CROSS-BORDER M&A BETWEEN US AND CHINESE COMPANIES: NAVIGATING TRADE WARS, NATIONAL SECURITY CONCERNS, AND THE EVOLVING ROLE OF INDIA AS A STRATEGIC ALTERNATIVE

Pratistha Bairisal[*] Om Shiv Shankar Sahoo[*]

ABSTRACT

Cross-border M&A between the United States of America and China has been an engine of global economic integration for decades, driving technology, capital flows, and access to markets. However, the context has shifted in recent months with trade wars, greater national security scrutiny, and economic decoupling strategies. Cross-Border M&A Challenges and Opportunities: The US-China Experience Tariffs, technology transfer imposition, and even more stringent regulatory reviews and scrutiny — including CFIUS — have changed the face of the deal structure, price, and even closed deals. In addition, the shift toward self-sufficiency and domestic innovation in China presents yet another challenge for US firms seeking strategic partnerships or investment opportunities.

Yet a complicated geopolitical landscape has also created an attractive opening for M&A activity in India. In addition, the Indian government is developing business facilitation measures while US and Chinese investors can be attracted by the startup ecosystem and the expanding consumer market in India as they seek to diversify supplies and reduce vulnerability from bilateral tensions. This paper looks into how India has become the strategic destination for M&A (Mergers and Acquisitions) because of its geographical posturing, reformist regulatory environment, and trade partnerships with the US and other nations.

It also examines sectoral opportunities in technology, healthcare, renewable energy, and manufacturing in which India has an attractive investment climate. Special focus is given to the difficulties businesses encounter while navigating India's regulatory framework,

[*]BA LLB (HONS), THIRD YEAR, UTKAL UNIVERSITY, ODISHA.
[*]BA LLB (HONS), THIRD YEAR, UTKAL UNIVERSITY, ODISHA.

infrastructure constraints, and cultural idiosyncrasies. Through case studies and recent examples, this paper highlights the strategic shifts in M&A decision-making and resetting corporate priorities in the global realignment of economic powers.

In a nutshell, cross-border M&A between the US and China will remain dead for the indeterminate future given the geopolitical and regulatory challenges it faces but its evolution as a viable alternative strategic partner for India offers unique opportunities, though further unlocking India's full investment potential will demand sustained infrastructure building, easing of bureaucratic constraints and facilitating greater transparency in regulatory frameworks. This study therefore provides actionable insights for policymakers, corporate leaders, and investors looking to navigate the unfolding M&A landscape successfully.

Keywords: Cross-border M&A, Trade Wars, National Security, Strategic Alternative.

INTRODUCTION

Cross-border M&A has always been among the most significant means of globalization across different parts of the globe. Their transaction goes from asset acquisition to transfer of administrative rights and vice versa, which allows them, through cross-border M&A, to access new economies of style, acquire new technology, and improve business practices. The United States of America and China have been the most powerful global players in M&A. This is mainly due to their strength in the economy, technological innovations, and the movements of trade flows among other countries. Yet, the US-China cross-border M&A market has grown more complicated over the last few years as rising geopolitical tensions, trade wars and national security issues have fundamentally changed the landscape of such deals.

EVOLUTION FOR CROSS-BORDER M&AS BETWEEN THE US AND CHINA

Cross-border M&A activity between the US and China soared over the past two decades due to mutual interests rewarded in the two countries. China represented a huge, growing consumer market, with potential for revenue for US companies. Moreover, they offered cheap manufacturing, a pool of skilled labor, and collaborations in next-generation technologies. For Chinese firms, America offered intangible assets, such as advanced technology, intellectual property, and a key entry point to Western markets.

But that environment started to change in the late 2010s amid rising geopolitical tensions between the US and China. The US started trade wars with everyone by levying tariffs on Chinese goods, which China retaliated against. At the same time, concerns about intellectual property theft, forced technology transfers and national security risks have led to increased scrutiny of Chinese investments in sensitive sectors such as semiconductors, artificial intelligence, and telecommunications. In response, CFIUS[1] expanded its jurisdiction and blocked several of the largest high-profile Chinese M&A transactions on national security grounds. China responded by tightening restrictions on foreign exchange and promoting domestic innovation that relies less on the United States for its technology.

SECURING AGREEMENTS IN THE FACE OF NATIONAL SECURITY AND REGULATORY BARRIERS

The biggest barriers in the US-China cross-border M&A relationship stemmed from national security concerns. However, some have already called for greater barriers to cross-border investments when increasingly they have been framed as serious threats to America's strategic concerns, particularly Chinese investments into critical infrastructure, high-tech enterprises, and technology of strategic interest to Chinese investors. The 2018 enactment of the Foreign Investment Risk Review Modernization Act (FIRRMA)[2] Expanded CFIUS' jurisdiction and intensified the review processes for transactions in which the acquirer is a Chinese national. This has scared off Chinese firms from pursuing US acquisitions and put US companies' China expansion plans in disarray.

By contrast, China has grown increasingly protectionist, limiting some sectors to domestic players and only allowing foreign investors to bite off limited chunks of the market. This inward trend is also reinforced by the dual circulation policy under which China aims to build the strength of its domestic economy while engaging only selectively with the international economy. These trends have resulted in a marked slowdown in cross-border M&A flows between the two countries.

[1] Committee on Foreign Investment in the United States, *CFIUS Laws and Guidance* (U.S. Department of the Treasury, 2025) https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius/cfius-laws-and-guidance(last accessed 20 January 2025).

[2] John S. McCain National Defence Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, 132 Stat. 2369 (2018) (last accessed 20 January 2025).

Geopolitically, India's relative neutrality in the US-China conflict makes it an attractive partner to both sides. And where US companies perceive India as a stable, democratic counterweight to China, Chinese firms view it as an emerging market for consumer goods, technology, and infrastructure projects. These opportunities come with challenges for investors in India, including bureaucratic red tape, infrastructure gaps, and complex regulatory environments.

REVIEW OF GEOPOLITICAL IMPLICATIONS

US-China Trade Wars and Tech Cold War and its Impact on Cross-Border M&A: The ongoing US-China trade war and tech cold war have wreaked havoc on relations between the companies of these two economic superpowers and the cross-fertilization of their corporate offices, to say the least. Political, regulatory, and economic tensions have heightened scrutiny of deals, frayed trust, and reshaped global investment strategies. This has been at the cost of increasing, and doing business has been quite uncertain in both since 2018 of tit for tat tariff, thus, cross-border acquisition in companies, particularly, manufacturing and export-intensive sectors, are less preferred because where trade policies don't allow long-term planning because unpredictability. This has also heightened suspicion among US and Chinese companies, contributing to discouraging cooperative ventures and dismantling economic benefits that stimulate M&A deals.

As the US enforces cuts on Chinese firms' investments in strategic sectors such as semiconductors, AI, telecommunications, and quantum computing, technology is instrumental to this ongoing war. These steps have been facilitated through regulatory mechanisms, such as the CFIUS, in part because of concerns relating to national security, theft of intellectual property, and technology transfer. The 2018 Foreign Investment Risk Review Modernization Act (FIRRMA) expanded CFIUS's authority to make it even harder for Chinese companies to acquire or invest in US companies, particularly when the US companies' market-sensitive technology.

For instance, the US in 2018 scuttled a $117 billion attempt by Broadcom to buy Qualcomm, invoking national security, which repeated a general aversion to foreign control of key technologies. In response to the counteraction of the US against it, like the US announcing the 'Entity List' against China, with it also targeting the top technology organizations in China to curb its technological development and its neighbouring countries, China has taken some measures like the 'Unreliable Entity List', and restriction of export on rare earth elements which are essential for high tech productions. Additionally, it has raised the stakes of cross-border M&A between the countries since they are competing for technological autonomy as well.[3]

The semiconductor industry is one of the most affected sectors because of the strategic importance of high technologies including AI, 5G, and autonomous vehicles. The US restrictions on the export of semiconductors to Chinese entities such as Huawei and SMIC have already caused a significant amount of disruption to global supply chains, while the measures imposed by the US also made cooperation between US and Chinese semiconductor companies very difficult. Consequently, both countries are now pivoting toward domestic capabilities, with the US implementing the CHIPS and Science Act of 2022[4].

To promote domestic semiconductor manufacturing and China's rushing investments in its self-sufficiency projects. And then there is China's dominance of the supply of rare earth materials, which are critical for producing semiconductors as well as electric vehicles and defence equipment. China's threats to restrict the export of rare earths have increased global supply chain vulnerabilities, and countries are diversifying sources and complicating M&A activity around these resources. Deals in this space are becoming more geopolitically sensitive, with governments intensifying their scrutiny of deals that might have a bearing on their strategic interests.

The US-China trade war and tech cold war have longer-term break-up impacts on the global M&A landscape. Moving with less international interdependence appears to have resulted in a breakup of a more open, productive global economy – one where countries make timely investments in industries that support home-based economic diversification efforts alongside trade partner diversification efforts. Though this has precipitated immediate declines in transnational operations, it could begin to establish new loci of power and alliances that will impact global financing and trade strategies. This dynamic serves to highlight just how novel the pathways that companies need to traverse the treacherous waters of geopolitics and global enterprise.

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[3] Bureau of Industry and Security (BIS), 'Commerce Makes Revisions to the Entity List to Strengthen U.S. National Security' (15 January 2025) https://www.bis.gov/press-release/commerce-makes-revisions-entity-list-strengthen-us-national-security (last accessed 19 January 2025).

[4] Making Appropriations for Legislative Branch for the Fiscal Year Ending September 30, 2022, and for Other Purposes, Pub. L. No. 117–167, 136 Stat. 1366 (2022).

INDIA AS AN ALTERNATIVE STRATEGY FOR US AND CHINESE COMPANIES

For US Companies: India's growing economic stature, its strategic location, and the government-led initiatives to improve the business environment made it an increasingly attractive location to diversify its operations, reduce reliance on China, and capitalize on the rapidly expanding market. India is one of the fastest-growing major economies in the world, boasting a substantial GDP growth rate, a large youth demographic, and an expanding middle class, making it an attractive destination for investment in areas like technology, E-commerce, renewable energy, and healthcare.

This is due to the country's economic story aligning closely with the priorities of US companies to repair supply chains and expand their addressable markets while advancing some of the best technologies available. The top factors triggering India's hope include pro-business government initiatives like "*Make in India*" and "*Digital India*," which are geared towards a favourable environment for innovation, Foreign Direct Investment (FDI), and a worldwide manufacturing hub.

For example, the “Make in India” policy invites foreign companies to set up manufacturing units in the country by offering tax benefits and simplified regulatory processes. Just like “Digital India” is about upgrading digital infrastructure, better internet connectivity, and culture of technology adoption across sectors, all of which have inspired Google and Microsoft to make significant investments in India’s digital transformation. This is complemented by the Production Linked Incentive (PLI) schemes that will also help attract domestic manufacturing investments in high-value sectors like electronics and semiconductors and are sectors on which US enterprises like Apple, and Intel can right away leverage the large opportunities on offer.

The other major constraint is infrastructure. Though India's transport infrastructure, power grid, and logistics network are improving with time, they are still not at par with global standards in several pockets of the country. If a system goes down, response time will vary as people scramble to troubleshoot the issue. Another major obstacle for FDI includes Intellectual Property (IP) protection because industries like technology and pharmaceuticals rely on strong enforcement of IP laws. Some US investors remain cautious about fully committing to India’s market, owing to concerns over counterfeit goods and weak legal frameworks for IP enforcement.

It is time for US companies to think long-term about partnering and embedding into the Indian business ecosystem so that they can address these challenges and realize the full promise of India. To overcome such intricacies and establish trust within the market, US firms can build strategic partnerships with local businesses. Like that of India, similarly, providing local workforce development and training programs can increase operational efficiency and add to the economic progress of India. Towards that end, US companies must reach out to the Indian government to translate them into business goals: taxation, infrastructure development, and a technology roadmap for adoption. In these areas, through mutual conversations and sustained investments that have been agreed to, US firms can position themselves better to win within one of the most dynamic, prospective markets anywhere on the globe. A rare opportunity has presented itself to US firms who are willing to sort through the segments that work to do business in one of the top economies to emerge on the growth stage.

For Chinese Companies: For Chinese companies, India holds massive potential to diversify their investment portfolios and expand their global presence at a time when geopolitical tensions are resulting in increased scrutiny of Chinese investments in the US and Europe. India's booming economy, massive consumer base, and requirement for infrastructure development provide a friendly ground for investments in infrastructure, technology, and renewable energy which are aligned with the Chinese firms' expertise and global aspirations.

In infrastructure, projects like Smart Cities and modern transportation systems in a country as large and populous as India cater to the scale that Chinese companies in large-scale construction technologies, such as those involved in constructing metro rail systems and energy grids, can address. While India's thriving tech ecosystem, with global acclaim for software development, can provide opportunities for Chinese technologies, players like Huawei will be 360 degrees closer to offending the Indian state by fuelling communication infrastructure whereas Xiaomi has cemented a dominant position in India's smartphone market by providing affordable and feature-rich devices.[5] In clean energy, China's dominance in solar panel and wind turbine production gives it the advantage to assist India in its green energy transition —

[5] The Diplomat, 'Don't Underestimate India's Sidelining of Huawei' (24 September 2020) https://thediplomat.com/2020/09/dont-underestimate-indias-sidelining-of-huawei/ (last accessed 19 January 2025).

potential areas include solar panel installation, battery production, and Electric Vehicle (EV) charging infrastructure building as seen through companies like 'BYD'[6].

But Chinese companies are under substantial pressure, including tighter scrutiny of investments especially in tech and infrastructure, due to national security concerns and political tensions, including longstanding border disputes. The Indian government has indeed tightened FDI from bordering nations and made prior government approval necessary. There is also an anti-China sentiment and competition from local and international players that make it increasingly difficult for Chinese firms, in some cases, to penetrate certain markets. For Chinese firms to be successful in India, they need to adopt a collaborative, localized approach by forming strategic partnerships with Indian companies, investing in local manufacturing, and involving themselves in community development to mitigate political risks and generate goodwill. Chinese companies can reduce the geopolitical pressures that have made business in some parts of the world so challenging and solidify a toehold as a key player in the world economy.[7]

THE ROLE OF INDIA IN SHAPING THE GEOPOLITICAL LANDSCAPE OF M&A

With today's geopolitical upheavals and a US-China tech cold war, India has become a key player in shaping the global M&A environment. At the same time, India's geographic, economic, and policy advantages are rare in the world, and are key to being an attractive investment destination, while located at a strategically important crossroads of Asia and the Pacific. For companies like themselves that have been looking for ways to diversify their operations and reduce geopolitical risks while entering new markets and emerging economic growth areas, India constitutes ideal conditions. Moreover, as the US-China trade and tech rivalry continues to escalate, India is viewed as a neutral territory for business partnerships, and it is increasingly viewed as a beneficiary in supply chains that are pivoting away from globalism and toward regionalism and diversification. India's carefully crafted policy environment to attract foreign direct investment is an essential ingredient. The Indian Government applied many schemes for making an investment-friendly ambience in the

[6]BYD Auto Co., Ltd., 'About BYD' https://www.bydglobal.com/cn/en/BYD_ENAboutByd/CompanyIntro_mob.html (last accessed 19 January 2025).
[7] Business Standard, 'India's Success in Capturing 'China-Plus-One Strategy' Limited' (4 December 2024) https://www.business-standard.com/external-affairs-defence-security/news/india-s-success-in-capturing-china-plus-one-strategy-limited-niti-report-124120400682_1.html (last accessed 19 January 2025).

country, particularly the "Make in India" and "Digital India" projects. All these policies have taken a major part in pushing investment in various sectors from technology to manufacturing to services.

Better Attractiveness for More Foreign Investors production-linked incentive (PLI) schemes, as well as regulatory reforms aimed at easing approvals and reducing entry barriers, make India attractive to foreign investors. India has been creating an enabling ecosystem for foreign companies looking to enter or expand in its markets by providing tax incentives, improving infrastructure, and aligning its policies to reflect those of international economies. Such policy mechanisms have catalyzed India's ascent up the ranks of favourable destinations for cross-border M&A activity across an emerging basket of sectors, including technology, renewable energy, and pharmaceuticals.

Japan and the European Union are some of the world's largest economies and their partnership with India bolsters India's international economic positioning. Partnerships in these domains have been key to helping India become a hub of global value chains, especially in the technology, infrastructure, and energy sectors. It has allowed global partners to bring such capital, technology, and expertise to India through agreements and Joint Ventures. Together with the creation of economic growth through such partnerships, it also reinforces India as an important participant on the global M&A front.

In another manifestation of the trend, India will be a growing influence on global M&A activity in a continued strategy to be a regional leader in the critical sectors for the future energy, particularly clean energy; AI; and biotechnology. It sees itself as a global hub for those sectors that are set to drive the next round of growth. Thus, making India an appealing market for Acquisitions, Joint Ventures, and strategic partnerships as such an influential business trend observed especially within industries wherein India has competitive advantages in digital technology and renewable energy.

ANALYSIS

Legal and Regulatory Frameworks: This segment will cover the legal and regulatory environment of the target and home country as determinants of the feasibility and success of cross-border mergers and acquisition deals. One of the key elements in evaluating India’s attractiveness as a destination for global investments is India’s FDI policy. Over the years, India has been working on improving its FDI regulations through process simplification and the provision of incentives, particularly in manufacturing, technology, and renewable energy. However, the regulations in India can be as intricate and demand as much knowledge of local legislation and industry-specific limitations as any other market. For example, India has investment limits for foreign investment in sensitive sectors such as defense, media, and retail, which may impact potential M&A deals in these sectors. As a result, enterprises need to know about such regulations to analyze investment opportunities and risks.

While domestic laws, such as the Indian laws, impact cross-border M&A activity, such activity is also heavily influenced by US and Chinese national security laws. One such body, the Committee on Foreign Investment in the United States (CFIUS), which reviews the potential national security concerns posed by foreign investments in the US, particularly by Chinese companies, has expanded in importance. CFIUS reviews M&A transactions to assess whether they are likely to affect critical infrastructure, technology, and industries that are important to national security.

Changes come in many forms, an example being the introduction of the Foreign Investment Risk Review Modernization Act (FIRRMA) in 2018 when CFIUS was given the jurisdiction to review transactions in which the foreign investor does not have control over the investment but is still related to technology deemed sensitive. Similarly, it has also offered strict foreign investment policies, particularly for high-tech and strategic sectors in China. The regulatory environment analysis is pivotal in determining the potential dangers in M&A transactions and identifying which industries are prone to face regulatory scrutiny and enforcement. Legal considerations include other transactional legal issues, as well as IP protection, anti-trust laws, and contract enforcement in due diligence.

Economic and Geopolitical Factors: Global Economic Disruptions: The global economy seems to be undergoing a fundamental change in ways that feel like the stimulus provided by product innovations, trade patterns, and the rise of emerging markets. Protectionism has been rising, with the US-China trade war restructuring global flows of trade and investment and transforming the calculus behind cross-border M&A deals.

With tariffs on Chinese imports escalating as well as pressure on US and Chinese companies to re-evaluate their global operations, whether through export controls or their IP being stolen in pursuit of technology transfer, US and Chinese companies will have to weigh future moves.

This has led some of them to invest in insiders, while they look to new ones such as India, which could be less vulnerable to the immediate impacts of US-China geopolitics.

Trade Barriers and Protectionism: Protectionism and new trade barriers and tariffs are important factors negatively affecting M&A. Tariffs and trade barriers diminish the attractiveness of cross-border M&A deals from a financial perspective in that they raise the costs associated with doing business. China, for instance, has already imposed export curbs for key materials such as rare earth elements, which could impact global supply chains and therefore investment decisions. The ability of India to keep up stable trade relations with both the US and China is a positive for corporates looking to hedge global tensions.

Case Studies: Analysis of specific M&A case studies throws light on the intricacies of cross-border transactions and how geopolitics interplays with business strategies. A clear example of this is the merger of TikTok M&A done for Oracle in 2020 where the narrative of national security was driving the decision of M&A by ByteDance. Following heightened concern over how users' data is secured and whether the Chinese government may have access to the personal data via TikTok, the Trump administration asked the app's Chinese owner, ByteDance, to divest its U.S. operation. ByteDance faced pressure from the US government to sell TikTok's US business to a company based in the US on the grounds of national security concerns. After months of negotiations, the company agreed to sell a controlling interest in its U.S. business TikTok to Oracle and Walmart.

The deal underscores the mounting weight of national security rules, especially in technology, an industry where the issues of data privacy and intellectual property loom large. The arrangement also highlights the broader trend of US-China tech decoupling, a process through which geopolitical pressures are forcing both countries to be more self-sufficient in crucial sectors such as technology.

The challenges posed by this deal underscore the competing political and regulatory pressures confronting foreign companies in cross-border M&A deals, particularly in sectors that involve national security. One such case that stands out is Walmart's $16 billion acquisition of the E-commerce giant, Flipkart (2018)[8], which is a demonstration of global companies increasing

[8] Walmart Buys Flipkart for $16 Billion, The Hindu (May 9, 2018), https://www.thehindu.com/business/walmart-buys-flipkart-for-16-billion/article23913221.ece (last accessed 20 January 2025).

momentum in raw markets for business as their home markets become stagnant. Flipkart, India's leading e-commerce platform, was targeted by Walmart as a growth strategy in a country with the largest consumer base in the world and an emerging digital economy.

Walmart was gaining access to the fast-growing e-commerce market in India through the deal, which freed up a significant amount of upside potential as an increasing number of Indians logged on. However, this acquisition did not come without its own set of challenges. Walmart ended up having to navigate India's complicated regulations on foreign direct investment, including rules around ownership in multi-brand retail and local market competition. The deal also highlighted India as an alternative market for U.S. companies seeking to diversify away from China. Growing friction between the countries over trade gave the Flipkart acquisition a critical foothold in a rapidly developing economy with high growth potential for Walmart.

The deal represents yet another example of how global companies are examining India as a strategic alternative to China, particularly in sectors where China's market may be politically sensitive or hard to reach because of regulatory barriers and geopolitical friction. In this deal, Walmart seized on the market potential of India, and in the process also proved how cross-border M&A activity is being redefined by both economic opportunity and geopolitical factors.

CONCLUSION

There are interplays at play in M&As across borders, that contain a synchronicity influenced by a mix of legal, economic, and geopolitical trends with each factor equally influencing the business strategies of firms chasing competitive stakes in a world competing scene. These dynamics are key to understanding the future of global M&A as the dynamics of the global economy are increasingly defined by the US view of the US-China trade war and tech cold war and the role of India as a strategic alternative to both US and Chinese corporations.

Legal and regulatory frameworks (such as India's Foreign Direct Investment policies, and national security regulations in the US and China) can be a big obstacle that derails cross-border M&A deals. Steps taken in India to attract foreign investment through such reforms and initiatives as "Make in India" and "Digital India" are significant, but companies will have to navigate the complex regulatory landscape of such transactions e.g., the CFIUS reviews in the US and the growing scrutiny of Chinese investments, if they are to minimize the risks in cross-border deals.

The global environment is also impacting M&A, with ongoing economic and geopolitical uncertainties influencing investments, such as shifted global trade patterns, continued implementation of protectionist measures, and the protection of national security. The US-China decoupling has also made the companies look for alternative expansion markets and India fits the bill. India's geopolitical neutrality, as well as its strategic location, huge consumer market, and increasing emphasis on the construction of technology, also make it a highly attractive country for American and Chinese companies. Increasingly, firms are taking advantage of India's business-friendly environment to hedge their risks in the U.S.-China rivalry and to diversify their investments in a fluid global economy.

Some landmark case studies like ByteDance's sale of a partial stake in TikTok to Oracle and Walmart's buying of Flipkart show that the landscape of M&As, across the globe, has been changing with geopolitical tensions and economic considerations. These examples also illustrate the extensive implications of national security laws and trade curbs on cross-border investments and in turn, show how emerging markets like India are increasingly going to be the most lucrative destinations for growth. In conclusion, this research reveals that India is at the forefront of transforming the norms of global trade and investment. As a neutral bystander and a fast-burgeoning economy, companies are considering diversifying operations to India to insulate themselves from the market turbulence of US-China trade skirmishes. With a conducive regulatory environment, infrastructure upgrades, and adoption of innovation, India will be the next stop in the future of global M&A that benefits US and Chinese companies alike.

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