

U.S.-PRC Trade-Related Negotiations in the 1990s: Two-Level Game Analysis and Explanations*

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This article examines three cases of bilateral negotiations between the United States and the People's Republic of China (PRC) in the 1990s: the PRC's most-favored-nation (MFN) status, intellectual property rights (IPR) protection, and the PRC's entry into the General Agreement on Tariffs and Trade (GATT)/World Trade Organization (WTO). The key question is: How to explain the different outcomes in these three most similar cases? These variables are crucial to my explanation: (1) conflicts over conceptual framework; (2) the degree of congruence (or conflict) between U.S. demands and Chinese internal agenda and policy priorities; and (3) existence or nonexistence of support coalitions on both sides. Based on variations of these three factors in each case, this article's conclusion is that from a U.S. policy perspective, consensus over the conceptual framework between the PRC and the United States makes agreement possible, but only successful coalition-building by the United States will turn this possibility into a reality.

Keywords: international relations, negotiation, U.S. and PRC

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In the 1990s, there have been three highly publicized bilateral negotiations between the United States and the People's Republic of China (PRC): discussions on the PRC's most-favored-nation (MFN) status (from May 1993 to May 1994), negotiations over intellectual property rights (IPR) protection (from June 1994 to March 1995), and bilateral talks on the PRC's entry into the General Agreement

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on Tariffs and Trade (GATT)/World Trade Organization (WTO) (from December 1993 to December 1994). These three cases have some important structural similarities. First, they all involved the same trade conflicts and the same two parties. Second, they occurred almost simultaneously, sometimes even affecting each other. Third, all were used by the United States as an instrument to achieve a larger agenda: change the PRC's internal norms and institutions. MFN status was used by the United States to change the PRC's human rights record and foster pluralism in Chinese politics, IPR issues were used to make the PRC's legal system and laws more transparent and accessible for American businesses, and the GATT/WTO negotiations (which are still continuing) have been used to liberalize the Chinese economy and its market. As a result, in all three cases the Beijing government accused the United States of infringing upon its sovereignty, interfering in its internal affairs, and offending its dignity. All three cases have hence become highly politicized issues in the bilateral relationship. Finally, officials from both sides' negotiation teams were mainly from the same governmental bureaucracies: in the United States, from the State Department and U.S. Trade Representative Office; in the PRC, the Foreign Affairs Ministry and Foreign Trade Ministry.

Despite all these similarities, the three negotiations had different outcomes. On the MFN issue, the United States failed to achieve its policy goal, as Beijing succeeded in resisting pressure on human rights. On GATT/WTO entry, bilateral negotiations reached a deadlock at the end of 1994. On the IPR issue, the two countries concluded an agreement in which Beijing vowed to cooperate. The key question in this article is: How could three different outcomes result from three similar cases?

Because of the similarities between cases, several variables are held as constant: power resources, the factor of different issue areas, the relational attributes of the U.S.-PRC dyadic relationship (e.g., the PRC's trade dependency on the United States), bargaining skills, intensity of preference, etc. Consequently, many negotiation theories are not valid in these cases. To explain the variations in bargaining outcomes, I will utilize a two-level game model of analysis that links international and domestic supports and constraints. In this study, I will examine internal politics in the United States and the PRC to gauge what internal factors on the U.S. side made it possible (or impossible) to squeeze concessions from Beijing, and what internal factors in the PRC made it possible (or impossible) to resist American pressure or compromise. In anticipation of this article's conclusions,

these factors are crucial: (1) whether there is consensus or conflict over the conceptual framework of the negotiation itself; (2) the degree of congruence or conflict between U.S. demands and Chinese internal agenda and policy priorities; and (3) the existence or nonexistence of support coalitions (including both domestic and foreign support) on both sides. Based on these three factors, this article has three propositions:

1. *The MFN status issue*: Conflicts over the conceptual framework (concepts of human rights) and incompatibility of U.S. demands with the current objectives of the PRC's internal political agenda made it difficult for Beijing to meet U.S. demands. Beijing's success in forming a transnational united front and the collapse of the U.S.'s domestic and international support undermined American efforts to use MFN leverage to change Beijing's behavior on human rights.

2. *The GATT/WTO entry issue*: Deep disagreement over the conceptual framework (whether the PRC is a developing or a developed country, to what extent "embedded liberalism" should be applied) and the gap between the PRC's internal economic agenda and demands by the United States made it difficult for a consensus. The United States had the support of most developed nations and even some developing countries, and was unwilling to make substantial concessions. For fear of economic chaos and political instability, the Chinese leadership was unwilling to compromise. In the long run, the WTO is in harmony with China's economic reforms; hence, Beijing has not given up and the negotiations remain in stalemate.

3. *The IPR issue*: Beijing and Washington had no disagreement over the conceptual framework. IPR serves Chinese economic development and the development of its legal system, so Beijing did not openly resist U.S. demands. The United States formed a united front at home and received support from American joint ventures in mainland China, and when Washington offered some side-payments as incentive, Beijing decided to cooperate.

In the following sections, I will analyze these three cases in detail to prove my general propositions.

Case One: The MFN Status Controversy

In May 1993, U.S. President Bill Clinton announced his decision to renew the PRC's MFN status but imposed conditions for the next year's renewal and linked it with mainland China's human rights situation. Clinton's policy was designed both to satisfy a Democrat-

dominated Congress and keep his pledges in the presidential campaign. In the past, Democrats in Congress and Clinton had accused President George Bush of “coddling” Beijing’s dictators for his refusal to revoke MFN status. After becoming president, Clinton required Beijing to make “overall, significant” achievements on the human rights conditions before June 1994 for the renewal of MFN status for the next year.¹

Beijing reacted to the linkage policy with uncompromising hostility. Secretary of State Warren Christopher’s stay in Beijing in March 1994 resulted in a surprising confrontation and escalation of conflict. Christopher asked Beijing to make “modest” improvements, “at least limited progress on human rights,” so that the United States could legally renew Beijing’s trade privileges, but the Chinese side refused to meet even minimum conditions.

The Clinton administration soon acknowledged that its policy “[had] not yet produced the progress it sought on human rights and weapons nonproliferation.”² Officials in the Treasury and Commerce departments expressed their doubts about the current China policy privately and publicly. Secretary of the Treasury Lloyd Bentsen and Secretary of Commerce Ronald Brown urged a more pragmatic China policy which gave priority to economic and trade interests. In mid-March 1994, a joint NSC/NEC (National Security Council/National Economic Council) team dominated by officials in charge of economic affairs was formed. It assumed full control over U.S. policy toward China and shifted it to a pragmatic direction.³ After consulting widely with Congress and businesses, the president concluded that the linkage policy had “reached the end of [its] usefulness,”⁴ and discarded it completely on May 25, 1994.

There were several factors responsible for the failed linkage policy. First, Beijing and Washington had no common ground on the concept of human rights; the conflict over a conceptual framework made talks confrontational. Second, a delicate internal political situation made the Chinese leadership especially resistant to political

¹“Executive Order 12850: Conditions for Renewal of Most-Favored-Nation Status for the People’s Republic of China in 1994,” announced on May 28, 1993.

²Elaine Sciolino, “U.S. Showing Frustration over China’s Human Rights Policy,” *The New York Times*, March 9, 1994, A11.

³David M. Lampton, “America’s China Policy in the Age of the Finance Minister: Clinton Ends Linkage,” *The China Quarterly*, no. 139 (September 1994): 618.

⁴“Clinton’s Call: Avoiding Isolating China,” *The New York Times*, May 27, 1994, A8.

pluralism; the pending succession crisis and other socioeconomic reasons strengthened its paranoia. For the sake of political power, it fought back fiercely. Combined with effective maneuvering, Beijing successfully formed a transnational support coalition. On the other hand, the U.S. support coalition for human rights linkage became divided and finally collapsed in 1994, and Clinton had to abandon his policy.

Different Conceptual Frameworks

The chief target of MFN status was human rights in the PRC. However, an unbridgeable gap exists between the two governments on the concepts and criteria of human rights.

Beijing believes that human rights should include rights to life and existence, the right to development, and social and cultural rights; it emphasizes the superiority of collective rights over individual rights. Ultimately, human rights "are essentially matters within the domestic jurisdiction of a country,"⁵ and there is no universal criterion to judge one country's human rights situation without considering each country's development, history, and traditions. Beijing therefore accuses Washington of imposing its own criteria on other countries as a superior one.⁶

Because the U.S.'s record of domestic social and economic rights protection and its behavior overseas have not been universally admired, the Beijing government launched a large-scale propaganda campaign charging that "the U.S. ruling class owes the Chinese people a blood debt,"⁷ and the United States was the largest human rights violator in the 1990s. Premier Li Peng told Warren Christopher that "China will never accept the U.S. human rights concept."

Conflict between the PRC's Internal Agenda and the Linkage Policy

In the 1990s, the following three factors have placed important

⁵Information Office of the State Council, "Human Rights in China," *Beijing Review* 34, no. 44 (November 4-10, 1991): 44.

⁶Yang Xuetong, "Disagreements over Human Rights between China and the United States and Their Reasons," *Liaowang zhoukan* (Outlook Weekly) (Beijing), April 18, 1994, 40-41.

⁷"The United States—The International Military Police Trampling Human Rights," *Ban Yue Tan* (Semimonthly Chat) (Beijing), 1990, no. 5:5-7, trans. in Foreign Broadcast Information Service (FBIS), *Daily Report: China* [hereafter referred to as *FBIS-CHI*] 90-075 (April 18, 1990): 5-6.

constraints on Beijing's policymaking:

1. *Legitimacy crisis.* The 1989 democracy movement and the collapse of communist systems in Eastern Europe and the Soviet Union deeply disturbed the Chinese Communist Party (CCP), causing a legitimacy crisis. The Chinese leaders concluded that continued economic growth was a prerequisite for maintaining the power of the CCP ruling elite. Therefore, it tightened political control, especially over intellectual circles, while at the same time continuing reform and opening-up policies.

2. *The succession crisis.* After Deng Xiaoping is gone, the PRC will face another round of succession crises. Even though Jiang Zemin has held the four most important positions in the PRC, nobody believes he has consolidated his power base and can deter other challengers. In 1993, all seven members of the CCP Politburo Standing Committee exerted significant influence in decisionmaking. On foreign affairs, Jiang and Li Peng shared power: Li was the director of the Foreign Affairs Group, but in dealing with Western leaders, especially the United States, Jiang played a more important role. Under such circumstances, no leader wanted to initiate policy toward the United States which would require compromises and concessions and endanger his own political fortune.

3. *Anniversary of the June 4th crackdown.* The deadline for renewal of the MFN status coincided with the fifth anniversary of the June 4th massacre, complicating the issue. The dating coincidence not only drew more attention from international mass media to mainland China's human rights situation, but also encouraged Chinese political dissidents to challenge government authority more aggressively, especially after Assistant Secretary of State on Human Rights John Shattuck's meeting (March 1994) with Wei Jingsheng, a political dissident who is Deng's personal eyesore. The linkage policy placed the Chinese leadership in a paradox: as the United States was mainland China's largest export market, the loss of MFN status would hurt its economy and its political stability. But to lose face and make concessions on human rights would embolden political dissidents to challenge its rule and be a sign of weakness. To guarantee political stability and prevent a new democracy movement, the government chose to deal with the political dissents with a heavy-handed policy.

Coalition-building by Beijing and Washington

Beijing's "united front." In 1990, the Chinese began adjusting their foreign policy to establish a "united front" and "borrow force

to resist force.” The following forces were brilliantly “borrowed” to resist the United States on the MFN issue:

1. Countries contiguous with mainland China have always been wary of this giant. Beijing targeted them to break its diplomatic isolation immediately after the June 4th incident. Beijing’s “good-neighbor policy” soon paid off; for example, at the first meeting of seventeen finance ministers from Pacific rim countries in Hawaii in March 1994, many urged their American hosts to give up the linkage policy.⁸

2. Japan and Germany were the two best alternatives to replace the United States if Beijing lost its MFN status, and Beijing spent more energy to pull them to its side. When Japanese Prime Minister Morihiro Hosokawa visited Beijing in March 1994, he told Li Peng that the Western concept of human rights should not be blindly applied to all nations.⁹ When German Chancellor Helmut Kohl visited Beijing in November 1993, he expressed his optimism for mainland China’s human rights situation. In return, he received more than twenty contracts for German businesses.

3. Many international organizations, including some affiliated with the United Nations, are dominated by Third World countries which are sympathetic to Beijing. Beijing aggressively advocated its human rights concept in many international forums. For example, the United States initiated a resolution on the PRC’s human rights problem in the fiftieth session of the UN Human Rights Commission in Geneva in March 1994; in response, Beijing sponsored and passed a resolution to condemn countries which used human rights as an excuse to exert pressure on developing countries.¹⁰

Two-level games in the United States. In the closed Chinese system, the political elite, rather than social interest groups, played an important role in the decisionmaking process. On the American side, however, interest groups were very active in shaping U.S. policy toward China. One reporter commented on the MFN issue: “Amer-

⁸Thomas Friedman, “Bentsen Wants Compromise with China on Rights,” *The New York Times*, March 20, 1994, 20.

⁹Photo: “Looking Casual, Japan’s Prime Minister Flies Home,” *The New York Times*, March 22, 1994, A6.

¹⁰“UN Human Rights Commission Passes Resolution Condemning Some Countries for Pressuring Developing Countries,” *People’s Daily* (Beijing, Overseas edition), March 7, 1994, 6.

ican policy toward China is only effective if there is a united front.”¹¹

Collective action in U.S. Congress. A powerful coalition on Capitol Hill led President Clinton to adopt the linkage policy. In Congress, lawmakers’ decisions are usually determined by the special interests they are concerned with. For example, lawmakers from textile states (e.g., Jesse Helms, George Mitchell, and others), anti-abortion Congressional members (e.g., Christopher Smith), human rights activists (e.g., Nancy Pelosi), and pro-Taiwan Congressional members have opposed further improvement of bilateral relations with the PRC. Although such issue-oriented coalitions are numerous in Congress, their influence is also balanced by other issue-oriented groups such as lawmakers who represent wheat exporters.¹² Despite this balance, from 1990 to 1992 Congress united numerous issue-oriented coalitions into a majority coalition, and the 1989 Tiananmen Square repression was the catalyst for this collective action.¹³

1. *Favorable circumstances.* Public opinion in the United States was changed overnight by the bloody scene in Beijing in 1989. The 1992 presidential election also politicized the MFN status issue into “an election effort to embarrass the administration by highlighting what has been an unpopular policy.”¹⁴ Sen. Bob Dole has said that Congress’s criticism was a political gesture, aimed more at “embarrassing Bush than pressuring the Chinese government.”¹⁵ As many pro-Beijing lawmakers departed from Congress, one Chinese observer wrote at the end of the 1980s: “The Chinese could find relatively few friends in the legislative branch who would be devoted to the cause of the U.S.-China relationship.”¹⁶

¹¹Thomas Friedman, “U.S. Signals China It May End Annual Trade-Rights Battles,” *The New York Times*, March 24, 1994, A1, A13.

¹²Michael Weisskopf, “Backbone of the New China Lobby: U.S. Firms,” *The Washington Post*, June 14, 1993, A1; Thomas Friedman, “Legislator Urges Diplomacy to Improve Rights in China,” *The New York Times*, May 11, 1994, A12; Tan Qingshan, *The Making of U.S. China Policy: From Normalization to the Post-Cold War Era* (Boulder, Colo.: Lynne Rienner, 1992), 33; and David Cloud, “Dole May Oppose China MFN If Wheat Sales Suffer,” *Congressional Quarterly* 50, no. 37 (September 1992): 2795.

¹³Mancur Olson, *The Rise and Decline of Nations* (New Haven: Yale University Press, 1982), 38.

¹⁴Jim Drinkard, “Senate Backs China Trade Conditions,” *Philadelphia Inquirer*, February 26, 1992, A1; and “House Votes to Override Bush Veto on China Trade,” *ibid.*, March 12, 1992, A6.

¹⁵Charles Green, “Bush View on China Is Clarified,” *Philadelphia Inquirer*, May 17, 1991, D9.

¹⁶Zhu Hongqian, “Congress and American Normal-Bilateral Foreign Policy: The Making of United States China Policy During the 1980s” (Ph.D. diss., University

2. *Strong leadership.* Two Congress members played a crucial role: Senate Majority Leader George Mitchell and junior Representative Nancy Pelosi. As a senator from Maine, Mitchell was interested in protecting the textile and garment industry in his own constituency. As the election year neared, he intended to run for president.¹⁷ After President Bush's popularity soared in the Gulf War, he picked MFN status as a good issue on which to challenge Bush. His intensive attack on Bush's China policy was a part of the Democrats' strategy to win the White House.

In the House, Representatives Don J. Pease and Stephen J. Solarz appeared as leading challengers to President Bush's policy. After they lost their reelections, the vacuum was filled by Pelosi. Although she did not sit in important committees related to foreign affairs in 1989, among Democratic lawmakers she had a most liberal and safe constituency which consisted of 30 percent Asian Americans, as well as San Francisco's liberal amalgam of environmentalists, gays, and other immigrants, and the working class. She was also mentioned as a possible candidate for vice president in 1992 and had "become one of the Democrats' rising stars."¹⁸ All these factors explained her activism in U.S. China policy.

3. *Selective incentives.* Sen. George Mitchell and Rep. Nancy Pelosi needed selective incentives to involve hundreds of other lawmakers; the policy linking MFN status with human rights was a good strategy, for Congress has jurisdiction over trade issues and human rights include a variety of issues. Every time a bill went to the floor, it produced a snow-ball effect: amendments exploded into a long list as approved, quickly recruiting unanimous Democratic support in Congress. Some wavering lawmakers knew that the president would veto these laws anyway, so they jumped on the bandwagon to support human rights enterprises. As a result, a majority coalition was formed in Congress.

of Michigan, Ann Arbor, 1991), 98; Harry Harding, *A Fragile Relationship: The United States and China since 1972* (Washington, D.C.: The Brookings Institution, 1992), 210.

¹⁷"Senator Mitchell Tells NBC His Eye Is on Presidency," *The Wall Street Journal*, April 1, 1991, B6 (E).

¹⁸Michael Barone and Grant Ujifusa, *The Almanac of American Politics: 1990* (Washington, D.C.: National Journal, 1989), 93-95; Clara Germani, "Nancy Pelosi: A Practical Feminist in a Political Framework," *The Christian Science Monitor*, February 15, 1991, 10; Glenn Bunting, "Pelosi's Prominence in Party on the Rise," *The Los Angeles Times*, July 14, 1992, A6, A17.

The collapse of the majority coalition. However, this grand coalition for the linkage policy was a volatile patchwork. Upon the inauguration of Bill Clinton, it began to crack and finally collapsed. This seemingly unexpected development was a logical result of several factors.

No matter how many issues Congress attaches to U.S. policy toward China, it must be based on a precondition—a working relationship with the PRC. If more demands from Congress are made on Beijing, it will likely poison the bilateral relationship. Because Congress is not a good organization to nurture a healthy relationship per se, the role to provide public goods (maintain a good relationship) has always been played by the president. After Clinton became president, he embraced the Congressional confrontational approach, and bilateral relations with Beijing were neglected and deteriorated precipitously. Many Congressional members, especially Democrats who had to be more responsible than when facing a Republican president, began worrying about the strategic importance of Sino-U.S. relations.

When a lawmaker is more concerned with the PRC's strategic importance, (s)he will more appreciate the importance of a good relationship with that country. For example, after the North Korean nuclear crisis, Sam Nunn, chairman of the Senate Armed Service Committee, urged the president to improve relationships with Beijing.¹⁹ In 1994, after he became the chairman of the House Foreign Affairs Committee, Rep. Lee Hamilton changed his old position and argued for "a broader understanding of our national interest," "a skillful balancing of economic, security, and human rights interests, rather than a single-minded emphasis on one objective."²⁰ Sen. Bill Bradley downplayed his old stance on China and reminded the president that the United States could not foster a responsible, open China if the U.S.-China relationship was held hostage to an annual MFN status review, which was "old think" and "obsolete."²¹

At the same time, public opinion swung in favor of Beijing as interest groups representing sectors of the economy profiting from

¹⁹"Nunn Warns of Restricting China Trade," *The Los Angeles Times*, January 31, 1994, A4.

²⁰Lee H. Hamilton, "The U.S. Should Use Its Leverage with China," *The Christian Science Monitor*, May 17, 1991, 18.

²¹Bill Bradley, "Trade, the Real Engine of Democracy," *The New York Times*, May 25, 1994, A21.

trade with mainland China mobilized, and issue-oriented coalitions which favored a good relationship with Beijing were reinvigorated.

A good example of such a coalition was the wheat industry. The PRC was the largest buyer of American wheat, with a purchase of 7.5 million tons in 1989.²² For wheat farmers, the denial of MFN status to Beijing would mean a collapse in wheat prices (which did happen when there were trade disputes with Beijing²³). In later years, the PRC continued purchasing wheat from the United States to influence Congress members such as Senate Minority Leader Bob Dole and Max Baucus, chairman of the Senate International Trade Subcommittee. For this reason, Sen. Baucus was one of the most active, prominent advocates for an unconditional extension of MFN status to Beijing during the Bush and Clinton administrations.²⁴

However, the most important lobby which shaped President Clinton's new adjustment was that of big American companies. During the Bush years, many retailer organizations and import companies were involved in Congressional lobbying for the extension of MFN status to Beijing. However, their scattered locations prevented them from forming a powerful constituency to influence Congress, and they counted on President Bush's support of MFN status. After the linkage policy was adopted and the Beijing government did not show any sign of compromise, the revocation of MFN status became a possibility, and the American business sector mobilized.

American businesses, especially large companies, have an enormous interest in mainland China. The United States remains the largest foreign investor in mainland China. At the end of 1989, there were 949 American firms investing in mainland China, with a total investment of US\$1.8 billion. After 1989, U.S. investment in mainland China and bilateral trade continued to expand.²⁵ In the first half of 1992, 815 investment agreements were concluded, with a total investment of US\$810 million from the United States, an increase of 219 percent over the same period of the previous year. At the

²²“Zhu Qizhen Speaks on Status,” *FBIS-CHI-90-093* (May 29, 1990): 17.

²³“Trade Dispute with China Spurs Drop in Wheat Prices,” *The New York Times*, August 26, 1993, C17.

²⁴Thomas Friedman, “Senator Asks End to Threats Against China,” *The New York Times*, January 27, 1994, A11; Max Baucus, “MFN is Not the Way,” *The Washington Post*, February 4, 1994, A19.

²⁵Speech by PRC Ambassador Zhu Qizhen at a dinner hosted by the World Affairs Council in Los Angeles on May 16, 1990. See *FBIS-CHI-90-093* (May 29, 1990): 5.

time it was estimated that at least 157,000 American workers were producing goods for mainland China.²⁶

For these reasons, the National Association of Manufacturers “consistently sent the President and his advisors letters and short papers arguing that extending trade with China was critical for helping the economy and jobs. . . . It would also advance human rights.”²⁷ The trucking, aerospace, and apparel industries, retail footwear lobbyists, and wheat grower lobbyists organized letter-writing to their Congress members and the White House, urging them to oppose the current conditions for MFN status. Because of their organization, political clout, and salesmanship, “a congressman [felt] more directly the pressure of a named corporation from his own community.”²⁸

An example of this is Rep. Jim McDermott, who was from Seattle, in which the Boeing Company was an important employer. In 1990, Boeing conducted about US\$4 billion of business with the PRC. For this reason, in May 1994 he organized a letter opposing MFN conditions which was signed by 106 members of Congress, including Robert H. Michel (the minority leader) and Newt Gingrich (the minority whip), to the president. McDonnell Douglas Corporation was another aircraft company with plants in mainland China and exported aircraft there. C. Michael Armstrong, its chairman and CEO, personally wrote to President Clinton and warned that U.S. sanctions against Beijing could cost Hughes alone “a billion dollars of business and 4,000 to 5,000 jobs.”²⁹ Sen. John C. Danforth, representing Missouri, home of McDonnell Douglas Corporation, signed a letter with Sen. Max Baucus and Reps. Robert Matsui (D-Calif.) and Jim Kolbe (R-Ariz.), urging the president not to punish the Chinese.³⁰

The PRC embassy did its part to influence opinion by sending letters to U.S. firms and urging them to utilize their “impact in the U.S. government, the Congress, as well as news media.”³¹ The Beijing

²⁶Weisskopf, “Backbone of the New China Lobby,” A1.

²⁷Elaine Sciolino, “Clinton and China: How Promise Self-Destructed,” *The New York Times*, May 29, 1994, 1, 8.

²⁸Weisskopf, “Backbone of the New China Lobby,” A1.

²⁹Jim Mann, “Executives Press Clinton to Smooth U.S.-China Ties,” *The Los Angeles Times*, November 19, 1993, A1, A12.

³⁰Stephen Greenhouse, “Christopher Feels Capitol Hill Heat on China,” *The New York Times*, May 25, 1994, A5.

³¹Weisskopf, “Backbone of the New China Lobby,” A1.

government also used a lobbying firm to influence Congress, and paid travel and living expenses for dozens of Congressional aides each year to visit mainland China.

Under such pressures, the coalition led by the liberal Democrats collapsed, and Congress became divided into various issue-oriented coalitions again. An unconditional extension of MFN status eventually prevailed.

Case Two: The GATT/WTO Entry Negotiations

Strictly speaking, Beijing's GATT/WTO entry talks are a series of multilateral negotiations within the GATT, but are treated here as a bilateral bargaining process between Washington and Beijing because despite its declining hegemony in the world economy, the United States is still expected to provide leadership in the international economic system and dominates the GATT with other Western countries.

The PRC's GATT/WTO entry hinged upon the U.S.'s position in multilateral negotiations and progress in Sino-U.S. bilateral talks. After the "MFN card" was discarded, the "GATT card" became the U.S.'s most important bargaining chip to influence Beijing. The Clinton administration has taken a central role in the talks, and major disagreements have taken place over Washington's demands.

Early in the 1980s, even Western nations encouraged the Beijing government to apply for GATT membership because of China's huge size and potential economic importance. Member states of the Organization for Economic Cooperation and Development (OECD) gave more emphasis to economic interests than political considerations in talks with Beijing from the beginning. As Harold Jacobson and Michel Oksenberg noted, "The negotiations on the PRC's accession had to be approached on a commercial rather than a political basis."³² As the Cold War ended, political considerations were further overshadowed by commercial interests. As a result, OECD countries were harsh on Beijing for more concessions on trade liberalization and market access—the course of talks has to be frustrating, tense, and contentious.

³²Harold Jacobson and Michel Oksenberg, *China's Participation in the IMF, the World Bank, and GATT* (Ann Arbor: University of Michigan Press, 1990), 89.

From 1986 to the end of 1994, the GATT China Working Group conducted nineteen rounds of multilateral and bilateral talks. After the Uruguay Round of negotiations was completed in December 1993 and the January 1, 1995 deadline approached for the establishment of the WTO, Sino-U.S. bilateral talks within GATT became highly charged and controversial. In December 1994, both sides rejected further concessions, consultations among GATT contracting parties were fruitless, and the talks collapsed. Talks resumed in May 1995, and the PRC later became a WTO observer, but no significant progress has been achieved.

Although the long course of nine years' worth of trade talks was shaped by dramatic changes in mainland China, Western countries, and the international political economy, its basic development was framed by Beijing's perception of the GATT as well as by domestic changes in mainland China and in other major Western nations, especially the United States.

Conflicts over Conceptual Frameworks

The conflicts over conceptual frameworks can be summarized in two points: whether "embedded liberalism" should be applied to the PRC, and whether the PRC should be accepted as a developing country or a developed country.

Many scholars agree that the postwar international economic structure has been based on "embedded liberalism." According to John Ruggie, "The essence of embedded liberalism . . . is a form of multilateralism that is compatible with the requirements of domestic stability," or "domestic interventionism." In other words, this is a combination of liberalism abroad and Keynesian policies at home. Ruggie also observed, "The compromise of embedded liberalism has never been fully extended to the developing countries."³³

In the GATT/WTO talks, Beijing believed that Washington acted as an "economic overlord of the world" and treated Beijing like "a second-class signatory," stalling it from enjoying the advantages of embedded liberalism, namely domestic intervention and stabilization. Wu Yi, the PRC's foreign trade minister, argued that the fundamental defect of the multilateral trade structure exemplified by GATT is that

³³John Gerald Ruggie, "International Regimes, Transactions, and Change: Embedded Liberalism in the Postwar Economic Order," *International Organization* 36, no. 2 (Spring 1982): 393, 413.

it "basically serves the developed countries, particularly the one or two largest developed countries."³⁴

Another disagreement is over whether the PRC should join GATT/WTO as a developing country or a developed country. Washington will only agree to the PRC's GATT/WTO entry as a developed nation, and the conflict centers on whether the PRC should enjoy the Generalized System of Preferences (GSP) under which industrial nations give developing countries preferential rates of duty on imports without asking reciprocation. The GSP is more favorable than MFN status for poor countries.

From the American perspective, it is very difficult, if not impossible, to extend GSP to the PRC. The PRC was second only to Japan in having the largest trade surplus with the United States (U.S. estimated US\$30 billion in 1994). In addition, mainland China's export volume to the United States was rising more quickly than American exports to mainland China. During the last two decades, a worsening U.S. trade deficit and rising protectionism have prompted a more aggressive market-expanding solution, or "export politics," in the United States.³⁵ One of the major goals of U.S. GATT/WTO negotiations was to open up the Chinese market for American businesses.

When the PRC was treated differently from other developing countries, it felt that it lacked equal footing with Washington or other nations. This equality is an emotional issue for the Chinese and stalled negotiations.

In comparison with the MFN case, the conflict over the conceptual framework here is not a disagreement deeply rooted in culture, ideology, or power politics as the human rights issue; it is simply a conflict of interest. It is not unbridgeable, and it is possible the two countries will formulate a balanced solution to satisfy respective interests.

GATT and Chinese Development Agenda

The marketization and opening-up reforms initiated by Deng Xiaoping in the early 1980s made it necessary for the PRC to be

³⁴Wu Yi, "China and the Multilateral World Trade Structure," *Guoji shangbao* (International Business News), December 9, 1994, 1, 4; trans. in *FBIS-CHI-94-245* (December 21, 1994): 10-15.

³⁵I. M. Destler, *American Trade Politics* (Washington, D.C.: Institute for International Economics, 1992), 50.

fully involved in the world economy. As Wu Yi has argued, "Participation in the multilateral trade structure is a requirement for China's reform and opening-up."³⁶

For the PRC, there are several significant benefits from GATT/WTO entry. First, it will help expand mainland China's foreign trade, especially its exports, and provide a safeguard against rising protectionism abroad. The increasing antidumping lawsuits against Chinese exports in member countries of the European Union (EU) and the United States have illustrated the vulnerability of Chinese trade to unilateral retaliatory measures. Second, by opening up mainland China's market to international competition, GATT/WTO entry will expedite the restructuring of the Chinese domestic economy and facilitate the transition from a command economy to a market economy, which is GATT/WTO's fundamental aim. In addition, a market economy is an economy ruled by law, and GATT rules and pressures from outside will facilitate the process of legalization of a market economy. The latter will improve mainland China's investment environment and help attract more foreign capital. Third, there are two political reasons for GATT/WTO entry: it is symbolic for recognition and prestige in international community, and for the liberals in the Beijing government, it is also a reassurance for mainland China's reform process, making it impossible for the conservatives to roll back marketization and liberalization.

At the same time, the Beijing government recognizes that entering GATT/WTO entails a series of risks. Some industries will be under siege and may even take a fatal blow without protection. These industries, such as heavy machinery, automobiles, chemicals, and pharmaceuticals, are largely state-owned and powerful. Such worries have limited the leeway of the Chinese negotiators in making concessions. The Chinese chief negotiator once admitted that Beijing's offer was "the best we could get from the various ministries."³⁷ Second, the flux of import products and foreign service industries may render many small Chinese enterprises bankrupt and increase unemployment. The possibility of many jobless people joining the existing huge "floating population" and destabilizing society is a dangerous

³⁶See note 34 above.

³⁷Bhushan Bahree, "China Fails in Bid to Rejoin GATT by Own Deadline," *The Wall Street Journal*, December 20, 1994, A10.

gamble for the PRC's leadership. Third, the Beijing government will lose some control over imports and tariff income, trade deficits may accumulate, and the government budget deficit may increase. The PRC will also lose more economic autonomy and become more vulnerable to the turbulence of a volatile world economy. The Mexican peso crisis has convinced it that cautious, orderly change is preferable to an unregulated leap into increasing market access.³⁸

For minimizing "great shocks" upon the Chinese national economy and ensuring a smooth "switching of tracks," the Beijing government has insisted on entering GATT/WTO as a developing country. To justify a longer transitional period, Beijing referred to the 1993 Bogor Declaration of the Asia-Pacific Economic Cooperation (APEC), which suggested two separate timetables to developed countries and developing countries. If the PRC is treated as a developing country, it must finish economic integration and trade liberalization no later than the year 2020.

However, Washington cannot agree to this timetable in GATT/WTO talks. American skepticism about Chinese sincerity in implementing a timetable and being a fair player in world trade was strengthened by the announcement of the PRC's industrial policies in the summer of 1994. By following the developmental state model found in Japan and East Asia's "four little tigers," Beijing has decided to take a more aggressive role in four "pillar industries:" automobiles, telecommunications, electronics/computers, and petrochemicals. These industries are exactly what Americans want to expand in mainland China. Having drawn a bitter lesson from trade experiences with Japan, Washington does not want to make concessions and watch the PRC become a second Japan.

U.S. Domination in the GATT/WTO

In GATT/WTO negotiations, Beijing has emphasized its strategic and geopolitical importance to the United States rather than making more economic concessions in order to achieve GATT/WTO membership. In so doing, it has underestimated the U.S.'s dominant role in the GATT/WTO and unity among Western countries on GATT/WTO issues.

³⁸ "Battlefield Is Market, What Should Be Done for China?" *Liaowang zhoukan*, January 30, 1995, 5.

The United States, Japan, and the EU (in which Germany is most prominent) have formed a collective leadership to steer the global economy. Some scholars have argued the existence of a Washington-Tokyo-Berlin triangle, or a triumvirate, "Big Three" system, or "tripartite condominium."³⁹ Even though these nations frequently bash each other, when the collective leadership faces a challenge, solidarity prevails. Because the PRC's GATT/WTO entry is important to the way the world economic system functions, Western countries have coordinated their policy from beginning to end. In the negotiation process, Beijing tried to alienate Japan and the EC from the United States. Japan and the EC expressed more sympathy to the Chinese policy stance, but did not drift away from American policy.

Even for some large developing countries, especially newly industrialized countries (NICs), the PRC is viewed as a big competitor in the world market. Harold Jacobson and Michel Oksenberg have found that hesitancy about the PRC's membership in three keystone international economic organizations (the International Monetary Fund [IMF], the World Bank, and GATT) has come not from developed but developing countries (e.g., India) who worry about the PRC's competitiveness in Western markets.⁴⁰ After its failure in entering the GATT/WTO, Beijing finally recognized the coordination among the United States, the EC, and Japan. One pro-Beijing Hong Kong newspaper wrote: "On the surface, the European Community and Japan expressed support for China's reentry into GATT as soon as possible, but they held the same positions as the United States on substantive issues. Some small and intermediate signatories also continued to raise new demands on China. Obviously, the Western developed countries again formed an 'alliance' against China in the talks for the sake of their economic benefit."⁴¹

In summary, the current stalemate of negotiation is immediately attributed to disagreements between Washington and Beijing on how the PRC should be treated; macroeconomic structuring and adjust-

³⁹Peter Tarnoff, "America's New Special Relationships," *Foreign Affairs* 69, no. 3 (Summer 1990): 67-80; and C. Fred Bergsten, "The World Economy After the Cold War," *ibid.*, 96-112.

⁴⁰Jacobson and Oksenberg, *China's Participation in the IMF, the World Bank, and GATT*, 17, 137.

⁴¹Pan Wei, "The United States, EC, and Japan Colluded to Obstruct China's Reentry into GATT," *Wen Wei Po* (Hong Kong), December 23, 94, A2, trans. in *FBIS-CHI-94-247* (December 23, 1994): 4-5.

ment as well as political concerns in the PRC; and U.S. protectionism at home and aggressive "export-expanding strategy." The PRC's internal agenda makes concessionary offers difficult; U.S. domination in the GATT/WTO and support from its allies and some Third World countries make it unnecessary for it to hurry negotiations. The GATT China Working Group has acted as a mediator to keep all parties engaged and avoid a complete collapse of negotiations. A similar influence was absent in the MFN and IPR negotiations. Therefore, the stalemate continues. Considering the role of Japan and the EU in the negotiations, it is likely that the final result will be more balanced for both sides than the results of the other two cases.

Case Three: IPR Negotiations

The IPR issue has been very contentious, and Washington has twice threatened to impose sanctions on Beijing on this issue. The first threat occurred in 1991 under the Bush administration. The Chinese made substantial concessions, and after around-the-clock negotiations, Washington and Beijing finally concluded agreements and thus evaded a trade war.

In 1994, the Clinton administration had another annual review of practices of foreign governments involving copyrights and unfair trade behavior. Although the Clinton administration had abandoned MFN-human rights linkages on June 30, it claimed that the PRC was violating IPR principles and put the PRC on its list of "priority target countries" under "Special Section 301." A six-month investigation was carried out and bilateral negotiations followed the announcement. There were nine rounds of talks between the two countries, culminating in an agreement which was signed in February 1995.

In the agreement, the two countries promised to brief each other on the progress of copyrights infringement crackdowns. On the issue of market access, Beijing pledged to make the rules and regulations on import controls more transparent, refrain from requiring import permits and quotas, open its markets to American audio-video products, and allow computer software and audiovisual companies to establish joint ventures in mainland China. Beijing also pledged to intensify its efforts to crack down on piracy, establish twenty-two task forces to oversee an antipiracy campaign, inspect factories alleged by Washington to be producing pirated products, register and inspect twenty-nine production lines, and impose penalties against factories

caught involving piracy. The U.S. side would provide Beijing with the appropriate assistance and technological equipment in the crack-down.

Washington immediately claimed a victory. Chief negotiator Charlene Barshefsky said: "This is the single most comprehensive and detailed IPR enforcement agreement that the U.S. has ever concluded."⁴² Like the previous two cases, the successful agreement on the IPR issue is explained by a combination of congruent conceptual frameworks; conformity of U.S. demands with Beijing's internal agenda, especially its strategic goal; and a successful manipulation of various forces by the U.S. Trade Representative Office (USTRO).

Congruent Conceptual Frameworks over IPR

IPR has long been a contentious term to the Chinese. In 1904, after the Eight-Power Allied Forces suppressed the Boxer Rebellion and looted Beijing, the United States, Europe, and Japan negotiated an agreement with the Qing government to protect copyrights and trademarks.⁴³ When the Chinese Communists took power, they did not abide by this unequal agreement, which had been imposed by armed imperialists. Until the 1970s, there were no laws protecting IPR. This situation could be attributed to the deep-rooted traditional idea that "to steal a book is not a theft," but it is also due to two other factors. One is that under a communist system, the state owns everything; all inventions are under government sponsorship. In addition, because intellectuals have been suppressed for several decades, nobody cared about IPR. Another reason was related to development strategy. Thorstein Veblen once argued that a latecomer in modernization could utilize the "advantage of borrowing" to surpass advanced countries.⁴⁴ As Lester Thurow has stated, "Historically, copying to catch up is the name of the game."⁴⁵ Under the circumstances of being isolated and under embargo by Western countries, Beijing adopted a strategy of copying and emulation. After entering

⁴²Helene Cooper and Kathy Chen, "China Averts Trade War with the U.S., Promising a Campaign against Piracy," *The Wall Street Journal*, February 27, 1995, A3, A6.

⁴³David Sanger, "This Is a Trade War! Get Your Popgun!" *The New York Times*, February 12, 1995, D1.

⁴⁴Thorstein Veblen, *Imperial Germany and the Industrial Revolution* (New York: The Viking Press, 1954), 180.

⁴⁵Lester Thurow, *Head to Head: The Coming Economic Battle Among Japan, Europe, and America* (New York: Warner Books, 1993), 248-49.

the 1980s and reviewing successful stories of modernization in other countries, the PRC still followed this strategy in order to catch up.

Since the 1970s, the World Intellectual Property Organization (WIPO) and some Western countries, especially the United States, have tried to “civilize” the Chinese leadership into believing that protecting IPR is an honorable thing to do. In 1973, after he became the director-general of WIPO, Arpad Bogsch invited the PRC to attend its meetings as an observer. In 1980, The PRC joined the WIPO and also signed an agreement with Washington to protect IPR in accordance with each other’s laws. From 1980 to 1994, the Beijing government passed numerous laws and joined almost all international organizations regarding IPR protection.⁴⁶

After more than two decades of learning, the perceptions of the Chinese leadership have gradually converged with international standards, despite the fact that some Chinese are still grumbling that Westerners did not pay royalties for “pirating” Chinese gun powder, compass, paper, or noodles technology. One good example of this changed mind-set occurred when Deng Xiaoping visited Shenzhen in early 1992 as Washington and Beijing held negotiations on IPR, and mentioned IPR protection three times, reminding local officials and business people to respect copyrights. Ironically, when he visited the Shenfei Laser Company, which later became a chief target of U.S. IPR talks, the president of this company told Deng that every year his company produced foreign movie disks. Deng asked how they solved the copyrights issue. The president replied: “We purchased copyrights from foreign companies following international regulations.” Deng said with satisfaction: “Very well. You should follow the international IPR rules.”⁴⁷

In terms of ideas, Beijing and Washington did not have a major conflict. Even U.S. Trade Representative Mickey Kantor admitted

⁴⁶Information Office of the State Council of the People’s Republic of China, “Intellectual Property Protection in China,” *Beijing Review* 37, no. 25 (June 20-26, 1994): 8-17; “IPR: China’s Stance Toward Protection: Recent Interview with Song Jian, State Councilor and Minister of the State Science and Technology Commission,” *ibid.* 38, no. 3 (January 16-22, 1995): 8-11; Li Dibin and Wang Xiaoguang, “Memorandum on IPR Protection in China,” *Liaowang zhoukan*, April 25, 1994, 18-27; Li Dibin, “A Big Portrait of IPR Protection in China,” *Shenzhou xueren* (China’s Scholars Abroad) (Beijing), 1994, no. 7: 8-11.

⁴⁷Yuan Shan and Han Zhu, *Deng Xiaoping nanxunhou de Zhongguo* (China after Deng Xiaoping’s southern inspection tour) (Beijing: Gaige chubanshe, 1992), 34-36; Gen Jun, “Shenfei Laser Company Has a Complete Shake-up,” *People’s Daily* (Overseas edition), March 23, 1995, 4.

that the laws were proper: "On the books, it looks great." However, he then pointed out, "No one is enforcing the rules."⁴⁸ The Beijing government did not deny that its enforcement was the weak point. Problems arose mainly from ineffective enforcement and comparatively low level of public awareness about IPR.⁴⁹

Reforms in Mainland China and IPR Protection

Obstacles to the improvement of IPR protection were rooted in China's poverty and its people's ignorance of IPR. In terms of poverty, mainland China's pharmaceutical industry, which has long followed the strategy of "copying," is a good example. Until the early 1990s, 97.4 percent products of Western medicine in mainland China were copied.⁵⁰ However, after January 1, 1993, the PRC began protecting foreign patented medicine. The immediate question: Can 1.2 billion Chinese buy foreign drugs? According to its own estimation, the PRC needs five to ten years to build up a research and development (R&D) system. One Chinese author noted that when the United States began its pharmaceutical patents, its gross national product (GNP) per capita was US\$4,900; in contrast, today's GNP per capita in mainland China is only one-tenth of that number. Therefore, its problems are understandable.⁵¹

In terms of ignorance, there are more examples. In a country with hundreds of millions of illiterates, people have only a dim idea about IPR. Even many inventors themselves do not know they have IPR or how to protect their rights. The Chinese authorities have argued that the ignorant violators are different from criminal pirates. For the former, only education should be applied; for the latter, severe punishment could be used. Beijing has complained that Washington has not treated both types differently and is thus being unfair.

One case has warned Chinese leaders about the politically disastrous consequences of piracy. One peasant illegally printed volume 3 of *Selected Works of Deng Xiaoping*, which came out riddled with errors. "We must not take Marxism as dogma" became "we must

⁴⁸See note 43 above.

⁴⁹"IPR: China's Stance Toward Protection," 8-11.

⁵⁰Tang Hua, "Farewell to 'Copying': Can Chinese Still Use Good Medicine?" *Liaowang zhoukan*, February 27, 1995, 22-27.

⁵¹He Tianyuan, "Have Understanding, Then Have Cooperation," *Liaowang zhoukan*, March 6, 1995, 14.

take Marxism as dogma.” The offender was dealt with as a criminal pirate instead of an ignorant violator by the government: his 20,000 *yuan* profits were confiscated, he was fined for 5,000 *yuan*, and sentenced to two years in jail.⁵²

The chaotic situation in IPR protection reflects the lack of law in mainland China. Today, the biggest problem for the central authorities is that many laws have been passed but most are unknown to the cadres and people, and hence disobeyed. Law enforcement is lax; violations of law are not investigated and prosecuted. For many cadres, their words and power are higher than laws.

Some people have wondered that if the Chinese government could not control the pirating of Deng Xiaoping’s IPR, how could it be expected to protect foreign companies? This argument is only partially true. It is a reality that many things are out of the Chinese government’s control. However, it remains a strong state capable of controlling some priority issues which it perceives important. If one issue is dramatized and politicized and draws attention from the government, the government can control it. What moves an issue to the top priority of the government agenda? The key is whether it is directly related to political stability and economic growth. Because of its economic, political, and strategic importance to Beijing, Washington is in good position to influence the above. The IPR issue was politicized and publicized by the American government, and the Chinese government decided to follow suit because of its importance for legalization, a market economy, and international relations.

During IPR talks, some analysts worried that the PRC’s succession crisis would render it impossible to make an effective policy. These speculations, which had validity in the MFN case, were not quite relevant here due to important developments in Chinese politics. From 1989 to 1992, Deng claimed to be retired but actually was still in charge of important decisions; the guidelines for handling the MFN issue were personally made by him. At the CCP’s Fourteenth National Congress in 1992, Deng forced President Yang Shangkun and his brother Yang Baibing, a military leader, to retire, and promoted Jiang Zemin to the position of president. After finishing these arrangements, Deng truly retired and faded out of the decisionmaking

⁵²Susan Lawrence, “Beijing’s Mixed Message,” *U.S. News and World Report*, February 20, 1995, 58-59; Mo Min, “Protect Deng’s Right,” *Cheng Ming* (Contending) (Hong Kong), March 1995, 48.

process, especially on foreign affairs. From 1992 to 1994, Jiang consolidated his power by surrounding himself with his own supporters.

In foreign affairs, Li Peng remains the director of the Foreign Affairs Group within the Party, but has less control over the PRC's foreign policy than Jiang, who has full control and responsibility for Sino-U.S. relations. If relations with Washington turn sour, Jiang would be accused of lacking the ability and vision for strategic planning.⁵³ For this reason, he has acted cautiously.

Jiang's concessions on IPR talks could spark reactions from the local authorities and the military because the twenty-nine factories named by Washington were the golden goose for local and military interests. In addition, these factories had good personal connections with top leadership. For example, the Shenfei Laser Company in Shenzhen, which was accused by the American negotiators of producing and exporting counterfeited disks of "Jurassic Park," was headed by the son of a famous general.

How did Jiang muster the potential power to challenge these interests? In 1994, the CCP decided to strengthen its macroeconomic control over localities. Localism, groupism, and separatism became the biggest targets in 1994 politics. At the same time, concerned about loss of legitimacy, the CCP decided to purge corrupt officials, especially some high-ranking officials, in order to convince the people that it was responsive to their demands and frustrations and serious about cleaning itself up. These two motives helped Jiang mobilize political forces to quiet resistance from military and local profiteers. Jiang thus adopted a tough attitude toward piracy and a conciliatory policy toward Washington, while leaving his critics no handle for accusing him of softness toward a foreign nation.

U.S. Tactics to Maintain a Coherent Support Coalition

As discussed in the previous two cases, a support coalition can consist of domestic forces and foreign countries. The United States had few enthusiastic IPR supporters from overseas. Other countries such as Japan and the EU lacked incentive to collaborate with Washington for two reasons. First, each year the USTRO always puts at least thirty countries on its "blacklist" for piracy and other unfair

⁵³Patrick Tyler, "Is China Stumbling?" *The New York Times*, February 6, 1995, A1, A11.

trade practices; many of them are frequently targeted by Washington for the same reason. Second, even when producers in these countries are infringed upon by pirates, they choose a “free ride” and let Washington fight by itself for the public good. If U.S. efforts then failed, they could maintain a better relationship with Beijing and get rewards.

Because of the absence of international support, the key to a successful strategy rested with the U.S. business community. Before and after the announcement of the sanction list, the USTRO paid special attention to American businesses. This time the administration garnered support from a broad range of U.S. companies; in effect, “the balance of briefcases [favored] the U.S.”⁵⁴ Rampant piracy had threatened American products ranging from Chrysler’s Jeep to Kellogg’s cornflakes, but the most relevant constituency for U.S. IPR policy was Hollywood and Silicon Valley. Hollywood is the home of many friends of Bill Clinton,⁵⁵ and their concerns could not be easily ignored. Even though the interests of some companies would be threatened in the short term if the sanction was implemented; for the long-term interests, American industries gave clear and strong support to the administration. As a senior vice president of Boeing said, “We have to be good soldiers and back Kantor.”⁵⁶

There were grumbles from some industries doing business with mainland China, but American retailers and consumers were treated with care. The USTRO gave a thirty-day public comment period for American companies and asked for advice on which goods should be removed from the target list. After listening to feedbacks, the USTRO lowered its original hit list of US\$2.8 billion to US\$1 billion and excluded many products which were more dependent on Chinese supply. U.S. decisionmakers knew that a hollow threat would not affect the PRC, and were also worried that “the Chinese leadership would miscalculate” and not be impressed by a sincere threat.⁵⁷ To make “deterrence” work, a second battle line was formed outside of the negotiation room, featuring lawsuits by American businesses.

⁵⁴Thomas Friedman, “Battle of the Briefcase,” *The New York Times*, February 12, 1995, E15.

⁵⁵Gary Milhollin and Meg Dennison, “China’s Cynical Calculation,” *The New York Times*, April 24, 1995, A17.

⁵⁶Amy Borrus et al., “Eyeball to Eyeball with China,” *Business Week*, February 20, 1995, 32-33.

⁵⁷Ibid.

Starting in 1994, companies such as Microsoft and Walt Disney launched litigation drives in large Chinese cities in order to publicize the IPR issue. The legal actions echoed governmental policy and demonstrated the business community's resolve.

In December 1994, as negotiations moved on, U.S. negotiators asked American trade groups to visit Beijing, voice their complaints directly, and reiterate their support for U.S. policy. Later, a group of leaders from IPR-related industries held two days of meetings with Chinese ministries in Beijing. In between, they exchanged notes with U.S. negotiators and kept them informed. "It deprived the Chinese of the opportunity to divide and conquer," said one business executive. "We were all singing from the same songbook."⁵⁸

In contrast to the other two cases, Washington could claim a transitional actor in its coalition: U.S.-Chinese joint ventures in mainland China. Many products affected by piracy came from these joint ventures. Piracy also hurt Chinese partners, who had a stake in protecting their brand names and property rights. For example, counterfeit Gillette Flying Eagle razors were first discovered and then reported by the Chinese partners of the joint venture Gillette (Shanghai) Ltd.⁵⁹

In another contrast to U.S. policy on the MFN case, which brought the Sino-U.S. relationship to a nadir, U.S. decisionmakers held a mixed policy toward the PRC to prevent the IPR conflict from poisoning the entire bilateral relationship. The United States continued selling subsidized wheat to mainland China, giving the PRC a tariff break after the WTO went into effect, and provided visits to Beijing by Secretary of Energy Hazel R. O'Leary and John H. Gibbons, the president's advisor on science and technology. These constructive actions sent a clear message to Beijing that Washington appreciated the bilateral relationship and wished to act responsibly. By implication, its policy on the IPR was also responsible and serious. It also provided Beijing with a face-saving opportunity to act for the sake of the bilateral relationship.

Because of the USTRO's elaborate coordination, U.S. negotiators were backed by a united coalition to which Beijing did not have

⁵⁸Ibid.

⁵⁹Seth Faison, "Razors, Soap, Cornflakes: Pirating in China Balloons," *The New York Times*, February 17, 1995, A1, D2.

a counterweight. It did not even try to patch one together, for there is no justification for piracy. The asymmetry of support between Washington and Beijing favored American policy.

Conclusion

The most important assumption of the two-level games approach to international negotiations is that bargaining outcomes are decided by both international and domestic constraints. These two levels simultaneously interact with each other and form a “synergistic issue linkage.”⁶⁰ Applying the concept of synergism to the three cases here, we can argue that the MFN case is a “counteraction model” or negative synergism, in which interactions between two levels aggravated tensions between Beijing and Washington, causing a crisis in the maintenance of the bilateral relationship which defeated the linkage policy’s goals. In contrast, the IPR case is a good example of a “symbiosis model,” or positive synergism, in which international pressure and influence initiated a learning process for the Chinese leadership; the gradual changes in their conceptual framework encouraged domestic restructuring in Chinese institutions and policy, and paved the way for an agreement with Washington. U.S. pressures forced the Chinese leadership to realize the necessity of increasing domestic restructuring to meet international norms.

The GATT/WTO case stands between these two models as a mixed situation: various international economic organizations, including GATT/WTO, have helped the PRC integrate with the world economy and move toward economic liberalization and marketization during the last two decades. But at the same time, especially after Beijing failed to join GATT at the end of 1994, some protectionists reacted against what they had promised in the GATT talks. As the “bicycle theory” suggests, movement provides progress, and the current “mutually hurtful stalemate” could change the negotiations into a counteraction model. However, judging from today’s situation and changes in the conceptual framework of leadership, business, and intellectual circles, a symbiosis model will be more likely.

⁶⁰Peter Evans, Harold Jacobson, and Robert Putnam, eds., *Double-edged Diplomacy: International Bargaining and Domestic Politics* (Berkeley: University of California Press, 1993), 15, 401.

It is significant to note that different political processes have different impacts in the United States and the PRC. On the Chinese side, the conceptual framework (perceptions, cognition) of the political elite plays a more important role. On the American side, interest group politics is more obvious, and therefore coalition support counts more.

The perceptions of the Chinese leadership are not unchangeable. In the case of intellectual property rights, their viewpoints evolved in a learning process through involvement in the international system. Long-term, patient work by the international organizations and the U.S. government had a payoff. When the Chinese leadership changed its perceptions, its internal agenda followed the change. Therefore, the convergence of U.S. demands and Beijing's internal agenda can be fostered by perceptual changes. In the three cases, we also should notice the following: on the IPR issue, the Chinese leadership had the largest change in mind-set; on the GATT issue, moderate; on the MFN and human rights, none. The convergence of conceptual frameworks between the two countries makes successful agreement possible, but support coalitions critically influence whether and how the possibility of success becomes a reality.

This insight has useful policy implications and can shed light on learning how to achieve advantages in a trade war. In the long run, in order to foster the conceptual change of political elite or even the populace in another country, and eventually shape another country's internal agenda, effective and consistent strategic planning for a bilateral relationship needs attention. These deep changes produce convergence of the target's internal policies with one country's foreign policy goals and make cooperation more likely. Simultaneously, in the short run, tactical maneuvering to build and maintain a support coalition at home and abroad will be a precondition to turning possible gains into reality.

In the twentieth century, people have gradually agreed that you cannot win a war; as Kenneth Waltz states, "In wars there is no victory but only varying degrees of defeat."⁶¹ It is more true that you cannot win a trade war. Therefore, to avoid a trade war is a victory for both sides; to squeeze more concessions from your op-

⁶¹Kenneth Waltz, *Man, the State, and War* (New York: Columbia University Press, 1959), 1.

ponent is a bigger victory. As Sun Tzu said, "To subdue the enemy without fighting is the height of skill." In terms of U.S. foreign trade policy with the PRC, fostering long-term conceptual changes within the leadership and among the people and encouraging the convergence of Beijing's internal agenda with international standards and American values will serve American long-term interests and lay a good foundation for the option of short-term policy. To maneuver support coalitions skillfully will help Washington achieve tangible goals and cash in on long-term investment in the first two areas.