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## DW-CHINA TRADE UPDATE (33RD EDITION)

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### THE U.S. MOVES FORWARD WITH DECOUPLING CHINESE TECH 美国推动与中国科技公司的脱钩

Last week, the United States government undertook a series of actions directed towards Chinese technology companies, raising the specter that the presence of such companies in the United States was no longer welcome. On Wednesday, Secretary of State, Mike Pompeo, issued a Press Statement announcing the launch of an effort promoted to protect America's critical telecommunications and technology infrastructure (the so-called "Clean Network" program). Dubbed the "Clean Network" plan, this governmental initiative is focused on establishing "Clear Carriers," "Clean Stores," "Clean Apps," a "Clean Cloud," and a "Clean Cable" network with the stated goal of combating the alleged aggressive and intrusive practices by the Chinese Communist Party ("CCP") and Chinese telecommunication companies and protecting privacy and sensitive information of US companies and individuals. In response to this announcement, Foreign Ministry spokesman Wang Wenbin responded, "it is absurd and ridiculous the United States keeps talking about 'clean networks' while it has stained itself with bad practices in cyber security, with well-known examples such as the Snowden case."

美国政府于前一周针对中国科技公司采取了一系列行动,使得人们开始怀疑这类公司在美国已经不再受到欢迎。上周三,美国国务卿彭佩奥发表了一份声明,宣布美国将启动一项旨在努力保护美国关键电信和技术基础设施的项目(即所谓的“清洁网络”计划)。这项被称为“清洁网络”计划的政府倡议将着重于建立“清洁运营商”“清洁应用商店”“清洁移动应用”“清洁云”以及“清洁电缆,”以打击中国共产党和中国电信公司所谓的侵扰及保护美国公司和个人的隐私和敏感信息为既定目的。中国外交部发言人汪文斌在回应这一声明时说,美国在网络安全领域曾发生过例如斯诺登事件等一系列不光彩的事件之后还在不断谈论“清洁网络”是十分荒谬的。

The larger overtones to such a move by Washington suggests that the Administration is pushing forward its "decoupling" agenda in the technology area. Following Pompeo's statement, on Thursday evening, President Trump signed two Executive Orders ("EOs") that placed restrictions on TikTok and WeChat, two of the most popular Chinese social media apps used in the US, potentially affecting over a billion people worldwide. In the months of June and July, India banned over 100 Chinese apps from use in that country based on "national security" concerns. A move applauded by 25 members of the US Congress, who also urged President Trump to follow suit, stating the "US shouldn't trust TikTok or other Chinese-affiliated social media websites/apps to protect Americans' data, privacy or security. We urge you to take strong action to stop CCP's sophisticated espionage campaign against our country and protect our national security."

华盛顿方面的这一举措暗示着美国政府正在推进其在技术领域与中国“脱钩”的计划。在彭佩奥发表声明之后,上周四晚上,特朗

普总统签署了两项行政命令,对在美国使用的两种最受欢迎的中国社交媒体应用程序抖音和微信施加限制,这将可能影响全球十亿人。在6月和7月之间,印度出于“国家安全”的考虑,禁止在该国国内使用超过100个来自中国的应用程序,这一举动受到美国国会25名议员的赞赏同时敦促特朗普总统效仿,并提出“美国不应该信任抖音或其他与中国有关联的社交媒体网站/应用程序会保护美国人的数据,隐私或安全。我们敦促您采取强有力的行动,制止中共针对美国的复杂间谍活动,并保护我们的国家安全。”

The EOs, while broad and ambiguous at the same time, attempt to prohibit "any transaction by any person, or with respect to any property, subject to the jurisdiction of the United States" with Byte Dance (the creator of TikTok) and Tencent (the creator of WeChat). The EOs further provide that they will take effect in 45 days (September 20, 2020). Many have worried that the EOs read in their broadest interpretation could lead to an outright ban of the TikTok and WeChat apps from Apple and Google app stores, or even that use of these very popular apps could be prohibited altogether in the US. A total ban of the apps sent a chill down the backs of millennials who turn to TikTok every day for entertainment and more, as well as the Chinese-US business community who depend principally on WeChat as the most reliable, efficient and cheapest means of communication for those conducting business in North America and Asia. The EOs, however, are not specific in their scope, as the term "transaction" remains undefined in the EOs and will be further defined by the Secretary of Commerce in rules and regulations to be implemented within 45 days of the Orders. Thus, the immediate rush to judge the scope of the Orders is premature but, clearly, the future functionality of these apps will be impacted in the US.

虽然这两个行政命令的措辞涵盖范围广泛且模棱两可,但其试图禁止“在美国境内的人与字节跳动(抖音的创办公司)和腾讯(微信的创办公司)进行一切交易或进行任何在美国境内的财产的交易。”这两份行政命令将于颁布后45日生效(即,2020年9月20日)。许多人担心,这两份行政命令可以解读为苹果和谷歌公司应用商店将彻底禁止抖音和微信这两款应用程序,甚至担心在美国将完全禁止使用这些非常受欢迎的应用程序。完全禁止使用这些应用程序将使每天都使用抖音进行娱乐等活动的年轻一代以及主要依靠微信作为在北美和亚洲之间开展业务使用的最可靠,最有效和最便宜的通讯方式的中美商业人士感到不寒而栗。但是,这两份行政命令的禁止范围并不明确,因为行政命令中的“交易”一词仍未定义,商务部长将在行政命令颁布的45天之后通过制定规则和法规中对其进行进一步定义,因此,目前急于判断这些行政命令的范围为时过早,但是可以预见的是,这些应用程序的功能将在美国受到影响。

In signing both EOs, President Trump alleged that TikTok and WeChat could collect sensitive data from their users, which would allow the CCP to have access to Americans' personal and proprietary information, monitor Chinese citizens abroad, and carry out disinformation propaganda to benefit CCP's interests. Similar to the justification for the Section 301 tariffs, the President once again utilized "national security" concerns in support of the restrictions on TikTok and WeChat – a blunt nationalist tool the Administration seemingly wields against friend and foe alike whenever it wants to push forward its trade agenda.

特朗普总统在签署这两个行政命令时声称，抖音和微信可以从其用户那里收集敏感数据，这将使中共可以访问美国用户的个人和专有信息，监视国外的中国公民，并进行虚假宣传以利于中共的利益。类似于301条款关税的理由，总统再次利用“国家安全”这一理由来支持对抖音和微信的限制——这是每当这届政府企图推进其贸易进程时对盟国和对立国使用的一种很直接的国家主义武器。

Voices in the tech sector quickly responded. TikTok announced that it was considering legal remedies in the United States, pointing out that user data is stored in the US and not available to the CCP. Similarly, WeChat stores its user data in Canada. China Daily, the English-language newspaper controlled by the CCP, described the two executive orders as “vaguely worded” and it challenged the legal authority of the two executive orders to use the two US emergency laws to ban transactions with TikTok and WeChat. Even Facebook’s Mark Zuckerberg, a competitor to both platforms, told employees that banning TikTok would set “a really bad long-term precedent.” Referring more to the threat of nationalist agendas that might threaten Facebook in other countries (which is already blocked in China). Zuckerberg went on to reflect that if any country could obtain access to user data, that outcome would be problematic.

科技领域迅速做出了回应。抖音宣布其正在考虑在美国寻求法律补救办法，并指出其用户数据存储在美国，中共无法获取。同样，微信将其用户数据存储在美国。由中共控制的英文报纸《中国日报》认为这两个行政命令的措辞含糊不清，并挑战这两个行政命令利用美国的两项紧急法律来禁止与抖音和微信交易的法律依据。甚至微信和抖音的竞争对手，脸书总裁马克·扎克伯格都告诉员工，禁止抖音将树立“一个非常糟糕的长期先例”。更多地提到国家主义有可能威胁到脸书在其他国家的使用（脸书在中国已经被禁用），扎克伯格同时指出，如果任何国家都可以访问用户数据，那么结果将是会有问题的。

On the world stage, the Orders, as well as the Clean Network program have met with mixed reactions, with many fearing that the Administration’s efforts are nothing short of a governmental taking and a thinly veiled attempt to promote the US tech sector and create a monopoly. Attacks on Chinese tech companies is not new with the Administration, think Huawei, ZTE, and Grindr, but never before has the Administration moved so quickly against companies when there was only a “threat” that user data could be shared. The Administration’s legitimacy has also been called into question by statements from the President, who claimed that in exchange for approving Microsoft’s acquisition of TikTok (a possible outcome of the EO), the US Treasury should receive “a very big proportion” of the sales price. This type of rhetoric is exactly what the US Trade Representative accused China of doing when it justified the Administration’s imposing Section 301 trade tariffs over the last two years. And while China’s hands remain unclean, having banned Google, Facebook, WhatsApp and other US tech platforms, it appears that China and the US are now engaged in a tit for tat tech war that many have feared will lead to an expanded economic cold war between the east and the west. What remains clear, however, is that the US Administration is moving forward with an anti-China campaign designed to allegedly protect US’s “national security interests” at the expense of normal trade regimes. China, however, is

not alone in feeling the effects of this aggressive protectionist trade policy, as the Administration has also recently threatened Europe over the digital tax and Canada over aluminum imports. These outcomes not only have created uncertainty in international trade circles, but have the potential of exacerbating prospects for a quick recovery of the global economy as it fights its way out of the recent pandemic.

在世界范围内，各方对行政命令和“清洁网络”计划的反应参差不齐，许多人担心，美国政府的所作所为仅仅是政府强买强卖的行为和几乎不加掩饰地试图促进美国科技产业，进而造成垄断。美国政府对科技公司的打压并不陌生，例如华为，中兴通讯和基达，但是美国政府从未在“威胁”仅限于可以共享用户数据的情况下，如此迅速地对这类公司采取行动。这届政府相关举措的合法性，在总统声称为换取微软对抖音收购的批准（行政命令颁布后可能产生的结果），美国财政部应获得销售价格的“很大一部分”之后受到了质疑。这类言论正是过去两年美国贸易代表办公室指责中国所为并因此作为施加301条款关税的依据。尽管中国也并非完全清白，其已禁止了谷歌，脸书，WhatsApp和其他美国科技平台，但现在看来，中美两国正展开一场针锋相对的科技战，许多人担心这将扩大东西方之间经济领域的冷战。然而，仍然清楚的是，美国政府正在推进反华运动，以牺牲正常贸易制度为代价，声称旨在保护美国的“国家安全利益”。然而，感受到这种激进的贸易保护主义政策影响的并非只有中国，正如美国政府最近威胁对欧洲加征数字税和对加拿大加征铝制品进口税一样。这些结果不仅已经在国际贸易圈中造成不确定性，而且有可能在全球努力摆脱疫情之时，更加恶化经济迅速复苏的前景。

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