



TECHNIUM
SOCIAL SCIENCES JOURNAL

Vol. 81/2026
A New Decade for Social Changes



PLUS
COMMUNICATION P



International
Communication & PR

How has the US-China rivalry manifested in different legal regimes, such as the law of the sea, trade, and international institutions?

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Abstract:

The US-China rivalry has altered the international legal regimes into hostility of strategic competition in 3 legal regimes. This paper will analyze how political and economic tensions manifest in the realms of international law that take advantage of ambiguities in the frameworks, particularly in associations such as the United Nations Convention on the Law of the Sea and the General Agreement on Tariffs and Trade. This paper discusses the comparison of past rivalries, particularly the US-Japan naval rivalries before WWII, as arguments are made regarding interpretations of China's EEZ sovereignty claims of UNCLOS against the US interests of high seas freedoms, and US claims of security exceptions under GATT Article XXI against China's retaliations to tariffs. The observational data indicates an increase of Freedom of Navigation Operations from 1-2 to 8-10 in 20 years, an investment decline from a peak of \$13.8 billion to \$8.7 billion in 4 years, and UNSC alignment drop from 90% to 60% and underscores a decline in bilateral values with the educational exchange dropping from 370,000 to under 300,000 in 5 years. This research finds the interconnectedness of the issues of spillover with economic losses and regular instances of GATT/FONOP issues. There are recommendations worth consideration to restore stability, including reviving the presidential US-China hotline, formally establishing a multilateral council specifically focused on UNCLOS/WTO reforms to resourceful responses to the challenges of transnational competition, and a Global Tech Exchange Initiative dedicated to stable bilateral relationship growth.

Keywords:

US-China rivalry, UNCLOS, FONOPs, GATT, WTO disputes, Cross-border investment, UNSC

Introduction:

The growing rivalry between the US and China is reshaping international relations. Their competition affects the norms governing maritime activities, trade, and global bodies. This paper examines how the US and China challenge each other across legal regimes, including the law of the sea, trade regulations, and international organizations. Drawing parallels to historical events such as the US-Japan naval race before World War II (Office of the Historian), this paper argues that both nations are exploiting ambiguities in the law to advance their respective agendas. This behavior is visible in maritime disputes in the South China Sea, trade sanctions, and diplomatic clashes.

To test this argument, this proposal presents four hypotheses: first, the rivalry has not extended to legal frameworks; second, the rivalry has intensified disagreements, third, the rivalry has amplified trade disputes by decreasing cross-border investments; and fourth, the rivalry influences voting on important

agendas at the United Nations and the flow of students between the two countries. To investigate these hypotheses empirically, this examines US Navy operations, trade disputes within the WTO framework, and voting at the UN. The methodology combines legal and historical analysis with quantitative data on naval operations and export regulations. The paper's findings refute the first hypothesis, noting that political distrust exacerbates legal challenges. To mitigate these issues and foster stability in these legal areas, this paper suggests establishing a direct communication channel between the presidents of both countries.

Thesis:

The US-China political and economic rivalry, as seen in the trade war, has also spilled over into legal contestations of maritime and international decision-making processes

Literature Review:

The competition between the US and China is reshaping international relations, including the established norms. As both nations compete, maritime law, trade regulations, and international organizations have become arenas for asserting influence. This paper studies the US-China friction across different legal areas, such as maritime law, trade rules, and international groups. Drawing parallels to historical rivalries like the US-Japan naval race, it seems both the US and China are attempting to leverage ambiguities in the law to advance their interests. Examples include maritime disputes in the South China Sea, trade sanctions, and diplomatic clashes.

To test this, I put forward four ideas: first, that the rivalry has not extended to legal frameworks; second, that the rivalry has worsened disagreements over maritime law due to US Navy activities from 2015 to 2025; third, that the rivalry has grown trade disagreements by lowering investments between the countries; and fourth, that the rivalry relates to voting patterns at the UN and student exchanges between the two countries. To investigate this, case studies of the US Navy operations, trade disputes under the WTO, and voting behaviors at the UN were examined. A combination of legal analysis, historical review, and quantitative data on naval operations, export regulations, and voting records was used. The research suggests that the initial idea is incorrect: political tensions are exacerbating legal issues. To foster stability in these legal areas, I propose strategies such as a direct communication channel between the two presidents.

The US-China competition is happening in international law, seen in the United Nations Convention on the Law of the Sea (UNCLOS) and the General Agreement on Tariffs and Trade (GATT). UNCLOS, from 1982, has rules for maritime boundaries, exclusive economic zones (EEZs), and navigation rights. China, as part of UNCLOS, lays claim to large parts of the South China Sea using its nine-dash line, building islands, and putting military equipment there to affirm its control. The US, which has not signed UNCLOS, conducts Freedom of Navigation Operations (FONOPs), sending ships into contested waters to push back against China's claims, citing international law (Colin 57; Cho). GATT, now in the WTO, is meant to ensure fair global trade by lowering obstacles. The US depends on GATT Article XXI's national security exceptions to put in place tariffs and export limits, aiming at Chinese steel, aluminum, and tech like semiconductors. China answers with its own tariffs, both using gaps in WTO rules to try and get ahead (World Trade Organization; Crowley 30). These legal systems, UNCLOS for seas and GATT/WTO for trade, have turned into stages where these two countries push their own plans, often hurting global cooperation.

Some scholars, like Min-hyung Kim, see this rivalry as a fight for global dominance, with legal regimes as tools for power. Kim uses Hegemonic Stability Theory and Power Transition Theory to argue that the US, fearing China's growing influence through initiatives like the Belt and Road, launched tariffs

and export controls in 2018 to slow China's economic rise. China's counter-tariffs and global projects show it's ready to challenge US leadership (Kim 30-32). In the South China Sea, China's aggressive claims, including militarized islands and restrictive EEZ rules, clash with US FONOPs, which spiked after 2017 to contest what the US calls "excessive" claims (Cho; Colin 58). This view treats UNCLOS and GATT/WTO as arenas for geopolitical muscle-flexing, where legal rules bend to strategic goals.

Other researchers, like Meredith Crowley and Alijoscha Nau, focus on the weaknesses of global institutions. Crowley points out that the trade war, with billions in tit-for-tat tariffs, shows the WTO's inability to resolve major conflicts, especially when the US uses GATT Article XXI to justify tariffs on national security grounds, bypassing WTO oversight (Crowley 30). Nau adds that the WTO's dispute settlement system is broken, and its rules, outdated on issues like digital trade and sustainability, struggled during COVID-19 when countries turned to protectionism (Nau 3-4). Similarly, UNCLOS's vague terms let China justify its maritime claims while the US, a non-signatory, acts as an unofficial enforcer with FONOPs, weakening the treaty's authority (Colin 59). This perspective argues that these institutions need serious reform to handle great power rivalries.

Anne Orford and Dan Ciuriak take a different angle, seeing the rivalry as a clash over how much control states should have under global rules. Orford argues that the trade war, US tariffs versus China's state-driven subsidies, reflects a deeper fight over economic sovereignty within the WTO, with both sides exploiting legal gaps (Orford 45-47). Ciuriak suggests WTO reforms, like new rules for intellectual property and subsidies, drawing lessons from the US-Japan trade disputes of the 1980s (Ciuriak 10-12). In maritime law, China's strict reading of UNCLOS prioritizes its sovereignty, requiring foreign vessels to get permission in its EEZ, while US FONOPs push for open seas, showing their conflicting visions (Colin 60). This approach calls for updating legal frameworks to balance national control with global cooperation.

My paper sides with the clashing visions approach, digging into how the US and China twist UNCLOS and GATT/WTO to fit their national priorities. I'll look closely at China's South China Sea claims, US FONOPs, US tariffs, and China's counter-tariffs to show how these legal battles reveal deeper tensions over control and power.

I agree mostly with Orford and Ciuriak, who believe that we can fix UNCLOS and the WTO to balance national interests with global rules. A stronger WTO dispute system and clearer UNCLOS enforcement could ease these conflicts (Orford 47; Ciuriak 12). However, I don't necessarily fully agree with Kim's focus on power struggles, as it downplays how legal reforms could reduce tensions (Kim 32). Crowley and Nau are right that institutions are struggling, but they're a bit too pessimistic about fixing them (Crowley 30; Nau 4).

Most research either zooms in on power games or broken systems, but not enough explores how to reshape UNCLOS and GATT/WTO to handle these competing visions of control. My paper will fill this gap by examining how the US and China exploit legal ambiguities in maritime and trade disputes, offering ideas to strengthen these frameworks and cool down the rivalry.

Methodology:

H1: Declining cross-border investment due to rising political tensions has intensified legal rivalry between China & US, manifesting as increased trade sanctions and export controls under GATT/WTO, with a notable escalation in WTO disputes from 2005 to 2025.

H2: Reduced international student exchanges driven by mutual mistrust have fueled legal restrictions, GATT/WTO, and maritime research under UNCLOS, in divergent UNSC voting patterns between 2005 and 2025.

H3: Growing military competition, especially nuclear weapons and aircraft carriers, has escalated legal disputes over UNCLOS maritime rights, reflected in heightened FONOPS from 2005 to 2025

To test H1, I'll use qualitative analysis of great power naval rivalries such as US-Japan pre-WWII to contextualize FONOPS under UNCLOS, drawing from CSIS's 2016 USS Decatur Paracel FONOP and ISEAS's 2017 USS Dewey Mischief Reef operation (Glaser et al.; Storey). Quantitative accounts of FONOPS, like in 2005: 1-2 annually, 2025: 8-10, as per Congress.gov and naval capabilities, China's three aircraft carriers to the US's eleven up to 2025, as per Belfer Center link nuclear and naval expansion with UNCLOS disputes (Cho; Colin 57). This reinforces how military rivalry spawns legal competition, and the maritime aspect of the research question is answered.

To test H2, I'll analyze declining cross-border investment (2005–2025) using US Government Accountability Office and Council on Foreign Relations data, showing US investment in China fell from \$13.8 billion (2016) to \$8.7 billion (2020), with further drops by 2025 due to GATT/WTO-sanctioned tariffs and export controls (Kennedy; US Government Accountability Office). WTO dispute records (pre-2005: scarce; 2025: China's tariff dispute of February 2025) quantify legal rivalry (Council on Foreign Relations; Crowley 30). Such a dataset reveals the way political distrust fuels trade sanctions, which answers the trade dimension of the research question.

To test H3, I'll combine qualitative Cold War US-Soviet voting analysis with quantitative UNSC voting (2005: aligned on nonproliferation; 2025: divergent on Russia/Iran sanctions) and student exchange data (Chinese US students: 370,000 in 2019 to <300,000 in 2024) from UN records and US Department of State (US-China Economic and Security Review Commission; US Government Accountability Office). Reduced commerce, attributed to GATT/WTO technological controls and UNCLOS research limits, reflects mistrust behind diplomatic and legal divergence (Orford 47; Kim 32). This is in response to the diplomatic and legal dynamics of the research question.

Hypothesis:

H0: US-China rivalry has not spilled over into other legal regimes

H1: US-China rivalry has spilled over into law of the sea conflicts, including US FONOPS from 2015 to 2025

H2: US-China rivalry has spilled over into trade conflicts, such as a decrease in cross-border investment

H3: US-China rivalry has spilled over into international institutions such as the UNSC

Case Studies:

Case Study 1: US-China's rivalry in the law of the sea

The US-China rivalry is simultaneous with prior great power naval rivalries, such as pre-World War II friction between America and Japan, under which maritime law was included in strategy. Beijing, as a signatory of UNCLOS, stakes 90% of the SCS with the nine-dash line, militarily low-tide elevations such as Mischief Reef, ineligible under the 2016 Hague verdict for territorial seas (Storey; Colin 57). The non-member America conducts FONOPS, challenging those assertions with reference to freedom of navigation under customary law (Cho). Under the first Trump administration, FONOPS have intensified; USS Dewey FONOP of 12 May 2017 at Mischief Reef within 12 nautical miles had an

exercise of freedom of the high seas at variance with Beijing's assertions (Storey). The Biden administration 2021–2025 maintained the same rate with FONOPs such as USS John S. McCain off Paracels, reaffirming American rejection of Chinese baselines (Glaser et al.). China's reactions to the arming of frigates and labelling FONOPs as "trespassing" increase legal tension, reflecting competitor UNCLOS interpretations (Storey).

Quantitative proxies signify the competition effect. Pre-2005, prior high SCS tension, occasional US FONOPs were 1–2 per annum, typically unreported (Glaser et al.). FONOPs were high in 2025: Trump's administration averaged 6–9 per annum (2017–2021), with 10 in 2019 and 2020 targeting Paracels and Spratlys. Biden maintained it, with 8–10 FONOPs anticipated in 2025, with action around Mischief Reef (Congress.gov). Export restrictions signify competition, too. Pre-2005, occasional US export restrictions on China targeted dual-use technology with no SCS relevance (US Government Accountability Office). After 2018, Trump's tariffs and export restrictions on Huawei and other Chinese industries under national security on the basis of GATT Article XXI broke out; by 2025, more were led by Biden with outbound investment screening, with China having countervailing restrictions in place (Crowley 30). US export controls activity increased from 10 in 2005 to over 100 per year by 2025, targeting technology essential for SCS military activity (Belfer Center).

Before the competition heightenings (2005), UNCLOS interpretations were less passionate. The FONOPs of the US were cautious, respecting the rights of UNCLOS's innocent passage, while those of China in the SCS were less aggressive (Cho). The controversies over GATT/WTO were negligible, with occasional, sparse US-China trade cases (World Trade Organization). From 2017 on, UNCLOS was battlefield territory: China believes EEZ requires warship approval, while UNCLOS Article 58 stipulates otherwise, while the US invokes high seas freedom, as with the 2016 USS Decatur Paracel FONOP challenging China's unlawful baselines (Glaser et al.). Both GATT/WTO interpretations had shifted as well; the US endorses export controls and tariffs under Article XXI's national security exception on grounds of linking restrictions on high-tech with military issues of the SCS, while those of China, of countertariffs, invoke WTO silence (Crowley 30; Orford 47). These reciprocal interpretations of opposite sorts, China's emphasis on sovereignty versus US openness, are drivers of naval presence, FONOPs resisting China's militarization, and export controls limiting entry into high-tech.

This case study confirms H1 over H0, no legal spillover, because the rise of competition between China and the US since 2017 intensified SCS controversies through FONOPs. Qualitatively, FONOPs of Trump and Biden, such as 2017 Mischief Reef, 2021 Paracels, invoke UNCLOS as the foundation of challenging Beijing's assertions, repeating prior naval competition (Storey). Quantitatively, FONOPs have increased from 1–2 in 2005 to 8–10 in 2025, and while restrictions on exports have moved from 10 to more than 100 each year, trade and naval tensions correspond (Congress.gov; Belfer Center). Legally, UNCLOS and GATT controversies repeat political suspicions. China's closed position on UNCLOS triggers FONOPs, whereas exceptions of defense under GATT rationalize American restrictions on exports as part of the SCS strategy (Colin 58; Kim 32). It responds to the research question because it validates law of the sea and trade regimes as forums of competition, with FONOPs and restrictions on exports as tools of strategic competition.

Case Study 2: US-China rivalry in trade

The second case study investigates Hypothesis 2 that the US-China rivalry has spilled over as trade tensions, in the form of declining cross-border investment and increased trade sanctions in GATT/WTO. By legal analysis of the manner in which GATT interpretations impacted naval presence in the South China Sea (SCS) pre-2005 and post-2025, the intensification of the rivalry is examined.

On the basis of history's trade disputes and interpretations, it utilizes qualitative analysis to illustrate how naval strategies are shaped by trade policies. In 2005, before the US-China rivalry intensified, GATT/WTO interpretations had little direct effect on SCS naval activity. The US and China initiated a few WTO disputes, with trade policies directed towards economic integration since China joined the WTO in 2001. US naval presence in the SCS was limited, with 1–2 Freedom of Navigation Operations (FONOPs) annually to assert customary law, while China's SCS claims were less aggressive, focusing on economic rather than military control (Cho). By 2015, the rivalry escalated, and GATT Article XXI's national security exception became a pivotal tool. The US imposed tariffs and export restrictions on Chinese tech giants like Huawei in 2018 for their role in SCS militarization, such as surveillance hardware on Mischief Reef, in an effort to legitimize additional FONOPs to secure trade lanes (Crowley 30; Storey).

For example, the 2017 USS Dewey FONOP pushed back against China's assertions of territory, correlative to US concerns over tech-facilitated naval dominance (Storey). China retaliated with controls over rare earth exports on materials like gallium in 2023–2025, exercising GATT's exceptions to national security to limit US access to resources for naval systems, leading China to expand SCS patrols (Orford 47). US FONOPs rose to 8–10 annually by 2025, and China militarized frigates to respond to them, linking GATT-authorized trade restrictions to naval escalation (Congress.gov).

These competing perceptions, where the US emphasizes tech security and China emphasizes resource security, translated trade tensions into strategic naval operations. This argument supports H2 in showing that the US-China rivalry has spilled over into trade tensions under GATT/WTO to influence the SCS naval presence. In 2005, contained GATT disputes and FONOPs reflected declining tensions, yet from 2015 onward, GATT Article XXI enabled trade measures like US chip prohibitions and China's rare earth restrictions that provoked naval approaches, with the US intensifying FONOPs and China responding with patrols (Glaser et al.; Kim 32). This answers the research question by demonstrating how trade friction, resulting from legal uncertainty in GATT, enhances maritime competition, refuting H0, which states there is no spillover. The combination of trade sanctions and SCS naval exercises highlights the need for WTO reforms to delineate security exceptions (Ciuriak 12).

Case Study 3: US-China rivalry in international institutions

The third case study tests Hypothesis 3, that US-China rivalry has spilled over into UNSC voting patterns, including reduced student exchange caused by distrust, leading to GATT/WTO and UNCLOS limitations. It provides a quantitative examination of export restraint figures 2005 vs 2025, including total export amounts for China and the US, Chinese exports of rare earth minerals, US exports of GPU chips, other products like semiconductors and solar panels, economic impacts in dollars, and official citations of GATT/FONOPs. It also links these with UNSC voting and SCS naval deployments, including both diplomatic and commercial sides of the research inquiry.

In 2005, US export restrictions on China were minimal, around 10 annually, targeting dual-use technology with minimal SCS relevance, and China controlled no significant rare earths (US Government Accountability Office). In 2025, US controls rose to over 100 annually, targeting semiconductors and AI chips, while China controlled seven rare earths, such as dysprosium and gallium, and magnets on national security grounds (Belfer Center). China's total exports have increased from \$761 billion in 2005 to \$3.4 trillion in 2024, but US rare earth exports fell 93.3% in May 2025 with 46,000 kg, with gallium/germanium exports halted. US total exports have increased from \$904 billion in 2005 to \$2.1 trillion in 2024, but GPU chip exports to China fell from \$5 billion in 2020 to \$2 billion in 2024.

Economically, China's rare earth embargoes have cost the US \$3.4 billion in GDP losses in 2025, with US chip limitations reducing China's semiconductor income by \$10 billion annually. GATT/FONOP. In UNSC voting records and student exchanges, UNSC votes between the two states coincided on 90% of resolutions in 2005 in 2025, the coincidence fell to only 60%, with China voting against US-sanctioned Russia/Iran (US-China Economic and Security Review Commission). Student exchanges fell from 370,000 Chinese students in the US in 2019 to less than 300,000 in 2024, correlated with GATT/WTO tech controls and UNCLOS research restrictions.

Thus these evidence confirms H3, since the US-China rivalry has spilled over to UNSC voting patterns and student exchanges, tied to GATT/WTO and UNCLOS limitations. Quantitative trends, export restrictions, falling exports (rare earths, chips, semiconductors, solar panels), \$13.4 billion total economic damages, and decreased UNSC alignment (90% to 60%) exhibit diplomatic and trade competition. Student exchange downturns mirror distrust driving legal constraints, while GATT-elicited trade actions heighten SCS naval tensions (Kim 32; Orford 47). This resolves the research question by linking diplomatic suspicion, trade constraint, and sea disputes, rejecting H0 and suggesting the need for WTO/UNCLOS reforms (Ciuriak 12).

Cross Case Analysis:

The first and second case studies are better at answering the question of how the US and China's competition has appeared in different legal regimes, like the law of the sea, trade, and international organizations. This is because they directly link legal areas to actions like military operations and tariffs. The third case study, which focuses on diplomacy and exchanges, is a bit different but shows a wider sense of mistrust. For example, the US has accused China of intellectual property theft and cyber espionage, while China has accused the US of containing its rise and interfering in its internal affairs.

These observations are similar to past rivalries between big countries, like the US and the USSR during the Cold War, which involved disagreements over seas and trade. They could also happen in the future with other relationships, like if China and India have problems, where unclear parts of UNCLOS or WTO could be taken advantage of. For example, India has raised concerns about China's increasing naval presence in the Indian Ocean, and both countries have overlapping territorial claims along their border.

The fact that these issues keep spilling over, shown by increases in military operations, over 100 export controls, economic losses of \$13.4 billion, and disagreements over legal matters, means that UNCLOS and WTO need to be changed to control strategic competition. For example, clarifying the interpretation of UNCLOS regarding maritime rights and obligations, and strengthening the WTO's dispute settlement mechanism to address trade disputes more effectively could help.

Recommendations:

To fix these problems, the paper recommends a three-part plan: first, bringing back the use of the Beijing-Washington hotline for the presidents of the US and China to be able to communicate directly; second, creating a new international council for maritime issues and trade; and third, starting a global program for sharing technology to rebuild trust and clarify legal rules.

First, reviving the pre-existing but not frequently used Beijing-Washington hotline as a direct line of communication between the US and Chinese presidents to solve disagreements peacefully. During the Cold War, a similar hotline between the US and the USSR helped calm crises like the Cuban Missile Crisis. This hotline could now stop things from getting out of hand in the South China Sea or prevent trade wars from getting worse. This hotline, using secure video calls in real time, would allow both heads of state to talk openly about incidents involving Freedom of Navigation Operations (FONOP), disagreements over tariffs, or addressing key security concerns involving the UNSC, without the delays

of bureaucracy. For example, if there's a tense FONOP near disputed maritime borders in the South China Sea, quick talks could clear up misunderstandings and lower the risk of military action.

Second, a Multilateral Maritime and Trade Council (MMTC) under the UN could be created, to make sure everyone understands UNCLOS and WTO rules the same way. The MMTC would include the US, China, ASEAN states, and other involved parties. This group would be responsible for writing clear rules about rights in Exclusive Economic Zones (EEZ) and trade limits based on security. For example, it could set rules for warships traveling in disputed waters, which would reduce tensions related to FONOPs. It could also limit how GATT Article XXI is misused by defining what national security really means. This council would also help settle WTO disagreements, like China's 2025 challenge to tariffs, to prevent trade conflicts from leading to naval displays. By making cooperation a regular thing, the MMTC could discourage individual actions, like China banning rare earth exports or the US restricting chip sales, which would promote stability in these areas.

Finally, a Global Tech Exchange Initiative (GTEI) could help rebuild trust, which has been hurt by fewer collaborations and limits on technology. The GTEI would create joint research centers between the US and China, located in neutral countries like Singapore. These centers would focus on fields that aren't sensitive, like renewable energy and climate change. By encouraging teamwork, this would make it easier to deal with GATT/WTO technology controls and UNCLOS research limits, which would reduce suspicion. For example, working together on solar panel research could make up for economic losses from trade bans, and joint studies of maritime issues could help improve UNCLOS rules. These big steps: a direct hotline, the MMTC, and the GTEI that address the research question by dealing with the legal issues caused by the rivalry, encouraging conversation, and making global legal systems more stable.

Conclusions:

The tension between the US and China has seriously bled into areas like maritime law, trade, and how global groups work. We can reject the null hypothesis. Looking at freedom of navigation operations, or FONOPs, they've gone up from just a couple in 2005 to almost ten by 2025. The US is using the UN Convention on the Law of the Sea (UNCLOS) to push back against China's claims in the South China Sea. Think of it as a legal and military back-and-forth. Trade is another battleground under the rules of GATT/WTO. We've seen investments drop, and export controls are linked to naval moves in the South China Sea. It seems like everyone is using GATT Article XXI because it's not exactly clear.

Things aren't going so well at the UN either, as the US and China voting alignment has gone down, and fewer students are doing exchanges. These restrictions are signs of distrust in diplomacy. All of these illustrate how the law becomes part of the power game. The spillover is all connected, with FONOPs leading to trade restrictions, which in turn make diplomatic problems worse. This pattern looks a lot like the US-Soviet Cold War. We might see the same thing with other conflicts in the near future. So, what can be done? I'm suggesting a direct phone line between the US and Chinese presidents to deal with problems quickly. I also think we need a group to clear up the rules of UNCLOS and WTO, and an exchange program to rebuild trust. The goal here is to stabilize things and keep tensions from getting worse, so global groups can still work when big countries are competing.

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