are remarkable in helping me to make this thesis. Also to Kosan Bu Neng for being the place that witness my efforts and process within my thesis making.

14. Last but not least, I would like to thank all of my lovely friends, GAM GALZ, Anisa Faza, Corry Faby Amanda, Jihan Dja’far Sidik, Nurul Ilmi Jamila, Lathifatus Syifa, Liddiini Haniifa for all their supports and moments of our university life. I hope we can succeed and meet again in the future with different stories to tell. You guys are incredible!

January, 2017

Izzati Robbi Hamiyya
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<th>Full Form</th>
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<tbody>
<tr>
<td>CCP</td>
<td>Chinese Communist Party</td>
</tr>
<tr>
<td>CNNIC</td>
<td>China Internet Network Information Center</td>
</tr>
<tr>
<td>FDI</td>
<td>Foreign Direct Investment</td>
</tr>
<tr>
<td>GAPP</td>
<td>General Administration of Press and Publication</td>
</tr>
<tr>
<td>GATS</td>
<td>General Agreement on Trade in Services</td>
</tr>
<tr>
<td>GATT</td>
<td>General Agreement on Trade and Tariffs</td>
</tr>
<tr>
<td>GOFA</td>
<td>Global Online Freedom Act</td>
</tr>
<tr>
<td>ICP</td>
<td>Internet Content Provider</td>
</tr>
<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
</tr>
<tr>
<td>ICT</td>
<td>Information and Communication Technology</td>
</tr>
<tr>
<td>IPE</td>
<td>International Political Economy</td>
</tr>
<tr>
<td>ISP</td>
<td>Internet Service Provider</td>
</tr>
<tr>
<td>MII</td>
<td>Ministry of Information Industry</td>
</tr>
<tr>
<td>MPS</td>
<td>Ministry of Public Security</td>
</tr>
<tr>
<td>ONI</td>
<td>Open Net Initiative</td>
</tr>
<tr>
<td>UDHR</td>
<td>Universal Declaration of Human Rights</td>
</tr>
<tr>
<td>U.S.</td>
<td>United States</td>
</tr>
<tr>
<td>WTO</td>
<td>World Trade Organization</td>
</tr>
</tbody>
</table>
CHAPTER I
INTRODUCTION

I.1. Background of the Study

China has become a large player in the global market by attempting to modernize in opening up its market to the world. In competing with the Western world, on December 11, 2001, China officially enter the WTO as the 143rd member, which forced them to welcome foreign companies in having their business in China. After its WTO accession, China has scored remarkable in the economic and social achievements, such as the 2nd largest economy in GDP terms.\(^1\) There are some reasons on why China as a non-democratic country wanted to enter this international organization like the WTO. By joining the WTO, China could attract foreign companies and banks to invest in the Chinese market. Moreover, the other reason may have been caused by the high-tech revolution of information in the 1990s, which made Chinese leaders want China to catch up with the developments on globalization in order to increase awareness for China as a credible partner in the international economic system.\(^2\)

In advancing technology, on April 20, 1994, China has been officially recognized by the world as a country that really had the access to the Internet and opens it to the public in June 1995.\(^3\) Along with the development of the Internet, Chinese government then has welcomed technological advances in helping the government to promote the economic development of China.\(^4\) However, on the other hand, the development of Internet was seen to possess a threat to state’s sovereignty

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and its cyber security that could endanger the government’s ability to control power, wealth and morals within specified territory.\(^5\)

Thus, within the development of the Internet and the potential threat of it to China’s sovereignty, the Chinese Communist Party (hereinafter CCP) as the government over the years since its official appearance to the society in 1995 had promulgated numerous regulations to control the Internet.\(^6\) These regulations in controlling the Internet then was known made the “Great Firewall of China” or the Internet censorship system in filtering prohibited contents on the Internet. The State Council in September 20, 2000 has issued the Administrative Measures on Internet Information Services on 9 illegal contents to be produced by ISPs. It was specifically stated in Article 15\(^7\):

“(1) Content that is against the basic principles determined by the Constitution; (2) content that impairs national security, divulges State secrets, subverts State sovereignty or jeopardizes national unity; (3) content that damages the reputation and interests of the State; (4) content that incites ethnic hostility and ethnic discrimination or jeopardizes unity among ethnic groups; (5) content that damages State religious policies or that advocates sects or feudal superstitions; (6) content that disseminates rumors, disturbs the social order or damages social stability; (7) content that disseminates obscenity, pornography, gambling, violence, homicide and terror, or incites crime; (8) content that insults or slanders others or that infringes their legal rights and interests; and (9) other content prohibited by laws or administrative regulations.” (ChinaITLaw.org, 2000)

Through this type of regulation, especially from this article, China’s Internet censorship has gotten a lot of consideration by the worldwide media, Western governments, global human rights activist group and progressively by the institute. The method of Internet censorship itself was divided into several measures, through its

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regulations and technically by filtering the URL and Domain of the website.\textsuperscript{8}

Even with the restriction of Internet access, the Internet users have been expanding rapidly in recent years. Since its debut in 1995 China had 1,600 registered users, China’s Internet has experienced virtually exponential growth. The China Internet Network Information Center (henceforth CNNIC) proven the data by showing the growth of Chinese Internet users from 2000 with 22.5 million users to 2010 with the number of 457 million.\textsuperscript{9}

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{internet_users.png}
\caption{Internet Users in China}
\end{figure}

At this point, when China was consider moving forward in implementing socialist modernization in opening the market, foreign companies keen to seek opportunity in having business in China, considering the big amount of population and China’s open market. It was proved by the presence of foreign companies operating in China like Yahoo! and Microsoft that decided to enter the Chinese market by complying with China’s Internet censorship policy.


Then, Google as the biggest IT Company specialized in search engine based in California, United States, has the mission stated in its company profile to organize the world’s information and make it universally accessible and useful and the jargon of “Don’t be Evil” brought the value of freedom and democracy of information access, which is in accordance with the U.S. foreign policy in promoting Internet freedom.\(^\text{10}\) Therefore, Google, in following its fellow U.S. based company partners, Yahoo! and Microsoft had approached the Chinese market since 2000 from California by offering a Chinese-language version of Google.com in order to make Google as easy and applicable for Chinese Internet users worldwide\(^\text{11}\). By having control of the information in the home country, was the strategy to avoid the Chinese censorship laws as the China’s non-physical boundaries and to not need a license from the Chinese government to have its local presence.\(^\text{12}\)

However, even though Google’s server at that time was not in China, in accessing the website, Google found its website to be slow and unreachable around 10% of the time in 2004, then it was found to be caused by the extensive filtering performed by China’s licensed Internet Service Providers (hereinafter ISPs). In this situation, Google seems to be slower than its competitor, the local-based company Baidu. By this problem, Google then decided to have a one-year analysis on the Internet environment in China.\(^\text{13}\) Furthermore, on 19 July 2005, Google announced that it will open a product research and development center in China and Dr. Kai Fu Lee was hired as president to head Google’s entry into China. His goal for Google’s entry is “to make advanced technologies accessible and useful to every user, as well as to be a part of the vibrant growth and innovation in China today”.\(^\text{14}\)

Finally, a local presence was chosen as a solution for Google to operate optimally in China. By launching Google.cn on January 27, 2006,


\(^\text{13}\) Schrage, E. (2006, February 15). *Testimony: The Internet in China*

a filtered China-based site as a supplementary of google.com in order to obey the regulations by the Chinese government in implementing self-censorship to its search results, that was clearly compromised with its mission. However, in order to operate legally in China, Google established its joint venture company, Beijing Guxiang Information Technology Co Ltd, on July 19, 2007, to secure the ICP license from the Ministry of Information Industry. By the joint venture, Google will take 50 percent stake in the market share, which is needed in order to compete with the local competitor, Baidu.

Therefore, with the Internet censorship policy by the Chinese government through its regulations had impact Google’s objectives in having its business in China which was seen to be contradictory. Thus, Google had to adjust its services in order to comply with the government’s regulations to withstand its operation in the Chinese market.

<table>
<thead>
<tr>
<th>No</th>
<th>Chinese Government Regulations</th>
<th>Google Company Objectives</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Restrict ISPs and individuals to produce harmful contents stated in the regulations</td>
<td>Implement its mission towards Chinese Internet users on accessibility of worldwide information</td>
</tr>
<tr>
<td>2</td>
<td>Control the inspection of content or receiving of information</td>
<td>Making its important asset as a company that warrants the users’ faith and trust</td>
</tr>
<tr>
<td>3</td>
<td>Content providers also self-monitored in order to maintain a government license to conduct business</td>
<td>To compete with the key competitor in China</td>
</tr>
</tbody>
</table>

Table 1 - China Regulations VS Google Objectives

After having its local presence in 2006, Google, with Google.cn, obeyed the Chinese government regulations regarding the Internet censorship by adjusting the services related to the regulations. However, along with the development of Google in China, several attacks seem to aim Google. Furthermore, in 2008 Chinese government temporarily shut down Youtube after images of China’s crackdown on Tibet became viral on the site. Continued in March 2009, the Chinese government blocked Youtube for undisclosed reasons.23

On June 2009, Chinese authorities disabled some functions in Google.cn regarding on the links to pornographic and offensive contents.24 Therefore, with the attacks from the Chinese government, Google was left by Kai-Fu Lee’s resignation in September 2009.25 Finally, in January 2010 Google announced on its official blog, it has been the victim of a "highly sophisticated and targeted" cyber attack originality in China, which this announcement was triggered after the founding of designed access to the Gmail accounts of Chinese human rights activists. Hence, after several attacks towards Google, it finally shifts its operation from Mainland China to Hong Kong in March 2010.26

In this thesis, the writer will analyze the influence of country’s policy in this term the Chinese government under the CCP leadership in having censorship and surveillance to the information flowing over the Internet towards Google as the U.S based company in taking decisions, which made Google had special services to adjust the government’s policies in filtering the prohibited search results which are actually against Google’s mission to organize the world’s information and make it universally accessible and useful. Google’s mission was also in compliance with U.S. foreign policy of Internet freedom in accessing information through the Internet.

I.2. Problem Identification

The China’s Internet censorship policy was the decision of CCP’s in protecting Internet security through securing information flow as it sees the free and safe flow of Internet information is integrated as a whole. By filtering the illegal contents of Internet search results, the Chinese government wanted to restrict the information to Chinese Internet users with the reason of sovereignty and cyber security. Therefore, by this policy, foreign companies like Google have to obey the laws and regulations mandated by the Chinese government in implementing self-censorship to Google’s search results such as its fellow partners Yahoo and Microsoft did before.

Google’s decision in following the Chinese government’s regulation by officially launching Google.cn in 2006 as the filtered China-based site, was a tough yet reasonable decision regarding the commercial potential to expand in the Chinese market with its growing amount of Internet users, even though Google had to adjust its services regarding the unique local conditions in China. Then, while Google operates its business in China and obeyed the regulations given, the standard of censorship started to increase and the Chinese government started to intrude by attacking Google’s products such as Youtube with undisclosed reason until the peak issue of “a highly sophisticated and targeted” cyber attack based on China to Gmail accounts of the Chinese human rights activists, which made Google had to take the tough decision.

The decision on either staying in China with all the regulations given or moving out from China and leave the big marketplace then effect Google to make a final decision, in order to keep its business going. Finally, Google decided to leave Mainland China with the reason of cyber attack and shifts its operation to Hong Kong where the Internet censorship regulations do not apply. Google presence in Hong Kong then announced by redirecting Chinese server on google.cn to Hong Kong’s server on google.com.hk.

After leaving China, Google as a U.S based company was speculated either this case will affect the overall U.S – China relations regarding to the issue of Internet freedom and security, which the U.S has

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accused China of violating international norms regarding the governance of the internet claiming that Chinese authorities exercise censorship and control over U.S IT companies as well as its own citizens.  

I.3. Statement of the Problem

With the introduction stated in the previous sections, this thesis will describe the effects of Internet censorship regulations to Google as a foreign company in having its business in China and the state relations between these countries.

Based on that, the research questions are as follows:

1. What were the effects of China’s Internet censorship policy to Google as the U.S based company?
2. How did China’s Internet censorship policy toward Google as the U.S based company affect U.S – China relations?

I.4. Research Objectives

The research objectives of this thesis are:

1. To explain the power of state policy especially in cyber security of Chinese government
2. To observe the act of foreign companies in having its market in China
3. To identify the relations between China and U.S regarding this case of Google

I.5. The Significance of the Study

The significances of the study in regards to the topic above are:

1. To enrich knowledge of the implementation of state policy, especially in cyber security of the Chinese government to foreign companies
2. To gain knowledge on the interests of both China and Google in the economic sector

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3. To enhance knowledge on the effects on Google as a non-state actor towards China – U.S relations

I.6. Theoretical Framework

I.6.1. Realism

Realism in international relations is seen as one of the oldest theories of international relations and is widely held as a worldview. It is a general approach to international politics and is not a single theory, which always develops and provides better explanations according to the rapid change in the world. In International Relations, political realism is the foundation of states to be the main actor in the global politics to pursue its national interest in terms of power.

For the general features of realism in International relations, Thucydides (460 – 411 B.C.E) had explained its perspective concerning on state actors, egoism, anarchy, power, security and morality. The set of premises he made was the fundamental understanding of realism theory, where human nature as the starting point of classical political realism in being egoistic and self-interested. Continuing the consideration in the absence of government (anarchy) to be the primary determinant of international political consequences, which infers each state is responsible for its own survival and is permitted to describe its own specific main points and to look for after power. In addition, as realists anticipate the universe of states as anarchic, Thucydides expected security as the main issue. Along these lines, states with a specific end goal to accomplish security, attempt to expand their energy and take part in power adjusting with the end goal of discouraging potential provokers. Lastly, realists are described to be most skeptical about the relevance of morality to international politics. It does not consider morality to have a place in international relations, besides morality belongs to each state that is different from traditional morality.\(^{29}\)

Thucydides thought of realism has given the general description of realists’ perspective of the world, regarding its relations and interests. Along with the development and change of the world to be more complex, Hans J. Morgenthau (1904 – 1980) has developed the theory of realism.

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into a more comprehensive IR theory. Reinhold Niebuhr and Hobbes influenced him, by placing selfishness as the center of human existence, which he identifies to be the desire of human to dominate as the cause of conflict. As he stated in his book *Politics among Nations*\(^{30}\), Morgenthau systems realism in the IR to the foundation of six principles. In the first principle, he views realism to be unchanging in regards to the objective laws, like the society to have their roots in human nature. Then, the second principle is the keystone of his theory on the concept of power to be the state’s interest and the base of state as the rational actor.

The third principle assumes the key concept of interest as power is a objective and universally valid, but it does not provide a definite concept for all. It returns again for the kind of interest the state needs to determine its political action, which in a particular a foreign policy could be formulated depends on the period history upon political and cultural context, while the fourth principle of realism is its awareness of the morality of political action, which universal moral is not applicable for state’s actions. On the fifth principle, Morgenthau sees realism as the idea for all state actors to be looked merely as political objects in pursuing their particular interests of power. Therefore, at this point a state decided to pursue policies that respected the interests of other states while on the other hand it also protects and promoting its own. Thus, in the sixth principle of Morgenthau, the difference between political realism and other theories is real and thoughtful, which politics is a skill of harmonizing endless needs (interests) and scarce resources (power).

Thus, Morgenthau’s six principles have given a further explanation in defining realism in the twentieth century from the general features of realism by Thucydides. Therefore, the main points of realism theory by these scholars were power or interest as the main focus of a state, state actors need to be rational in order to pursue its national interests. This theory does not concern with the morality, motives or ideological preferences of individual political leaders and it likely avoids conflicts and ideological confrontations, which made them, look only at themselves for compromise on the source of satisfaction and mutual interests. Besides, as realists only see state as the powerful and dominant

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actor, non-state actors such as MNCs, banks and international organizations are excluded from the analysis.

According to this theory, China’s attempt to modernize by its decision to join the international forum like WTO and open up its market has reflected the intention of China to obtain power. China then formulated various regulations on Internet censorship policy in order to protect its state security as a state control. The term of cyber security then was understood by China in a moral perspective of protecting its people from harmful information, which was different from the Western.

Furthermore, the researcher uses the theory of realism in viewing the national interest of the United States in formulating its foreign policy of Internet freedom to its companies such as Google. The national interest of U.S. in promoting Internet freedom then has brought Google with its objectives to face China’s Internet regulations. The respond from China on Google’s withdraw that was accused to affect the U.S. – China relations will also be identified by the theory of realism as it does not consider non-state actors.

I.6.1.1. Cyber Security

Following the theory above, as the rapid growth of the IT industry, the reliance on technology was also increasing. Therefore, cyber security risks have given the Chinese government a great attention into the level of national security, which made China has promulgated a series of laws and regulations related to Internet governance.

Even though there are no common definitions for cyber terms, they are understood to mean different things by different nations/organizations, despite prevalence in mainstream medias and in national and international organizational statements. However, according to International Telecommunication Union, cyber security is the collection of various tools on security efforts, such as approaches, actions and practices to be used in order to protect the cyber environment and user’s assets, including

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hardware like computers with Internet connection, telecommunication systems and services and the stored information in the cyber environment. In short, cyber security is an effort to protect information and systems from major cyber threats, like terrorism, warfare and espionage through the Internet.\textsuperscript{33}

However, China and the West had the different understanding of the term of cyber security. The Chinese perceive cyber to be everything related toward cyber developments as the part of spreading information borderless to the society referring to the process of informatisation that made cyber security to be information security. Therefore, cyber security on content and systems become integral on Chinese perspective and made it put concern by controlling the information flow of the Internet. By this understanding, the West like the U.S. perceived cyber security as the security of computer and information systems as physical and logical objects, while information security referred to the security of the content.\textsuperscript{34} It was in accordance to the Cyber Security Law stated in Article 1:

This law is formulated so as to ensure network security, to safeguard cyberspace sovereignty, national security and the societal public interest, to protect the lawful rights and interests of citizens, legal persons and other organizations, and to promote the healthy development of economic and social informatization (China Law Translate, 2016).

Hence, cyber security was chosen to be the theory for this thesis in order to give a description of China’s Internet censorship policy as the form of China’s cyber security in protecting its information, such as state secrets and contents that might harm the state. Moreover, the diverse meaning of cyber security from China and the West then given the understanding on how from the realist perspective put concern on security as for state to remain alone in order to fulfill its own interest, such as how the Chinese government in formulating the regulations in order to keep the

\textsuperscript{33} International Telecommunication Union. (2009). SERIES X: DATA NETWORKS, OPEN SYSTEM COMMUNICATIONS AND SECURITY
social stability and still holding the dominant role from the borderless Internet.

I.6.1.2. National Interest

As mentioned in the previous theory on realism, national interest as the interest of the state is a tool in formulating the state’s foreign policy, particularly by political realists like Hans J. Morgenthau. The practice of national interest on foreign policy was based on the term of ‘public interest’ on indicating the best policy for the nation in having relations with other states. Not only to emphasize the threat of nation, the term of national interest also concerns the external constraints on the freedom maneuver from treaties, the interests and power of other states and other factors beyond the control of the state, such as geographical location and the foreign trade dependence. Therefore, Internet information flow was concerned to be a threat for China, as the Internet seems to be borderless.\(^{35}\) Moreover, Morgenthau (1948) stated the concept of national interest, as the perennial standard by which political action must be judged and directed, therefore the objectives of a foreign policy must be defined in terms of the national interest. He also recognizes that the type of interest that determines political action basically depended on the political and cultural context of the formulation of the foreign policy.\(^ {36}\)

Therefore, the theory of national interest in realism was used in the theoretical framework to give an image of Google’s position in China. The U.S. foreign policy on Internet freedom was analyze by the National Interest theory based on how the historical of the United States as a democratic country. Moreover, the use of National Interest theory was by U.S. concern on Internet censorship as a trade barrier for its companies in having business in China, which could affect the trade and investment.


Then, Google as a U.S. based company had the commitment to promote freedom to access information on the Internet through its objectives to expand in the Chinese market.37

I.6.2. **International Political Economy**

International Political Economy (IPE) examines the interdependence of politics and economics in the international system. IPE often overlap by political economy, which it was actually had the same view on political and economic reality as two sides of the same coin. If IR concerns realism as the framework of state becoming the main actor, IPE generally adopts a systemic perspective and views states as primary actors. Thus, the level of analysis in IPE comes from International Economy and National Political Economy. By International Economy, international institutions and sovereign states interact, for instance on how WTO and China interact. On the other hand, National Political Economy has given the setting of domestic policymakers, interest groups and institutions to interact, for instance, the interaction of Google and the U.S. government in having the same interest.38

Therefore, for IPE, the interaction of domestic and international conditions can be analyzed in terms of these factors: interests, institutions and information. These three factors are important at the international-domestic levels and the domestic-international interaction, which could be examined by focusing more on these factors. For instance, domestic institutions could affect the international information and international institution could affect domestic interests. As mentioned in the theories before, the theory of realism was also used in describing economic relations between countries, IPE is relevant to realism perspective because of its concern on power and military capabilities that depend on capital accumulation and economic development.39

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Hence, the theory of realism under cyber security and national interest was chosen to present the interaction between the Chinese government and Google as the U.S based company in having business in China, which is in the scope of International Political Economy (IPE), to the U.S – China relations. Thus, the researcher made the theoretical framework in a graphic form to give a better understanding in describing the relations between actors. By this graphic and interactions between state and non-state actor, this thesis will discuss “The Effects of China’s Internet Censorship Policy on Google as the U.S based Company (2000 – 2010)”. 
Figure 2 - Theoretical Framework
I.7. Research Methodology

This thesis, under the title, “The Effects of China’s Internet Censorship Policy on Google as the U.S.-based Company (2000 - 2010)” the researcher used the qualitative research as the main method. The reason for using this method is to explain this thesis thoroughly to the readers in order to receive better understanding. In qualitative research, the researcher investigates this topic to find the answer to the research questions that has been mentioned in the previous section.

Qualitative research emphasizes the qualities and process of the study, which means that it is not by examining an experiment or measured by numbers, total, amount, and consistency. Then, to compare with quantitative research, qualitative research uses various philosophical assumptions, strategies of study and methods of collecting data to analyze and interpret. Therefore, by using the qualitative method, the researcher should answer the what, how, when and where the case is. Moreover, in answering the questions, it should be understood in a clear concept of description and meanings.

Then, through a qualitative approach, the researcher used several sources, by collecting data through the Internet, starting from primary sources such as government’s official documents and company’s official statement online, then by reviewing books, journals, and documents in supporting the primary source. After collecting the data, then it should be investigated on either be applicable to the research questions and to be analyzed with assumptions based on the selected theories. Finally, by performing these actions, the questions of what, how, when and where could be answer gradually along with the explanation on each section.

I.7.1. Research Instrument

Internet Research: Information from all over the world could be accessed in one click through the Internet. For students, information technology in advanced had a specific role in gathering information.

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related to studies in an electronic form. Thus, this is the reason for the researcher to use Internet research in collecting data and information related to this topic. From the Internet, the researcher could find official documents of Chinese government about their Internet censorship policy and Google Company’s official statement of their decision in China.

**Reports, Articles and Journals:** Besides the Internet, reviewing reports, articles and journals provided is also the method of finding data and information related to this topic. Reports, articles and journals written by scholars and non-governmental organizations really helped in supporting the primary data.

**I.8. Scope and Limitation of the Study**

Regarding this thesis, the scope and limitation of the study are focusing on analyzing the effects of state-control, which is in this term the Internet censorship policy by the Chinese government to Google, the U.S based company as the foreign company in having business in China. Through this analysis, it will view the policies given by the Chinese government in securing its state’s information flow through Internet censorship as a regulation to be obeyed by Google as the biggest search engine company in having its local presence in China. The researcher at this point will emphasize the time framework, from 2000 – 2010. The reason for this range is according to Google’s presence in China, starting from its observation to the Chinese market in 2000 until Google has its local presence in 2006 and shifted from China in 2010.

**I.9. Definition of Terms**

*The Chinese Communist Party (CCP)* – The Chinese Communist Party is the ruling party of Mainland China.43

*China Internet Network Information Center (CNNIC)* – Founded on June 3, 1997. A non-profit organization under the authorization and

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direction of the Ministry of Information Industry (MII) and operated by Computer Network Information Center.44

**Cyber Security** – Cyber security is an effort to protect information and systems from major cyber threats, like terrorism, warfare and espionage through the Internet.45

**The Great Firewall of China** – is a nickname widely known by the international community since its first appearance as the title in Wired magazine on Chinese government’s system that both restricts access in China to certain websites and other online contents.46

**Google** – The world’s biggest Search Engine Company headquarter in Mountain Valley, California, United States.47

**Internet Freedom** – Internet freedom is the belief that universal rights, including the freedom of expression, assembly and association, extend to the digital sphere.48

**I.10. Thesis Structure**

**I.10.1. Chapter 1 – Introduction**

In this chapter, it consists of background of the study, problem identification, statement of the problem, research objectives, significance of the study, theoretical framework, research methodology, scope and limitation of the study, definition of terms and the thesis structure. Regarding this chapter, it was intended to give the readers a basic understanding of the main discussion of this thesis. By reading this chapter, the readers could have a grip on the topic being discussed and will find out what the researcher is trying to discuss further.

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I.10.2. Chapter 2 – Overview of China’s Internet Censorship Policy

In Chapter 2, the researcher focuses on the overview of China under the Chinese Communist Party (CCP), regarding its history since Internet entered China in the 1980s and the changes of regulations according to the development of information technology. Furthermore, in this chapter, it will explain China’s definition of cyber security as the sovereignty of the state and the development of the Internet censorship system.

I.10.3. Chapter 3 – The U.S. – China Relations: A Background of Google in China

In Chapter 3, the researcher will explain the background of Google’s presence in China by the relation between states, U.S. and China, starting from its history and economic relations. Moreover, this chapter explains the background of Google in promoting Internet freedom as the mission of U.S. foreign policy to countries restricting Internet access. Then, it focuses on the progress of Google as the U.S. based company since 2000 regarding its background, objectives and commitments until it officially entered China in 2006.

I.10.4. Chapter 4 – Analysis of Google Versus China

For Chapter 4, it is the main part of this thesis. In this part, the researcher will explain the effects of Internet censorship policy towards Google as the U.S based company in having business in China. These effects will be shown through Google’s development since its local presence in China on 2006, with the changes of services and decisions in order to adjust its objectives to the regulations from the Chinese government. Thus, these effects made Google withdrawal from Chinese mainland and moved to Hong Kong. Therefore, the analysis continued to the state level on U.S. – China relations regarding this case.

I.10.5. Chapter 5 – Conclusion

This last chapter is the conclusion of all the discussion in this thesis. It will conclude the main point, which is important on every part of this thesis.
CHAPTER II
THE OVERVIEW OF CHINA’S INTERNET CENSORSHIP POLICY

The era of globalization has opened the Chinese authorities mindset on the importance of accessing information technology. Its recognition of Internet access in 1994 and the WTO accession in 2001 had given high expectations from the international community and Chinese advocates of democracy and freedom for China to promote its democratization. However, this expectation should face the bitter reality of China in interpreting ‘democratization’, even though freedom of expression has stated in the Constitution, practically, China’s type of democracy was still under control of its regime. “The Great Firewall of China” as the term of China’s Internet censorship policy was the result of the CCP in advancing technology for economic development and its challenges on Internet security threats.

Hence, in this chapter, the China’s Internet censorship policy will be discussed thoroughly, starting from the history of Internet in China, the development of China’s Internet regulation and the mechanism of the Internet censorship policy itself, until it was known to be the “Great Firewall of China”.

II.1. The Origin of Internet in China

II.1.1. China’s Political Background History

China has the longest histories in the world for the transition of its political background. Since the founding of the People’s Republic, the transition from a new democratic to a socialist society was influenced step by step. Therefore, under the CCP leadership of Marxism – Leninism and Mao Zedong thought, as stated in China’s Constitution, to concentrate the effort of socialist modernization, all of the Chinese people from all nationalities will keep on adhering the authority and follow the socialist road, by improving the socialist institutions, developing socialist democracy, improving the socialist legal system and working hard to be independent, in order to achieve the modernization on several sectors,
especially in science and technology to make China gradually turn to a socialist nation under the high level of culture and democracy.\textsuperscript{49}

The effort of China in becoming the socialist modernization country was influenced by the devastated economy in China’s history caused by the closed economic system. At that time, people in China were equally poor, most of the goods were rationed and the income differences were minimized. Afterward, under the leadership of Deng Xiaoping, he pursued an open-door policy to the Chinese government to achieve economic growth by introducing foreign capital and technology to the market but still maintain its commitment to socialism. This historical change was announced on December 1978, at the Third Plenary Session of the 11\textsuperscript{th} Central Committee of the Chinese Communist Party (CCPCC).\textsuperscript{50}

In adopting the open-door policy, the Chinese government started modernizing its agriculture, industry, defense and, science & technology, which were the national objectives of China as stated in its Constitution. Under Deng Xiaoping’s leadership, China has majorly transformed its economy even though in embracing modernization, China still remains to be under the control of a communist party in holding the social stability paramount.

After the leadership of Deng Xiaoping, Jiang Zemin brought China to a remarkable reform on its WTO accession as a strategic decision on the concern of entering the international political economy of economic globalization. This was in line with China’s open-door policy to modernize and the goal of establishing a socialist market economic system. China’s WTO accession as the 143\textsuperscript{rd} member was stated by Head of the Chinese delegation, H.E Vice Minister Long Yongtu to be a great potential of China in purchasing power by providing a huge open market to all countries.\textsuperscript{51}

Furthermore, China’s attempt to modernize was a great reform in its response to globalization. By implementing the open-door policy and

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joining the international organization like WTO, made China had to cooperate internationally and abide the rules as the consequence of membership. One of the consequence China had to accept, as the WTO member is to commit with the WTO protocol on market access in services, under the General Agreement on Trade in Services (GATS). This protocol made China had to liberalize a number of previously closed service sectors to be open for foreign investment. China made commitments in all sectors covered by the GATS, including financial, telecommunications, distribution and legal services.\(^{52}\)

Thus, foreign companies, especially on telecommunication services, according to China’s commitment in the WTO, could be permitted to operate in China by establishing joint venture value-added telecommunication enterprises, without any quantitative restrictions and its foreign investment in China shall be less than 50 per cent.\(^{53}\) Through this commitment, foreign companies in several sectors could operate in China even though its amount of investment is limited. The Chinese government in stating the limitation of investment for foreign companies was known to prioritize the local companies to have more investment in the country.

Hence, the intention to modernize by the Chinese government by its efforts and commitments has made China take further step in entering the globalization era through the development of the Internet.

II.1.2. Freedom of Speech Definition by Chinese Government

Freedom of speech as the part of human rights has been guaranteed in China’s Constitution. As stated in Chapter II of the fundamental rights and duties of citizens, Article 35 offers Chinese citizens to enjoy the freedom of speech, press, assembly, association, procession, and demonstration. This freedom and privacy of citizens was mentioned in Article 40 to be protected by law and there may not be any organization or individual on any circumstance to infringe upon the freedom and privacy of citizens’ correspondence, except on cases where

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public security needs to investigate on criminal offences in terms of state security in the correspondence. Thus, this situation is permitted for public security apparatus to censor correspondence in accordance with procedures prescribed by law. Through these articles, it was clearly stated on how the Chinese government permits its citizens in enjoying the freedom of speech and it is the right protected by the law.

However, on the other hand, still include the Constitution, specifically in Article 51, Chinese citizens may not infringe upon the state’s interests, the society, the lawful freedoms and rights of other citizens in expressing their freedoms and rights. Therefore, in Article 52 stated that it is an obligation for Chinese citizens to defend the unification of the country and the harmony of all nationalities. Moreover, Article 53 of the Constitution stated that citizens must abide the Constitution and the law to keep the state secrets, protect public property and observe labor discipline and public order, and respect the social morality. Thus, these articles stated in the China’s Constitution has given an image of uncertain guarantee on freedom and rights for citizens to have. Freedom was guaranteed and permitted by the government as stated in the previous articles, however on other articles there are some restrictions on freedom under the reason of state’s security (see appendix 1).

The scope of freedom of expression itself was not clearly described, which the Internet as a borderless service could be seen as a threat that could danger the value of freedom of expression itself, where through the Internet, people could express and receive violent information like terrorism, racism, xenophobia, gaining political advantage, that distorts people’s thoughts.

Furthermore, to the content of Internet as a media in expressing freedom of speech and information, the Chinese government had fully understood the Internet irreplaceable role in accelerating the country’s development and technological advancement, in order to build, utilize and administer the Internet well. Since it concerns the state’s economic

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55 Ibid.
prosperity and development, state security and social harmony, and state sovereignty and dignity, the Chinese government then formulated a basic policy regarding the Internet through its active use, scientific development, law-based administration and warrants security.

The policy of controlling the Internet was undertaken to create a healthy and harmonious Internet environment and build a more reliable, useful and conducive Internet to the development of social and economy.\textsuperscript{57}

II.1.3. The Development of the Internet in China

Started with the decision in implementing the open-door policy, the Internet entered China in September 1987, when China sent out its first email to Germany on the 20\textsuperscript{th} September with the content: “\textit{Across the Great Wall we can reach every corner in the world}”.\textsuperscript{58}

By this acknowledgement of advance technology through the Internet, in this section, the researcher will deliver the development of Internet in China. Xu Wu, in his dissertation, had summarized the development of Internet in China into three developing stages. These three typical developing stages could be identified based on the different environment regarding the policy, landmark events, and the implementation of leaders.\textsuperscript{59}

Stage I: April 1994 – November 1997

When the Internet had entered China in the 1980s, the development of Chinese online environment started on April 20, 1994, by the help of a local education and science project in Beijing. Thus, China since then was formally recognized as an online country.\textsuperscript{60}


After China has been officially recognized with full function of Internet accessibility, in May 1994, the High Energy Physics Institute, CAS, set up China’s first web server and made the first set of web pages. At the same year, the National Research Center for Intelligent Computing Systems opened the first Bulletin Board System (BBS) in the Chinese mainland, named Dawn BBS. A year later, in January 1995, the Directorate General of Telecommunications began to provide the Internet accessing services, where from this on, the Internet was officially opened for public in China.⁶¹

In November 1997, the first survey of Internet development was released by the CNNIC and resulted that there were 620,000 online users in China by August 31, 1997. Within the period of the development, the Chinese authorities then noticed the opportunities brought by the Internet and made the government put more attention on the protection of state’s secret than the sensitive political issues.⁶²

Stage II: November 1997 – September 2000

During the second stage of Internet development, Xu Wu mentioned the key developments within this stage, which include the establishment of the Ministry of Information Industry (hereinafter MII) in March 1998, who had the responsibility of the nation’s economy and social life in the digitalization scope. Continued on the 16th October 1999 when the Central Administrative Office of the CCP announced the first directive of online media in order to manage the online media in the future.⁶³

On May 9, 2000, the Ministry of Publicity and the Foreign Publicity Office of the CCP issued the joint strategic guidelines on the China’s online media development within year 2000 to 2002. There are ten official media websites include the People’s Daily and Xinhua. Through out the time, these commercial web sites massively published unauthorized reprinting of news items, which caused protests and

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⁶³ Ibid. p.96-97
lobbying effort among those traditional news media. Furthermore, according to 7th national survey report produced by the CNNIC, within the end of December 2000, 22.5 million China’s online user was reported.

**Stage III: September 2000 – present**

The CCP on the end of September 2000 has been prepared technically and politically in re-establishing the order of online media. The key developments of this stage were, China joined the WTO as the 143rd member on November 1, 2001. By this membership, the Chinese government promised to gradually open its Internet and telecommunication market to foreign investment. Then, in August 2002, China blocked the world’s largest search engine, Google regarding preventing “harmful materials”, which Google’s presence at the time was still outside China.

Moreover, on October 10th 2003, the 3rd China’s Online Media Forum was held in Beijing under the theme on responsibility of online medias to obtain the online news report license. In this forum, there are over 1,500 traditional medias that has launched its own websites. Therefore, since September 2000, the Chinese government had formulated numerous serious of online media regulations to be passed and followed by the executive departments and governmental apparatus at all levels.

By these regulations, the government had clarified the online media’s character and validity, it also had drawn the red line of politically online news contents and confirmed disciplinary measures for those who violates, and to control, the government has assigned different roles for the apparatus according to their background and specialties that has been stated in the regulations. The CNNIC then by January 2005 released the report on Chinese Internet users had reach the number of 94 million.

Not only the Internet users, China’s Internet development was also shown in the increasing number of Broad Band Internet users, computer hosts, CN Domain names, WWW Websites, IPv4 addresses in the 5 top provinces in China. These users are mostly coming from the high school educational background. The primary goal of accessing the Internet is to

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65 Ibid. p.100-101
66 Ibid. p.101-102
get information, while the other activity to spend time on the Internet is by playing online games or purchasing goods.67

II.2. China’s Internet Censorship Policy
II.2.1. China’s Cyber Security

Since the commercialization of Internet in 1995 had shown a great number of growths, otherwise, the Internet had posed a threat to China’s political leaders. Proved on how the CCP had a complicated position regarding the existence of the Internet, where on one hand it provides the state to develop its economic growth, prosperity and investment, while asides, these opportunities also gives a warning on the downfall of its leadership in regard to Internet’s limitless borders.

H.E. Xi Jinping, the President of the People’s Republic of China stated in the opening ceremony of the second world Internet conference68:

“China is going through a historic process of rapid application of information technologies. China attaches great importance to Internet development. Since China was connected to World Wide Web 21 years ago, we have, in keeping with the principles of proactive utilization, rational development, law-based regulation and assurance of security, strengthened IT infrastructure, developed cyber economy and made life better for our people through IT application. In the meantime, we have conducted governance of cyberspace in accordance with law, and ensured a clean environment in the cyberspace” (Jinping, 2015)

Thus, protecting Internet security is a prerequisite for the sound development and effective utilization of the Internet. By protecting the Internet security effectively through China’s Internet administration, the Chinese government believes that the Internet is an important infrastructure competence for the state. Hence, in Chinese territory, the Internet is under the authority of Chinese control.69

Therefore, In order to maintain social order, the term of cyber security was understood by China as the information systems and the content of information as integral and connected parts of information

security, while the West sees cyber security as the security of computer and information systems as physical and logical entities and information assurance or information security as referring to security of the content.\textsuperscript{70}

Even though the perspective of cyber security was different from the Western and has given large criticism, a non-authoritative Chinese observers argues that, the government management of the Internet mainly aims to monitor harmful information, turn down cyber crimes, maintain the cyber world in order as well to fill the network gap, efficiently lift information and bring more people to be convenient using the Internet.\textsuperscript{71}

Moreover, the definition of cyber security translated by China Law Translate in its cyber security law, was aimed by China to ensure the security of the Internet, protection of cyberspace sovereignty, national security and the public interest. Then, in order to protect the lawful rights and interests of citizens, state’s apparatus, individuals and organizations should promote the healthy development of economic and social information.\textsuperscript{72}

Therefore, the term of cyber security in Chinese perspective has given an example of a state in maintaining social order more important than individual privacy, which made Chinese government had to apply Internet censorship and surveillance as a state-control towards Internet information. However, the control was applied to ensure network security, that the Chinese government has known for information through the Internet to be uncontrolled and could cross borders, which could mostly possible, become a threat to the government and state.

\section*{II.2.2. The Agencies of China’s Cyber Security}

Therefore, the Internet censorship policy was invented in order to secure China’s cyber security. Then, the agencies that are responsible for


censorship in China stated by the Congressional-Executive Commission on China are:\(^\text{73}\):

- **General Administration of Press and Publication (GAPP)** is the government’s administrative agency responsible for drafting and enforcing China’s prior restraint regulations. It has the legal authority to screen, censor and ban any print, electronic or Internet publication in China.

- **State Administration of Radio, Film and Television (SARFT)** hold the responsibility of all electronic medias like the radio, television, satellite and Internet broadcasts regarding its content in China.

- **Ministry of Information Industry (MII)** has the duty to control the telecommunications and software industries in China according to the provisions. Moreover, MII also controls the license and registration affairs of all Internet information services that wanted to provide information to the Chinese public via the Internet.

- **State Council Information Office (SCIO)** has the role in encouraging Chinese media to promote and publicize China to the world, by introducing China's policies, standpoints, its development on the economy, and the richness of China's history and culture.

- **Central Propaganda Department (CPD)** has the primer responsibility to monitor content by ensuring China’s publishers, especially news publishers to not print anything that is contradictory with the CCP’s political doctrine. Therefore, the role of CPD was the counterpart of GAPP and SARFT in also monitoring the content but through license.

- **Ministry of Public Security (MPS)** is responsible for filtering and monitoring the Internet.

- **General Administration for Customs** is under instructions to remove any publication that is "harmful to the government."

• **State Secrecy Bureau** controls freedom of expression by exploiting China’s state secrets laws and designating practically all information that is related to China’s state secret and making Chinese citizens take responsibility in maintaining these secrets regarding the government, economy condition, diplomacy, technology and military issues.

• **China’s Judiciary** has the responsibility to imprisoning people who are guilty of nothing other than expressing opinions inconsistent with those of the Communist Party.

Furthermore, these agencies will be explained according to the promulgated regulations concerning the Internet regulations in China and will be explained in a specific section afterward.

### II.2.3. The Elaboration of China’s Internet Regulations

Since 1996 the Chinese government has proposed widespread legislation to govern and monitor all aspects of the Internet, and the laws are often quickly introduced, revised and reintroduced. However, these regulations are either often overlap or to be regularly updated by multiple government agencies. Thus, the legal concept of using the Internet in China is surprisingly complex, since China controls all aspect of the Internet, such as the ISPs, ICPs, Internet subscribers and individuals.

Hereby, in order to give the better explanation regarding China’s Internet regulations, a specific timeline on a brief overview of the regulations, according to the agencies and objectives are given below:

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76 For the complete version of the regulations, see Appendix 2
<table>
<thead>
<tr>
<th>No</th>
<th>Year</th>
<th>Regulation Name</th>
<th>Promulgated by</th>
<th>Objectives</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Feb 1996</td>
<td>Interim Provisions Governing Management of Computer Information Networks</td>
<td>State Council</td>
<td>Strengthening the control of computer information networks</td>
</tr>
<tr>
<td>2</td>
<td>Sep 1996</td>
<td>Measures on the Regulation of Public Computer Networks and the Internet</td>
<td>MII</td>
<td>Encourage expansion of international information exchange</td>
</tr>
<tr>
<td>3</td>
<td>Dec 1997</td>
<td>Computer Information Network and Internet Security, Protection and Management Regulations</td>
<td>MPS</td>
<td>The responsibility of the Ministry of Public Security</td>
</tr>
<tr>
<td>4</td>
<td>Jan 2000</td>
<td>State Secrecy Protection Regulations for Computer Information Systems on the Internet</td>
<td>State Secrecy Bureau</td>
<td>To strengthen the management of secrets in the computer systems on the Internet and to ensure the safety of state secrets</td>
</tr>
<tr>
<td>5</td>
<td>Mar 2000</td>
<td>Interim Procedures on Registration and Filling of Online Business Operations</td>
<td>State Council</td>
<td>To standardize the operation of Websites through registration</td>
</tr>
<tr>
<td>6</td>
<td>Sep 2000</td>
<td>Administrative Measures on Internet Information Services</td>
<td>State Council</td>
<td>To regulate Internet information services activity (IISs)</td>
</tr>
<tr>
<td>6</td>
<td>Jun 2002</td>
<td>Interim Administrative Provisions on Internet Publishing</td>
<td>GAPP and MII</td>
<td>To intensify the management of Internet publishing activities</td>
</tr>
<tr>
<td>7</td>
<td>Sep 2005</td>
<td>Provisions on the Administration of Internet News</td>
<td>State Council and MII</td>
<td>Regulating Internet news and information services</td>
</tr>
<tr>
<td>8</td>
<td>Feb 2006</td>
<td>Measures for Administration of E-mail service on Internet</td>
<td>MII</td>
<td>Regulating E-mail service on Internet, safeguarding the legitimate rights of the users of E-mail service on Internet</td>
</tr>
</tbody>
</table>

Table 2 - China Internet Regulation Development
• **Interim Provisions Governing Management of Computer Information Networks (February 1996)**

On February 1, 1996, the State Council promulgated the *Interim Provisions Governing Management of Computer Information Networks* (Interim Provisions) as the first strategic effort by the Party to control the Internet. Under article 13 of the Interim Provisions, in this regulation, network operators are required to follow the relevant laws and regulations in protecting the state’s secret and not to publish any illegal materials online. For those who violates these provisions will be disposed of warning, circulating a notice of criticism or ordering to stop net connection, and may be disposed in addition to a financial below 15 thousand Yuan by the public security department.\(^77\)

• **Measures on the Regulation of Public Computer Networks and the Internet (September 1996)**

Continued on September 4, 1996, the Ministry of Post and Telecommunications (MPT), the predecessor of the MII promulgated the Measures on the Regulation of Public Computer Networks and the Internet. Regarding this regulations, it encourages expansion of international information exchange by setting several qualifications (Article 4) for organizations wanted to serve as entry point units for China Public Computer Network (Chinanet).\(^78\)

• **Computer Information Network and Internet Security, Protection and Management Regulations (December 1997)**

The 1996 regulations then were revised and added to the Computer Information Network and Internet Security, Protection and Management Regulations by the State Council and promulgated by the Ministry of Public Security on December 30, 1997. This regulation stated in Article 3, added the responsibility for the computer management and supervision


organization of the Ministry of Public Security in protecting the public security of computer information networks and the Internet as well as protects the legal rights of Internet service providing units and individuals as well as the public interest.\textsuperscript{79}

Furthermore, the 1997 regulation was also the Chinese government initial steps to control how its citizens used the Internet. With its goal to strengthen the security of the country and provide protection of computer information networks and the Internet, and to preserve order and social stability, the Ministry of Public Security has the authority to punish individuals that violate these regulations, which have two key sections, through Article 4 and Article 5. Article 4 emphasized the prohibition for unit or individuals to use the Internet for harming national security include state secrets, the nation’s interests and other criminal activities, while Article 5 described 8 points of harm information that are forbidden for individuals or units to create.\textsuperscript{80}

Thus, in accordance with the 2 key sections of the regulations, for those who violated, the Ministry of Public Security gives a warning and a fine not to exceed 5000 RMB to individuals and 15,000 RMB to work unit. While for activities contravening public security management regulations are punishable in accordance with provisions of the public security management penalties articles.\textsuperscript{81}

- **State Secrecy Protection Regulations for Computer Information Systems on the Internet (January 2000)**

State Secrecy also became the concern of the Chinese government through the State Secrecy Protection Regulations for Computer Information Systems on the Internet promulgated by the State Secrecy Bureau on January 1, 2000. The regulations emphasized the access of computer information system that involved state secrets shall not be connected either directly or indirectly with the Internet or other public information networks and must be physically separated. Moreover, in


\textsuperscript{80} Ibid. Art 4-5

\textsuperscript{81} Ibid. Art 20
Article 11, the regulation mentioned that users should not deliver, forward or copy information concerning state secrets via email.\(^8^2\)

- **Interim Procedures on Registration and Filing of Online Business Operations (March 2000)**

  On March 2, 2000, the Interim Procedures on Registration and Filing of Online Business Operations was promulgated by the State Council in the recognition of online businesses, which required them to register and submit information in order to fulfill the information checks requested by the government. Moreover, in this regulation, the owner of a business Web site shall provide personnel for information checks to prevent and eliminate, in a timely manner, all kinds of unlawful information or information that harm social morals and efforts to build a socialist civilization with a high cultural and ideological level.\(^8^3\)

- **Administrative Measures on Internet Information Services (September 2000)**

  Then, in September 25, 2000, the CCP regulate The Measures for Managing Internet Information Services (2000 Measures), which made several changes in the way the Internet was governed. In the 2000 Measures, ISPs had to fulfill the government’s request on recording the dates and times of subscribers’ activity in the Internet, by its account number, address, visited websites and telephone number that was used to access the Internet. The ISPs must keep a record of this information for sixty days and provide it to the authorities upon request. The measures regulated in Article 15 for Internet ISPs to not produce, reproduce, distribute or disseminate information that include 9 harmful contents considered by the Chinese government.\(^8^4\)

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• **Interim Administrative Provisions on Internet Publishing (June 2002)**

Furthermore, in 2001, the government began drafting the Provisional Regulations on the Administration of Internet Publications, named the Interim Administrative Provisions on Internet Publishing and was promulgated on June 2002. These regulations are objectively restricting Web sites with a political orientation, which the key provisions are: any units or organizations that are willing to have Internet publishing activities in China must first obtain official approval by following the laws and regulations. A non-licensed organization may not operate in publishing activities in China. Following the license, in this provision, Article 17, Internet publications are prohibited to post 10 categories of harmful contents that are in accordance with the regulations before in the 2000 Measures. Moreover, as stated in Article 21, for Internet publishers to have their own editorial system or adopting self-censorship with the duty to ensure contents that will be published is in accordance with China’s law.\(^{85}\)

• **Provisions on the Administration of Internet News (September 2005)**

Continuing the development of Internet regulations, on September 25, 2005, the State Council and the MII promulgated the Provisions on the Administration of Internet News and Information Services regulations. This provision, within Article 19, specifies 11 categories of news information that may never be posted online, which include the original nine categories of content information that were forbidden by the 2000 Measures and two additional categories.\(^{86}\)

Since the categories of prohibited contents to not be published in the Internet increase according to the formulated regulations, in Appendix 3 (see Appendix 3), will show the development of prohibited contents to be produced on the Internet. These contents seem to be completed and specified in order and in stating the categories, the language used is also similar.


• **Measures for Administration of E-mail Service on Internet**

On February 20, 2006 in the Decree no.38, the Ministry of Information Industry promulgated Measures for Administration of E-mail Service on Internet. These provisions protect the citizens’ privacy in using Internet e-mail services to communicate unless the public security organ makes an inspection of the contents while communicating for the needs of national safety or finding out criminal offense according to the procedures prescribed by law\(^{87}\).

Through some formal measures mentioned above, content control in China occurs through informal measures too. For instance, the Internet Society in China (ISC), pressures content and access providers to agree to a “Public Pledge of Self-Regulation and Professional Ethics.” The objectives of this pledge are to establish a self-regulating mechanism for China’s Internet Industry, improve the conduct of Internet Industry Participants and promote and ensure the sound development of the Internet Industry consistent with the law\(^{88}\). Within this pledge, companies like Yahoo agreed to the pledge in 2002 and filters content available to users at its Chinese-language portal\(^{89}\). Thus, it showed on how Internet regulations in China made Internet companies practice a high degree of self-censorship in order to prevent the risk of being shut down.

Hence, with the numerous regulations made by the CCP to maintain the content on the Internet and given punishment for those who violates by paying fines, several warnings, removal of the contents and finally the shut down of the website. Therefore, the blocking of particular websites or the imposition of monetary fines does not have a great impact on citizens’ Internet usage habits, which as the law is enforced. It was because, the enforcement is designed to cause every user and every business in the country to believe that if an Internet law is violated, the violation will be caught and the punishment will be served. Then, this causes individuals, ISPs and ICPs to self-censor, in order to help the


government to block as much offensive content on the Internet. Therefore, in censoring the contents violated by the government, the CCP complements the legal regulations with technological measures that are used both to enforce the legal regulations placed upon individuals.

II.2.4. The Great Firewall of China

“The Great Firewall of China” is a nickname widely known by the international community since its first appearance as the title in Wired magazine. It is the Chinese government’s system that both restrict access in China to certain websites and other online contents. It also uses the Internet to monitor the online activities of its citizens. China’s Internet censorship in filtering was known to be the most sophisticated and effective in the world. The reason was because the government had involved with numerous state agencies and public private personnel. However, the filtering system in China was also dynamic and always changing all over the time, which made it really complex and difficult to render.

In 1998, when the Internet quickly gaining popularity, the CCP feared the newly formed China Democracy Party (CDP) would use the web as a tool to gather support in a way the party elites might not be able to control. Thus, the CDP was immediately banned and its leaders were arrested and imprisoned. Through the legal Internet regulations, the CCP continues to refine Internet surveillance mechanisms to monitor users’ activities.

The techniques in implementing “The Great Firewall” was divided into several measures by the Open Net Initiative (hereinafter ONI) research on China’s Internet Censorship.

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Controlling the ISPs and the Resulting Self-Censorship

The Chinese government had released several regulations regarding the control of Internet, which made private entities often to implement self-censorship. In doing self-censorship, the private units using the filtering technology by catching the sensitive words to be reviewed first before it is posted. Another method of self-censorship was by deleting sensitive posts or comments through individuals employed by the government. The consequence of a blog or a specific forum to be too sensitive is the deletion or blocking of the ISPs, which, for foreign companies like Microsoft reported in the New York Times to got international attention because it deleted the site of a Beijing blogger from its MSN Spaces service.94

Blocking and Filtering Systems

The Chinese government has been consistently blocking the entire domain of websites that are difficult to control, such as international news sources like BBC Chinese, internal blogger service providers like Facebook and Blogger and websites that often post negative comments regarding China’s human rights and social justice just like the website of Amnesty International and Human Rights Watch. Thus, the availability of a website does not means that all the contents on that site will always be available, since the specific sensitive terms prohibited by the government always change over time.

The mechanics of China’s filtering was identified into two techniques:

1) IP Address Blocking

In blocking the harmful content, the regime must block its URL and its IP address. So, when a user is attempting to access a ‘blacklisted’ website like www.tibet.com, the filtering regime will identify the URL and its IP address as it is allowed or not. Since Tibet was considered as the

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category of state’s secrets, then it is not allowed and the feedback for user in accessing the blocked website will be shown by the image of the site to be inaccessible.

2) URL, Domain-Level Filtering

ONI indicates China’s technique in filtering was used to generally block on a domain basis, which means it prevents access to the whole domain rather than personal webpages and URLs. However, there are some particular cases on URLs were blocked but the domain is accessible, for instance, the URL www.standford.edu/group/falun was filtered but its domain on www.standford.edu was not.

○ Access Control

The Chinese Internet users access the Internet as reported by CNNIC is through three major networks: personal computers, mobile phones and Internet cafes. The main access of Chinese users is the Internet cafes. For Internet cafes, the government controls its access by requiring owners to register at a designated local governmental agency to gain license. Aside from the requirement to register, Internet cafes are required to record every user’s identity and online activities. The technical of report is by keeping the records of Internet users for the minimum sixty days and to provide the records to police upon request. Lastly, all cafes are required to install monitoring software approved by the police, in order to filter certain “sensitive” information while accessing the Internet.

○ Criminal and Administrative Punishment

With the regulations and technical measures in controlling Internet content, several punishments has been practiced for posting illegal contents online. In 2008 alone, Reporters Without

Borders has reported Chinese government action in imprisoning 49 individuals on the reason of online activities.\(^{96}\)

Individuals also could be punished for sending private e-mail that contains “sensitive” words, like the case of Shi Tao in 2005, when he sent an e-mail regarding “state secret” to a New York website editor using his Yahoo account. Yahoo at this point drew international attention by agreeing to provide information by linking Shi Tao’s email to his IP address from his computer that resulted Shi Tao to be sentenced of 10 years prison.\(^{97}\)

- **Internet Police**

  Internet police were introduced by the city of Shenzen in January 2006 by the appearance of two cartoon characters on all websites and Internet forums in Shenzen. The function of these cartoons is to link the users to information about Internet regulations and Internet crime cases, it also connects users to Internet police through an Instant Messaging service, in order to provide answers to users’ questions about Internet security. Nevertheless, reported by China Digital Times, these cartoons according to the officials of Shenzen Public Security said that their function is not really to answer questions, but in fact to intimidate the users to not write or access prohibited contents.\(^{98}\)

Through the “Great Firewall of China”, the government blocked several search results, but there was no official statement on which keywords are harmful to ICPs to provide. Therefore, ONI made a research on keywords tested with filtering practices. The result represented keywords that are inaccessible for Chinese users to access when they try to search these terms. Hereby, the following keywords tested by ONI toward Chinese networks:


<table>
<thead>
<tr>
<th>No</th>
<th>Search Terms</th>
<th>Keywords Inaccessible in China</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Falun Gong Sites</td>
<td>Falun Gong</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Falun</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Falun Dafa</td>
</tr>
<tr>
<td>2</td>
<td>General Political Content</td>
<td>Democracy</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Freedom of Speech</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Human Rights</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Nine Commentaries</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Jiang Zemin</td>
</tr>
<tr>
<td>3</td>
<td>Opposition Political Parties</td>
<td>Chinese Labor Party</td>
</tr>
<tr>
<td></td>
<td></td>
<td>China Democracy Party</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Party for Freedom and Democracy in China</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Inner Mongolian Peoples Party</td>
</tr>
<tr>
<td>4</td>
<td>Tiananmen Square</td>
<td>Tiananmen Square</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tiananmen Massacre</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Six Four</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tiananmen Event</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Zhao Ziyang</td>
</tr>
<tr>
<td>5</td>
<td>Independence Movement</td>
<td>Taiwan</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Taiwanese Independence</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tibet</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tibetan Independence</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dalai Lama</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Xinjiang Independence</td>
</tr>
<tr>
<td>6</td>
<td>Sex</td>
<td>Sex</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Pornography</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Nude</td>
</tr>
<tr>
<td>7</td>
<td>Homosexuality</td>
<td>Homosexual</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Lesbian</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Gay</td>
</tr>
</tbody>
</table>

Table 3 - Inaccessible Keywords in China
(Source: Open Net Initiative with adjustment by the researcher)

These keywords as resulted by ONI’s research were not definite, it could be added to the inaccessible keywords by Chinese government anytime. However, the results showed specific keywords related to the prohibited contents stated in Article 15 of the Administrative Measures on Internet Information Services for ISPs to be followed.
Summary

The Internet censorship policy has become the big agenda of the Chinese government in having cyber security through the Internet. Starting from the political history of China through its leaders and reformation they bring to China, until China could finally be a promising actor in the International scope, with its membership in the International Organization of WTO. Moreover, the entrance of the Internet in China brings the government to commit on the advance of the Internet to be controlled with the reason of state security. Therefore, several Internet regulations were made in order to control the ‘uncontrolled’ information, along with its agencies and technics. However, it was never assuredly known for content providers or Internet information providers on prohibited contents listed by the government in order to precisely prevent these keywords to be provided, which means the regulations and specific contents are still vague. Thus, China’s Internet censorship was well known as “The Great Firewall of China” and became the concern of international actors, especially the United States, regarding its mission on promoting Internet freedom.
CHAPTER III
THE U.S. – CHINA RELATIONS: A BACKGROUND
OF GOOGLE IN CHINA

III.1. The History of U.S. – China Relations

The founding of the PRC in October 1945 by the CCP leader, Mao Zedong, the U.S. – Sino relations have advanced from tense confrontations to a complex mix of the increase on diplomacy, the growth of international competition, and the increase of linked economy. However, China and the U.S. had a long period of breakup during the Korean War.99

According to the resource in the Ministry of Foreign Affairs of the People's Republic in China official website, in 1972 President Richard Nixon reestablished relations with the PRC by fulfilling the invitation of Premier Zhou Enlai, with the result of Shanghai Communiqué, that stated, “the normalization of the bilateral relations between China and the United States is consistent with the interest of all nations.” The U.S. – Sino Joint Communiqué is the first document signed by China and the United States to guide their bilateral relations. Its publication signaled the ending of the separation between the two nations and the beginning of relationship normalization. Continued in May 1973, China and the United States opened liaison offices in each other’s capital. Furthermore, the two countries officially established diplomatic relations at the ambassadorial level on January 1st, 1979.100

Nevertheless, the U.S. – China relation has been in hiatus in the era of Deng Xiaoping, when China implemented its open-door policy. Even though Deng decided to make China closer to the West by opening its market, the political liberalization inside must still be under control. This then resulted the historical event in 1989 of the Tiananmen Square Massacre, when the government sends in military troops to clear the square by killing the protesters consist of thousand students that demands

the government to reform democracy and to end corruption inside the state.\textsuperscript{101}

With the act of Chinese government for this incident, then made the U.S. imposed economic sanctions on China. Even though the incident of Tiananmen Square has disrupted the U.S. – China relations, on the next few years, the relations between these states gradually improve. Proven by the visit of Chinese President, Jiang Zemin to the U.S. in 1997 and likewise, the visit of President Bill Clinton to China in the following year to discuss about Taiwan.\textsuperscript{102}

To emphasize the bilateral relations of U.S. and China, it happened on the 10\textsuperscript{th} and 15\textsuperscript{th} of November, 1999. At the time, as written in the Bilateral Agreement on China’s Entry into the WTO Between China and the U.S., in the China’s MOFA website, the delegates of China and the U.S. government held a conversation regarding China’s accession to the WTO in Beijing.\textsuperscript{103}

Moreover, on October 2000, this discussion continued to the result on the signature of the U.S. – China Act of 2000 by in granting Beijing permanent normal trade relations with the U.S by President Clinton. Additionally, in September 2001, China was finally granted to become the member of WTO after some agreements on following a number of trade standards. Then, within 2006, China has become the second largest trading partner with the U.S. after Canada and increased to surpass Japan on September 2008 to become the largest holder of U.S debt, which in 2010, China definitely has became the world’s largest economy after the U.S.\textsuperscript{104}

Thus, from the up and down history of U.S. – China relations, it comes to a point on the influencing factors regarding this relationship, which are coming from the economic, strategic, diplomatic and cultural


Even though U.S. and China had different cultural background, it was basically the economic factor as the main factor in taking advantage this two countries’ relationship. Moreover, since many U.S. based MNCs have invested in China, any cause of instability in the U.S. – Sino economic relations may shake the global trading system regarding the countries’ decision.

III.1.1. U.S. – China Economic Relations

1) Trade Relations

U.S. – China trade relations had risen rapidly after the two nations reestablished its diplomatic relations in 1979 with the total of the U.S. – China trade was $2 billion and China was ranked as the United States’ 23rd largest export market and its 45th largest source of imports. China ascends its rank to be the third largest U.S. exports market in 2010 after Canada and Mexico. Since the ten years behind, China has always been increasing its growth in the market, especially in the U.S. export – import activities. Therefore, the importance of the Chinese market for the U.S. is expected to grow significantly in the years ahead.106

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According to the graphic shown, since 2000, U.S. export to China had increased from $16.4 billion to $93.1 billion in 2010. On the other hand, U.S. had import $100.2 billion of goods in 2000 from China and increased to the amount of $366.1 billion in 2010. As a result, U.S. had imported more from China, which is important for these countries to have its economic relation established.

**U.S. Exports of Goods to China**

Source: Bureau of Economic Analysis, U.S. Department of Commerce

**U.S. Imports of Goods from China**

Source: Bureau of Economic Analysis, U.S. Department of Commerce
China as one of the world’s fastest growing economies and healthy economic growth is projected to continue in the years ahead, it was basically in accordance with China’s goals of modernizing its foundation, upgrading its productions, enhancing the services sector and improving rural living standards that could generate substantial demand for foreign goods and services. Therefore, U.S and China had exchange several products in its export – import transactions, in order to fulfill the needs of its people and states (Table 4).

<table>
<thead>
<tr>
<th>No</th>
<th>Top U.S. Exports to China</th>
<th>No</th>
<th>Top U.S. Imports from China</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Aircraft, Spacecraft</td>
<td>1</td>
<td>Electronic Equipment</td>
</tr>
<tr>
<td>2</td>
<td>Electronic equipment</td>
<td>2</td>
<td>Machinery</td>
</tr>
<tr>
<td>3</td>
<td>Machinery</td>
<td>3</td>
<td>Toys, Games and Sport Equipment</td>
</tr>
<tr>
<td>4</td>
<td>Oil Seeds</td>
<td>4</td>
<td>Furniture, Bedding, Lamps</td>
</tr>
<tr>
<td>5</td>
<td>Vehicles</td>
<td>5</td>
<td>Footwear and Related Materials</td>
</tr>
<tr>
<td>6</td>
<td>Medical, technical equipment</td>
<td>6</td>
<td>Knit or crochet clothing</td>
</tr>
<tr>
<td>7</td>
<td>Plastics and Related Materials</td>
<td>7</td>
<td>Clothing (Not Knit)</td>
</tr>
<tr>
<td>8</td>
<td>Wood Pulp, Paper</td>
<td>8</td>
<td>Plastics and Related Materials</td>
</tr>
<tr>
<td>9</td>
<td>Organic chemicals</td>
<td>9</td>
<td>Vehicles</td>
</tr>
<tr>
<td>10</td>
<td>Cereals</td>
<td>10</td>
<td>Medical, technical equipment</td>
</tr>
</tbody>
</table>

Table 4 - U.S. - China Export and Import Goods
Source: Bureau of Economic Analysis, U.S. Department of Commerce

2) Foreign Direct Investment

Besides the trade transactions on the U.S. – China bilateral relations, the level of Foreign Direct Investment (hereinafter FDI) should also be concerned, even though the flows of it are relatively small than the volume of trade transaction between the two countries. The Rhodium Group provided the data of Chinese FDI to the U.S. within the year of 2000 – 2010. For China to invest in the U.S. industries is relatively small but had shown a number of growth, by the increase from $68 million in 2000 to $4.57 billion in 2010. On the other hand, the U.S. FDI in all Chinese industries showed a high demand, even since the 90s. However, the number of investment growth will be known from 2000 to 2010, where in 2000, U.S. had $4.71 billion of total investment and it keeps on

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increasing until the peak in 2008 with $20.96 billion. Nevertheless, the investment then dropped in 2009 and left with $12.84 billion in 2010.\textsuperscript{108}

Therefore, since China is one of the world’s top recipients of FDI, the Chinese government enforces numerous limitations on the level and type of the FDI allowed in China. The Chinese government then had maintained the “Catalogue for the Guidance of Foreign Investment Industries”, a guideline for foreign investment consisted of categories of FDI that are encouraged by the government to invest (i.e. Scientific research, water, education, public health, etc.), then the catalogue of restricted investment (i.e. banking and insurance industries, real estate, leasing and commercial service, etc.) and the kind of investment that are prohibited (i.e. news agencies, gambling industry, eroticism, etc.).\textsuperscript{109}

Therefore, in order to expand bilateral investment opportunities between the countries, the U.S. and Chinese government have resulted the Bilateral Investment Treaty \textit{(hereinafter BIT)} through negotiations. BIT itself was hoped to give American companies better access to the Chinese market and equal rights as Chinese firms. By this treaty, the U.S. companies was guaranteed in able to expand more in the world’s second largest economy, China.\textsuperscript{110}

Additionally, aside for its companies, the intention of Washington to establish its relations with China was the strategy in seeking Beijing’s cooperation in stabilizing the global economy and ruling the global growth. The U.S. looks China, a permanent companion in the United Nations Security Council (UNSC) as a key to help U.S. in blocking the nuclear desires of Iran and North Korea. The other reason was caused by the global financial crisis U.S. had in 2008 – 2009, which made the U.S. government encouraged its firms to operate in China. Moreover, the other reason in having this relation was seen by the U.S. to be an opportunity for the U.S. in promoting human rights.\textsuperscript{111}


However, the U.S.’ intention cannot be easily achieved reminding the reality on China’s different political system and culture from the U.S., which is often misunderstood and still lack of trust. For instance, the people of the U.S. are often uncomfortable with the concept of China’s political system that seems to be authoritarian and given an image of brutal suppression, which was also the same for Chinese people to see the U.S. in attempting to destabilize China by entering its Western value like democracy to impose the CCP power.

III.1.2. China Joining the WTO

The accession of China in the WTO was also a point on U.S. – China bilateral relations. Beforehand, the current China was not the same as in 1978, at that time, China had no foreign investment and only had a very little trade. Starting the mid-1990s foreign invested enterprises began to gain serious market share in China, Coca-Cola and Pepsi were the first foreign enterprises in China and had take over the entire soft drink market. Then, in the following years, other foreign companies and MNCs started to open its branch in China, such as Microsoft. However, China in having these investments was argued on relying too much on foreign investments while it should concern more on the domestic affairs. On the other hand, China was actually supported to have more investment, which was seen to still be little.¹¹²

Then, China in joining the WTO was an open door for foreign companies to have its market in China, it was started when Zhu Rongji had a discussion on China to join the WTO with the U.S. government in Washington. After several discussions, finally on April 10th, 1999 the two countries issued the Joint Statement on China’s accession to the WTO as the support from the U.S. in China’s admission to the WTO.¹¹³

Regarding its entrance to WTO, it has boosted China’s economic growth and advanced its legal and governmental reforms. It also improved the foreign companies’ confidence in having its business in the Chinese market. As a result, the government has initiated a campaign to clarify and


unify governmental regulations to meet the WTO rules. There were more than 2,300 regulations were abolished or revised by 30 departments under the State Council within first half of 2002.\textsuperscript{114}

By joining the WTO, China has agreed to undertake a series of important commitments to open and liberalize its regime in order to better integrate in the world economy and offer a more predictable environment for trade and foreign investment in accordance with WTO rules, especially the commitment to provide non-discriminatory treatment to all WTO members, which has been the concern for other countries in China’s attitude towards foreign business. By committing with the WTO rules, China promised to give equal treatments to enterprises and respect the right to trade.\textsuperscript{115}

These commitments pledged by China in joining the WTO also made China received the permanent Most Favored Nation (MFN) status from the United States, which means China can receive such benefits on tariffs to be the lowest, trade barriers to be fewest and import quotas to increase from the U.S. and had to give the same treatment to other countries (World Trade Organization). Moreover, China can resort to the WTO dispute settlement mechanism in order to secure its interests on trade issues and also to participate in multilateral negotiations on trade rules and future trade liberalization.\textsuperscript{116}

Thus, the fact of China to join the WTO was based on U.S. support in order to support China in having more foreign investment, which was a win-win solution for both China and the U.S. For China itself, its WTO accession will benefit Chinese consumers in competing with foreign companies and gain more economic efficiency such as the lower tariffs that can affect the price of goods in China, while in the forum of WTO China can be legally resort to the WTO dispute settlement mechanism in protecting its trade interests and other activities inside the international organization.


\textsuperscript{116} China Daily. (2002). \textit{WTO Entry Boosts China's Economy}
III.2. U.S. Promoting Internet Freedom

III.2.1. Definition of Internet Freedom

Internet freedom based on the Center for A New American Security (CNAS) is the belief that global rights, involving the freedom of expression, assembly and association to be extended into the digital scope. However, policymakers, such as leaders of the country had various definition of Internet freedom itself. Thus, it is useful to differentiate the two similar but distinct concepts on freedom of the Internet and freedom via the Internet.¹¹⁷

Freedom of the Internet indicates to the ability of engage in unfettered expression in cyberspace. The vision of Internet freedom was mentioned by a scholar Evgey Morozov in his book, The Net Delusion, he represents freedom from something such as, censorship, government surveillance, distributed denial of service (DDoS) attacks and so on.¹¹⁸ Yet, the principles undergirding freedom of the Internet are articulated in documents such as the Universal Declaration of Human Rights (UDHR) in Article 19:

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers” (United Nations, 1948)

On the other hand, freedom via the Internet is a more appealing and complicated idea. Its advocates suggest that more online freedom can lead to more offline freedom, which means the free flow of ideas spread in the Internet are potentially promotes democratization. Morozov (2011) also mentioned freedom via the Internet is a strong form of Internet freedom in concerning with advancing the causes of positive liberty. This definition by Morozov has given an image of how the Internet driven the action of protesters, democratic activists and average citizens in using the Internet through Facebook, Twitter and other applications to communicate and organize agendas, to change the government and was proved by the protests happened in Tunisia and Egypt.

Thus, the general definition of Internet freedom has given an understanding on how expressing human rights digitally and was guaranteed in the principle of UDHR. Therefore, the meaning of Internet freedom also posses threats at the term of free flow in promotes democratization. Therefore, the U.S. government had a significant reason to promote Internet freedom as its mission to promote democracy.

III.2.2. U.S. Background in Promoting Internet Freedom

Most country needs the Internet for economic growth and technology development, while others are used to restrict the Internet in order to keep the supreme power on social, political and economic. For the United States, the Internet has its own position in the country’s policy and Internet freedom policy was established to preserve and expand the Internet to be as open in the universal space for people to freely express their selves, establish connections and interactions, and for business affairs across the whole range of human interests and activities without no borders and limitless.\(^\text{119}\)

The goals and priorities of Internet freedom by the U.S. are to (1) Enlarge the group of likeminded states, (2) Rise the political cost for suppression online, (3) Assist the participation of civil society and private sector representatives in regulating the Internet-related policy, in the scope and level of national and international.\(^\text{120}\) Brett Solomon, the Executive Director in the panel discussion of Internet Freedom: Promoting Human Rights in the Digital Age stated that:\(^\text{121}\)

“Our movement spread across the world belays that the international community must adopt some standards, some principles, some coherent positions on Internet freedom to protect individuals, to prevent a restriction of our rights. These standards will reflect the timeless wisdom of those who framed the Universal Declaration of Human Rights.” (Solomon, 2011)


Therefore, promoting freedom via the Internet has became the interest of the U.S.’ government regard the same fundamental belief of it in the value of democracy and human rights. Moreover, the U.S. government continues to support democracy, even though it has to face lots of unavoidable inconsistencies and difficult barriers. The effort in promoting Internet freedom then has been started since the Bush administration in 2006 with the National Security Strategy in supporting democratic institutions abroad through transformational diplomacy.  

Moreover, the U.S. government continues to support democracy, even though it has to face lots of unavoidable inconsistencies and difficult barriers. The effort in promoting Internet freedom then has been started since the Bush administration in 2006 with the National Security Strategy in supporting democratic institutions abroad through transformational diplomacy.  

In fact, promoting Internet freedom is not as easy as it seems, the U.S. government certainly has to make adjustments with other state’s national security and economic interests, in regard that not all countries had the same perspective of Internet freedom like the U.S. Therefore, since each country had different perspectives, the approach in promoting Internet freedom then has to be precise. For example, countries like China in repressing the Internet information and freedom to access information to its people through legal regulations and the censorship system, which if the U.S. wanted to strengthen its controls over China in delivering its mission, would probably affect U.S. technological companies to shut down its service. Thus, the appropriate approach and strategy is needed to countries like China in order to deliver the freedom of Internet.

III.2.3. U.S. Government Activities Promoting Internet Freedom

The U.S. government started to pursue an Internet freedom agenda during the second term of the George W. Bush administration. It started by analyzing the Internet freedom issues in 2005 and mainly focuses on the private sector, like the case of Yahoo on the case of affiliating with the Chinese government to give email records of a journalist, which made him got 10-year prison sentence. At the same year, Congressman Chris Smith, R-N.J., introduced the first version of this Global Internet Freedom Act (GIFA) that would prohibit exporting certain hardware and software to repressive regimes. Continuing in 2006, the Secretary of State Condoleezza Rice established the Global Internet Freedom Task Force.

(GIFT) in order to harmonize the Department of State’s effort in promoting Internet freedom and combatting Internet censorship.\textsuperscript{124}

In 2009, the Global Online Freedom Act of 2009 (GOFA), introduced by Representative Christopher Smith, through this bill, it directs the Secretary of State to annually define countries that restricted the Internet and prohibits U.S. companies to sell any Internet search engine, communications services or hosting services from locating in such repressive countries and should take actions in combating censorship and protect private information.\textsuperscript{125} However, this bill did not pass the Congress since both the House and Senate must pass it in an identical form and then to be signed by the President in order to become law.\textsuperscript{126}

Furthermore, on January 21\textsuperscript{st}, 2010, the Secretary of State Hillary Rodham Clinton during the Obama administration, had a speech stated that Internet freedom has become the main part of U.S. foreign policy. She stated that Internet freedom is more than a question of information freedom. It is about the type of the world we want to live, where the access to information and opportunity is depending on the place you live and the impulses of censors.\textsuperscript{127}

By Secretary Clinton’s remarks, the United States is placed on the side of a single Internet where everyone has equal access to knowledge and ideas. She mentioned blogs, e-mail, social networks and text messages as a tool in opening up a new virtual town square where citizens can go to criticize their governments and exchange ideas, where the regimes in repressing Internet freedom, like Internet censorship should be combat actively.

Therefore, the efforts on promoting Internet censorship was not only the responsibility of the State Department or Congress, other parties like media agencies and private sectors to work together in achieving the goal of promoting Internet freedom as the U.S. foreign policy.

1) Department of State

According to Hillary Clinton (2010), the State Department works to “protect and defend a free and open Internet” as an element of its policy supporting universal rights of freedom of expression and the free flow information through the Internet. The following keys below are the supports given by the State Department to advance Internet freedom as an objective of U.S. foreign policy:

- Through GIFT which is now known as the State Department’s NetFreedom Task Force by developing new tools and providing training needed to help individuals avoid politically motivated censorship;
- Create the issue of Internet freedom in the United Nations and the UN Human Rights Council to invite the world’s opinion on this issue and seek support on the efforts of Internet freedom;
- Pairing with the new industry, academia and NGOs in establishing a settled effort to advance the power of connected technologies;
- Appreciate and granted the ideas and applications that helps the government to low the obstacles of communication, conquer illiteracy and link people to servers and the information that they need;
- Cooperating with U.S. media companies to take an active action in challenging foreign governments’ on its demand to censor and doing surveillance towards its citizens;
- Motivate the private sector like Global Network Initiative (GNI) for its voluntary work that brings together technology companies, NGOs, scholars and social investment funds to develop and formulate possible responses and mechanisms toward governments that required censorship inside the country.

a) The NetFreedom Task Force

The NetFreedom Task Force (formerly known as the GIFT) is the Department of State’s policy coordinator for Internet freedom. The Under Secretaries of the State for
Democracy and Global Affairs and for Economic, Business and Agricultural Affairs are responsible to co-chair this body. It refers from the State Department’s multidisciplinary skills in the regional and functional bureaus in order to be able on working to such issues like global communications, the specific concerns of a country and other related issues. The NetFreedom Task Force helped the effort of Internet freedom by:  

- Supervising the quality of Internet freedom practice of a country around the world and disclose it to its annual report of countries in practicing human rights;
- Actively answer in the bilateral and international forum on Internet freedom issues as the way to support it; and
- Increasing the access of the Internet by supporting greater technic and finance in order to increase the accessibility of Internet around the world.

b) Freedom Online Coalition

The Freedom Online Coalition (hereinafter FOC) is the assembly of governments that committed to struggle together in supporting the effort of Internet freedom and protect the essential aspect of human rights like the freedom of expression, association, assembly and privacy through the Internet globally. There are 30 governments that had join in advancing the protection and promotion of Internet freedoms locally and international.

In supporting Internet freedom, the FOC had formed working groups that focus on different aspects of Internet freedom. These working groups consist of multi stakeholders, surrounding Coalition members, delegations of civil society, academic and technical experts and private sector agents, which had the task to explore more specific

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important policy issues in facing online freedom and to report the work of the Coalition to its members.  

2) Broadcasting Board of Governors (BBG)

The Broadcasting Boards of Governors (hereinafter BBG) is a networked global media agency. Voice of America, Radio Free Europe/Radio Liberty, Office of Cuba Broadcasting, Radio Free Asia and Middle East Broadcasting Networks are the five media organization include in the BBG to be paired and support each other in the mission to inform, engage and connect people around the world to support freedom and democracy, which were the U.S. national interests. The repressive governments on finding new ways to block content and targeting activists made the BBG’s Internet Anti-Censorship (IAC) Division to provide various tools to avoid filtering and promoting Internet freedom to citizens in the country that censors the Internet access.

In supporting Internet freedom, Radio Free Asia (RFA) Open Technology Fund (OTF) was the way BBG provides Internet freedom funding. The OTF itself was based on the United States Congress recognition on FA and the BBG as the suitable tool to empower the global citizens to support the Internet to be safe and secure platform for people to express. Therefore, the OTF was created in 2012 as the program of RFA to be supported annually by grants from the BBG, coming from yearly U.S. Congressional fund for State, Foreign Operations and other related programs. The OTF itself uses the available funds in order to support Internet freedom projects for citizens to have free access to modern communication channels and let them to correspond safely from any repressive censorship or surveillance from the government.

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With the activities and roles in combating Internet censorship by the U.S. government, as the national interest of the U.S. government in supporting democracy promotion abroad, it gives the fact on how the State Department had routinely disburses millions of dollars in funding for democracy-building programs around the world which are aimed explicitly at expanding free expression. Thus, the help of industry and private sectors in having its business in the foreign market is needed to support U.S. national interest in its foreign policy of Internet freedom.

III.3. Google’s Presence in China

As the U.S. based company, Google had an important role in encouraging governments that restrict the Internet information to be certain, visible and coherent to the requests, laws and regulations regarding freedom of expression online. Therefore, Google should proactively engage with governments to reach a shared understanding of how government restrictions can be applied in a manner consistent with the Principles. Therefore, Google’s presence in China is a case that needs to consider regarding the efforts of a private sector, especially an ICT company in supporting the U.S. foreign policy of Internet freedom to a country like China regarding its Internet censorship policy.

III.3.1. Google Company Profile

Google.com, the most popular search engine in the world was born in 1998 founded by two students of Stanford University, Larry Page and Sergey Brin. Google’s start was notable in the history, it was designed to crawl and index the Web efficiently and produce much more satisfying search results than existing systems. It used an algorithm as the technology to find possible Web pages with search criteria provided by the user. PageRank is an algorithm used by Google Search to rank websites in their search engine results, it works by counting the number and quality of links to a page to determine a rough estimate of how important the website is. The basic assumption of the rank is that more
important websites are tending to receive more links from other websites.\textsuperscript{132}

Google has handled more than 70 percent of the global online search requests and had made a place for most Internet users’ search experience. Even though its headquarter is in Mountain View, California, Google today has more than 70 offices in more than 40 countries around the globe.\textsuperscript{133} As the company grew, so did its range of products and services, Google does not only offer search engine service, but it also provides a mapping service (Google Maps), a translator (Google Translate), an e-mail account (Gmail), and a blog-hosting service (Blogger), among many other services. In total, Google now has over 33 products and features available in order to fulfill users’ requests, such as in business, media search, specialized search, home and office work, even users social interest.\textsuperscript{134}

In October 2006, Google announces the acquisition of video site Youtube, continued in 2007 the launch of Android, the first open platform for mobile devices. Thus, it is continually growing and expanding and has a solid position as the world’s number 1 search engine in the world, which also became the best company to work for in 2007 by Fortune Magazine.\textsuperscript{135}

However, from all these developments, its founders wrote Google as a non-conventional company, but it always strived to do more and to do important and meaningful things with the resources it has. Therefore, Larry Page decided to create a new company named Alphabet as the CEO and Sergey Brin as his co-founder to be the President. Alphabet itself is a collection of companies, with its largest company, Google. It then made Alphabet Inc. replaced Google Inc. as the publicly traded unit and made all the shares of Google will be automatically converted into the same number of shares of Alphabet, with all of the same rights, while Google becomes the wholly owned subsidiary of Alphabet. The founders, Page

and Brin, chose the name of Alphabet because it means a collection of letters that symbolize language as one of the most important innovations in the human’s life and Alphabet is the core of Google search index.  

With its mission to organize the world’s information and make it accessible and useful worldwide, Google tries to deliver the message under its code of conduct, “Don’t be evil”, which means Google committed to provide its users with unbiased access to information, concentrating on the needs and offer them the best products and services. However, Google also considers the law by acting honorably and treating each other with respect.

Hence, the development of Google and its functions was basically referring to its commitment on freedom of expression by providing unlimited access to information without boundaries on the Internet to the users all over the world, which was in accordance with the policy of U.S in promoting Internet Freedom abroad.

III.3.2. Google’s Background Entering the Chinese Market

China’s growth of population and activities on the Internet was the reason of Google in opening its market in China. Elliot Schrage, the Vice President of Global Communications and Public Affairs of Google Inc., stated that the Internet is transforming China and accelerate China into positive trends, even though it is in an imperfect environment.

Moreover, he also stated the fact on the amount of 105 million Internet users in China and followed by other facts on:

a. Almost half of Chinese citizens have access to Internet connections, proved since 2003 on the increase of 41%

b. The distribution of the Internet in China is at a very early stage, it only reaches around 8% of the population

c. The Internet users in China are approximately under 24 years old

d. China was predicted to have more than 250 million Internet users in 2010

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And the other fact that 350 million mobile phones have spread in China with the number of growth 57 million yearly

Besides the facts above, Google’s intention in entering China was also supported by the finding documents by the Chinese Academy of Social Science (CASS) about the views of Chinese Internet users: 139

- Chinese Internet users majorly believe that the Internet brings changes to the politics in China. They agreed to the increase of political transparency and increase discussion with the amount of 63% citizens believe that they will learn more about politics online, while 54% believe the Internet provides more chances in criticizing the government and 45% of the citizens believe the Internet to be the platform for expressing political views
- The major of Chinese citizens believe that pornography, violence and other prohibited contents on the Internet should be controlled. Only 7.6% of the citizens believe that political content on the Internet should be controlled.
- Chinese Internet users in a 10:1 margin believe that the Internet will make the world a better place

Thus, by the facts known from its research and reports, it gives Google the result on how the Chinese Internet users are influenced by the political impact of a particular government in restricting the Internet and at this point Google had a prediction of the stronger political impact will happen along with the popular of Internet in China. Hence, it was the background of Google to enter the Chinese market.

III.3.3. Google’s Objectives Entering China

The Chinese Internet censorship policy, which was known, as the “Great Firewall of China” is an obstacle yet a challenge for ICT companies to open its market there, in regard to its growth and the big population of Internet users. Therefore, Andrew McLaughlin, a senior policy counsel of Google, posted on Google’s official blog on the problem

of Google’s access in China, he reported that Google since 2000 has been offering a Chinese-language version of Google.com, in order to make Google as easy and applicable for Chinese Internet users worldwide.\textsuperscript{140}

Even though Google’s server was still in California, Google found out that the users in China have been in struggle with a service that is often unavailable and unreachable around 10% of the time. The cause of the slowness and unresponsive was known caused by the widespread filtering performed by China’s licensed ISPs. Moreover, comparing to the local competitors, Google webpage was seven times slower than for Baidu, the local competitor of Google in China.\textsuperscript{141}

Then, in 2002, Google was reported to be irregularly unavailable to Chinese users. Thus, if Google continued to operate its server outside China, all traffic to and from Google must cross at least one of China’s international gateway ISPs and the possible solution suggested is by creating a local presence inside China. Schrage stated that a local presence would only be the solution for Google to take regarding the latent and access issues. Therefore, Google has to acquire ISP license, go through the set of regulatory requirements on filtering and removing links of contents that are illegal in China.\textsuperscript{142}

After all, Google finally faced the reality to establish a local presence in China by launching Google.cn in January 2006.\textsuperscript{143} To the matter of business, Schrage mentioned that Google wants to be active in China because of its ethical core value and the integral of its business culture in making the world’s information accessible and useful to Chinese Internet users. By establishing a local presence, Google believes it will allow them to resolve mostly the latent and access issues, while on the other hand it also have to obey the requirement to filter and remove links to content that is considered illegal in China.\textsuperscript{144}

Another objectives for China to have its presence in China was because of Chinese government act in monitoring and have surveillance to users personal data through the Internet, Google wanted to ensure Chinese

\textsuperscript{141} Ibid.
\textsuperscript{144} Schrage, E. (2006, February 15). Testimony: The Internet in China
Internet users that Google will protect the privacy and security of users’ information by not hosting Gmail, Blogger and a range of other such services in China.\textsuperscript{145}

Lastly, as a company in the business sector, Google sees any opportunity as a competition in the marketplace. Google wanted to be active in China, aside from its huge, rapidly growing and enormously important market, Google acknowledges its key competitor is already there, Baidu.\textsuperscript{146} Hence, Google cannot deny the fact of its business with stockholders that wanted to prosper and grown in a highly competitive world.

### III.3.4. Google’s Commitment in China

Afterward, Google with its objectives in entering the Chinese market and the mission to make the world’s information accessible to everyone, anytime worldwide, have to express its fundamental commitments as mentioned by Schrage (2006):

- Its business commitment to satisfy its users in fulfilling their interest and the decision to have local presence is to build Google’s existence in China in competing with other competitors.
- The belief of policy on expanding access of information to anyone, in order to create the world to be a better, more informed and freer place
- Being reactive towards the local conditions

However, with these commitments, some governments, especially like China, impose restrictions that make Google’s mission difficult to achieve, therefore, in such a unique situation, the last point of Google’s fundamental commitment was added regard to its presence in China. Then, with the framework based on its commitment in mind, Google decided to try a different path of a very pragmatic calculation that would provide more access to more information to more Chinese citizens through its new service, Google.cn.


\textsuperscript{146} Ibid.
Summary
The description of U.S. – China relations has given an understanding and red line on how Chinese government in restricting the Internet access through its Internet censorship policy made U.S. government established the idea of promoting Internet freedom as its foreign policy to be supported by every sector in the country, especially ICT companies in providing services through the Internet. Therefore, it is the background on how finally Google decided to enter China in order to contribute U.S. efforts in promoting Internet freedom. Hence, Google as a company in seeking a great opportunity of internet users in China, after several type of research and founding, finally decided to have its local presence in China at 2006 by releasing Google.cn, along with its commitments to abide the state’s regulations and adapt to the local condition.
CHAPTER IV

ANALYSIS OF GOOGLE VERSUS CHINA

In this chapter, the researcher will show the reader an analysis regarding the effects of China’s Internet censorship policy towards Google as a U.S. based company in having its business there. As it has been explained in the previous chapters, this chapter will give readers the connection between the chapters into the case of Google Versus China, which has affected Google’s services, values on freedom of speech, its business operation until the decision of Google leaving China. Furthermore, the analysis will specifically view the perspective of both countries United States and China regarding Google’s withdrawal from China.

IV.1. The Effects of China’s Internet Censorship Policy to Google

IV.1.1. Google’s Requirements Entering China

The decision of Google entering China is a difficult yet promising regarding the population of Internet users in China. Its mission in making the world’s information accessible and useful to Chinese users had to face the reality on the country’s culture and government’s regulations. For Chinese government, the Internet poses a threat to state's secret while on the other hand it was also an opportunity to the growth of economy in China. Then, cyber security was possessed by Chinese government as they see the information systems and the content of information as integral and connected parts of information security, which was different from the Western perspective. The form of cyber security itself was in concept of the Internet to be controlled through real-time censorship, which was known as the Great Firewall of China.

Thus, Wei Z. (2010) stated that it was known for foreign companies doing business in a country have an unspoken duty to the host and its people by following its code of conduct, responsibilities and compliance to procedures, rules and regulations, not least the laws of the country. China then is not an unreasonable to expect its laws to be followed, which foreign companies no matter how big they are, it still
needs to ask permission and not impose its own views.\textsuperscript{147} Google at this point, have to fulfill the requirements of doing business in China by implementing self-censorship in order to provide license from the Chinese government.

Before implementing self-censorship, Google had to establish a joint venture company, Beijing Guxiang Information Technology Co Ltd, that brought Google in line with China’s Internet regulations, which states from foreign companies can only acquire a license by partnering up with a Chinese company as stated in China’s Commitment in the WTO.\textsuperscript{148}

After doing some research, along with its objective in implementing its mission to make the world’s information accessible and useful to the Internet users, Google finally launched Google.cn, the China-based service of search engine on January 2006. With this step, Google agreed to restrict users from retrieving forbidden contents by removing the search results that the government find unacceptable, such as Tiananmen Square, freedom, Falun Gong and contents that harm state security.

These contents are specified in Article 15 of the 2000 Measures as contents that are “against the government, harm state sovereignty, damage the interests of the state, incites ethnic hostility, damage State religious policies, disturbs the social order, disseminates pornography, gambling, violence, homicide and terror, insult others and content prohibited by laws”.\textsuperscript{149} Then, as mentioned in chapter 2, the development of China’s Internet regulations was often quickly introduced, revised and reintroduced, which was overlap and extraordinary complex. Thus, the main point of the regulations is to secure the protection of computer information networks in order to preserve the social order and social stability by implementing Internet censorship.

Hence, by implementing the regulation on removing forbidden contents, Google finally got the license to operate in Chinese market. Even though it has to obey the unique conditions of Chinese environment cyber security in Internet censorship, the objective as a company in the


business sector cannot deny the opportunity in the marketplace, coming from the amount of 105 million Internet users in China, the perspective of Chinese users on the usage of Internet and to compete with the local competitor.

Therefore, the “Great Firewall of China” does not stop Google to have its local presence in China, Schrage (2006) explained in the official blog regarding its commitment to be responsive to local conditions that made Google had to develop some elements that distinguish their service in China, involving: 150

1) The launch of Google.cn as the Chinese version of Google’s search engine that will filter its content in being responsive to the Chinese laws and regulation on prohibited contents. Google.cn in China will supplement and not replace the existence of Google.com, the unfiltered Chinese-language interface that will remain open and unfiltered for Chinese-speaking users around the world.

2) On filtering, Google will provide users a clear notification on links that are filtered or have been removed from the search results. Thus, it was viewed by Google to be a great respond toward transparency that no company has done before.

3) Regarding the unique conditions in China, Google will limit its services, where Google.cn only offers search services, local business information and map service. Other services like Gmail and Blogger that contain personal and confidential information will be limited in China until Google feels comfortable to provide it, under the reason of users’ information privacy and security.

These services were only implemented in the Chinese market, the decision to be responsive on the local conditions, showed how the government control could effect company’s decision in choosing the best approach to keep its presence in the marketplace. However, this was the decision of Google as the U.S. based company in encouraging governments that restrict the Internet information to be certain, visible and coherent to the requests, laws and regulations regarding freedom of

expression online. Hence, this decision was hoped by Google as a step to expand on a bigger scale into China.

IV.1.2. Google Expansion Into China

China is a big market for Google, since its entry into the Chinese-language service in 2000, U.S. search giant Google Inc. has struggled to balance its growth ambitions in the vast but restrictive new market while adhering to a self-held principle: “Don’t be evil.” The expansion of Google into China in 2000 was still outside China, without any operations or employees inside China, Google was able to provide a Chinese-language version of Google.com and could easily be reached by users in China. Thus, Google’s expansion into China will be explained in a specific timeline.

On September 4, 2002, the Chinese government blocks access to Google for the first time. Although there is no official announcement, Internet users in the country reported that they are unable to access the company’s main search page for two weeks. Therefore, Google decided to embark on a one-year analysis of the Internet in China by consulting both governmental and nongovernmental organizations, business partners and Chinese experts. It then resulted China to enter the Chinese market.151

On May 2005, Google gets the license to open a small office in China, a modest step but one that significantly adds to its expansion to China and by July 2005, Google hired former Microsoft Corp. executive Kai-Fu Lee to lead Google China.152

On 27th January 2006, Google finally launches its China search service, Google.cn and agrees to censor its own results to comply with Beijing’s restrictions.153 However, on February 15, 2006 Google is criticized at a Congressional hearing for giving in to pressure from China to censor web content. Yahoo, Microsoft and Cisco are also named.154

Moreover, on March 2008, Chinese authorities temporarily shut down YouTube after the video site is flooded with images of China’s crackdown in Tibet that year. In August, China declines to allow YouTube to show Olympic broadcasts, instead steering viewers to the Website of state-controlled CCTV.\textsuperscript{155}

Thus, on March 2009, YouTube service in China was completely blocked by Chinese authorities, which decline to disclose specific reasons. It was noticed by the company from the sharp decrease of traffic in China, which had dropped to nearly zero.

\begin{figure}[h]
\centering
\includegraphics[width=0.8\textwidth]{Figure6.png}
\caption{Google YouTube Traffic}
\textit{(Source: Google Transparency Report)}
\end{figure}

Furthermore, on June 2009, Chinese officials launch an anti-pornography campaign and order Google to stop showing some results from foreign websites on its Chinese page. On June 19, 2009, Chinese authorities disable some search functions on Google.cn, under the reason that it links to pornographic and offensive content. Not only the search functions, Gmail is also inaccessible for more than an hour. It was reported by China Internet Illegal Information Reporting Center, a government-supported Internet watchdog group that criticized Google for its erotic content and threatened punishment by the government. It said Google had already been warned twice, in January and April regarding its

Therefore, the traffic of Google sites was decreased regarding the disabling functions of it by Chinese authorities.

For the first time, the China Tech News (2009) reported that Google China’s share of the Internet search market rises above 30% in July 2009. However, it is still second to Baidu, which retains around 60% of the home market. The rise of share was known as the impact of Google’s strategy in focusing on mobile search and mobile Internet, which was recognized as an important entrance for e-commerce. However, on 4 September 2009, the Wall Street Journal reported that Google was left by Kai-Fu Lee’s resignation to start working on his own venture. Then, Lee will be succeeded by two Google executives as the company said.

The peak of Google’s expansion into China happened in 2010, when Google announces it has been the victim of a “highly sophisticated and targeted” cyber attack originating in China, designed to access the e-mail accounts of Chinese human rights activists. Additionally, Google says it is “no longer willing to continue censoring” its results on Google.cn, which also acknowledges the means of ending its business in China.

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China.\textsuperscript{159} Thus, as talks between Google and China fail to progress, Li Yizhong (2010) Minister of Industry and Information Technology, says the company would have to bear the consequences of being “unfriendly” and “irresponsible”. After two months of talks between the two parties, the Chinese authorities let it be known that Google.cn is likely to close\textsuperscript{160}. Finally, Google shifts its operations from Mainland China to Hong Kong, where the country’s censorship rules do not apply.

The expansion of Google in China had faced several problems which mostly coming from the Chinese government in blocking and disabling some contents that was considered providing pornographic and offensive content. This was the consequence of violating the provisions stated in the Interim Provisions Governing Management of Computer Information Networks, which will be disposed of warning, circulating a notice criticism or ordering to stop net connection. Thus, by the blocking and disable functions, it made Google in disadvantage of traffic in the country, caused by the inaccessible of the website such as showed by the graphic above.

Moreover, even though Google had faced several problems regarding its expansion in China, it was still acceptable for Google and made Google did greater efforts to clean up its Chinese website, in order to deal with the pornographic content and material that is harmful to children. Nevertheless, the tension arise when Google found its server was attacked by a highly sophisticated and targeted cyber attack originating in China, that made Google decided to stop its self-censorship in China. Therefore, by this case, Google had to move from China and received negative response from the Chinese government in accusing Google to be irresponsible in having its presence in Chinese marketplace.


IV.1.3. Google’s Challenges in China

IV.1.3.1. Cyber Security Issue

Cyber security issue has been the concern of this case regarding the behavior of Chinese government in implementing it. Starting from the understanding of cyber security itself, which was different from the Google in bringing the value of the West. As the Western sees cyber security as the security of computer and information systems as physical and logical entities, and information assurance or information security as referring to security of the content, China on the other hand viewed both the information systems and the content of information as integral and connected parts of information security. Then, the reason on China promulgated several Internet regulations to be obeyed by users and companies are to secure the information security, which was considered by Chinese government harmful.

Even though, the Internet has brought great changes to Chinese society, the expanded access has increased political openness and transparency, promoted economic growth, improved production efficiency and capacity, and changed traditional way of thinking, Internet censorship as the form of China’s cyber security has been with the Chinese communist style of governance that holds social stability paramount by monitoring and have surveillance to users personal data through the Internet.

Furthermore, the case of Chinese government blocked YouTube reported by Google without any disclosure reason was known by the report from Xinhua news agency that supporters of the Dalai Lama had fabricated a video that appeared to show Chinese police officers brutally beating Tibetans after riots last year in Lhasa, the Tibetan capital. Thus, YouTube was blocked because the Chinese government routinely filters Internet content and block material that is critical of its policies, not to leave behind the individual videos on YouTube. However, the Chinese government did not directly address whether YouTube had been blocked,
besides, the Foreign Ministry spokesman, Qin Gang said the impression of people towards China in fearing the Internet was not true.\(^{162}\)

The understanding of cyber security was actually the main point on this issue, looking from the perspective of each actor. While Google sees restricted access as a barrier towards its operations, on the other hand, the restrictions as the management of the government was actually in order to monitor harmful information and to promote the healthy development of economic and social information. Therefore, the action of Chinese government in blocking YouTube was analyzed to be the method in protecting the state’s security by filtering the content that was considered harmful by Chinese government, which resulted blocking its service, even though it did not given any clear description or warning before.

**IV.1.3.2. Freedom of Speech Issue**

Google’s decision in compromising with the self-censor regulation of China brought many criticisms, especially coming from the U.S. government. On 15 February 2006, the Committee on International Relations in the House of Representatives (2006) held a hearing to discuss China’s Internet policy and the role of American technology companies in China. Some U.S. based companies include Google, Microsoft, Cisco and Yahoo was present, as well as numerous human rights activists and State Department officials. This hearing was held after a month Google had its presence in China by agreeing to censor its search results, which was the concern of this hearing about how American Internet companies were complying with Chinese censorship regulations and operating for the sake of market share and profits.\(^{163}\)

The hearing produced mostly negative criticism towards Google for entering China. The U.S. government’s view was that Google entered China by placing more value on making profits than protecting citizens’

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right to the freedom of speech.164 Moreover, the United States government has viewed censorship as a trade barrier between China and its trading partners, which the Office of the United States Representative (USTR) added Chinese Internet censorship to its list of current trade barriers.165

On the other hand, as the government of China sees uncontrolled information provided on the Internet as a threat to the regime, whereas the whole concept of the Internet is built around controlling information through real-time censorship and monitored the perusal of content or receipt of information, Google at this point makes its business to be the company that warrants the users’ faith and trust.166 Therefore, the Chinese government had promulgated the Measures for Administration of E-mail Service on Internet, which aimed to protect the citizens’ privacy in using Internet e-mail services to communicate. Hence, the public security organ is able to make an inspection on the contents while communicating for the needs of national safety finding out criminal offence, which was able to ask ISPs to give user’s personal account regarding national security.167

Then, this is a question for Google on how to deal with government’s request while on the other hand it has the objective in warranting the users’ faith and trust. The condition on dealing with the government’s request of user’s account was experience by Yahoo in the case of Shi Tao on 2005 by cooperating with the Chinese government in providing information linking the e-mail to the IP address of Shi’s computer that made him sentenced to ten years of prison for his action in sending an e-mail consisting of “state secret” to a New York website editor using his Yahoo account.168 Thus, the cyber attacks towards Google showed its inability to protect its user’s privacy, that could impact its commercial reputation since many Chinese users sees Gmail as safe.

Freedom of speech issue was considered as the effect of Internet censorship towards Google’s operation in China. By agreeing to censor the search result in order to gain license, Google had to face the criticism coming from U.S. government in accusing Google to enter China by placing more value on making profits than protecting citizens’ right to freedom of speech, which was always be the concern and interest of the U.S. government. However, it was actually usual for Google to have the intention on business, since the company was trying to find opportunities in expanding its market, alongside to spread the values of Internet freedom by its presence in China.

IV.1.3.3. Business Issue

Google’s case in China was also considered from the business issue. Reviewing its objective in competing with the local competitor in China, Baidu has overtaken Google as the leader in the search engine market in China. As the local company in offering search engine service, Baidu was created in 2000 by providing a range of services, such as a Q&A forum, its own Wikipedia and instant messaging, which was in Chinese and basically to fulfill Chinese citizens needs in the Internet.169

Even though Google’s market share climbed from 15% in mid-2006 to 31%, Google not only wanted to have a competitive product to Baidu, but a superior product. However, the presence of Baidu as the local product gives a stronger effect on its market share, which was going from 47% in mid-2006 to 64%. The reason on Baidu was more preferable for Chinese users instead of Google were basically of the approach on the market itself as Baidu started by a China-born entrepreneur Robin Lee in late 1999, he understands the local Chinese market better than Google’s Mountain View team.170

For years, Baidu really was better able to parse sentences in Chinese. Baidu has Baidu MP3 that helps users to download music for free. In its IPO prospectus, Baidu said its music service accounted for about 40 percent of its traffic. Therefore, even this service is known for


Google at this point had to put up a strategy in competing with Baidu, by launching Google Music in 2009, it offered Chinese consumers free, licensed digital downloads which Google hoped consumers would prefer high-quality legal versions of their favorite songs instead of the poor-quality pirated copies. Google hoped the service would give it a boost in its competition with China’s search giant Baidu, which record companies, had accused of making pirated music easy to find. However, since Google decided to not continue operating in China, Google then decided to shut down China music service in 2012. In the company blog, Google cited the disappointing performance of the service.\footnote{Tejada, C. (2012). \textit{Google to Shut Down China Music Service}. Retrieved January 9, 2017, from The Wall Street Journal: http://www.wsj.com/articles/SB10000872396390444620104578009941960495424}

Thus, there are some key differences between Baidu and Google, which made Google’s business operation, had to face barriers in China:

- Baidu as a local company in China was actually fully compliant with the local laws and censorship as directed by the state government. It was the same condition as Google in complying with the local laws in the U.S. Thus, for Google in complying with the local laws and censorship in China had to face the reality between its values on free access to information with censorship. Thus, justifying its services became the possible solution for Google in being responsive to the local conditions to operate in China.

- Again, as the local company, Baidu had better understanding on local Chinese language and culture. Since Chinese language is complex and had multiple meanings, Baidu had the advantage in optimizing its search technology to be more compatible with the local users. By optimizing the technology on its algorithms, Baidu tends to receive more traffic by its relevance to the context searched by Internet uses. As for Google, facing Baidu in this aspect needs more struggles.
• Since Google had to joint venture with the local company as the requirement in having local presence in China, stated in the WTO commitments and could only have no more than 50 percent of foreign investment. Thus, it made Baidu had opportunity to have more investment in China, than Google.

• For Baidu, fulfilling the needs of Internet users in China is the key to attract users in accessing Baidu, then Baidu had several products like Baidu MP3 in providing free music to users, even it was considered as piracy. Then, this strategy made Google had to do the same approach on offering services needed by Chinese Internet users, such as Google Music in competing with the piracy product of Baidu MP3. However, this service was no longer available in China, which made Baidu became the single player there.

Therefore, Google in having its business operation in China with its objective to compete with the local competitor, Baidu, it had to face the fact on the wrong approaches in having business in China, such as the cultural differences of users compared from the West to the East. Baidu as a local company definitely understands more its users in China such as Google understands users in the U.S., therefore, it was genuine for Baidu to have more interest for Chinese users. On the other hand, the role of Chinese government in blocking and disabling some Google functions also become an advantage for Baidu in having its presence as the leading search engine in China.

IV.1.4. Google’s Decision Making Toward the Challenges

By several issues in effecting Google’s company objectives to operate in China, even though Google had fulfill the requirements on applying self-censorship and adjusting its services in order to respond local conditions, even competing in offering new service to compete with the local competitor, Baidu, Google announced a new approach to China after discovering the attack on Google, on January 12, 2010. David Drummond, the SVP, Corporate Development and Chief Legal Officer of Google stated in Google’s official blog on varying degrees of cyber attacks Google received. Then Google had detected a highly sophisticated
and targeted attack towards its corporate infrastructure coming from China.

He described the attack was not only towards Google but also twenty other large companies. Moreover, the attack was founded by evidence of its primary goal to access the Gmail accounts of Chinese human rights activists. As the part of the investigation, it was discovered that the accounts of dozens of U.S., China and Europe-based Gmail users who are advocates of human rights in China appear to have been routinely accessed by third parties.\(^{173}\)

Therefore, with the case of cyber attack from China, Google then decided to reconsider its approach to China, by unwillingly to continue censoring its search result on Google.cn. However, this decision still need to be discussed with the Chinese government on either it could operate an unfiltered search engine within the law. Thus, by taking this step, Google realized it has to face the bitter result on stopping its operation in China, by shutting down Google.cn and its offices in China.

Three weeks after Google’s announcement, the company admits it has made no changes to its Chinese search engine and that discussions with Beijing remain positive. In March 10, 2010, Eric Schmidt, the chief executive of Google said the company will soon reach a conclusion to negotiations with the Chinese government regarding the fate of its Chinese business.

Then, on March 15, Google appears increasingly likely to shutter its Chinese-language search engine. It was the result of Google and Chinese authorities talks which increasingly appear deadlocked, and Google’s hopes for being able to operate Google.cn without filtering results, disappeared. As for the Chinese official, the Minister of Industry and Information Technology, Li Yizhong (2010) said in response of Google’s plan to stop filtering results as “irresponsible” and warned that the company would “have to bear the consequences” if it violates China’s rules.\(^{174}\)

Hence, on March 22, 2010, in its official blog, David Drummond (2010) posted another post under the title “A new approach to China: an


update”. This post revealed the final decision of Google, which was been questioned over the two past months since its announcement on 12 January 2010. He concludes that Google could no longer continue censoring its results on Google.cn. On the day of the announcement, when users visit Google.cn, they will be redirect to the uncensored search website at the Hong Kong server on Google.com.hk.

Google’s new approach to provide Chinese users information access through its uncensored search website of Google.com.hk is the possible and sensible solution regarding the challenges Google had to face. It was entirely legal and will increase the access to information for people in China. However, Google did not exit China completely, its R&D work in China is still in China to maintain Google’s sales there.175

By shifting its site and operation from Mainland China to Hong Kong, Google.cn now redirects visitors to google.com.hk – where they are greeted by a message reading: “Welcome to Google search in China’s new home.” The reason on Google moved to Hong Kong was because since China reclaimed Hong Kong from the British in 1997, it has allowed the tiny territory to set its own rules. Moreover, from the 1985 Sino-British Joint Declaration, it has created the Hong Kong Special Administrative Region and stated in Article 3, Paragraph 5 on Hong Kong current social and economic systems that will remain unchanged, which the rights freedoms, in the term of person, speech and press will be ensured by law.176

The term “ensured by law” was basically stated in Hong Kong Bill of Rights in providing freedom of speech and press as the government generally respects these rights in practice. The ordinance is to provide for the incorporation into the law of Hong Kong of provisions of the International Covenant on Civil and Political Rights (ICCPR) as applied

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to Hong Kong. It was specifically stated in Paragraph 2 Article 16 on freedom of opinion and expression, where:\textsuperscript{177}

“Everyone shall have the right to freedom of opinion and expression; the right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.” (Hong Kong Bill of Rights Ordinance, Cap.383. Art 16)

The article stated in the Hong Kong Bill of Rights was also in accordance with Article 19 of the ICCPR by the UNHR.\textsuperscript{178} By the article given in Hong Kong Bill of Rights and ICCPR, it showed how Hong Kong is assured to implement freedom of opinion and expression, which also means to carry with it special duties and responsibilities. However, the responsibilities were not too many compared to China’s regulations on restricting harmful contents.

Since then, local journalists have observed occasional threats to press freedom, especially relating to criticisms of China’s State Council, but the kind of strict censorship that exists in China remains unknown in Hong Kong. Thus, Google’s move from China to Hong Kong was a strong step in favor of freedom of expression and information, since it decided to offer uncensored search engine to Chinese users, which in Hong Kong, the Chinese government censorship does not apply.

\textbf{IV.2. U.S. – China Relations Post Google’s Withdrawal}

\textbf{IV.2.1. The High Tension Between States}

\textbf{IV.2.1.1. U.S. Reaction on Google’s Case in China}

\textbf{a. Trade Issue}

After Google announced to not censor its search result and withdrew from China to Hong Kong, the U.S. government react to Chinese Internet censorship as a trade barrier, which could affect the trade relation between these states. Therefore, the U.S.

\textsuperscript{178} International Covenant on Civil and Political Rights. (2011). \textit{Article 19: Freedoms of Opinion and Expression}.

It was believed by the U.S. that the best Internet policy is to encourage the free flow of information globally and the United States’ WTO request relates specifically to the commercial and trade impact of the Internet disruptions. Accordingly, the request was U.S. in asking China to provide details that will allow a fuller understanding of the legal and policy rules relevant to the accessibility of commercial websites in China.

At this point, the U.S. requests for information was under the foundation of paragraph 1 and 4 of Article III of the GATS:\footnote{World Trade Organization. (n.d.). General Agreement on Trade in Services. Retrieved January 20, 2017, from https://www.wto.org/english/docs_e/legal_e/26-gats.pdf}

\begin{enumerate}
\item Each Member shall publish promptly and, except in emergency situations, at the latest by the time of their entry into force, all relevant measures of general application which pertain to or affect the operation of this Agreement. International agreements pertaining to or affecting trade in services to which a Member is a signatory shall also be published.
\item Each Member shall respond promptly to all requests by any other Member for specific information on any of its measures of general application or international agreements within the meaning of paragraph…”
\end{enumerate}

Therefore, based on these articles, 25 questions are requested by the United States to the Chinese government.\footnote{See Appendix 4} Therefore, using the WTO to approach China on its Internet censorship policy allows the U.S. government to gain credibility through a multilateral rules-based organization.

Thus, as stated in paragraph 1 Article III of the GATS to require countries to publish all relevant measures of general application, China could violate this commitment since China does not currently publish the guidelines that it uses to block foreign
websites, nor does it publish the list of blocked foreign websites.\textsuperscript{182} Moreover, as of April 2012, China did not formally responded to the questions, which means the USTR’s request on providing details of Chinese website blocking policies cannot proceed to a dispute case.

Moreover, the initiation of a WTO dispute settlement on China’s Internet censorship could not proceed since the U.S. government have to support many claims under the WTO, which many of Chinese laws, regulations, policies and practices regarding Internet services are not written down although they are enforced \textit{de facto}.\textsuperscript{183}

The U.S. government in taking WTO as the path in accusing China to disclose its legal and policy rules regarding the accessibility of commercial websites in China is a legitimate action in utilizing the case to a multilateral rules-based institution, since China has committed in the WTO. Therefore, this path was taken to consider the trade relations to be more open for United States and China, especially through the Internet. However, the Google VS China was not only concerned by the U.S. government in the scope of trade and economy, but also the concern on Internet freedom and spreading freedom to countries like China.

\textbf{b. Internet Freedom Issue}

As Internet has its position in the country’s policy, Internet freedom policy was established to preserve and expand the Internet as an open, global space for freedom of expression, for organizing and interaction, and for commerce, across the whole range of human interests and endeavors.\textsuperscript{184} Therefore, Google’s

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withdrawal from China took the concern of Hillary Rodham Clinton, Secretary of State, in her remarks on Internet Freedom.

Through her speech, she asked for the Chinese authorities to conduct a thorough review of the cyber intrusions that led Google to make its announcement and inspect for that investigation and its result to be transparent. Moreover, she said in her remarks about the Internet:

“The Internet has already been a source of tremendous progress in China, and it is fabulous. There are so many people in China now online. But countries that restrict free access to information or violate the basic rights of Internet users risk walling themselves off from the progress of the next century. Now, the United States and China have different views on this issue, and we intend to address those differences candidly and consistently in the context of our positive, cooperative, and comprehensive relationship” (Clinton, 2010)

Through this statement, Clinton encourage China on restrict free access to information as the form on walling themselves off from the progress of the next century, which means China was blocking themselves from the development of the world. Moreover, Clinton also encourage foreign companies to earn confidence in providing comprehensive search results and act as responsible stewards of their own personal information. This then emphasized by Clinton on censorship to not be in any way accepted by any company from anywhere.185

As explained in chapter 3, on U.S. promoting Internet freedom, the principle was based on Article 19 of UDHR on the rights of people to receive and impart information and ideas through any media, include the Internet. Therefore, the response from U.S. Secretary, Hillary Rodham Clinton had shown the concern of the Google VS China case. By smoothly encouraging Chinese government on the fact of countries that restrict free access of information of Internet users could face the risk on walling themselves off from globalization, which China has been concern to globalize. Therefore, the response of the United States

regarding Google’s withdrawal was basically based on the value of economy and Internet freedom as the national interest of the U.S. government in promoting Internet freedom.

IV.2.1.2. China’s Respond on U.S. Reaction

a. Trade Issue

When the U.S. government responded Google’s withdrawal by asking Chinese government to provide details on its legal and policy rules of the commercial websites accessibility in China based on the WTO commitments, through the ministry spokeswomen, Jiang Yu, the Chinese government responded to Google’s unwillingness to continue censoring results on its search engine by saying that Google must comply with Chinese laws and that the Internet in China is “open”. Moreover, on the issues of cyber attacks towards Google’s email service, China denied that the country was the source of recent attacks. However, it was acknowledged to take more active role in policing cyberspace to defend against security threats.186

For the U.S. in accusing the Chinese government of being in breach of its WTO obligations in regulating Google China’s service, the Deputy Director and Secretary General of China Society for WTO, Zheng Zhihai (2010) published a post on China Daily on the Chinese government consideration of its case with Google did not break WTO rules. The reason was because Google China, since its entry into the Chinese market, has been enjoying rightful market access and national treatment. Proved on how its market share in China jumped from 13% at the beginning of 2006 to around 36% in the fourth quarter of 2009. Therefore, despite the market access and national treatment are, the main challenge for Google is to abide China’s lawful right to govern its Internet by censoring its search result.187

Therefore, these state regulations are clearly stated in the WTO rules on government of member stakes have lawful right of supervision, including censoring Internet content. According to the GATS, measures like Internet censorship is applicable, referring to Article XIV on General Exceptions for any member states to adopt measures in order to protect public morals or to maintain public order.\footnote{188 World Trade Organization. (n.d.). General Agreement on Trade in Services. Retrieved January 20, 2017, from https://www.wto.org/english/docs_e/legal_e/26-gats.pdf}

“Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade in services, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any Member of measures: a) necessary to protect public morals or to maintain public order…”

Since the Chinese government sees its Internet censorship is in accordance to the GATS, therefore as it has been mentioned in chapter 2 on several regulations controlling the Internet, it showed on how the Chinese government has committed to the WTO. Its commitment to allow foreign companies in having business in China is also well implemented on how Google could have its license in China by implementing the requirements by the Chinese government to censor the contents.

Therefore, the U.S. reaction on Google was not seem to be a problem on how it sees the Internet censorship as a trade barrier towards the country since Google at this point had also obtain market share and equal treatment in having its business here. Even though the cyber attacks reported by Google and made it to not censor the content made the Chinese government sees it as the result for not implementing the state’s regulations.

Hence, the theory of International Political Economy at this term, is describing the relations of China and the U.S. government in the International organization, even though it did not reach the dispute settlement. By having the foundation on GATS as the commitment to be agreed by the member states, the interpretation of the rules given has shown on how these two countries had a high tension regarding the case of Google.
b. Internet Freedom Issue

Furthermore, on the Internet freedom issue, Zhihai continued by the response on China to fully and unconditionally open the market in this area, viewed by China is quite one-sided, as for China, an open but governed market is more important. It believes, the Chinese government’s supervision of its Internet has nothing to do with trade restrictions, but to foster a healthy environment on the Internet, protect young people and prevent some elements from using the Internet to endanger China’s national security. Thus, if someone intends to challenge China’s right to govern its Internet by resorting to WTO rules, they are apparently misguided and bound to fail.

Regarding the U.S. – China relations, China’s Ministry of Foreign Affairs stated that Google’s withdrawal would not impact the relations. Qing Gang, the ministry spokesperson said that the Google incident was only an individual action taken by a company and it does not seem to impact the Sino – U.S. relations. Otherwise Gang speculated that if it then affected the relations, there might be another party that wants to politicize it. Thus, by the statement from the ministry spokesperson, it showed on how China was not affected and not worry about its relation with U.S. The government then also would not comment whether Google’s actions were legal or if the government planned further action.

In analyzing the Chinese government reaction towards U.S. government in the case of Google, realism philosophy on cyber security is the most suitable approach regarding this case in guiding China’s involvement in the international lawmaking process. The “Great Firewall of China” as a moniker on China’s Internet censorship has given the description on how China protects its Internet security in order to develop an effective utilization of the Internet. Therefore, its response toward U.S. reaction was basically blaming on Google for not complying with China’s regulations and insisted China’s Internet is open.

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For the issue on U.S. – China relations will be affected by the case of Google, Chinese government at this point did not view Google, which is basically a individual actor could affect the relation. It was basically because China from the realist perspective sees state as a dominated one and the most powerful actor in taking actions within the international system. Even international law could be ineffective since state is the dominant actor, where in China’s perspective an open and governed market is more important. Thus, its action on supervision of Internet was believed to not related with trade restriction, otherwise to foster a healthy environment on the Internet, in protecting the young people and prevent some elements to be accessed, which could probably endanger state’s security.

IV.2.2. China Renews Google’s License

Since the tension between Chinese government and Google had been in the heat because of Google’s decision to stop censoring its search results and shift from China to Hong Kong, which was accused by the Chinese government in violating Google’s promises to China. Even though Google’s license in China will expire in 2012, Chinese authorities indicated it would not renew its license in China if Google keeps continuing the practice of redirecting queries from Mainland China to Hong Kong. It means, the license, which China could revoke at any time, was the key for Google to be allowed in keeping its Website, Google.cn in China and continues to operate some Internet services there. Moreover, the license will allow Google to keep on redirecting users in China to the uncensored Google’s search results in Hong Kong.¹⁹¹

Furthermore, on July 11, 2010, Chinese authorities said they renewed a license needed by Google to continue using its Chinese Web address. The Ministry of Industry and Information Technology approved the renewal application by the operator of Google's China website, Beijing Guxiang Information Technology Co. Ltd, after the company submitted a

letter pledging to obey the Chinese government’s law and guarantee the company to not provide any law-breaking contents.¹⁹²

The renewal of Google’s license showed on how eager Google to continuing to provide web search and local products to users in China. This alternative on abiding by Chinese law and ensure the company provides no law-breaking content was the consequence Google had to take. However, it did not make any concessions regarding censorship, because the renewal license was in order to continue to make products that do not require any censorship and continue the uncensored web search at google.com.hk, which was a win-win solution for Google and China in having the relation on the business issue.

Thus, since the information through Internet is flowing freely and limitless across borders, Google’s presence in Hong Kong was actually giving Google a big opportunity to gain more users from China by redirecting Google.cn, which has been renewed to the Hong Kong-based address – google.com.hk – that provided uncensored search results and could be accessed freely since the server was based in Hong Kong, where the censorship does not apply.

CHAPTER V
CONCLUSION

The development of Internet in China has become a step for the Chinese government in attempting to modernize as a socialist modern country. However, the perspective of the Internet in one hand, is potential for China to become a global leader in the economic development, while on the other hand, it also sees Internet as a threat to sovereignty, regarding the free flow of information and cyber security. Thus, controlling the Internet was decided to be the commitment of the Chinese government by promulgating numerous regulations and initiated several methods of filtering and blocking, as the part of Internet censorship which was globally known as the “Great Firewall of China”. However, even with these restrictions and regulations, the development of Chinese Internet users has been expanding rapidly within the year. At this point, China became a great opportunity for companies, especially foreign companies to open its business in China. Then, this was the beginning of Google, the biggest IT Company specialized in search engine to approach the Chinese market.

The Internet censorship policy by Chinese government in having cyber security through the Internet gives impact to companies in implementing the regulations of self-censorship, in order to obtain license. Google as a U.S. based company was one of many foreign companies operating in China to comply with the state regulations. The reason Google in China was actually coming from the U.S. – China relations in trade and the accession of China in WTO. By joining the WTO, China had agree to commit with the rules and regulations, which also means to open its market and to give equal treatment between local and foreign companies. Moreover, as China joined the WTO, the U.S. government put concerns on promoting Internet freedom as its country’s policy to preserve and expand the Internet as an open global space for freedom of expression through its activities, which was not applicable in China regarding the censorship. Thus, Google’s presence in China was an opportunity for Google in expanding its market and to help the U.S. government in spreading the value of Internet freedom to China, which was then known to cause effect on the clash between regulations of Chinese government with the objectives Google had.

Therefore, Google’s local presence by launching Google.cn in 2006 and implement the self-censorship requirements caused effects to Google’s operation in China. In this thesis, the researcher analyzed the effects from the scope of
cyber security issue, freedom of speech issue and business issue, until Google had to take the decision leaving China to Hong Kong in order to keep its existence to the Chinese users. The effects of China’s Internet censorship policy made Google had to adjust its services in order to response the local conditions, faced the decrease of traffic caused by blocking from Chinese authorities, criticism from U.S. government in accusing to consider more on business interest than promoting Internet freedom and cyber attack on its users account, which finally made Google had to withdraw from China.

Google’s withdrawal from China’s Mainland was then accused to affect the U.S. – China relations, that made the U.S. government react concerning the trade issue in accusing China to violate the WTO commitments and from Internet freedom issue in encouraging Chinese government on the fact of globalization. However, by the U.S. reactions, China regarding Google's withdrawal did not see it to effect its relations with the United States. Since, it views Google as a non-state actor and individual. Moreover, from all the criticism regarding China’s ‘closed’ Internet, it still considered its Internet as open and the actions of blocking were basically in order to protect its cyber security and prevent any actions that could harm the country.

The high tension between these countries through the WTO commitments stated in the GATS then made the U.S. government and China faced contradictions on their perspectives regarding Internet censorship. The Internet censorship as a trade barrier seen by the U.S. government as the Chinese government did not give any specific information in accordance with it. While on the other hand, it is a form to protect public morals or to maintain public order perceived by the Chinese government.

However, in the end, Google could still have its presence in the Chinese market, from its new base in Hong Kong through Google.com.hk. Even though Google had to obey the regulations of Chinese government in order to renew its license to still have its domain of Google.cn, the reality on how Internet is limitless and has no borders, was proven by the accessibility of the Internet to Chinese users, through the redirecting access of Google’s old domain of China – Google.cn – to Google’s new server in Hong Kong, Google.com.hk, which the Internet censorship policy does not apply regarding the special administration of Hong Kong’s government.
BIBLIOGRAPHY

• BOOKS/PUBLICATIONS


• JOURNAL ARTICLES


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**ONLINE SOURCES**


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APPENDICES

Appendix 1 - The Constitution of the People’s Republic of China

CONSTITUTION OF THE PEOPLE’S REPUBLIC OF CHINA

(Amended on December 4, 1982)

PREAMBLE

China is one of the countries with the longest histories in the world. The people of all nationalities in China have jointly created a splendid culture and have a glorious revolutionary tradition. Feudal China was gradually reduced after 1840 to a semi-colonial and semi-feudal country. The Chinese people waged wave upon wave of heroic struggles for national independence and liberation and for democracy and freedom. Great and earth-shaking historical changes have taken place in China in the 20th century. The Revolution of 1911, led by Dr Sun Yat-sen, abolished the feudal monarchy and gave birth to the Republic of China. But the Chinese people had yet to fulfill their historical task of overthrowing imperialism and feudalism. After waging hard, protracted and tortuous struggles, armed and otherwise, the Chinese people of all nationalities led by the Communist Party of China with Chairman Mao Zedong as its leader ultimately, in 1949, overthrew the rule of imperialism, feudalism and bureaucrat capitalism, won the great victory of the new-democratic revolution and founded the People’s Republic of China. Thereupon the Chinese people took state power into their own hands and became masters of the country.

After the founding of the People’s Republic, the transition of Chinese society from a new-democratic to a socialist society was effected step by step. The socialist transformation of the private ownership of the means of production was completed, the system of exploitation of man by man eliminated and the socialist system established. The people’s democratic dictatorship led by the working class and based on the alliance of workers and peasants, which is in essence the dictatorship of the proletariat, has been consolidated and developed. The Chinese people and the Chinese People’s Liberation Army have thwarted aggression, sabotage and armed provocations by imperialists and hegemonists, safeguarded China’s national independence and security and strengthened its national defence. Major successes have been achieved in economic development. An independent and fairly
CHAPTER II. THE FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENS

Article 35. Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration.

Article 40. The 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 upon the freedom and privacy of citizens' correspondence except in cases where, to meet the needs of state security or of investigation into criminal offences, public security or procuratorial organs are permitted to censor correspondence in accordance with procedures prescribed by law.

Article 51. The exercise by citizens of the People's Republic of China of their freedoms and rights may not infringe upon the interests of the state, of society and of the collective, or upon the lawful freedoms and rights of other citizens.

Article 52. It is the duty of citizens of the People's Republic of China to safeguard the unity of the country and the unity of all its nationalities.

Article 53. Citizens of the People's Republic of China must abide by the constitution and the law, keep state secrets, protect public property and observe labour discipline and public order and respect social ethics.
Appendix 2 - The Elaboration of China’s Internet Regulations

**INTERIM PROVISIONS GOVERNING THE MANAGEMENT OF THE COMPUTER INFORMATION NETWORKS IN THE PEOPLE’S REPUBLIC OF CHINA CONNECTING TO THE INTERNATIONAL NETWORK**

<table>
<thead>
<tr>
<th>Category</th>
<th>PUBLIC SECURITY</th>
<th>Organ of Promulgation</th>
<th>The State Council</th>
<th>Status of Effect</th>
<th>With An Amendment Existing</th>
</tr>
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<td>Date of Promulgation</td>
<td>1996-02-01</td>
<td>Effective Date</td>
<td>1996-02-01</td>
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</table>

Interim Provisions Governing the Management of the Computer Information Networks in the People’s Republic of China Connecting to the International Network

**Article 13** Any organization or individual engaged in business of international connection shall comply with the relevant laws and administrative regulations of the State, carry out strictly the safety and confidential system, he shall not take advantage of international connection to conduct criminals such as endangering the state safe, leaking the state secrets, and shall not produce, look up, copy or expend the information such as obstructing the social public security, obscene and lust.

**MEASURERS ON THE REGULATION OF PUBLIC COMPUTER NETWORKS AND THE INTERNET**

MEASURERS ON THE REGULATION OF PUBLIC COMPUTER NETWORKS AND THE INTERNET

(Promulgates by the Ministry of Post and Telecommunications
[MTM: the predecessor of the MII] on April 9, 1996)

**Article 4.** Organizations serving as entry point units for Chinanet should meet the following qualifications:

1. They must be legally established enterprises, institutions or organizations.
2. They must be equipped with a regional network made up of main computer terminals and online information terminals along with related network facilities.
3. They must have relevant technological and administrative staff.
4. They must have a sound set of systems and procedures that ensure safety, safeguard secrecy and protect technologies.
5. They must also obey laws and regulations of the country as well as requirements set up by the Ministry of Posts and Telecommunications (MPT).
COMPUTER INFORMATION NETWORK AND INTERNET SECURITY, PROTECTION, AND MANAGEMENT REGULATIONS

COMPUTER INFORMATION NETWORK AND INTERNET SECURITY, PROTECTION, AND MANAGEMENT REGULATIONS

(Approved by the State Council on December 11, 1997 and promulgated by the Ministry of Public Security on December 30, 1997)

Article 3: The computer management and supervision organization of the Ministry of Public Security is responsible for the security, protection and management of computer information networks and the Internet. The Computer Management and Supervision organization of the Ministry of Public Security should protect the public security of computer information networks and the Internet as well as protect the legal rights of Internet service providing units and individuals as well as the public interest.

Article 4: No unit or individual may use the Internet to harm national security, disclose state secrets, harm the interests of the State, of society or of a group, the legal rights of citizens, or to take part in criminal activities.

Article 5: No unit or individual may use the Internet to create, replicate, retrieve, or transmit the following kinds of information:

(1) Inciting to resist or breaking the Constitution or laws or the implementation of administrative regulations;
(2) Inciting to overthrow the government or the socialist system;
(3) Inciting division of the country, harming national unification;
(4) Inciting hatred or discrimination among nationalities or harming the unity of the nationalities;
(5) Making falsehoods or distorting the truth, spreading rumors, destroying the order of society;
(6) Promoting feudal superstitions, sexually suggestive material, gambling, violence, murder,
(7) Terrorism or inciting others to criminal activity; openly insulting other people or distorting the truth to slander people;
(8) Injuring the reputation of state organs;
(9) Other activities against the Constitution, laws or administrative regulations.

Chapter 4 Legal Responsibility

Article 20: For violations of law, administrative regulations or of Article five or Article six of these regulations, the Public Security organization gives a warning and if there income from illegal activities, confiscates the illegal earnings.

For less serious offenses a fine not to exceed 5000 RMB to individuals and 15,000 RMB to work units may be assessed.

For more serious offenses computer and network access can be closed down for six months, and if necessary Public Security can suggest that the business operating license of the concerned unit or the cancellation of its network registration. Management activities that constitute a threat to public order can be punished according to provisions of the public security management penalty articles. Where crimes have occurred, prosecutions for criminal responsibility should be made.
STATE SECRECY PROTECTION REGULATIONS FOR COMPUTER INFORMATION SYSTEMS ON THE INTERNET

STATE SECRECY PROTECTION REGULATIONS FOR COMPUTER INFORMATION SYSTEMS ON THE INTERNET

(Promulgated and Issued by the State Secrecy Bureau
and takes effect on January 1, 2000)

Article 4. The management of secrets in the computer systems on the Internet is based on the principle of controlling sources, the centralized management by specialized departments, responsibility at different levels, emphasizing key points and benefiting development.

Article 11. Users who exchange information on the Web via email shall abide by regulations concerning the guarding of state secrets. They shall not deliver, forward or copy information concerning state secrets via email.

National backbone networks and Internet access providers shall clarify to their email users their requirements for protecting secrets and shall improve their management systems.

ChinaOnline™

经营性网站备案登记管理暂行办法

Interim Procedures on Registration and Filing of Online Business Operations

Article 5. An owner of a business Web site shall apply to the Competent Authority for filing and registration, obtain a Certificate of Business Web Site Filed and Registered, and install electronic identification for filing and registration on the front page of the site.

The Beijing Municipal Administration for Industry and Commerce itself makes the paper copies of the certificate as well as the electronic identification.

Article 6. The owner of a business Web site shall provide personnel for information checks to prevent and eliminate, in a timely manner, all kinds of unlawful information or information that harms social morals and efforts to build a socialist civilization with a high cultural and ideological level.
Administrative Measures on Internet Information Services

(Adopted at the thirty first regular meeting of the State Council held on September 20, 2000 and promulgated by Premier Zhu Rongji on September 25, 2000)

Article 14. Internet information service providers that engage in news, publishing and electronic notice services, etc., shall record the contents of information distributed and the time distributed, as well as Internet addresses or domain names. Internet access service providers shall record user online time, user account numbers, Internet addresses or domain names and the principal telephone numbers of Internet users.

Such records of Internet information service providers and Internet access service providers shall be kept for 60 days and shall be made available when relevant State authorities make inquiries in accordance with law.

Article 15. Internet information service providers shall not produce, reproduce, distribute or disseminate information that includes the following contents:

(1) content that is against the basic principles determined by the Constitution;

(2) content that impairs national security, divulges State secrets, subverts State sovereignty or jeopardizes national unity;

(3) content that damages the reputation and interests of the State;

(4) content that incites ethnic hostility and ethnic discrimination or jeopardizes unity among ethnic groups;

(5) content that damages State religious policies or that advocates sects or feudal superstitions;

(6) content that disseminates rumors, disturbs the social order or damages social stability;

(7) content that disseminates obscenity, pornography, gambling, violence, homicide and terror, or incites crime;

(8) content that insults or slanders others or that infringes their legal rights and interests; and

(9) other content prohibited by laws or administrative regulations.
Interim Administrative Provisions on Internet Publishing

(Adopted at the twentieth ministerial meeting of the General Administration of Press and Publication (GAPP) on December 24, 2001 and at the tenth ministerial meeting of the Ministry of Information Industry (MII) on June 27, 2002, and promulgated by the director of the GAPP Shi Zongyuan. and the Minister of the MII Wu Jichuan on June 27, 2002 to take effect as of August 1, 2002.)

**Article 17.** Internet publications shall not publish the following contents:

1. content that opposes the basic principles determined by the Constitution;

2. content that impairs national unity and sovereignty and territorial integrity;

3. content that divulges state secrets, impairs national security, or damages the reputation and interests of the state;

4. content that incites ethnic hostilities and ethnic discrimination, jeopardizes unity among the ethnic groups, or infringes upon ethnic customs and habits;

5. content that advocates sects or feudal superstitions;

6. content that disseminates rumors, disturbs the social order, or damages social stability;

7. content that disseminates obscenity, gambling, or violence, or incites crime;

8. content that insults or slanders others or infringes upon their legitimate rights and interests;

9. content that impairs social morality or the national culture and tradition;

10. other content prohibited by the provisions of laws, administrative regulations, and the state.
Provisions on the Administration of Internet News and Information Services

(The Information Office of the State Council combined with the Ministry of Information Industry issued the Provisions on the Administration of Internet News and Information Services on September 25, 2005.)

Article 10 An internet news and information services entity publishing news and information, providing bulletin board services for current events, and transmitting current communications to the public via the Internet shall not provide any cultural products that contain any of the following contents:

(1) That which defies the basic principles determined in the Constitution;

(2) That which endangers the security of the nation, divulges state secrets, subverts national sovereignty or territorial integrity;

(3) That which damages the honor or interests of the state;

(4) That which incites national hatred or discrimination or undermines the solidarity of the nationalities;

(5) That which infringes upon the national religious policies, or propagates evil cults or superstitions;

(6) That which spreads rumors and disturbs the public order or destroys public stability;

(7) That which propagates obscenities, eroticism, gambling, and violence or instigates crimes;

(8) That which insults or libels others, or infringes upon the lawful rights and interests of others;

(9) That which disturbs the public order by instigating illegal gatherings, associations, parades, demonstrations, or assemblies;

(10) That which organizes activities in the name of illegal civil organizations;

(11) That which contains other content prohibited by the laws and administrative regulations, or by the state.
MEASURES FOR ADMINISTRATION OF E-MAIL SERVICE ON INTERNET

Ministry of Information Industry

Decree No.38 of the Ministry of Information Industry of the People's Republic of China

No.38

Measures for Administration of E-mail Service on Internet have been adopted at the fifteenth Ministerial Conference of the Ministry of Information Industry on November 7, 2005, and are hereby published and come into effect on March 30, 2006.

Article 3

the communication secret of the citizens to use E-mail service on internet shall be under the protection of law. No organization or individual shall violate citizens’ communication secret with any reasons except that when the public security agency or procuratorial organ checks up the content of the communication for the needs of national safety or finding out criminal offence according to the procedures prescribed by law.
### Appendix 3 - The Development of Contents Prohibited in the Chinese Internet

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<td>1</td>
<td>Content that is against the basic principles determined by the Constitution;</td>
<td>Content that opposes the basic principles determined by the Constitution;</td>
<td>That which defies the basic principles determined in the Constitution;</td>
</tr>
<tr>
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<td>Content that impairs national security, divulges State secrets, subverts State sovereignty or jeopardizes national unity;</td>
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<td>That which propagates obscenities, eroticism, gambling, and violence or instigates crimes;</td>
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<tr>
<td>8</td>
<td>Content that insults or slanders others or that infringes their legal rights and interests; and</td>
<td>Content that insults or slanders others or infringes upon their legitimate rights and interests;</td>
<td>That which insults or libels others, or infringes upon the lawful rights and interests of others;</td>
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<td>Other content prohibited by laws or administrative</td>
<td>Content that impairs social morality or the national culture and</td>
<td>That which disturbs the public order by instigating illegal gatherings;</td>
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<td>regulations</td>
<td>tradition; associations, parades, demonstrations, or assemblies;</td>
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<td>That which organizes activities in the name of illegal civil organizations;</td>
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Appendix 4 - United States Seeks Detailed Information on China’s Internet Restrictions

United States Seeks Detailed Information on China’s Internet Restrictions

Washington, D.C. – U.S. Trade Representative Ron Kirk announced today that, under World Trade Organization (WTO) rules, the United States is seeking detailed information on the trade impact of Chinese policies that may block U.S. companies’ websites in China, creating commercial barriers that especially hurt America’s small business.

An Internet website that can be accessed in China is increasingly a critical element for service suppliers aiming to reach Chinese consumers, and a number of U.S. businesses, especially small- and medium-sized enterprises, have expressed concerns regarding the adverse business impacts from periodic disruptions to the availability of their websites in China. While the United States believes that the best internet policy is to encourage the free flow of information globally, the United States’ WTO request relates specifically to the commercial and trade impact of the Internet disruptions. Accordingly, the United States is asking China to provide details that will allow a fuller understanding of the legal and policy rules relevant to the accessibility of commercial websites in China.

Background

The United States submitted its requests for information under paragraph 4 of Article III of the General Agreement on Trade in Services (GATS), which provides in relevant part: “Each Member shall respond promptly to all requests by any other Member for specific information on any of its measures of general application or international agreements within the meaning of paragraph 1.” Paragraph 1 of GATS Article III provides: “Each Member shall publish promptly and except in emergency situations, at the latest by the time of their entry into force, all relevant measures of general application which pertain to or affect the operation of this Agreement. International agreements pertaining to or affecting trade in services to which a Member is a signatory shall also be published.”

The information requests made by the United States are reproduced below:

1. Websites of service suppliers based outside of China are sometimes inaccessible in China, which can prevent those companies from marketing products and supplying services to the Chinese market. The United States would like to better understand China’s rules governing website blocking so that service suppliers based outside of China may adopt appropriate policies to avoid encountering this problem.

   a. Who or what ministry is responsible for determining if and when a foreign website should be blocked in China?

   b. What are the guidelines and criteria for blocking access to foreign websites? How often are these guidelines and criteria changed or published? Where are these guidelines published? Are they made public in advance of their implementation? Which ministries are responsible for drafting them?

   c. What is the process for implementing a restriction on a website? How does the relevant entity determine whether an entire website should be blocked or only services or content deemed illegal?

   d. Is the blocking implemented directly by the government, or indirectly by Internet service providers (ISPs) and/or telecommunications companies?

   e. If blocking is carried out by ISPs or telecommunications companies, are these actions typically implemented through written governmental orders? If so, which governmental organs are authorized to issue such orders?

   f. How can a service supplier without a physical presence in China determine if access to their website is or will be blocked in China? To whom should such a supplier direct questions if there are any misunderstandings?

   g. Can an affected service supplier appeal a decision to block access to their website? If so, what is the procedure for appealing, and where is that procedure published? Can a service supplier use the court system to appeal a decision to block access to their website? If so, has any such appeal ever been successful?

   h. Is the same process used to prevent access to foreign and domestic websites providing similar services in China? If the process is different, please describe the differences.
2. The United States understands that the State Council established a State Internet Information Office (SIIO) in May 2011. The United States is interested in better understanding the functions of the office and whether it is the appropriate interlocutor for foreign businesses that have questions or concerns regarding website inaccessibility.

a. What are the responsibilities and authorities of the SIIO?

b. Will the SIIO handle licensing or other approval processes for Internet service providers or make decisions regarding filtering of foreign websites? If so, please describe which of these processes the SIIO will manage.

c. Should companies contact the SIIO or some other entity when they have questions regarding China's Internet filtering laws, regulations and policies? If the SIIO is the appropriate contact, which office or individual should they contact? If not SIIO, which ministry and office should companies contact?

d. Which categories of objectionable conduct are managed by each ministry with responsibilities or authorities for managing Internet content?

3. Based on information provided by the SIIO earlier this year, the United States understands that foreign websites are sometimes inadvertently blocked when they share an IP address with a website which China has deemed harmful.

a. Can you explain how such inadvertent blockages occur?

b. Are there other ways that China can filter material deemed harmful to avoid such inadvertent website blockages?

c. Would Chinese authorities consider it reasonable to notify the owner of a web hosting service that one or more sites that the service hosts are being blocked in China, so that the web hosting service can ensure that other legitimate sites are not inadvertently blocked? Are Chinese authorities already doing this?

d. What steps should companies take when they become aware of such inadvertent blockages to resolve any issues and ensure their services are accessible in China?

4. The Measures for the Administration of Internet Information Services, issued by the State Council on September 25, 2000, describe nine categories of content which Internet information service providers may not disseminate. The Provisions on the Administration of Internet News Information Services, issued by the State Council and Ministry of Information Industry on September 25, 2005, add two additional categories of content which may not be transmitted. Given the broad nature of these categories, the United States is seeking greater clarity on the content that falls within them.

a. Are there any laws, regulations, policies or other guidance that establish criteria to determine when content fits into these eleven categories? If so, where can a service supplier access these measures?

b. Are government requests or orders to filter specific terms online ever communicated directly to Internet information service providers? If so, how are these directives communicated? Are these requests or orders made public? Does an Internet information service provider have the right to obtain a written order prior to implementing such a directive?

c. Are the same terms subject to filtering made available to Internet information service providers inside China and outside China?

5. According to the White Paper on the Internet in China, "telecommunication business operators and Internet information service providers shall establish Internet security management systems and utilize technical measures to prevent the transmission of all types of illegal information."

a. How is illegal information defined in this instance?

b. Is a written governmental order required for either a private corporation or a relevant authority to block the transmission of illegal information?

c. What types of technical measures are service suppliers expected to use to prevent transmission of the illegal information?

d. Do authorities in China approve specific technical measures? If so, which ministry does this?

e. Are the technical measures employed by operators to block the transmission of illegal information applied automatically to domestic and foreign traffic? If not, how are they applied?

f. Does Internet content from outside of China go through a separate monitoring process for illegal information than Internet content created inside of China? If so, how do the two processes differ?