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FOREIGN DIRECT INVESTMENT REGIMES 2022

International Comparative Legal Guide (ICLG)

È appena stata pubblicata la sezione *Foreign Direct Investment Regimes 2022* da parte dell'International Comparative Legal Guide (ICLG), la prestigiosa guida edita dal gruppo inglese GLG- Global Legal Group, che monitora ben 58 *practice areas* (dal *data protection* al *fintech*, dal *private equity* fino al *real estate*) in 192 giurisdizioni. Si tratta di un'ampia e articolata guida in lingua inglese, sia [online](#) che in formato cartaceo (sul [sito consiusa](#) è possibile scaricare il PDF sul capitolo riferito all'Italia), volta a informare e sensibilizzare investitori e professionisti che vogliono conoscere in prima battuta la normativa applicabile, gli eventuali rischi legali e le relative procedure prima di entrare un determinato mercato.

L'ampia sezione riferita all'Italia è stata predisposta dagli avvocati Riccardo Gotti Tedeschi e Gennaro d'Andria dello Studio 3D Legal, boutique legale italiana con vocazione internazionale, fondata da Gennaro d'Andria nel 2011 e presente a Milano e Roma, con expertise negli ambiti relativi al diritto della concorrenza ma anche nel contenzioso civile, nel diritto amministrativo e nel diritto societario ed M&A, oltre che nel *legal management consulting*, che supporta le direzioni legali delle aziende nell'ottimizzazione della gestione dei rischi legali e nel controllo dei costi.

La sezione dedicata alla disciplina degli investimenti stranieri in Italia intende fornire le informazioni essenziali ed alcune considerazioni sulla prassi corrente, secondo lo stile di un questionario e soffermandosi sulla disciplina della cd. Golden Power, che come noto riguarda i poteri speciali (tra cui il potere di veto e quello di porre condizioni all'acquisto di partecipazioni) che il Governo italiano può esercitare in settori chiave come difesa, sicurezza nazionale, energia, trasporti e comunicazioni a protezione del cd. interesse nazionale.

Come noto, il recente Decreto Liquidità di aprile 2020 e i nuovi decreti attuativi hanno ulteriormente allargato l'ambito applicativo della Golden Power (provvisoriamente in costanza di emergenza), includendovi infrastrutture e tecnologie critiche, nonché attività economiche di rilevanza strategica nei settori dell'energia, dell'acqua, della salute, dell'accesso e controllo di dati e di informazioni sensibili, nel settore finanziario ivi compreso quello creditizio e assicurativo, nelle infrastrutture dei mercati finanziari, nell'intelligenza artificiale, robotica, semiconduttori, cybersicurezza, nanotecnologie e biotecnologie, delle infrastrutture e tecnologie aerospaziali non militari, nell'approvvigionamento di fattori produttivi (anche in ambito siderurgico) e agroalimentare, nei prodotti dual-use e, infine, della libertà e del pluralismo dei media.

È di pochi giorni fa la notizia della decisione da parte del Governo italiano di bloccare la cessione di Verisem, azienda romagnola di sementi per ortaggi, a Syngenta, primo gruppo agrochimico mondiale di proprietà dei cinesi di Sinochem. Ove confermato, sarebbe la prima volta che l'Italia ha posto il veto a un'acquisizione nel settore agroalimentare.

THE BIG PICTURE: BROKEN ENGAGEMENT

(Project Syndicate – Nov 18, 2021)

Given the current poor state of US-China relations, the fact that the November 15 online summit between presidents Joe Biden and Xi Jinping took place at all was significant. But with nationalist narratives seeming to prevail in both countries, neither seems prepared to collaborate on issues transcending the nation-state.

In this Big Picture, **Daniel Russel**, a former US assistant secretary of state for East Asian and Pacific Affairs, argues that Biden's recent overtures to Xi, far from signaling American weakness, are part of a savvy foreign-policy approach toward the region. But Harvard University's **Joseph S. Nye, Jr.** likens today's deepening Sino-American rivalry to the situation in Europe during the run-up to World War I, and highlights the risks of inadvertent escalation between the two powers.

And sources of tension are not difficult to find. **Anne O. Krueger** of Johns Hopkins University notes that the Biden administration is perpetuating former President Donald Trump's failed protectionist strategy vis-à-vis China. More broadly, Fudan University's **Zhang Jun** thinks the increasing - and bipartisan - US antagonism toward China reflects the technology-driven transformation of American media and politics.

But how might US-China ties improve? Harvard's **Dani Rodrik** calls into question the realist assumption that international relations, including the current superpower rivalry, must necessarily be a conflictual, zero-sum game.

Biden's Collaborative Containment Strategy?

(Project Syndicate – Sept 24, 2021)



Daniel Russel, a former assistant secretary of state for East Asian and Pacific affairs, is Vice President for International Security and Diplomacy at the Asia Society Policy Institute.

While some in China have interpreted US President Joe Biden's recent overture to Chinese President Xi Jinping as a sign of American weakness, nothing could be further from the truth. In the intervening weeks, the administration has shown that it is serious about reimagining and rebuilding US foreign policy in the Indo-Pacific region.

NEW YORK – Following the news that US President Joe Biden and Chinese President Xi Jinping talked by phone on September 9, there has been much speculation about what the two discussed. Biden has denied a report that Xi turned down a proposed summit, and China's government spokesman has said only that both sides "agreed to maintain regular contact through various means."

Still, it is clear that the Biden administration is seeking a relationship that manages, if not resolves, areas of divergence, while enabling coordination or even cooperation in areas of common interest. But the Chinese appear determined to link any such cooperation to US concessions. According to Chinese sources, Xi used the call to repeat the blunt conditionality that US Climate Envoy John Kerry encountered during his recent visit to China: America cannot expect cooperation from China unless it "respects China's core interests."

"Core interests" is code for an expanding array of absolutist Chinese claims over Taiwan and the South China Sea, and includes its repression of Uyghurs in Xinjiang, Buddhists in Tibet, and dissidents in Hong Kong. China is also insisting that the United States unilaterally withdraw trade sanctions, roll back export restrictions, and stand down on enforcement actions against alleged Chinese state-sponsored cybertheft and other illicit strategies to obtain US intellectual property and personal information.

The Chinese are making no secret of their disappointment with the Biden administration. Following the 2020 presidential election, Chinese leaders had high hopes that Biden would reverse Donald Trump's policies and provide China with more space and time to advance its economic and foreign-policy agenda. Those hopes were dashed by a combination of tough US rhetoric, testy meetings, firm pushback on key issues, and Biden's decision to leave tariffs in place while a review of US China policy grinds on. The souring of Chinese sentiment is as prominent as the country's smug conviction that its star is rising as the West's declines.

Nonetheless, Biden was right to initiate a call and to try to nudge Xi toward an in-person meeting. Relations have deteriorated to the point that the world's two leading powers have essentially no dependable direct channels of official communication. Moreover, because Xi's consolidation of political power seems to have reduced even senior Chinese officials to the status of cheerleaders, talking to anyone other than Xi is unlikely to produce results.

While Xi may or may not have rejected a summit, several factors make such an event unlikely any time before next fall. That is when the Communist Party of China will hold its 20th Congress, and when the US will hold its midterm elections. The CPC Congress will be a make-or-break moment for Xi, who is determined to leave the meeting with another term and Mao-like status. And Xi has a deep interest in the outcome of the US congressional election, which will either boost or undermine Biden's position. But the two most powerful deterrents are a pair of Chinese phobias: the risk to the leader's health from COVID-19; and the risk of embarrassment from a high-stakes summit that could go badly.

Some in China are claiming that Biden's overture to Xi has exposed America's weakness, on the theory that the US needs China more than vice versa. This jingoistic line fits with a broader pattern of China using everything from market access to COVID-19 vaccines to gain leverage over other countries.

But it is a mistake to see the US as the anemic supplicant. The Biden administration was merely opening an important channel of communication, not offering any of the substantial unilateral concessions that China's "wolf

warriors” (foreign-policy hawks) seem to expect. Since Biden’s call with Xi, his administration has resumed its assertive diplomacy with partners in both Europe and the Indo-Pacific.

For example, a week after the call, Biden announced AUKUS, a new trilateral security partnership between Australia, the United Kingdom, and the US. French pique aside, Biden went well beyond mere talk of deeper strategic alignment by announcing the decision to share US nuclear-submarine technology with Australia.

Moreover, Biden is hosting the first in-person meeting of the leaders of the so-called Quad (the US, India, Japan, and Australia) this week, and on September 29, the US will host the first meeting of the cabinet-level Trade and Technology Council, launched at the US-EU Summit in June. These meetings not only make good on Biden’s pledge to work with allies and partners in creative new ways; they also advance the twin goals of enhancing collective security and delivering concrete benefits to others.

The Quad summit will probably be even more fruitful than the virtual one in March, when the group launched a major COVID-19 vaccine distribution effort in Southeast Asia (though this was later hampered by the severe outbreak in India). The four countries have been developing concrete strategies for collaboration in multiple domains, building on their combined prowess in science, technology, education, transportation, and a host of other sectors important to the region.

The Chinese, no surprise, have denounced the Quad meeting and declared it “doomed to fail.” But the Quad has already come a long way from the clumsy, crude anti-China rhetoric of the Trump years. Its potency now stems from a new organizing principle focused on the collaborative provision of regional and global goods. The Biden team seems to be reimagining the arrangement as a vehicle for winning over other countries by helping them in ways China will not or cannot.

This is a smart strategy for dealing with Asian countries that are seeking to navigate between China and the West without getting caught in the crossfire. The new approach to the Quad, combined with Biden’s outreach to Xi, represents a powerful rebuttal to China’s bid to cast itself as the aggrieved victim of an unjustly hostile America.

Chasing China would not have yielded a summit – certainly not one that made meaningful progress. But forging an international network of constructive collaboration on issues of real interest to countries in the Indo-Pacific region is valuable in its own right. Biden is both reminding the region that China is not the only game in town and setting the stage for more balanced and overdue bilateral engagement.

The China Sleepwalking Syndrome

(Project Syndicate – Oct 4, 2021)



Joseph S. Nye, Jr. is a professor at Harvard University and author of *Do Morals Matter? Presidents and Foreign Policy from FDR to Trump*.

If the Sino-American relationship were a hand of poker, Americans would recognize that they have been dealt a good hand and avoid succumbing to fear or belief in the decline of the US. But even a good hand can lose if it is played badly.

CAMBRIDGE – As US President Joe Biden’s administration implements its strategy of great power competition with China, analysts seek historical metaphors to explain the deepening rivalry. But while many invoke the onset of the Cold War, a more worrisome historical metaphor is the start of World War I. In 1914, all the great powers expected a short third Balkan War. Instead, as the British historian Christopher Clark has shown, they sleepwalked into a conflagration that lasted four years, destroyed four empires, and killed millions.

Back then, leaders paid insufficient attention to the changes in the international order that had once been called the “concert of Europe.” An important change was the growing strength of nationalism. In Eastern Europe, pan-Slavism threatened both the Ottoman and Austro-Hungarian empires, which had large Slavic populations. German authors wrote about the inevitability of Teutonic-Slavic battles, and schoolbooks inflamed nationalist

passions. Nationalism proved to be a stronger bond than socialism for Europe's working classes, and a stronger bond than capitalism for Europe's bankers.

Moreover, there was a rising complacency about peace. The great powers had not been involved in a war in Europe for 40 years. Of course, there had been crises – in Morocco in 1905-06, in Bosnia in 1908, in Morocco again in 1911, and the Balkan wars in 1912-13 – but they had all been manageable. The diplomatic compromises that resolved these conflicts, however, stoked frustration and growing support for revisionism. Many leaders came to believe that a short decisive war won by the strong would be a welcome change.

A third cause of the loss of flexibility in the early twentieth-century international order was German policy, which was ambitious but vague and confusing. There was a terrible clumsiness about Kaiser Wilhelm II's pursuit of greater power. Something similar can be seen with President Xi Jinping's "China Dream," his abandonment of Deng Xiaoping's patient approach, and the excesses of China's nationalistic "wolf warrior" diplomacy.

Policymakers today must be alert to the rise of nationalism in China as well as populist chauvinism in the United States. Combined with China's aggressive foreign policy, a history of standoffs and unsatisfactory compromises over Taiwan, the prospects of inadvertent escalation between the two powers exist. As Clark puts it, once catastrophes like WWI occur, "they impose on us (or seem to do so) a sense of their necessity." But in 1914, Clark concludes, "the future was still open – just. For all the hardening of the fronts in both of Europe's armed camps, there were signs that the moment for a major confrontation might be passing."

A successful strategy must prevent a sleepwalker syndrome. In 1914, Austria was fed up with upstart Serbia's nationalism. The assassination of an Austrian archduke by a Serbian terrorist was a perfect pretext for an ultimatum. Before leaving for vacation, the German Kaiser decided to deter a rising Russia and back his Austrian ally by issuing Austria a diplomatic blank check. When he returned and learned how Austria had filled it out, he tried to retract it, but it was too late.

The US hopes to deter the use of force by China and preserve the legal limbo of Taiwan, which China regards as a renegade province. For years, US policy has been designed to deter Taiwan's declaration of de jure independence as well as China's use of force against the island. Today, some analysts warn that that this double deterrence policy is outdated, because China's growing military power may tempt its leaders to act.

Others believe that an outright guarantee to Taiwan or hints that the US is moving in that direction would provoke China to act. But even if China eschews a full-scale invasion and merely tries to coerce Taiwan with a blockade or by taking one of its offshore islands, all bets would be off if an incident involving ships or aircraft led to loss of life. If the US reacts by freezing assets or invoking the Trading with the Enemy Act, the two countries' metaphorical war could quickly become real. The lessons of 1914 are to be wary of sleepwalking, but they do not provide a solution to managing the Taiwan problem.

A successful US strategy toward China starts at home. It requires preserving democratic institutions that attract rather than coerce allies, investing in research and development that maintains America's technological advantage, and maintaining America's openness to the world. Externally, the US should restructure its legacy military forces to adapt to technological change; strengthen alliance structures, including NATO and arrangements with Japan, Australia, and South Korea; enhance relations with India; strengthen and supplement the international institutions the US helped create after World War II to set standards and manage interdependence; and cooperate with China where possible on transnational issues. So far, the Biden administration is following such a strategy, but 1914 is a constant reminder about prudence.

In the near term, given Xi's assertive policies, the US will probably have to spend more time on the rivalry side of the equation. But such a strategy can succeed if the US avoids ideological demonization and misleading Cold War analogies, and maintains its alliances. In 1946, George Kennan correctly predicted a decades-long confrontation with the Soviet Union. The US cannot contain China, but it can constrain China's choices by shaping the environment in which it rises.

If the Sino-American relationship were a hand of poker, Americans would recognize that they have been dealt a good hand and avoid succumbing to fear or belief in the decline of the US. But even a good hand can lose if it is played badly.

America's Losing China Strategy (Project Syndicate – Sept 23, 2021)



Anne O. Krueger, a former World Bank chief economist and former first deputy managing director of the International Monetary Fund, is Senior Research Professor of International Economics at the Johns Hopkins University School of Advanced International Studies and Senior Fellow at the Center for International Development at Stanford University.

After declaring that "America is back" and rejecting almost everything that Donald Trump represented, the Biden administration seemed poised to reclaim the mantle of US leadership within the open market-oriented international order. Yet in its strategy to counter China, it is behaving utterly Trumpian.

WASHINGTON, DC - Despite the cantankerous, polarized atmosphere in Washington, DC, there seems to be bipartisan agreement on one thing at least: that China is a problem, and that the United States must respond to the competitive challenge it poses. With military and economic strength as its main components, the Sino-American rivalry has come to be seen as a contest to determine who will lead the regional and global order.

Economic dynamism is a necessary condition for establishing military strength. For the US to maintain and strengthen its leadership role in the world economy, it must have both allies and a vibrant domestic economy. Why, then, is US President Joe Biden's administration sponsoring policies that will help China reduce America's own economic advantage?

Instead of asking how the US can improve its economic performance, the administration is imitating China by letting the government pick winners and losers among technologies and industries. In doing so, it is abandoning traditional US support for the open multilateral trading system, the rule of law, and private enterprise within an appropriate governance framework.

In any competition, there are always two basic strategies from which to choose. The more resources and attention that are directed toward one option, the less will be available for the other. The first strategy is offensive and consists of strengthening one's own capabilities; the second is defensive and consists of trying to weaken the competitor.

With respect to China, the US has already tried a defensive strategy without success. This was the approach taken by former President Donald Trump, who launched a "trade war" by imposing tariffs and sanctions on China. Despite those actions, China averaged over 6% annual GDP growth in 2017-19, dwarfing the US economy's 2.5% average annual growth during that period. In 2020, the year of the COVID-19 shock, the Chinese economy grew 2.3%, while US GDP fell by more than 3.5%. In the International Monetary Fund's most recent forecast for 2021, China is expected to grow by 8.1%, compared to around 7% for the US.

Though Trump's protectionist strategy clearly failed, the Biden administration is nonetheless perpetuating it by leaving the previous administration's tariffs in place and adopting "buy American" policies of its own. By acting unilaterally, Trump weakened the open multilateral system and harmed the US economy, along with those of its allies. Yet even if the US under Biden secures the backing of most of its allies, it is not large or strong enough to do more than slow China's rise moderately.

Since the end of World War II, no country has erected high protectionist walls and achieved satisfactory economic growth over any significant length of time. For decades, the US led much of the world down a better path. But instead of adopting an offensive strategy based on strengthening this role and leading by example, the US is now pursuing the kind of policies that have long failed in many other countries.

In practice, "picking winners" has more often led to supporting losers. Succumbing to political pressure and providing subsidies for otherwise failing businesses merely perpetuates economic inefficiencies. There is no reason why bureaucrats should be entrusted with identifying which innovations will prove successful in the future. Competition among start-ups and incumbent private businesses is a far more effective mechanism.

Protectionism and subsidies also encourage domestic monopolistic behavior, leading to lower productivity growth and even more lobbying to maintain undue privileges. These practices discourage new players from entering markets and make it much more difficult for small firms to expand.

Likewise, US actions in the trade sphere are both curtailing America's economic development and undermining its alliances, thereby diminishing its own global power. Consider, for example, the Biden administration's decision not to reverse Trump's withdrawal from the Trans-Pacific Partnership. Comprising 11 other Pacific-rim countries and notably excluding China, the TPP was poised to become the world's largest free-trade bloc.

Given that US membership in such an arrangement would obviously increase its global influence, many expected Biden to negotiate America's accession to the TPP's successor, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, which was spearheaded by former Japanese Prime Minister Shinzo Abe after Trump abandoned the original deal. But the Biden administration has since signaled that it does not plan to pursue CPTPP membership.

China, meanwhile, is capitalizing on US strategic errors by making its own bid for CPTPP membership (as the United Kingdom has also done). Thus, far from preserving or enhancing America's hegemonic status, the Biden administration's approach has increased China's influence in the Asia-Pacific – the world's most economically dynamic region.

For the better part of a century, the US was the world's most productive economy because it remained committed to a market-oriented system, the rule of law, and open trade. Where it led, Western Europe, East and Southeast Asia, and others followed. In this way, policies and principles that strengthened its allies also strengthened its own hegemonic position.

Now, China is rising, largely because it abandoned its earlier economic policies in favor of a more market-oriented system. That makes the US decision to abandon its own system in favor of Chinese-style state interventions perversely ironic. In adopting Chinese-style policies, the US is not only reducing its competitive edge; it is effectively disavowing the liberal market-oriented open system and its own global leadership role.

Removing protectionist measures and strengthening the open multilateral system would yield vastly superior results relative to the Trumpian approach. The US should re-engage as a constructive leader within the World Trade Organization and seek agreements on reforms to cover new issues like e-commerce and climate change. The more that China tries to expand state-sponsored industries, the more the US should do to show that there is a better alternative.

What Explains America's Antagonism Toward China?

(Project Syndicate – May 21, 2021)



Zhang Jun, Dean of the School of Economics at Fudan University, is Director of the China Center for Economic Studies, a Shanghai-based think tank.

In the last few years, the view of China as a strategic rival has taken over the American political mainstream, with leaders largely choosing confrontation over cooperation. Two features of this shift stand out: how quickly it occurred, and the extent to which Americans – and their leaders – have united behind it.

SHANGHAI – Last month, the US Senate Foreign Relations Committee officially backed the Strategic Competition Act of 2021, which labels China a strategic competitor in a number of areas, including trade, technology, and security. Given bipartisan support – exceedingly rare in the United States nowadays – Congress will most likely pass the bill, and President Joe Biden will sign it. With that, America's antagonism toward China would effectively become enshrined in US law.

The Strategic Competition Act purports to highlight supposed "malign behaviors" in which China engages to attain an "unfair economic advantage" and the "deference" of other countries to "its political and strategic objectives." In truth, the bill says a lot more about the US itself – little of it flattering – than it does about China.

The US used to take a sanguine view of China's economic development, recognizing the lucrative opportunities that it represented. Even after China's emergence as a political and economic powerhouse, successive US administrations generally regarded China as a strategic partner, rather than a competitor.

But, in the last few years, the view of China as a strategic rival has taken over the American political mainstream, with leaders largely choosing confrontation over cooperation. Two features of this shift stand out: how quickly it occurred, and the extent to which Americans – and their leaders – have united behind it.

Ironically, the problem is partly rooted in extreme ideological polarization, which has impeded US political leaders' ability to govern effectively and minimize the social costs of structural transformation in the age of globalization and digitalization. These failures fueled popular frustration and social tensions, creating fertile ground for former President Donald Trump's populist "America First" campaign.

Vilification of China – which, unlike the US, prudently managed the risks of economic globalization to minimize the costs of structural change – was central to Trump's electoral appeal. It is also perhaps the most notable feature of the Trump doctrine to have survived the transition to Biden's administration.

The anti-China narrative has thus restored some common ground to American politics. Unfortunately, Americans are agreeing on an idea that will do them far more harm than good. What the US should be focusing on is how to benefit from globalization and technological progress and manage the risks arising from the associated structural disruptions. To that end, effective cooperation with China – together with a broader embrace of free trade and economic openness – would be enormously helpful.

In fact, according to former US Secretary of State Henry Kissinger, who spoke at a special session of the China Development Forum in Beijing in March, a positive, cooperative bilateral relationship is essential to global peace and prosperity. And no American alive today is better qualified to assess Sino-American relations than Kissinger, whose secret mission to Beijing 50 years ago this year led to the restoration of diplomatic ties.

In his remarks, Kissinger acknowledged just how difficult it will be to build the Sino-American relationship the world needs, noting that the different cultures and histories of these two "great societies" naturally lead to differences of opinion. Modern technology, global communication, and economic globalization further complicate the ability to reach consensus.

Kissinger was right to highlight modern technology as a key challenge. In the past, when dominant media organizations largely shaped the popular narrative, remaining relatively neutral was the most effective way to compete. With voters all sharing roughly the same facts, politicians' best bet was to appeal to the "median voter," rather than those on the extremes. (As Anthony Downs explained with his "median voter theorem" – inspired by the Hotelling model in economics – the outcome of majority voting is the median voter's preferred option.)

But modern technology has fragmented the media landscape and eroded traditional news organizations' "gatekeeper" role. Inaccurate, misleading, or otherwise unreliable information can be disseminated to a huge audience instantly. Moreover, it can be targeted at those who are most likely to agree with it, and kept away from those who would disagree.

This has fueled a growing preference for "personalized" information – and transformed media's competitive strategies. In this environment, neutral reporting doesn't attract as much attention as inflammatory or ideologically driven reporting, especially if the latter is algorithmically targeted at those who are primed to embrace it. The media's role in establishing a common factual basis has thus increasingly gone by the wayside – and, with it, the strategy of appealing to the median voter.

As US media embraced increasingly biased, targeted strategies, deep polarization became all but inevitable. This, together with US politicians' new incentives to appeal to the ideological extremes, has torn at the fabric of American society, fueling instability and conflict, hampering leaders' ability to address urgent challenges, and undermining America's position of global leadership.

China has largely avoided this pitfall of modern technology, though not without cost and criticism, by controlling extreme online speech and limiting populist attacks on mainstream values. But it has not avoided America's media-fueled ire. In a matter of just a few years, the US-China relationship has regressed significantly, and the global free trade system has been pushed to the brink of collapse.

As Kissinger made clear, the difficulty of restoring Sino-American relations should not deter leaders from trying. On the contrary, it demands that both sides make "ever more intensive efforts" to work together. For the US, however, that work must begin at home. The real threat to the US is not from rising China, but from its inability to meet the challenges of modern technology.

The Resistible Rise of US-China Conflict

(Project Syndicate –Nov 10, 2021)



Dani Rodrik, Professor of International Political Economy at Harvard University's John F. Kennedy School of Government, is President of the International Economic Association and the author of *Straight Talk on Trade: Ideas for a Sane World Economy*.

The structure of great-power rivalry may exclude a world of love and harmony, but it does not necessitate a world of immutable conflict. Structure is not destiny: It does not preclude any of the myriad alternatives that lie between these extremes.

CAMBRIDGE - US President Joe Biden's economic and foreign policies may represent a sharp departure from those of his predecessor, Donald Trump. But when it comes to relations with China, Biden has largely maintained Trump's tough line - refusing, for example, to reverse Trump's tariff hikes on Chinese exports and warning of further punitive trade measures.

This reflects the widespread hardening of US attitudes towards China. When *Foreign Affairs* magazine recently asked leading US experts whether American "foreign policy has become too hostile to China," nearly half of the respondents (32 out of 68) disagreed or disagreed strongly - suggesting a preference for an even tougher US stance toward China.

For economists, who tend to view the world in positive-sum terms, this is a puzzle. Countries can make themselves and others better off by cooperating and by shunning conflict.

The clearest application of this principle is the gains from trade that countries achieve - the bread and butter of professional economists. It is generally in each country's benefit to open its domestic markets to others. But the same idea extends also to policy domains where there could be tensions between domestic and global interests. Yes, countries could pursue beggar-thy-neighbor policies, such as restricting access to home markets to improve their terms of trade, or free ride on global public goods such as decarbonization policies. But wouldn't it be better if they refrained from such actions so they could collectively all do better?

Geopolitical strategists, by contrast, tend to see the world instead in zero-sum terms. Nation-states compete for power - the ability to bend others to their will and pursue their interests unhindered - which is necessarily relative. If one country has more power, its rival must have less. Such a world is necessarily conflictual, as great powers (the United States) or rising powers (China) jockey for regional and global dominance.

In a recent article, John Mearsheimer of the University of Chicago provides a forceful articulation of this view. Mearsheimer was among those in the *Foreign Affairs* survey who disagreed strongly with the proposition that US policy may have become too hostile toward China. "All great powers, be they democracies or not," he writes, "have little choice but to compete for power in what is at root a zero-sum game." The implications for US-China relations are bleak: China is bound to want to expand its power, and the US has no option but to try to contain it. This perspective sets an important challenge for economists and others who believe in the feasibility of a stable, peaceful, and largely cooperative world in which the US and China can prosper together.

"Realist" theorists of international relations such as Mearsheimer and my Harvard University colleague Stephen Walt are clearly correct when they argue against the "liberal" presumption that open markets in the US and rules-based multilateralism would produce a China that looked "more like us." The American policy of engagement with China, pursued until the Trump administration took over, may have helped China grow richer, but it made the country neither more democratic nor less likely to compete for power and influence.

But does a China with a decidedly different economic and political system and strategic interests of its own imply inevitable conflict with the West? Perhaps not. The realists' argument about the primacy of power hinges on assumptions that need to be qualified.

First, while states may prioritize national security and survival above all else, there is a big gap between meeting these narrower objectives and maximizing power. The US would be secure from annihilation or invasion even without a military presence on every continent. The historian Stephen Wertheim has argued that the

expansionist vision of US foreign policy has always competed with a more restrained approach, misleadingly and dismissively labeled as “isolationism.” China’s territorial integrity will remain uncontested even without saber rattling vis-à-vis neighbors. Beyond a baseline of security, the pursuit of power competes with other national goals, such as domestic economic prosperity, that require less bullying on the world stage.

It is true, as realists like to point out, that the world lacks an enforcer of rules. There is no world government to ensure that states act in accordance with rules that they may have an interest in enacting but little interest in following. This makes cooperation more difficult to elicit – but not entirely so. Game theory, real-world experience, and lab experiments all suggest that reciprocity induces cooperation. A third-party enforcer is not necessarily required to elicit cooperative behavior in repeated interactions.

Finally, it is also true that uncertainty and the risk of misperceiving other states’ intentions complicate prospects for international cooperation among great powers. Purely defensive measures – whether economic or military – are likely to be perceived as threats, cumulating through a vicious cycle of escalation. But this problem, too, can be mitigated to some extent. As Walt and I have argued, what might help is a framework that facilitates communication and encourages mutual justification of actions that may be misinterpreted by the other side.

Mearsheimer is skeptical that creative institutional design can make much of a difference. “The driving force behind [US-China] great-power rivalry is structural,” he writes, “which means that the problem cannot be eliminated with clever policymaking.” But structure does not fully determine equilibrium in a complicated system where the definition of national interests, the strategies pursued, and the information available to actors are all dependent on our choices to some extent.

The structure of great-power rivalry may exclude a world of love and harmony, but it does not necessitate a world of immutable conflict. It does not preclude any of the myriad alternatives that lie between these extremes. Structure is not destiny: We retain the agency to craft a better (or worse) world order.