

法律法规

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The Legal Environment and The Preservation of Electronic Records in **China & Singapore**

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政策法规

Presentation Overview

- China
 - Generation of Electronic Records (ERs)
 - Legal Environment
 - Archives Law of China
 - Other Laws/Regulations regarding Preservation of ERs
- Singapore
 - Generation of ERs
 - Legal Environment
 - National Heritage Board Act
 - Other Laws regarding Preservation of ERs
- InterPARES 2 (IP2) Legislation Study
 - Preservation Enablers
 - Preservation Barriers



China: Generation of ER

□ E-Government (G2G, G2B, G2C)

■ 3 Phases

- Office Automation: 1980s
- Government Departmental Services Projects: 1993
- Government online: 1997

■ Up to 2003

- 15 departmental Services Projects being undertaken
- 80% governments had launched websites

■ By 2010

- Unified E-government network across the country
- 50% government services online
- Mechanism for information openness and sharing



China: Generation of ER

□ E-Commerce

- 1987: First Email sent
- 1990-1993: EDI used in commerce
- 1995: Internet Services opened to the public
- 1996: ISP, .com companies started
- 1998: First e-commerce transaction completed
- 2004: 4,000 e-commerce sites; 70 CAs; 440 billion RMB
- 2005: Total trade amount 620 billion RMB

88 billion
CND

China: Legal Environment

□ Archives Law of China (1987, revised 1996)

■ Defines archives

- Historic recordings of archival value
- By-products of actions
- Regardless of formats

Semi- & non-current records

■ Establishes the Chinese archival system

- Archives administrations
- Archival institutions
- Archival offices

Centralized administration

■ Regulates archival work

- Archival institution
- Archival office

Focus on long-term preservation



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China: Other Laws/Regulations

Interim Measures for Archiving Electronic Official Records (2003)

- E-Official Records (EORs)
 - Records generated by the state administrative units
 - Standardized format
 - Capable of reaching legal effect
 - Processed through the *Electronic Official Records Transmission System* equipped by the State Council
- E-Records
 - Not defined by any laws
 - Defined by one national professional standard



China: Other Laws/Regulations

Interim Measures for Archiving Electronic Official Records (2003)

□ Creating-agency

- Managing EOR as part of job duties
- Offices with specifically assigned responsibilities
- Standard-compliant EOR management system
- Check data accuracy before transferring
- Paper equivalents for permanent or long-term EORs
- Responsible for authenticity & integrity after transferring



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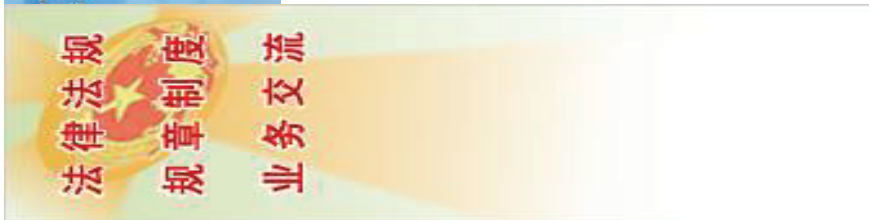
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China: Other Laws/Regulations

Interim Measures for Archiving Electronic Official Records (2003)

□ Archival office

- Participate in and guide RM activities
- Implement regulation-compliant system to receive and manage EORs
- Store EORs on offline media qualifying preservation requirements
- Preserve associated metadata: registration, index, software specifications
- Responsible for authenticity & integrity after transferring



China: Other Laws/Regulations

Interim Measures for Archiving Electronic Official Records (2003)

□ Transfer and Disposition

- Transfer can be done either offline or online
- Create 3 copies onto durable media: one for preservation, one for global back-up, and one for use
- Authorized destruction can be done through either logic deletion or physical deletion



China: Other Laws/Regulations

- Shanghai Regulations on Preservation (2006)
 - Archival office
 - Annual hardware and software maintenance (with IT department)
 - Upgrading
 - Migration
 - Regular media refreshing
 - Magnetic media 2 yrs
 - Optic media 4 yrs



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China: Other Laws/Regulations

Electronic Signature Law (2004)

□ Data Electronic Message

Used in

- Contract Law (1999)
- Law on the Administration of Tax Collection (2001)
- Administrative Permission Law (2003)

Definition

- “Information generated, sent, received or stored by electronic, optical, magnetic or other similar means.”



China: Other Laws/Regulations

Electronic Signature Law (2004)

□ Compliance

□ Preservation Conditions

- Visible presentation of content at any given time
- Format remains the same, or
- Content can be accurately re-presented if the format is different
- Ensured integrity and fixity after creation
- Sender, recipient and the time of sending or receiving can be identified





Singapore: Generation of ERs

- E-Government
 - Started in the early 1980s
 - Online services in late 1990s
 - Action Plan I (2000 - 2003)
 - Action Plan II (2003 - 2006)
- iGov (Integrated Government)
 - iGov2010 (2006-2010)
 - Goal: From Integrating Services to Integrating Government
- iN (Intelligent Nation)
 - iN2015
 - An Intelligent Nation, a Global City





Singapore: Legal Environment

National Heritage Board Act

- Enabling Act of the NAS
- Public Records
 - Machine readable records
 - Electronic records
- Public Archives
 - Public records over 25 years with archival value
- NAS as Repository of Archives
- NHB makes decisions about archival work





Singapore: Legal Environment

- NHB's responsibility for instituting a government RM program
 - Creation
 - Utilisation
 - Maintenance
 - Retention
 - Preservation
 - Disposal





Singapore: Other Laws

Electronic Transactions Act (1998)

- Electronic Record

“A record generated, communicated, received or stored by electronic, magnetic, optical or other means in an information system or for transmission from one information system to another”

- Applies to both business and legal documents (e.g., wills, indentures)





Singapore: Other Laws

Electronic Transactions Act 1998

□ Compliance

□ Written Format

- Information contained in the electronic record is accessible and usable for subsequent reference

□ Preservation Conditions

- Information contained remains accessible so as to be useable for subsequent reference
- Original format is retained or the changed format is able to represent accurately the information originally generated, sent or received
- Date and time of sending or receiving is retained
- Consent for the retention of such records obtained





Singapore: Other Laws

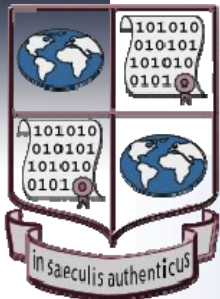
Electronic Transactions Act 1998

- ❑ Acceptance of Electronic Filing
 - Manner and format in which electronic records shall be filed, created, retained or issued
 - Manner and format in which the electronic signature shall be affixed to the electronic record
 - Appropriate control processes and procedures to ensure adequate integrity, security and confidentiality



InterPARES 2 Legislation Study

- ❑ Part of the study conducted by the IP2 Policy Cross-Domain Team
- ❑ Examines legislation with respect to the preservation of e-records
- ❑ Study includes archives enabling laws, ER related laws and other relevant laws (copyright, intellectual property, and privacy law)
- ❑ China & Singapore is selected because of its rapid development in e-government and e-commerce



IP2 - Enablers for Preservation China

□ Preservation

The whole of the principles, policies, and strategies that controls the activities designed to ensure records' physical and technological stabilization as well as protection of intellectual content.

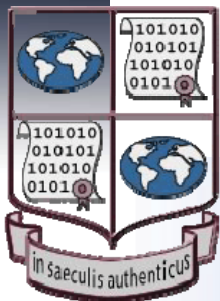
□ Archives Law of China

Principally

- Shared obligation to protect archives
- Archival work is part of government work

Strategically

- Highly centralized administration
- Clearly defined acquisition scopes and preservation responsibilities
- Strict rules for transfer

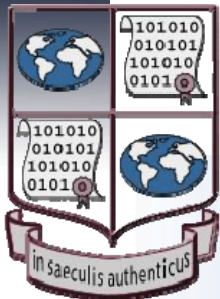


IP2 - Enablers for Preservation China

□ Archives Law of China

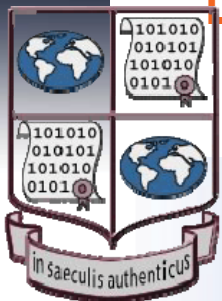
At the policy level

- Government budget for archival institutions
- Human resource building
 - Professionals
 - Continuing education
- Physical care
 - Research
 - Facilities
 - Equipments
- Rewards and penalties



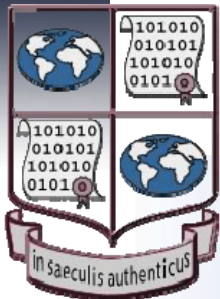
IP2 - Enablers for Preservation China

- Regulations on EOR
 - Strict control over creation and transfer
 - Specialized personnel and clearly defined job duties
 - Archival office participates in and guides the creation
 - Unified EOR management system
 - Processing system
 - Transmission system
- Regulations on Functional Requirements of Archival Management Software



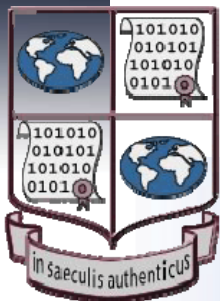
IP2 - Enablers for Preservation Singapore

- National Heritage Board Act
 - Public records explicitly include ER
 - 25 years transfer rule
 - Prohibition of unauthorized destruction
 - Institution of government RM program



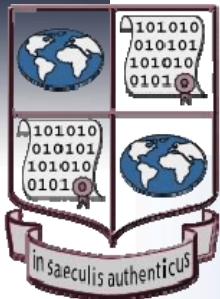
IP2 - Enablers for Preservation

- ❑ Electronic Signature Law (China)
- ❑ Electronic Transaction Law (Singapore)
 - Preservation conditions
 - Requirements on
 - Original; Formal written format; Authenticity verification
- ❑ Worksright Law (China)
- ❑ Copyright Law (Singapore)
 - Reproduction for preservation purpose



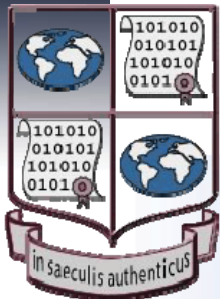
IP2 - Barriers for Preservation

- Lack of clearly defined terminology
 - China
 - Legal terms (e.g., data electronic message) vs professionally standardized terms (e.g., electronic records)
 - Official records: only government records? Or include the Party's records?
 - Both countries
 - Authenticity ? Integrity ? Accuracy?



IP2 - Barriers for Preservation

- Lack of a Holistic Approach
 - China
 - Focusing more on e-government records, less on e-commerce records
 - Loose link in the chain of preservation
 - Strong in transferring from current to semi-current;
 - weak in transferring from semi-current to non-current
 - Both Countries
 - Addresses intellectual components but not technical components
 - How to preserve ER with e-signature?
 - Privacy issue is not addressed in RM regulations or the Archival legislation
 - Relationship b/w preservation and use



谢谢!

THANKS!

