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"CHINA IS KILLING ITS TECH GOLDEN GOOSE"
(Project Syndicate – July 12, 2021)

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The Communist Party of China's crackdown on ride-hailing firm Didi over supposed data-security concerns seems to be just the beginning of a wider campaign to assert control over the country's thriving tech sector. Foreign investors hoping that Chinese leaders will realize their folly and reverse course should think again.

CLAREMONT, CALIFORNIA – US politicians from both congressional parties are worried that China is overtaking America as the global leader in science and technology. In a rare display of bipartisanship, the normally gridlocked Senate passed a bill in early June to spend close to $250 billion in the next decade to promote cutting-edge research. But lawmakers may be fretting unnecessarily, because the Chinese government seems to be doing everything possible to lose its tech race with America.

The latest example of China's penchant for self-harm is the sudden and arbitrary regulatory action taken by the Cyberspace Administration of China (CAC) against Didi Chuxing, a ride-hailing company that recently raised $4.4 billion in an IPO on the New York Stock Exchange. On July 2, just two days after Didi's successful offering, which valued the firm at more than $70 billion, the CAC, a department of the ruling Communist Party of China (CPC) masquerading as a state agency, announced a data-security review of the company. Two days later, the CAC abruptly ordered the removal of Didi from app stores, a move that wiped out nearly a quarter of the firm's market value.

The CPC's crackdown against Didi under the pretext of data security seems to be just the beginning of a wider campaign to assert control over China's thriving tech sector. On July 9, the CAC further shocked tech entrepreneurs and their Western investors with an official announcement that all companies with data from more than one million users must pass its security review before listing on overseas stock exchanges. Once fully implemented, this new policy could choke off Chinese tech firms' access to foreign capital.

Ironically, US China hawks have long dreamed of accomplishing just that. In December last year, Congress passed a law authorizing the delisting of Chinese companies from US stock exchanges if they fail to meet US auditing standards. Now, it seems that Congress need not have bothered. Its nemesis, the CPC, will be doing the same job far more effectively and thoroughly from now on.

Any so-called data-security review conducted by a secretive party agency with little technical expertise, no legal accountability, and a responsibility only to its political masters will erect another unpredictable regulatory hurdle deterring most, if not all, foreign investors. Since foreign backers of Chinese tech start-ups usually plan to exit their investment through an overseas listing – preferably in New York – the prospect of a CPC agency wielding a veto over future listings may make them extremely reluctant to invest.

Foreign investors, usually well-established venture-capital firms, bring not only much-needed financing, but also valuable expertise and best governance practices that are vital to the success of tech start-ups. Almost all dominant Chinese tech giants, including Alibaba, Tencent, and Baidu, relied on foreign funding to grow into spectacularly thriving companies. Had the CPC required a similar data-security review two decades ago, none of them would have existed – and China's tech landscape today would be desolate.

The CAC's crackdown on China's most successful tech firms is not driven by concerns about data security. China's surveillance state offers citizens no data security or privacy to speak of. And given that China's data-security law already requires all tech companies to store their data inside the country's borders, the government's worries about a potential data leak by a ride-sharing platform such as Didi hardly merit radical rule changes and arbitrary restrictions. Minor regulatory tweaks would be more than adequate to address policymakers' legitimate national-security concerns.

But foreign investors hoping that Chinese leaders will realize their folly and reverse course should think again. Killing the proverbial golden goose seems to be a CPC specialty. In fact, neither Didi nor Alibaba – which in April received a record $2.8 billion antitrust fine from the Chinese government – even come close to being the biggest such creature China has slaughtered recently. That unwanted distinction belongs to Hong Kong, whose autonomy and prosperity are in grave peril following the government's imposition of a draconian national-security law last year.

Paranoia, bullying instincts, and contempt for property rights are deeply embedded in the CPC's collective psyche, predisposing the Chinese government to self-destructive policies, regardless of well-intentioned advice or even evidence of their harmful consequences. And over-centralization of power under strongman rule in China today has made self-correction nearly impossible.

For China's tech entrepreneurs, Didi's travails should serve as a rude awakening. Many may think that they can thrive under a dictatorship as long as they stay out of politics and focus on making money. But, to paraphrase Leon Trotsky, they may not be interested in the dictatorship, but the dictatorship is very interested in them.

A well-known Chinese proverb applies to the CPC. The party keeps "hurting loved ones and delighting the enemy" (qintong choukuai). China's tech bosses are learning the hard way that they may well have more to fear from their own government than from America's bipartisan Sinophobia.

"Are US Corporations Above the Law?"
(Project Syndicate – July 12, 2021)

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By siding with major food corporations over six Malian former child slaves who were seeking compensation under US tort laws, the US Supreme Court has sent a dangerous message. Apparently, US corporations will not be held to the same standards of decency and human rights abroad as they are at home.

NEW YORK – Adam Smith, the founder of modern economics, argued that the pursuit of private interests – profits – will invariably promote the common good. That may be true in some situations, but obviously not always. Just as banks' pursuit of profit led to the 2008 financial crisis, it was Purdue and other pharmaceutical companies' greed that produced the opioid crisis, and Texaco's support of the Franco regime that helped the fascists triumph in the Spanish Civil War.

This litany of perfidy could easily be extended. But among the worst abuses committed by greedy corporations today is childhood slavery. Chocolate lovers around the world may not know it, but some of their guilty pleasures may have been produced by child slaves.

Nestlé, Cargill, and other food companies facing such allegations have avoided answering for them in open court. Because they or their subsidiaries are headquartered in the United States, they have been able to argue that they are not accountable for misdeeds committed in faraway Africa. They do this knowing full well that there is no effective legal system in the countries where children are being exploited.

Moreover, even if a legal judgment was to come down against these companies abroad, they would pay little. They would simply move their operations elsewhere, and it would be hard, if not impossible, for a small, poor country to enforce any judgment rendered.

These issues were all in play in a case before the US Supreme Court this year. In Nestle USA, Inc. v. John Doe I, et al./Cargill, Inc. v. John Doe I, et al., the court ruled against six Malians who were seeking compensation from Nestlé and Cargill for their suffering as former child slaves. Rather than ruling on the merits of the case, the court issued an 8-1 decision on the narrower legal question of whether an American firm can be held accountable for

injuries done to others abroad. The US Alien Tort Statute, the court held, cannot be applied "extraterritorially," because that would amount to an extension of US law beyond US boundaries.

Of course, the US operates extraterritorially all the time, such as when it punishes foreign companies for violating its sanctions against Iran. The difference in this case was that it was American companies (or those working on their behalf) who were being called to account. By ruling in their favour, the court avoided the question of how companies engaged in unlawful behaviour abroad ever could be held accountable. In what court would they be tried if not a US one?

In the absence of any accountability, US corporations have little incentive to change their behaviour abroad. If they can get our favourite chocolates onto store shelves at a lower price by using suppliers who exploit child labour, those without moral compunctions – a category that evidently includes these companies – will adhere strictly to the logic of market competition and do so.

So, who will protect the children? At stake in this case was one of America's core values: human rights. It is clearly in America's interests to show the rest of the world that its companies abide by its values, especially at a time when police brutality against African-Americans is in the international media spotlight.

Together with Oxfam, we submitted an amicus brief to the Supreme Court arguing that it is in America's economic interest to hold US firms accountable for wrongful conduct wherever it is committed. We believe that corporate social responsibility pays off in the long run – for consumers and companies alike – in countries that insist on it.

After all, countries and companies with good reputations can attract more capital and better workers than less ethical competitors can, and their products will appeal to an increasingly conscientious generation of consumers. Younger workers are especially sensitive to what their employers do and stand for. That is why many companies have taken a stand against voter-suppression laws and embraced targets to reduce greenhouse-gas emissions.

But far too many companies are still driven by short-term profits. While lawyers for Nestlé and Cargill were working diligently to spare them from accountability, both companies issued boilerplate statements condemning child slavery. But if that is where they stand, why didn't they want to lay out their case in court? Surely, their well-paid lawyers would be more than a match for the Malians' representatives. If the companies lost, it wouldn't be because they lacked adequate counsel.

How can we ensure that companies don't do abroad what they would never attempt to do at home? Globalization has forced this question onto the agenda as Western companies have expanded their reliance on poor countries with very limited legal frameworks. Extraterritoriality is not the issue. What matters most is that we end the race to the bottom. The US should be assuring the world that it and its companies stand for decency, without any double standards.

In the meantime, Cargill, Nestlé, and other companies that have allegedly been culpable in human-rights and environmental abuses abroad must be tried in the court of public opinion. Their untiring effort to evade accountability for their actions speaks volumes.

"A Golden Opportunity to End Destructive Fishing Subsidies"

(Project Syndicate – July 14, 2021)

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For years, WTO members have failed to forge an agreement to limit fishing subsidies, thereby allowing the continuation of ecologically devastating fishing operations that would otherwise be economically unviable. But with another round of negotiations this month, they have a chance to make up for lost time.

GENEVA – It is not often that trade negotiators get a chance simultaneously to protect vulnerable people and

their livelihoods, promote healthier oceans, and fulfill one of the United Nations Sustainable Development Goals. But that is exactly the opportunity awaiting trade ministers as they gather at the World Trade Organization this week to discuss new global rules limiting government support for the fishing industry.

These public subsidies incentivize overfishing, and WTO members have been debating how to limit them for 20 years now. During those long two decades, global fish stocks have decreased sharply, and poor and vulnerable artisanal fishers have suffered along with ocean ecosystems.

In 2017, the UN Food and Agriculture Organization (FAO) warned that an estimated one-third of global fish stocks were overfished, an increase from 10% in 1970 and 27% in 2000. The depletion of fish stocks threatens the food security of low-income coastal communities and the livelihoods of poor and vulnerable fishers, who must travel farther and farther from shore only to bring back smaller and smaller hauls.

Despite these disturbing findings, governments continue to disburse around $35 billion in annual fisheries subsidies, two-thirds of which go to commercial fishers. In doing so, they are keeping at sea many commercial vessels that would otherwise be economically unviable.

World leaders recognized the seriousness of the problem back in 2015 when they agreed to forge an agreement on fisheries subsidies by 2020 as part of the Sustainable Development Agenda. But while trade ministers reaffirmed this pledge in 2017, talks at the WTO have repeatedly stalled.

Over the past year, however, things have begun to turn around. Political leaders and trade ministers from around the world tell me they want to get an agreement done this year. In Geneva, the chair of these negotiations, Ambassador Santiago Wills of Colombia, has worked with WTO members to draft a negotiating text that I believe can provide the foundation for final-stage talks. But despite the political support voiced by government leaders, important divisions persist. Indeed, as matters stand, we are in danger of failing to conclude a deal before the WTO's year-end Ministerial Conference.

This tight timetable is the reason for convening trade ministers this month. While no one expects a miracle, the meeting represents a golden opportunity to bring the negotiations within striking distance of a deal. WTO members need to conclude an agreement in time for the UN Biodiversity Conference in October, and no later than the end of November, when the WTO's own ministerial begins. A failure to do so would jeopardize the ocean's biodiversity and the sustainability of the fish stocks on which so many depend for food and income.

Yes, the talks are complex, because fish do not inhabit a single national territory or observe maritime boundaries. WTO negotiators must account for both the existing framework of international fisheries rules and the role of the regulatory bodies that govern many aspects of fishing around the world. They also must define how new subsidy rules would apply to far-flung fishing vessels.

Compounding the challenge is the fact that the WTO is not a fisheries management organization. Still, the WTO has a longstanding framework of rules that curb trade-distorting subsidies for industrial and agricultural goods. That is why trade ministers agreed back in 2001 to come up with similar measures to protect marine fisheries.

Although there is still work to do, the current draft negotiating text would make an important contribution to the sustainability of our oceans. For starters, it would completely ban government funding for vessels that engage in illegal fishing. According to the FAO, these activities account for 11-26 million tons of fish per year, or roughly 20% of the total global catch. The agreement would also rein in other types of subsidies that support increased fishing activity, by requiring that governments prove they have taken steps to ensure such support does not harm fish stocks.

One of the toughest issues in the negotiations is how to define and honor the original negotiating mandate guaranteeing special and differential treatment for developing countries – and especially for least-developed countries. Many of these countries rely on small-scale artisanal fishing, and they are seeking more policy space to develop their industrial fishing capabilities. But, because their fisheries management capacity is weak, they may struggle to implement new subsidy regimes as quickly and effectively as better-off members can.

Another tough issue is to ensure transparency, with requirements that a member offer notification when deploying non-harmful and non-distortionary subsidies to encourage its fishing industry. Tackling these issues will not be easy, but tackle them we must, because WTO members have pledged to protect the fisheries and ocean we all share.

By negotiating away harmful fisheries subsidies, WTO members will not just be honoring past commitments.

They will also be lending momentum to other international efforts to address problems in the global commons – from climate change to the COVID-19 pandemic.

Let's hope that the world's trade ministers rise to the challenge.

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The Council for the United States and Italy is a private non-profit organization, founded in Venice in 1983 by Gianni Agnelli and David Rockefeller, who served as honorary presidents until 2003. Marco Tronchetti Provera followed them as Chairman, then Sergio Marchionne until 2018. Domenico Siniscalco is the current Chairman, Gianni Riotta Executive Vice Chairman. The Council for the United States and Italy promotes and creates economic relations between Italy and the United States, linking them to Europe, Asia and Africa through knowledge and free trade. Its members are leaders in the economy, industry, finance, technology, services, consulting, law and culture - a team in which economic growth is viewed as promoting humanity and wealth as a cultural value to be shared.
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