Global Counsel

GLOBAL COUNSEL

The Politics of Decoupling

GLOBAL DIGITAL CONFERENCE
03 FEB 2022

Welcome

In the four years that GC has run its annual 'politics of' conference, no theme has generated more interest than this year's theme of decoupling. We know only too well from working with a wide range of clients on the evolving risk landscape in relations between China and the rest of the world how uncertain and sensitive this issue can be. The sensitivity and the interest are surely linked.

China's re-emergence as a global economic power was inevitably going to challenge the established patterns of global economic life and governance of the late twentieth century. Over the last two decades a mix of strategic or tactical policy choices and market forces have coupled China to its region, the wider global economy and the machinery of global governance. It is now commonplace to hear calls from some in the US and Europe to limit this exposure – to block off future integration in sensitive areas, or even reverse elements of the status quo. Even actors committed to integration speak of selective decoupling.

Our panels at this year's conference consider both how feasible this is, and what its implications might be for fixed investment, supply chains and multilateral alignment. We ask how realistic it is to ringfence confrontation, market-based competition and cooperation and convergence. Much of our experience in tracking and anticipating political risk suggests that this could prove difficult in many respects. The implications for investors, corporates and global governance are important and require practical and pragmatic thinking.

This conference report combines insights and perspectives from GC specialists from our five offices around the world with thematic reviews of key areas we will cover in our panels. We hope you find the conference interesting, and we look forward to working with you in 2022.

Stephen Adams
Senior Director

Programme

08:00 - 08:10 GMT	**Opening remarks**	**Stephen Adams**, Senior Director, GC
08:10 - 08:55 GMT	**How real is decoupling?** This panel discussion explores the drivers of decoupling in China, US, Europe and western-aligned states elsewhere. What kind of practical implications will this bring?	Sir **Sebastian Wood** KCMG, Chairman, China Schroders **Sherry Madera**, Chair, The Future of Sustainable Data Alliance (FoSDA) Dr **Yu Jie**, Senior Research Fellow on China, Chatham House **Gregor Irwin**, Chief Economist and Director, GC Chaired by **Stephen Adams**, Senior Director, GC
09:00 - 10:00 GMT	**The US perspective: in conversation with Lawrence H. Summers** This wide-ranging in-conversation is structured in two parts: the debate in the US on China, the consensus amongst policymakers in what they want to achieve, and prospects for disruption or miscalculation - or new accommodation; and the Biden administration's inflation worries.	Chaired by **Peter Mandelson**, Chairman, GC
10:00 - 10:55 GMT	**The European perspective** This panel discussion focuses on the political and economic consequences of China's growing alienation from Europe, with special attention to the French Presidency of the Council of the EU.	**Joerg Wuttke**, President, Eurochambres in China **Françoise Nicolas**, Head of Asia Centre, Institut français des relations internationales, IFRI Chaired by **Tom White**, Director and Head of European Union, GC
11:00 - 11:55 GMT	**Trade tensions: trends in sourcing and investment strategies** This panel discussion focuses on making sense of the 'uneven' decoupling in supply chains. How will this trend evolve moving forward and what are the implications for corporates, investors and policymakers?	**Frank Heemskerk**, Secretary General, European Round Table for Industry (ERT) **Hiroshi Matsuura**, Envoy Extraordinary and Minister Plenipotentiary in the United Kingdom, Japanese Embassy Dr **Yu Jie**, Senior Research Fellow on China, Chatham House Chaired by **Stephen Adams**, Senior Director, GC
12:00 - 12:55 GMT	**Transatlantic tech policy: a new era for regulatory cooperation?** This panel discussion asks whether the dictum, 'America innovates and Europe regulates' still holds? Or will distrust in Big Tech and growing Chinese competition increase the chances of transatlantic consensus?	**Rana Foroohar**, Global Business Analyst and Deputy Editor, the Financial Times **Elizabeth Denham** CBE, Former UK Information Commissioner and International Advisor, Baker McKenzie **Benedict Evans**, Independent Tech Analyst Chaired by **Conan D'Arcy**, Senior Practice Lead, Technology, Media and Telecoms, GC
13:00 - 13:45 GMT	**Programme break**	
13:45 - 14:00 GMT	**RMB internationalisation: a GC primer** GC's Global Macro and FS teams explain the RMB's role in international finance, looking at challenges linked to its internationalisation and why it is a source of concern for both Western and Chinese policymakers.	Presented by **Thomas Gratowski**, Senior Practice Lead, Global Macro and Head of Doha Office, GC, **Jens Presthus**, Senior Associate, Global Macro, and **Rebecca Park**, Senior Practice Lead, Financial Services
14:00 - 14:55 GMT	**The future of China-US relations: in conversation with Qin Gang, China's Ambassador to the US** Joining from Washington DC, Ambassador Qin Gang shares his perspective on China's state of relations one year into the Biden administration, plus the challenges and opportunities facing the bilateral relationship.	Chaired by **Peter Mandelson**, Chairman, GC
15:00 - 15:45 GMT	**The Southeast Asian perspective: in conversation with Dr Ong Kian Ming** This in-conversation focuses on the strategic challenges for Malaysia at the intersection of US and China strategic interests. How can Malaysia, a founding member of ASEAN and host to the first East Asia Summit, preserve autonomy in its policy considerations and the risk this could fray.	Chaired by **Andrew Yeo**, Practice Lead, Asia and Head of Singapore Office, GC
15:50 - 16:55 GMT	**The future of Chinese corporates** Corporates in China today operate within the geopolitical context of increasingly fraying US-China ties. Domestically, a new regulatory cycle focused on achieving a host of policy goals has also begun to take shape. How is the private sector in China reacting to these developments and what are the implications for international corporates, investors and policymakers?	**Liu Zhen**, COO, Chi Forest Holdings **Patrick Zhong**, Founding Managing Partner, M31 Capital Chaired by **Peter Mandelson**, Chairman, GC
17:00 - 17:55 GMT	**Rethinking the resilience of global standard-setting practices** This panel discussion explores whether standard-setting organisations will become the next geopolitical battleground as China, the US, and Europe all vie to set the technical standards for the next wave of emerging technologies.	**Emily Taylor**, CEO, Oxford Information Labs **Jamie Susskind**, Barrister and Author **Richard Spearman**, Senior External Affairs Advisor for Security and Resilience, Vodafone Chaired by **Jon Garvie**, Practice Lead, International Policy, GC
17:55 - 18:00 GMT	**Closing remarks**	**Stephen Adams**, Senior Director, GC

The View → from London

by Stephen Adams

In the Autumn of 2015, then-UK Chancellor George Osborne described the UK and China as entering a 'golden era' in bilateral relations. The UK had been the first G7 state to subscribe to the Asian Infrastructure Investment Bank (AIIB). The UK pledged to be the most open regime in the North Atlantic world for Chinese foreign investment and the natural base for the development of an offshore market for the RMB.

Chinese enterprises responded by investing almost $50 bn in UK assets between 2016 and 2018 – far more than the previous decade combined and far more than any other European jurisdiction. This was followed in 2019 by a 34% stake by China General Nuclear Power in the Hinkley Point C nuclear reactor, worth almost $9 bn. By the end of 2018, the RMB was the most traded emerging market currency in London, which accounted for more than 40% of the international market for RMB trading. What has happened to bilateral UK-China relations since 2018 is complex and contested. Tensions over Hong Kong have impacted ties profoundly. Detached from the EU, it is possible to detect a clear additional gravity exerted on London by the US's geostrategic concerns. A group of policymakers in London have become increasingly vocal in calling for closer scrutiny of UK-China engagement – and Chinese policymakers have responded coolly. The UK followed other European states in 2020 by tightening formal oversight of Chinese investment – notable chiefly because the UK has conventionally resisted such politicisation of FDI. Coming out of the covid-induced slump in investment, Chinese capital will find the politics of UK acquisitions more latently hostile. The 'golden era' has been replaced with 'selective decoupling.'

But the debate on 'selective decoupling' in the UK often emphasises the complex nature of the interconnections. Tense attempts to recalibrate the UK's relationship with Huawei and CGN have had to navigate previous political and legal commitments and established technological integration. China is the largest source of physical goods imports to the UK, and in more than a quarter of its imported goods categories, accounts for more than half of those goods. China is also one of the UK's largest buyers in some key areas: more than a dozen UK universities now rely on Chinese students for more than a quarter of their revenue. For China's part, there a no real alternatives to London as an offshore centre for its internationalisation plans for the RMB. 2021 saw new highs for almost every metric of RMB's role in London. The UK remains a key target for Chinese investment and acquisition.

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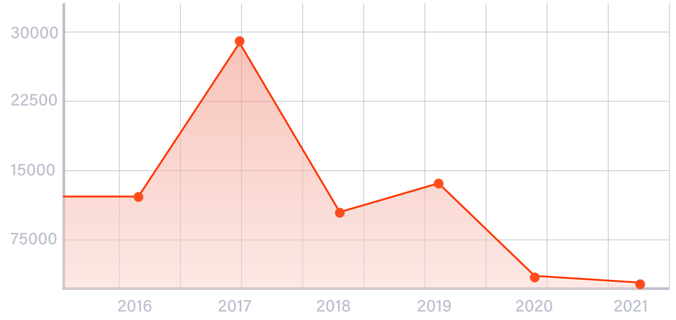
'How real is decoupling?' plenary

Outside the EU, the UK will want to carve out scope for an autonomous strategic relationship with China, but will be drawn both by the poles of US policy and its pacific collective security frameworks and an EU trying to hammer out its own strategic consensus on relations with China. For both reasons, UK-China bilateral relations are entering a phase of deep uncertainty.

China inward Foreign Direct Investment into the UK has fallen since 2019...



Source: ISEAS

...while London's RMB role has continued to expand.

	Q221	YOY
RMB FX	£74.38bn	+ 13.38%
RMB Deposits	RMB 88.5 bn	+ 19.23%

	Bonds Outstanding	Value
Dim Sum Bonds	149	RMB 66.33bn

	Q2 2021	Daily
RMB Clearing	RMB 2.5trn	42.33bn

Source: ISEAS

The View → from Brussels

by Tom White and
Ariane Giraneza

Chinese companies are an integral part of the supply chain of many European businesses, and an aggressive investment strategy has bought China considerable stakes in important sectors in the European member states.

Despite this, the relationship has not been reciprocal, and the Chinese market remains quite closed off for European businesses and foreign direct investments. The Comprehensive Agreement on Investment (CAI) was supposed to remediate that, but due to trade and human rights disputes the ratification of the agreement remains uncertain.

On a political level, member states remain divided (internally and between one another) over the real nature of Chinese competition and the appropriate response. This sometimes flows from their differing levels of confidence in the transatlantic security relationship and sometimes from commercial or financing imperatives. Smaller member states fear being crushed in a competition battle between giants, i.e. Chinese and European multinationals, that mostly benefit the larger member states.

The EU institutions have tried to capture this in President von der Leyen's triage approach: China is sometimes a strategic rival (defence technology), in others a strategic competitor (telecoms) and others a strategic partner (climate change). This is still in development but at least provides a framework for stakeholders to argue about which issue should be categorised in which way.

However, the direction of travel is clear at the policy level: the new mantra of 'open strategic autonomy' is being implemented in a series of new legislative measures to treat Chinese firms differently from European firms, or indeed other 'third country' firms. Here, the power of qualified majority voting will decide the extent to which Europe 'decouples' economically from Chinese suppliers and customers.

This can pose difficult or even existential challenges for firms that relied on outsourcing to China, or on Chinese markets, to reinvent their competitive position during the last 20 years of growing global competition.

All of this can make the EU's relationship with China come across as schizophrenic at times, but with the French Presidency of the European Council being heavily skewed towards issues pertaining to 'open strategic autonomy,' member states will soon have to decide what this term means for them and where they see this relationship going.

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'The European Perspective'

The competition to define Open Strategic Autonomy after Merkel. ↘

An uneasy truce on defining "open strategic autonomy" will be tested in 2022 at a new level of detail in a range of economic policy debates.

The View from Washington DC

by Erin Caddell and Miranda Lutz

Amid record-high levels of partisanship, there is one issue that seems to unite Republicans and Democrats in Washington, DC: US policy vis-à-vis China and the desire for Washington to take a tough approach to Beijing.

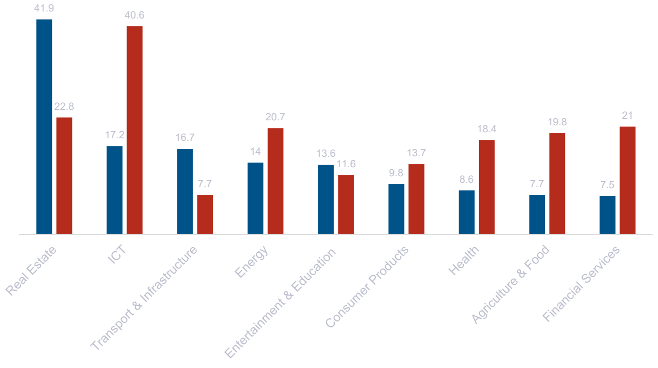
This consensus has driven a surprisingly high degree of continuity for US policy towards China from President Trump to President Biden, despite the latter's efforts to carve a new path for US global leadership. During his first year in office, Biden has maintained Section 301 tariffs on billions of Chinese goods, committed to enforcing the Phase One deal and Beijing's purchase commitments, maintained export controls on sensitive technologies, blacklisted additional Chinese companies, and sought to strengthen ties with Taiwan.

These policies have translated into very tangible impacts on businesses whose supply chains and consumers straddle China and US markets. Chinese-backed investment in the US is receiving heightened levels of scrutiny from the Committee on Foreign Investment in the United States (CFIUS). At the same time, American companies in China are under pressure to ensure their supply chains are not implicated in forced labor concerns and that their investments do not support China's civil-military fusion. Amid Beijing's regulatory crackdown on tech firms, major US companies like LinkedIn and Yahoo have pulled out of China.

Both Republicans and Democrats now talk about whether the US is losing its edge in emerging technologies and the need to unlock unprecedented domestic investment in research and development and manufacturing.

Foreign Direct Investment (FDI) by industry from 1990 to 2020 (USD $ billions)

The ICT industry has benefitted from Chinese FDI - second only to real estate. But this trend may face headwinds given greater investment screening and national security sensitivities around technology as well as the potential outbound investment screening



Source: Congressional Research Service

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'The US perspective: in conversation with Lawrence H. Summers'

It is clear that US policymakers increasingly view policy challenges through a China lens, particularly in the areas of critical infrastructure and emerging technologies. A bipartisan effort on Capitol Hill to pass more than $52 billion to support domestic semiconductor R&D and manufacturing signals how seriously lawmakers take the threat posed by competition with China. Where previously the US criticized Beijing for creating an unfair playing field through massive government subsidies, now Washington looks as if it is on the precipice of ushering in its own era of greater government control over the economy with the express purpose of being able to compete with China.

But the US does not want to – and cannot - fully decouple from China. China is both the top supplier of goods to the United States and the third largest export market for American products. The American and Chinese economies are deeply intertwined. Yet, there are signs pointing to fragmentation. Beijing's aggression towards Taiwan and Hong Kong, the government's human rights abuses against Uighurs, China's military buildup of its nuclear arsenal, and ongoing theft of US intellectual property continue to add significant costs to the relationship for American policymakers.

So where does this leave US-China relations? It seems that the current leadership in the White House and Congress are asking the same questions in 2022 as their predecessors: is this a new Cold War or are there risks of kinetic action between Beijing and Washington?

The View from Doha

by Ahmed Helal

Since the Second World War, US-Gulf relations have been defined by a compact in which oil-rich Gulf states supply the global economy with affordable fossil fuels and the US acts as the Gulf's ultimate security guarantor. While the US has no formal treaty alliance that would require it to come to the Gulf's defence – as it does with NATO and Japan – its regional military assets are concentrated in the Arabian Peninsula. The US is also the Gulf's main arms supplier and maintains strong intelligence and counterterrorism cooperation with Gulf states. Over the last decade, however, this compact has come under strain, as the US shale revolution diminished US energy dependence on the Gulf and the drawdown of America's costly 'forever' wars in Iraq and Afghanistan led to a rethink of its force posture in the Middle East.

Gulf monarchs have watched with rising concern as successive US administrations have sought to de-prioritise the Middle East. The chaotic US withdrawal from Afghanistan and the subsequent Taliban takeover of that country seemed to confirm that the US is willing to retrench from the region at all costs. The dramatic fashion of the Taliban's return to power in Afghanistan may have emboldened regional extremist groups, such as Al-Qaeda or IS, which pose a real risk to the security of the Gulf. The Afghanistan debacle appeared to preview the broader repercussions of a shrinking American security umbrella in the region, further putting Gulf states on alert. Afghanistan is the latest in a series of strategic US blunders, as viewed by the Gulf, that have eroded Gulf states' confidence in America's reliability as a partner.

In 2019, when Iran-aligned Houthi rebels launched a drone attack against Saudi Aramco oil facilities, the Trump administration took no action on the grounds that no Americans were killed. The attack, which took out five per cent of global oil production and demonstrated Iran's proficiency in threatening Saudi Arabia, cemented the Gulf view that the US could not be counted on as the traditional security guarantor. Gulf states are therefore pursuing strategic diversification not only of their oil-dependent economies but also of their relations with great powers. Whether to build up their military capabilities or localise technologies that will help move their economies away from hydrocarbons, Gulf states are increasingly looking east to China. Gulf states' rollout of 5G telecommunications technology made by Huawei, the Chinese state-backed technology giant, has emerged as a key point of contention in US-Gulf relations. The US has pressed its Gulf allies to drop Huawei from their telecommunications networks, saying that China will use Huawei equipment to obtain sensitive information and sabotage critical infrastructure in the West and around the world.

Hard economic realities are driving the Gulf closer into China's orbit. China was the largest destination of Saudi exports, dominated by crude oil, in 2019 and is one of the UAE's largest trading partners. The Gulf overall is China's most important source of oil and natural gas, making the region crucial to its energy-hungry economy. To say, however, that the Gulf's deepening cooperation with China amounts to a decoupling of the US-Gulf economic and security relationship would exaggerate the shift that is underway. Gulf leaders still attach greater importance to their relations with Washington than to their outreach to China. Gulf states' well-funded influence operations in Washington, which channel huge sums of money to think tanks, lobbyists and public relations firms, demonstrate the enduring centrality of relations with the US to Gulf governments.

As Gulf states seek to hedge against America's wavering security commitment to the Middle East, they will increasingly look to China and other rising powers to procure both military hardware and emerging technology in the areas of artificial intelligence and automation. The latter will be equally important to Gulf countries' efforts to diversify their economies away from oil and gas. Gulf states will often face a binary choice between the US, their security provider of choice for decades, and China, the largest market for their main export commodity.

The View from Singapore

by Andrew Yeo and Marissa Lee

Southeast Asia is a major stage for the fraught US-China rivalry. While China continues to be seen as the most influential strategic power in the region and in spite of Beijing's efforts in covid-19 diplomacy, the regional elite are increasingly wary of China's growing political clout in the region. This perception is shaped by a few factors, chief among them China's deepening investment footprint in the region and Beijing's maritime expansion in the South China Sea.

In Singapore, where a majority of the population identifies as ethnically Chinese and public sentiment towards China is more favourable than in any other developed Asian nation, the Singapore government became the first in Southeast Asia in 2021 to pass sweeping laws aimed at curbing foreign interference in local affairs. Lawmakers did not specify if the new laws targeted any specific foreign actor, but critics widely assume that they are aimed at Beijing's cyberespionage activities.

On the economic front, China many not be the largest source of foreign direct investment into ASEAN, but Chinese investment in Southeast Asia has picked up over the years. China is the biggest funder of development assistance and investments in both Cambodia and Laos, while Myanmar tends to lean closer to China during periods of international isolation under military rule. ASEAN also overtook the EU to become China's top trading partner in 2020. In January 2022, the Regional Comprehensive Economic Partnership will take effect. Skeptics worry that ASEAN's economic reliance on China is increasingly risky, as Beijing has the power to create structural imbalances that could damage the region in the long run.

In the military and security realm, China's territorial claims in the South China Sea persistently test its relationship with the five ASEAN member states of Vietnam, the Philippines, Malaysia, Brunei, and Indonesia that contest these claims. Allegations by the US that Beijing had signed a secret agreement with Cambodia in 2019 to allow its troops to use parts of Cambodia's military bases is another source of tension. Most ASEAN member states are therefore largely appreciative of the trilateral security pact between Australia, the UK and the US (AUKUS) as a counterbalancing force for the region, even if they are not explicit about voicing support for it.

It continues to be difficult for ASEAN to coordinate a unified response on China, whether on the overlapping territorial claims of the South China Sea or China's growing economic influence in the region. ASEAN's non-interference principle and consensus-based model poses challenges for the bloc to speak with one voice on China, especially as Cambodia and Laos, China's closest ASEAN allies, have in the past undermined ASEAN unity on issues such as the South China Sea. The bloc's failure to fully align on China has also exacerbated the region's status as an arena for competition between the US and China.

In 2022, a key issue to watch is the recently resumed negotiations for a South China Sea Code of Conduct (COC). China aims to sign the COC at the annual ASEAN-China Summit at the end of next year, but completing negotiations within that time frame will be a major challenge, even as China-friendly Cambodia has some influence over the year's agenda as the 2022 ASEAN chair.

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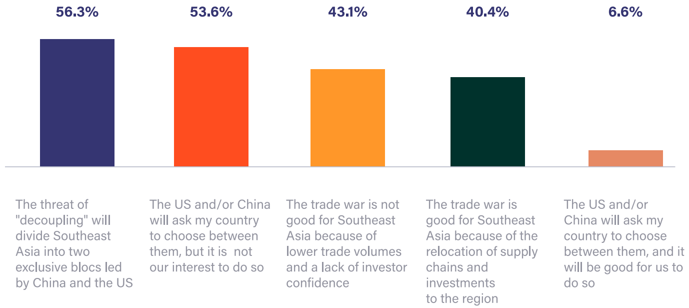
'The Southeast Asian perspectve: in conversation with Dr Ong Kian Ming'

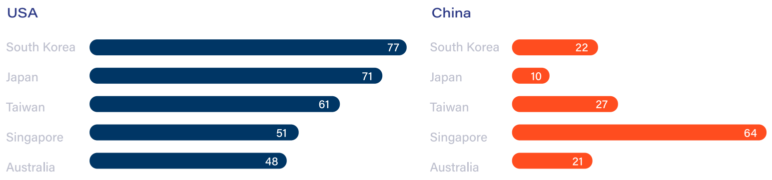
US-China rivalry has heightened the sense of uncertainty in Southeast Asia



Source: ISEAS

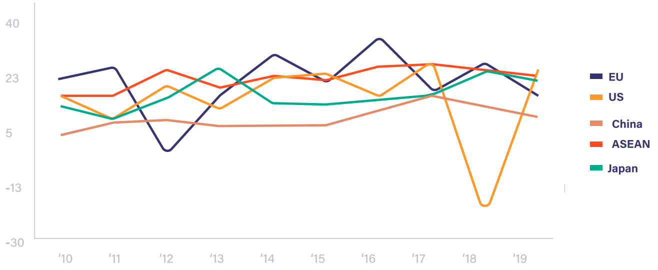
More hold favourable views of the US than of China

% who have a favourable view of... (blue/orange bars indicate top choice)



Source: Pew Research Center

Foreign Direct Investment (FDI) inward flows to ASEAN region by source country, 2010-2019



Source: ASEAN Statistical Yearbooks

Focus on: Trade

by Elly Darkin

Decoupling in international trade has typically been seen through the lens of US-China tensions. In 2018, when a radical evolution of US policy towards China led to a spiral of punitive trade measures, 'decoupling' became synonymous with trade wars, tariff escalations and a confrontation between East and West. This was underpinned by the logic that reducing trade deficits would help to shore up domestic industries, support local jobs and reinvigorate deindustrialised regions. Given the disenfranchisement of voters in these regions, this was a political imperative as much as an economic one.

In today's context, the debate on decoupling has both broadened and fragmented. The pandemic has spurred countries across the world to consider the ways in which they depend on others for their supply of critical goods. This has crystallised in terms of targeted policy interventions in some countries, to the birth of new policy doctrines in others. The concept of dependency has therefore evolved from a question of who wins and loses in international trade, to whom we can rely on in times of crisis.

The decoupling narrative has also transformed beyond a US-China bilateral dispute. Countries from Australia and Japan to the UK and EU member states have all started to reconsider their trade and investment policies in the context of geostrategic aims.

As these efforts remain largely uncoordinated, multiple pushes for distinct forms of decoupling are now underway, varying across geographies and sectors.
This stands in contrast to the grand decoupling thesis between East and West that some had predicted. Indeed, two years on from the US-China Phase One deal, change on the ground has been limited. The US trade deficit with China remains high, and China has fallen short of its Phase One deal commitment to purchase more US goods. Supply chain architectures have also proven remarkably stable, although some sourcing patterns have shifted towards neighbouring countries. All this points to the practical challenges of decoupling in the context of a highly globalised world economy.

As we move into 2022, the debate on decoupling remains unsettled. Companies and investors face an uncertain landscape as policymakers consider the value of globalised trade alongside the strategic desire to reduce dependencies – be those real or perceived. Tighter definitions of 'critical' and 'strategic' sectors could play an important role in defining the scope of policy interventions in corporate trade and investment decisions. But if those definitions remain broad and ambiguous, then the pressure for companies to find new ways to navigate an uncertain landscape will increase.

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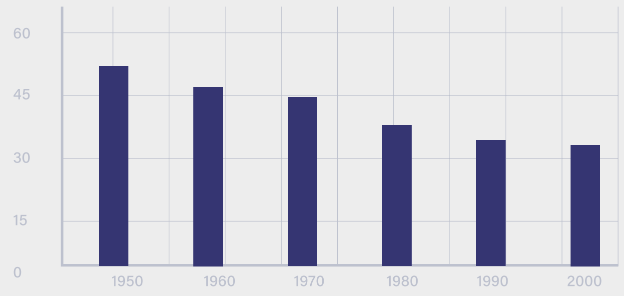
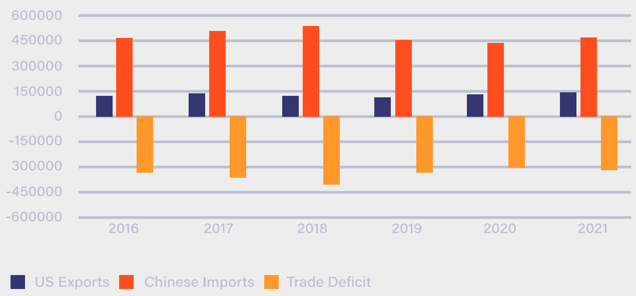
'Trade tensions: trends in sourcing and investment strategies'

Manufacturing employment share in the US Rust Belt %



Source: Alder, Lagakos, Ohanian, 2013

US-China trade in goods, 2016-2021



Source: US census bureau

Focus on: Standards

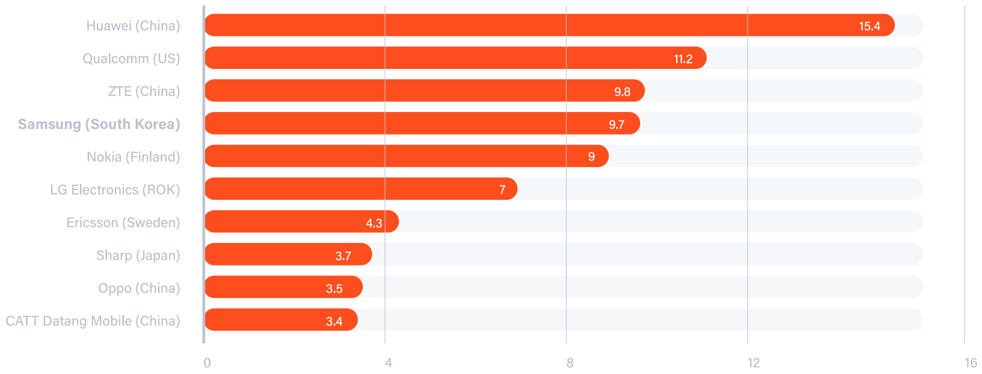
by Jon Garvie

Technology standards underpin both the hardware and the software on which modern societies rely. Their invisibility denotes success. From satellite networks to internet protocols, the existence of prevailing norms drive cost effectiveness, interoperability and trust. In their absence, both consumers and producers experience rising costs, driven by market fragmentation.

Since the creation of the internet, a consensus has held that the standards which govern emerging technologies should be arrived at through collaboration and consensus. Technical working groups at standard-setting bodies and industry associations operated below the political radar, precisely because of the risks of politicisation.

That status quo is under threat. The Chinese government, particularly in its domestically focused communications, frames standards as a field of geopolitical competition, rather than collaboration. The 'China Standards 2035' initiative, released in 2021, establishes broad ambitions to set the rules governing the strategic technologies of the future, in particular 5G, artificial intelligence and the internet of things, as well as broader sectors such as agriculture and

Top 5G patent-declaring companies (domestic market)



Source: 'Who is leading the 5G patent race' , IPlytics February 2021

manufacturing. The initiative forms part of China's wider Digital Silk Road project, which aims explicitly to use China's growing technological power as a means of projecting global influence.

This perspective derives from a broader view, that in the CCP's words, 'whoever has the discourse power and the rule-making power has the power to lead the future order.' China is arguably already the world-leader in setting standards related to 5G, on the basis that its national telecoms champion Huawei holds the largest number of patents essential to operate on the network.

This year's G7 communique announced that 'We have decided to place the needs of open, democratic societies at the centre of the technology debate and to work together towards a trusted, values-driven digital ecosystem.' Under the Biden Presidency, the US trade war with China has morphed into a more explicit battle for technological dominance. As well as blacklisting Huawei and ZTE as national security threats – and successfully encouraging its allies, including the UK, to do the same - the US Federal Communications Commission is driving the removal of Chinese equipment and technology from the US market by reimbursing local carriers for changing suppliers.

In 2022, the politicisation of standards will gather pace, from arguments over appointments to organisations such as the International Telecommunications Union to rival proposals for how future technologies should run. It remains to be seen whether these squabbles prefigure a splintering of next-generation technologies, driven by fundamentally opposed industrial strategies. For globally-minded businesses, making the case for collaboration and interoperability will become ever more important.

WATCH THE CONFERENCE SESSION

'Rethinking the resilience of global standard-setting practices'

Focus on: Tech →

by Max von Thun and Conan D'Arcy

Few sectors have seen more talk about decoupling in recent years than technology. Even prior to the pandemic, Western policymakers were already questioning the compatibility of China's approach to digital regulation – from the Great Firewall to the Social Credit system – with liberal values and drawing attention to the perceived risks posed by Chinese investment in sensitive sectors. The ongoing supply chain disruption caused by the pandemic has only served to reinforce these views, with calls for reshoring and other protectionist measures increasing in volume on both sides of the Atlantic. With the Biden administration largely maintaining – and in some cases doubling down on - President Trump's approach to containing China, and the EU's struggle to preserve its finely-posed balancing act, these trends are unlikely to reverse course in 2022. Meanwhile, China's shock and awe crackdown on its own domestic tech sector has served to heighten awareness of contrasting approaches to technology regulation.

Yet this isn't just a story about China. European and American policymakers have on the whole largely not seen eye to eye on digital regulation. Whereas the approach of European countries and the European Union has been one of deepening intervention in areas including privacy, antitrust, taxation and harmful content, in the US successive administrations have failed to bring forward major pieces of digital regulation, for want of both desire and legislative capacity. This is most evident in the many competition investigations and fines the European Commission has imposed on American big tech – at times eliciting criticism from the US government – and the repeated failures to establish a robust regulatory framework for transferring data across the Atlantic, due to concerns about weak privacy protections in the US.

It is against this backdrop, as well as the broader deterioration in transatlantic relations under President Trump, that the arrival of the Biden administration brought substantial optimism about a new era for the transatlantic technology agenda. This optimism is perhaps best exemplified in the launch of the EU-US Trade and Technology Council (TTC), a joint initiative designed to drive closer alignment between both sides on issues including AI regulation, semiconductor supply chains, export controls and investment screening. For now however the forum appears unlikely to engender any major breakthroughs, with the inaugural meeting only generating modest commitments and both sides emphasising each other's regulatory autonomy. Yet while the TTC may not ultimately prove to be the vehicle for greater transatlantic alignment on tech, it is clear that President Biden has moved closer to his European counterparts in his overall approach to regulating the sector, as evidenced his administration's growing willingness to take antitrust action against big tech and leading role in reaching a historical agreement at the OECD on global corporate taxation.

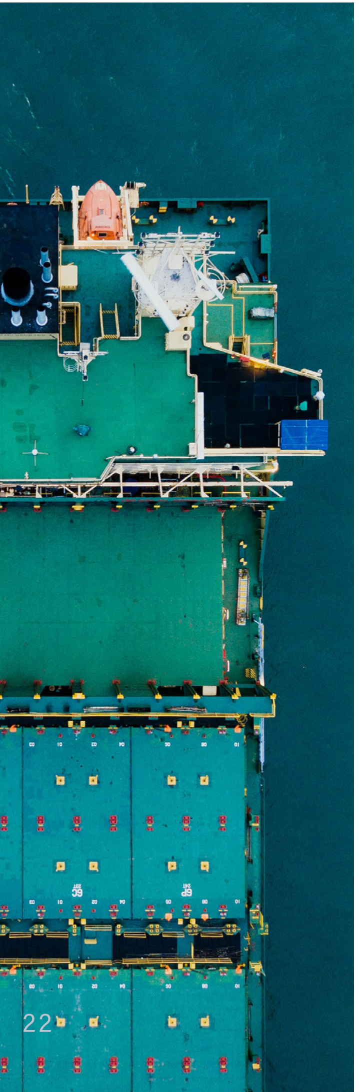
WATCH THE CONFERENCE SESSION
'Transatlantic tech policy: a new era for regulatory cooperation?'

Decoupling: comparing technology regulation ↘

Area of technology regulation

	USA	China	EU	UK
Privacy/ data protection	Absent	In effect	In effect	In effect
Artificial Intelligence	Absent	On the way	On the way	Under consideration
Online Safety	Under consideration	In effect	On the way	On the way
Data localisation	Absent	In effect	Absent	Absent
Active antitrust enforcement	In effect	In effect	In effect	In effect
Ex-ante competition rules	Absent	Under consideration	Under consideration	Under consideration
Investment screening for sensitive tech	In effect	In effect	In effect	In effect

In effect · On the way · Under consideration · Absent



About
Global Counsel

The evolving relationship between China and the rest of the world has become a critical variable in a wide range of market entry, supply change stability and investment protection contexts. The GC team works with clients in monitoring, anticipating and adapting to the challenges of 'selective decoupling.' We can provide strategic and practical support at every stage of navigating engagement with these challenges, from due diligence on cross-border exposures to developing constructive commercial diplomacy strategies to protect investment value and interests on both sides of this shifting divide.

If you would like to discuss the themes covered in this conference, please don't hesitate to get in contact with us at **info@global-counsel.com** or directly to one of our colleagues.

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