

# PIERCING THE VEIL OF NATIONAL SECURITY: DOES CHINA'S BANKING IT SECURITY REGULATION VIOLATE THE TBT AGREEMENT?

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## ABSTRACT

*The first decade of the 21st century witnessed disputes about IT products' regulation between China and the Western world. Currently, China's banking IT security regulation has spurred a heated debate among international lawyers. More specifically, the critical issue is how to strike a balance between the wants of free trade and the needs of national security. Under WTO jurisprudence, China's banking IT security regulation would be a trade barrier for not only foreign IT products, but also domestic products: however, China would defend its measure on the ground of national security in the TBT Agreement. Theoretically, China would not shoulder the responsibility to adopt the Common Criteria as a basis for technical regulations. It should be noted that the real risk of treaty violation is the de facto discrimination created by China's regulations. In order to address the issue of cyber security regulations, multilateral or bilateral co-operation, or good practice guidance, may be feasible and practical.*

**KEYWORDS:** *TBT Agreement, national security, China's banking IT security regulations, treaty application*

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