

AN INTERDISCIPLINARY ANALYSIS OF
SINO-U.S. NEGOTIATION STYLES

by

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ABSTRACT

Exploratory and interdisciplinary in nature, this study examines the role of perception, cultural orientation, and stereotypes in shaping Chinese and American negotiation styles. There were nine subjects (N=9) in the negotiation simulation. The negotiation between the Chinese from People's Republic of China and American subjects revolves around five issues: attitudes toward laws, ownership, contract length and termination, intellectual property rights and export controls.

In comparing the claims researchers have made about Chinese negotiation styles in the existing Sino-U.S. negotiation literature against my simulation outcomes, four themes are particularly prominent. First, cultural orientations (time-orientation, logical reasoning, individualism and collectivism, and high-context cultures versus low-context cultures), cultural stereotypes, the concept of *guanxi* (relationships) and the issue of *mianzi* (face) are all important issues when examining Chinese negotiation styles.

Second, the findings of the simulation are generally consistent with the claims made in the past literature, despite the different methods employed. However, this study differs from the previous literature in that it also explores the underlying cultural assumptions affecting both Chinese and Americans' attitudes during negotiations.

Third, differences in intergroup perception, as illustrated in the East-West Questionnaire are an important aspect shaping Chinese and American negotiation styles. For instance, when negotiating with ingroup members, Chinese negotiators are likely to be more open and cooperative than when they negotiate with someone they have met only for the first time.

Finally, the complex nature of the Sino-U.S. negotiation relationship may be understood by examining the interrelationships among various factors. These include political, economic, cultural, social and personal factors that may shape an individual's perception of the problems, hence affecting his or her negotiating strategies.

DEDICATION

To my parents

Words cannot begin to express my gratitude toward my parents. Through their long hours of hardwork, they provided me with the opportunity to complete my education at this university. For that, I am extremely grateful.

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CHAPTER 1

OVERVIEW

The emergence of the contemporary global market has led to a rapid increase in research investigating the topic of intercultural negotiations. As a result, we know much more today about intercultural negotiation than we did even several years ago. Despite the gains, however, there remains the challenge of explaining the link among various cultural, social, personal, and political elements and negotiations in a complex intercultural context. Because of the complexities involved in intercultural negotiations, it is my belief that research from no single discipline can capture the dynamics of such negotiation. However, researchers from different disciplines have facilitated our understanding of various elements of intercultural negotiation. Drawing from these diverse studies allows us to create a more comprehensive understanding of the relationships between culture and negotiation.¹

This study takes an interdisciplinary approach to explore the underlying problems that lead to breakdowns in intercultural negotiation, specifically in a Sino-U.S. context. My hypotheses about Chinese and

¹This point is based on a discussion with Professor Clyde D. Stoltenberg on November 18, 1995. In this discussion, Professor Stoltenberg used the “Three blind men and an elephant” analogy to illustrate the point that considering problems from a broader range of perspectives is crucial because this broader range will capture the comprehensive nature of the problem.

American negotiation styles are based on a review of literature from four disciplines: political science, economics, social psychology, and intercultural communication. The purpose of the current chapter is to provide an overview of this exploratory simulation project.

The primary argument of this thesis is that culture is a significant factor in shaping both a negotiator's perception of problems and his or her negotiation styles. However, culture is not the sole factor affecting negotiation styles.² Political, economic, social, and legal factors combine with the negotiator's personality to significantly shape an individual's behavior in negotiations. This research will examine the interrelationship of the above variables in order to help understand the simulation results depicted in Chapter 4.

In conceptualizing the term "culture," this study adopts A. L. Kroeber and Clyde Kluckhohn's definition which suggest that:

culture consists of patterns, explicit and implicit, of and for behavior acquired and transmitted by symbols, constituting the distinctive achievement of human groups; including their embodiment in artifacts; the essential core of culture consists of traditional (i.e., historically derived and selected ideas and especially their attached values); culture systems may, on the one hand, be considered as

²Perception as a problem in negotiation has long been investigated by researchers in the field of social psychology. See Glen Fisher, International Negotiation: A Cross-Cultural Perspective. (Yarmouth, ME: Intercultural Press, 1980) and Robert Jervis, Perception and Misperception in International Politics. (Princeton, NJ: Princeton University Press, 1976).

products of action, on the other as conditioning elements of further action.³

Kroeber and Kluckhohn's definition is considered relatively comprehensive in that it identifies some of the more crucial forces linking the idea of culture to behavior that can result in intercultural conflict. However, one significant problem underlying this definition (which I will address in the next segment) is its neglect of the connections among culture, behavior and perception. The problem with this definition is that it neglects an important element in the process--perception.

Depending on an individual's cultural background, his or her perception of the world may differ significantly. Perception in this study is viewed as the median linking cultural beliefs and values to an individual's specific behavior. Perception was characterized by Glen Fisher as a crucial factor in his 1980 study of negotiation. Fisher justified a psycho-cultural approach to the study of negotiation by stating:

[b]ecause human minds are information processors and can be understood by the way they receive, store, organize, and use information, socialization process and world view becomes extremely crucial. [However], the problem lies in the fact that communication depends on there being a reasonable similarity of such programming between the communicators.⁴

³Culture: A Critical Review of Concepts and Definitions. Papers of the Peabody Museum of American Archaeology and Ethnology, Vol. XLVII, No. 1 (Cambridge, MA: Harvard University, 1952), 181.

⁴Fisher, 11.

In a study noteworthy for the common-sense approach it takes to the role of perception, Fisher enumerates some considerations to which negotiators should pay attention. Among these are how culture influences players' decision-making styles in various situations; how culture affects national negotiating styles; how culture trains people to cope with intercultural "noise," and, finally, how having an interpreter or translator may affect the outcome of intercultural negotiations.⁵ In another work focusing on "perception," Robert Jervis argues that negotiation experts who wish to consider this dimension should become more qualified in using basic psychological approaches and tools.⁶ Jervis' stress on the importance of training negotiation experts to understand psychological tools is underscored in Adorno et al, The Authoritarian Personality, (1950)⁷ and M. Rokeach's The Open and Closed Mind (1960),⁸ which notes the need to measure the impact that different personalities have on negotiators' perceptions. Rokeach developed two scales for this purpose: the dogmatism scale and the opinionation scale. This study

⁵Fisher, 11.

⁶ Jervis, 1976.

⁷T. W. Adorno, E. Frenkel-Brunswik, D.J. Levinson and R.N. Sanford, The Authoritarian Personality. (New York: Harper & Row, 1950).

⁸M. Rokeach, The Open and Closed Mind. (New York: Basic Books, 1960).

is important to the development of the current thesis because it attempts to understand the effects that a dogmatic ideology such as communism can have on stereotypes, which in turn generate negative perceptions affecting an individual's negotiation styles. According to Rokeach,

the dogmatic or closed mind has difficulties accepting ideas that do not fit in a pre-existing mould, whereas the non-dogmatic or open mind is more tolerant and does not measure the value of new ideas with reference to old standards. This means that dogmatic persons will be anxious and rely on authority standards.⁹

However, as suggested by Robert Jervis, lacking understanding of how research instruments function, a layperson may not realize that Rokeach's instrument does not measure up to the theory. Since the scale is created based entirely on a Western perception of what constitutes dogmatism, the explanatory power of Rokeach's research may be exaggerated and erroneously applied in an intercultural context.

Another approach contributing to the current study of intercultural negotiation dynamics focuses on identity and the perception of ingroup-outgroup differences. The latter element is crucial because beyond substantive issues, one of the most difficult impediments negotiators have to overcome is the "us" versus "them" distinction. This ingroup-outgroup phenomenon has

⁹Ibid.

been widely studied by social psychologists. Several points are important in understanding ingroup-outgroup differences and their relations to negotiations:

(1) Competition for scarce resources between ingroup and outgroup members tends to exacerbate the degree of difference existing between groups.¹⁰ Furthermore, competition limiting material resources tend to cause a group to view its own members as superior and the outgroup members as inferior.¹¹

(2) Adopting the contact hypothesis approach, researchers such as R. Ben-Ari and Y. Amir (1988) suggest that increasing contact between ingroup and outgroup members is constructive in creating a positive image held by groups of each other. The underlying assumption here is that “contact situations provide the opportunity for clarifying erroneous perceptions and for relearning by supplying new information.”¹²

(3) There is no consensus among social psychologists about the effectiveness of such an optimistic view of intergroup contacts. Instead, opponents suggest that increasing contact between ingroup and outgroup members may exacerbate problems if these members are competing for scarce material resources, as illustrated in Sherif’s study.¹³

(a) According to N.E. Miller and M.B. Brewer, in intergroup interactions the disliked group members with whom the contact occurs must discredit the prevailing stereotyped beliefs about them. This task

¹⁰M. Sherif, “In Common Predicament: Social Psychology of Intergroup Conflict and Cooperation.” (Boston, MA: Houghton-Mifflin, 1966) and “Superordinate Goals in the Reduction of Intergroup Conflict: An Experimental Evaluation.” in W. G. Austin & S. Worchel, eds., The Social Psychology of Intergroup Relations. (Monterey, CA: Brooks/Cole, 1979), 257-261.

¹¹R. A. LeVine and D. T. Campbell, Ethnocentrism: Theories of Conflict, Ethnic Attitudes, and Group Behavior. (New York: Wiley, 1972).

¹²R. Ben-Ari and Y. Amir, “Intergroup Contact, Cultural Information, and Change in Ethnic Attitudes” in W. Stroebe et al. eds., The Social Psychology of Intergroup Conflict. (Berlin: Springer, 1988), 151.

¹³Sherif, 1979, 259.

is extremely difficult to achieve because most people are more comfortable with what they have always believed contributing to a self-fulfilling prophecy. In order to improve the perception of another group, the contact situation must also promote associations of a sort that reveal enough about the member of the disliked group to encourage seeing him or her as an individual rather than as a person with stereotyped group characteristics.¹⁴

(4) A final observation about perceptions of ingroup-outgroup differences deals with the source of conflict. According to social identity theory, symbolic beliefs (i.e, ideology, cultural beliefs about status, and one's own identity) rather than material resources are key factors in escalating conflicts. Henri Tajfel is the leading proponent of this perspective. The fundamental message here is that individuals tend to define and perceive themselves to be like their ingroup members. This tendency then creates a major perception problem in intergroup relations in that if we perceive other ingroup members to be alike, outgroup members must, by definition, behave differently than us--hence the "us" versus "them" antagonism.¹⁵

Based on a survey of this literature, this study focuses on two elements, cultural orientation and cultural stereotypes, and their effect on an individuals' perception and negotiation styles. The reason for selecting cultural orientation as a key factor in understanding Chinese negotiating styles is my belief that one's cultural orientation serves as a subtle, yet pervasive

¹⁴N. E. Miller and M.B. Brewer, eds., Groups in Contact: The Psychology of Desegregation. (Orlando, FL: Academic Press, 1984), 2.

¹⁵H. Tajfel. "Social and Cultural Factors in Perception." in G. Lindzey & E. Aronson eds., Handbook of Social Psychology. 2nd ed., Vol 3. (Reading, MA: Addison-Wesley, 1968), 315-394., Human Groups and Social Categories. (Cambridge: Cambridge University Press, 1981) . Also see H. Tajfel and J.C. Turner, "An Integrative Theory of Intergroup Relations." in S. Worchel and W. G. Austin , eds., The Psychology of Intergroup Relations. (Chicago, IL: Nelson-Hall, 1986), 7-24.

force in shaping people's attitudes, behavior and perception of the world. In formulating this study, I accept the premise that a basic "culture" in each society is transmitted from generation to generation and is shared by most members of the group.

To use Geert Hofstede's definition, culture can be seen as "the collective mental programming of a people," influencing the way we recognize and define problems, how we analyze problems in terms of appropriate method, and how we identify solutions. More often than not, cultural standards are unwritten rules instinctively practiced by those within the culture, while being puzzling to those outside. This study will analyze cultural orientations and how they shape Chinese and American negotiation styles by exploring the implicit assumptions behind Chinese and Americans' attitudes toward a variety of factors. These factors include time-orientation (monochronic versus polychronic),¹⁶ reasoning processes,¹⁷ the collective-orientation of Chinese culture versus individualistic-orientation of American culture,¹⁸ and the respective "high versus low context" of Chinese and

¹⁶Edward T. Hall, The Silent Language. (Garden City, NY: Anchor Press/Doubleday, 1959), 12.

¹⁷Myron W. Lustig and Jolene Koester, Intercultural Competence: Interpersonal Communication Across Cultures. (New York: Harper Collins College Publishers, 1993). Also see Edward C. Steward and Milton J. Bennett, American Cultural Patterns: A Cross-Cultural Perspective. Revised ed., (Yarmouth, ME: Intercultural Press, Inc 1991), 41.

American cultures.¹⁹ While this study focuses primarily on commercial negotiation styles,²⁰ both commercial and political factors will be analyzed. This is because, due to decentralization and the erosion of socialism, Dengist economic reforms have been continually shaped as much by political as by economic forces.²¹

Cultural stereotypes constitute yet another hurdle to success in intercultural negotiations and serves as the second focus of this study. According to Walter Lippman, stereotypes are “pictures in [our] heads” we form about others.²² When used constructively, stereotypes may be viewed as a time-saving device to prevent us from experiencing information overload.²³

¹⁸Harry Triandis, “Collectivism v. Individualism: a Reconceptualisation of a Basic Concept in Cross-Cultural Social Psychology.” in Cross Cultural Studies of Personality, Attitudes and Cognition. G. K. Verma and C. Bagley, eds., (New York: St. Martin’s Press, 1988).

¹⁹Edward T. Hall, Beyond Culture. (Garden City, NY: Anchor Press/DoubleDay, 1976), 28.

²⁰See Lucian W. Pye, Chinese Commercial Negotiating Style. (Cambridge, MA: Oelgeschlager, Gunn & Hain, Publishers, Inc. 1982). This is the most commonly cited book on how to negotiate with the Chinese. Pye’s book is considered “different” from earlier studies because it deals with Sino-American commercial relationships, rather than merely political relationships. Pye himself suggested that it is difficult to delineate People’s Republic of China commercial negotiating styles from their political negotiating styles.

²¹Harry Harding, China’s Second Revolution: Reform After Mao. (Washington D.C.: Brookings Institution, 1987), Kenneth Lieberthal, Governing China: From Revolution Through Reform. (New York: W.W. Norton & Company, Inc. 1995), and Dorothy J. Solinger, Chinese Business Under Socialism: The Politics of Domestic Commerce 1949-1980. (Berkeley, CA: University of California Press, 1984).

²²See Walter Lippman, Public Opinion. (New York: Harcourt & Brace, 1922), 11.

Unfortunately, when used negatively, negotiators may selectively perceive what they want to believe, thereby deepening the mistrust that already exists between sides. For instance, besides possessing an ethnocentric view when analyzing problems, the belief of many American executives and politicians that time is money can lead them to be impatient with their Chinese counterparts.

Stereotypes may also incline negotiators to perceive culture as static when, in fact, it contains dynamic elements (i.e., different personalities, educational backgrounds, and social classes). A number of stereotypical views about Asians' negotiation etiquette tend to color the way American negotiators view people across the table. Some of the most common complaints U.S. executives have about dealing with Asians include the latter's alleged tendency to draw out the negotiation process, their perceived hard-nosed attitudes, their inscrutability and their failure to listen to reason. While such complaints are often considered legitimate from their perspective, American negotiators' facile repetition of such claims reflects their failure to recognize--and accept--the cultural explanations for each action mentioned above and is therefore counterproductive.

²⁴See Jacques-Philippe Leyens, Vincent Yzerbyt and Georges Schadron, Stereotypes and Social Cognition. (London: Sage Publications, 1994), 38.

This thesis will depart from most studies of Chinese and American cultural differences as a factor in negotiation in that it compares observations from existing Sino-U.S. negotiation literature with a simulated joint-venture negotiation of my own design. My rationale for choosing joint-venture negotiations is two-fold: First, joint-ventures are a popular entry strategy into a developing host country, and foreign joint-venture partners often encounter the greatest problems understanding the country with which they wish to do business.²⁴ Second, particularly in China's case, the Dengist emphasis on joint-ventures to lure foreign science and technology gave foreign joint-venture partners who wished to do business with China a special bargaining chip with which to negotiate with the Chinese.

Based on the literature reviewed earlier, my intent is to examine, from an interdisciplinary perspective, the interrelationships among cultural, political, economic, and social factors and personal characteristics that may influence negotiators' perceptions and decisions. In doing so, I hope to bridge some of the gaps found in more narrowly focused approaches by drawing liberally from a range of disciplines and perspectives. This thesis is organized into four principal chapters. Chapter 2 and Chapter 3 introduce various topics pertinent to understanding the simulation results. Chapter 2 focuses primarily

²⁴Robert T. Moran and William G. Stripp, Dynamics of Successful International Business Negotiations. (Houston, TX: Gulf Publishing Company, 1991), 10.

on aspects of relationships important to Sino-U.S. negotiations; Chapter 3 emphasizes China's substantive political, economic and legal post-Mao development. In this respect, this thesis proposes a balanced emphasis between understanding relationships and explaining substantive matters to improve negotiation outcomes.

Chapter 2, "An Intercultural Negotiation Framework," primarily focuses on research conducted by social psychologists and cultural anthropologists and is separated into three parts. It first analyzes some of the obstacles created by cultural orientations and stereotypes and how these factors affect the Chinese perception of intercultural business negotiations. It scrutinizes the relationship among three tenets of Chinese tradition: the Confucian hierarchical structure, the maintenance of *guanxi* (relationships), and the issue of *mianzi* (face). Finally, it explores various concerns that arise among Chinese negotiators during each of three stages of the negotiation process (pre-negotiation, negotiation, and post-negotiation) and explain the strategies typically used to address those concerns.

Chapter 3, "Negotiating Substantive Joint-Venture Issues With Chinese in the Global Market," seeks to provide fundamental substantive understanding about the development of Sino-foreign joint-ventures in the PRC since the end of the Maoist society. In addition to examining some

significant issues involved in joint-venture negotiations, the procedures for establishing a joint-venture in PRC, some of the issues and problems that foreign investors should familiarize themselves with in establishing joint-ventures, the Chinese rationale for establishing joint-ventures, and the measures Chinese use to ensure their interests during joint-venture negotiations will also be discussed.

The assumption underlying much recent political science research on negotiation with Chinese joint-ventures is the recognition that negotiation in China is a complex process involving many participants. Some of these participants include reformist and conservative leaders and officials at both the central and local levels. These studies thus tend to focus on the bargaining process in a domestic context; more specifically, how domestic Chinese political, social, and cultural factors affect the bargaining process. These approaches have themselves been adopted by researchers interested in the bargaining positions between host countries and foreign investors.

A large part of Chapter 3 analyzes the politics of Sino-U.S. relations and of joint-venture development in the People's Republic of China (PRC).²⁵

²⁵See Richard H. Solomon, Chinese Negotiating Behaviors. (Santa Monica, CA: Rand Corporation, 1985). The most important contribution Solomon's work has toward the understanding of Chinese negotiating styles is that it vividly illustrates the negotiation process from a Western viewpoint. In so doing, he portrays Chinese negotiation as a clear-cut process proceeding from five primary stages (Opening move, period of assessment, during negotiation, end move and implementation stage) outlining his perception of how Chinese negotiators behave in each. See Chapter 2 for more discussion of Solomon's work.

The assumptions in Chapter 2 are used to explore the Chinese attitude toward the five issues noted above. In order to do that, problems inherent in both Maoist society and in contemporary China are compared, the goals and logic behind Deng Xiaoping's "Four Modernization Program" (Agriculture, Industry, Science and Technology, and National Defense) are explained, and the ideological, factional politics and organizational factors that influence Chinese negotiating styles are revealed.

Chapter 4, "Research Methodology and Outcomes: Results From a Sino-U.S. Negotiation Simulation," constitutes the core of this thesis by explaining in detail the Sino-U.S. negotiation styles. Chapter 4 begins with a background of research problems, joint-venture simulations, (including the main issues involved,) and positions held by each negotiating party. Simulation is used as a research method because, unlike traditional methods such as interviewing negotiation experts, simulation allows a researcher to examine the negotiation process itself, rather than basing results entirely on other people's opinions. In order to analyze the process, the simulation was videotaped in order to allow reviewing during the data analysis stage. Chapter 4 also provides an interactive negotiation model, depicting the inter-relationships between political, economic, social, cultural and personal factors and their effects on individuals' perception and negotiation styles. It also

contains an analysis of the results of an East-West Questionnaire (EWQ) in an attempt to explain American and Chinese stereotypical views of each other and to examine the distance created by their differing perceptions of themselves and each other. The chapter concludes with a discussion of the simulation results. The negotiation issues are the same five examined in Chapter 3: ownership, contract length and termination, attitudes toward laws and international laws, intellectual property rights, and export controls. The analysis of these issues will take the form of a comparison between what is suggested in the literature and what is indicated in the simulation videotapes.

Chapter 5, the conclusion, first provides an overview of research outcomes. It then explains the differences between my working hypotheses and the revised hypotheses, discusses the research limitations, and recommends new ways to investigate the dynamics of intercultural negotiations.

CHAPTER 2

AN INTERCULTURAL NEGOTIATION FRAMEWORK

It is important to note at the outset of this discussion that while I believe that culture may shape an individual's perception of what constitutes intercultural conflicts and his or her negotiation style, I do not believe that culture is the sole variable that dictates an individual's behavior. Political, economic, social, and psychological factors clearly matter as well. In this chapter, I will focus on the relationship aspect of the intercultural negotiation process and business negotiation styles employed by the PRC negotiators.

First, I will analyze obstacles created by different cultural orientations and cultural stereotypes and describe how these factors affect Chinese perception of intercultural business negotiations. I will then scrutinize the relationship among three tenets of Chinese tradition (the Confucian hierarchical structure; the maintenance of *guanxi*, or "relationships"; and the issue of *mianzi*, or "face"). Finally, I will explore various concerns that Chinese negotiators seem to develop during each of three stages of the negotiation process (pre-negotiation, negotiation, and post-negotiation) and explain the strategies they typically use to address those concerns.

HURDLES IN INTERCULTURAL NEGOTIATIONS

While some characteristics seem universal in negotiations (as conflicts and common interests exist in any negotiation dynamic), this paper suggests that culture, based on its cultural traditions, historical experiences, socialization processes, and preferences in political ruling styles, in fact influences how each member perceives negotiations. However, it should be cautioned that culture is not the only factor nor perhaps even the greatest influence on negotiation outcomes.²⁶ In this section, I compare four dimensions of cultural problems (time-orientation, logical reasoning, collectivism and individualism, and the contextual differences of cultures), as well as a fifth hurdle: the effects and problems that stereotypes have on individual perception.

A. Time Orientation

The first dimension of cultural orientation deals with how time is perceived in a specific culture. This distinction of time-orientation is perhaps subtle, but it constitutes one of the most fundamental cultural difference that shape negotiators' perception of the negotiating process and the priorities they place on negotiations. According to Edward T. Hall, a well-known cultural anthropologist, "time functions in a continuum, with monochronic time on one

²⁶Stephen E. Weiss and William Stripp, Negotiating with Foreign Businesspersons. New York University Working Paper No. 1, February 1985.

end and polychronic time on the other.”²⁷ Time may also be divided into both formal and informal systems²⁸

Formal and monochronic time-orientation is often used to describe American culture and other “low-context cultures,” that is, cultures in which time is valued as a valuable and inflexible commodity.²⁹ As adherents to this time system, Americans tend to see time as linear (or always having a beginning and ending relationship),³⁰ and “as a valuable, tangible commodity that is used or consumed to a greater or lesser degree”--thus the American expression “time is money.”³¹ Most Americans, adhering to this monochronic time-system, believe that things should be done one at a time and have a tendency to regard an event as separate from all others, believing that it should receive undivided attention during the allotted time.³² Once the assigned time has passed, however, most Americans prefer to move on to other tasks scheduled earlier. Because time is so structured under this monochronic time

²⁷Carley H. Dodd, Dynamics of Intercultural Communication. 2nd ed., (Dubuque, IA: William C. Brown Publishers, 1982), 86.

²⁸Lustig and Koester, 201-204.

²⁹Hall, 1959, 127.

³⁰Dodd, 87.

³¹Lustig and Koester, 202.

³²Ibid., 204.

system, most Americans are also very time-driven, valuing both punctuality and efficiency, and have a strong need for closure and, conversely, a low tolerance for incomplete tasks and ambiguity.³³ Implicit in this American assumption about time is that there is an expected beginning and ending point that has been scheduled in advance. The negotiating relationship itself is impersonal, because of a common belief that once the negotiation is ended, the relationship will also be terminated.

Following the informal and polychronic time system, the Chinese culture and other “high-context” cultures have a drastically different view about time. Most Chinese believe that time is flexible, dynamic, and functions in a cyclical manner. The Chinese perception of time is clearly illustrated in the traditional notion of “dynastic cycle.” The concept of dynastic cycle in its most basic form views history as repeating itself, specifically in a cyclical pattern in which the consolidation of political power is followed in order by periods of tremendous florescence, slow decline, and finally precipitous and unrest decline. According to this view, the end of each dynasty may also be viewed as the beginning of another dynasty, as the *yin* leads to the creation of its opposite, the *yang*. Chinese, then, do not share the fixed beginning and end relationship about time that Americans do.

³³Lustig and Koester, 87.

Additionally, Chinese view the creation of relationships or *guanxi* as more important than the time spent to nurture such relationships. Because Chinese negotiators see time as less structured, they tend to believe that they can afford to spend more time in intercultural negotiations to establish *guanxi*, moving on to discuss more substantive issues only when that relationship is consolidated and they feel more comfortable working with their counterparts. Implicit in this belief is the Chinese assumption that the time invested in building and strengthening the relationship will help them achieve substantive benefits in the long run.

B. Logical Reasoning

A second dimension of cultural difference between Americans and Chinese that is related to differing time-orientations is the contrast in how Americans and Chinese process and structure information, and the way both cultures shape their arguments. Several characteristics distinguish Americans' cognitive process from that of their Chinese counterparts. First--and partly due to their linear view of time--many Americans possess a Cartesian logic that purposefully internalizes information in a sequential, segmented, and arranged system according to a "cause-and-effect" order.³⁴ In simple terms, Americans think in a straight line. Influenced by its cultural "dynastical"

³⁴Sheridan M. Tatsuno, Created in Japan: From Imitators to World-Class Innovators. (New York: HarperBusiness, 1990), 21.

notion, and perhaps Taoist, Buddhist and other traditional influences as well, Chinese logic tends to be “fuzzy” and cyclical by western standards. For the Chinese, things are rarely clear-cut, in part because they believe that problems are complex, often incoherent and vague, and thus require incremental, diffused solutions rather than close-ended solutions. This divergent view about the nature of problems often manifests itself in communication problems in intercultural negotiations. For instance, many Americans believe Chinese speakers are puzzling because they frequently “beat around the bush” and are slow to get to the point; rarely do they understand that Chinese are often submerged in their own circular reasoning.³⁵

In addition, most Americans engage in “analytical” thinking³⁶ while Chinese tend to use “relational” logic,³⁷ thus creating another cultural barrier in intercultural negotiations. The foundation of the American analytical tradition is the effort to identify factors and to piece together “objective” and “empirical” evidence in a linear fashion to explain why things happen the way they do. There are two ways in which people may dissect matters into

³⁵Edward C. Steward and Milton J. Bennett, American Cultural Patterns: A Cross-Cultural Perspective. Revised ed., (Yarmouth, ME: Intercultural Press, Inc. 1991), 41.

³⁶Ibid., 41.

³⁷Ibid., 42.

individual parts and link them in a cause-and-effect fashion: inductively or deductively. Inductive reasoning places its emphasis on an individual's ability to operationalize empirical evidence into objective measures such as statistics and then to use those objective measures to comprehend different parts of the problems at hand and their relationship with the empirical world.³⁸ According to Edward C. Steward and Milton J. Bennett, most Americans tend to use inductive reasoning when they attempt to resolve problems.³⁹ Deductive thinkers, on the other hand, give priority to the conceptual and empirical world, seeking to draw conclusions but focusing their attention on general patterns of circumstances or behavior theories. The ultimate goal for deductive thinkers is to show "one or two connections between their concepts and the empirical world."⁴⁰ The most important distinction between inductive and deductive thinkers, therefore, lies in the use of objective measures. Because deductive thinkers are often more confident about the theories they choose, they are less inclined than inductive thinkers to rely heavily on objective measures such as statistics, and to instead focus on developing theories to describe reality.

³⁸Jarol B. Manheim and Rich C. Richard, Empirical Political Analysis: Research Methods in Political Science. 3rd ed., (New York: Longman, 1991), 8.

³⁹Steward and Bennett, 41.

⁴⁰Ibid., 41.

Perhaps because of the country's Confucian tradition, Chinese generally think in "relational" terms,⁴¹ that is, they draw conclusions based on previous knowledge or experience. Relational thinking tends to be more subjective than analytical thinking because it is drawn from a person's experience and status, factors that give credibility and authority to a person's words, rather than from objective "facts." Another aspect of relational thinking is that it involves a "high degree of sensitivity to context, relationships, and status."⁴² Rosalie Cohen (1969) suggests there is an important link between this concept of "relational" thinking and the social and cultural patterns of a society to which an individual belongs. Cohen suggests that people who think in "relational" terms often "come from backgrounds in which neither equality among persons nor differentiation or roles are as accentuated as they are in the background of those with analytical patterns of thinking."⁴³ Cohen further posits that relational types, such as the Chinese

are more deeply embedded in their membership groups. They are expected to identify with the group as a whole rather than with formal functions associated with their roles in the group; they have to be ready to act in any capacity at any time. [As a result], functions in the

⁴¹Steward and Bennett, 41.

⁴²Ibid.

⁴³Rosalie A. Cohen, "Conceptual Styles, Cultural Conflict and Nonverbal Tests of Intelligence." American Anthropologist 5, Vol, 71 (October 1969), 828-56.

group, including leadership, are shared more widely among members than is found with groups composed of analytical persons.⁴⁴

A third difference between American and Chinese cognitive processes involves the role played by emotion, which refers to an individual allowing feelings such as hate, anger, or stereotypes to affect their decision-making processes. While most Americans attempt to isolate emotion from their analytical thinking, most Chinese believe that emotion is an important element of thought. This perceptual difference about the role emotion plays in thinking causes Chinese and Americans to shape their arguments differently. Because of the Western inclination to adopt an impersonal and emotionless thinking pattern, many Americans prefer to rely on objective evidence such as statistics, factual argument and testimony from “experts” rather than a more emotive response. Such evidence is often arranged in a linear fashion, and once the listener accepts the individual parts of evidence, the conclusions follow logically.

Rather than trying to find ways to break down problems into various parts and to analyze them accordingly, Chinese strive for unity between events or objects, thus focusing on achieving a harmonious or a more “holistic” approach or making a correlation between the emotions inherent in one event

⁴⁴Lustig and Koester, 43.

and another. Chinese thus “seek to establish an idea and to persuade the listener by providing an analogy or a story in which there is either an implicit or explicit lesson to be learned”.⁴⁵ The implicit assumption here is that it is the collective experience of groups of people--the culture as a whole--that is persuasive, rather than the ideas themselves or the characteristics of a dynamic individual. For the Chinese, nothing is more important than their long history, in large part because it appeals to Chinese feelings of a broadly shared collective experience. During intercultural negotiations, many Americans become chagrined when Chinese repeat their positions, not aware that one Chinese way of persuading others is simply to restate their position repeatedly. Americans should also realize that because of their emotional commitment to the collective goal, Chinese will almost never publicly change their position without private consultation among themselves.

C. Individualism and Collectivism

The third perceptual difference between Americans and Chinese has been identified by Hofstede as a respective pattern of individualism and collectivism. It is important to note that, in general, those who come from collective-oriented and individualistic-oriented cultures differ in two crucial aspects: how they define “self” and others, and how they distinguish ingroup

⁴⁵Lustig and Koester, 229.

members from outgroup members (people who have little or no perceived similarities in either physical attributes or experiences, i.e., Chinese and foreigners making initial contact).

In a highly individualistic culture such as the United States, people generally assume that should take care only of themselves and, their immediate families. Thus, individualistic concepts such as “self,” “independence,” “privacy,” and “I” are paramount. Because people who come from individualistic cultures tend to believe that they are independent of others, they focus on their own initiatives and achievement. Thus, decisions may be often made based on what is deemed best for the individual with little consideration for others.⁴⁶ Operating on the other end of this continuum, as Hui-Ching Chang and C. Richard Holt suggest, is the Chinese cultural pattern of relationships, which is built on an “other-oriented” perspective.⁴⁷ The Chinese, as products of a collective-oriented culture, consider each individual as part of a social relationship working to achieve social harmony,⁴⁸ a goal that requires each individual to be loyal to the ingroup to which he or she belongs.⁴⁹ By definition, individuals in collectively-oriented cultures such as

⁴⁶William B. Gudykunst, Bridging Differences: Effective Intergroup Communication. Second ed., (Thousand Oaks, CA: Sage Publications, 1994), 40.

⁴⁷Lustig and Koester, 144.

⁴⁸Ibid.

China may have to make decisions that sacrifice what is best for themselves individually for the sake of the group. Those who refuse to cooperate with others or who continue to advocate unique ideas are often distrusted, mocked, or shunned by their peers, causing them to lose face. People who come from individualistic cultures should understand that collectivists, such as the Chinese, have a deep-rooted belief in the utility of silence, both as the most effective way to hide their ideas behind a facade of conformity--and thus avoid losing face in front of a group--or to avoid causing others to lose face.

Owing to their strong identification with other ingroup members, most Chinese tend to be “particularistic and therefore apply different value standards for members of their ingroups and outgroups.”⁵⁰ According to Harry Triandis, people in individualistic cultures tend to belong to many specific ingroups, including family, religious groups, social clubs and professions. The unique sense of belonging and the obligations these groups impose on the individual are relatively light compared to what is imposed on those who belong to only a few groups in a collective culture.⁵¹ Another

⁴⁹Geert Hofstede and Michael Bond, “Hofstede’s Cultural Dimensions”. Journal of Cross Cultural Psychology, Vol. 15 1984: 417-433.

⁵⁰Ibid., 425.

⁵¹Harry Triandis, “Collectivism v. Individualism: A Reconceptualisation of a Basic Concept in Cross-Cultural Social Psychology”. in G. K. Verma and C. Bagley, eds., Cross Cultural Studies of Personality, Attitudes and Cognition. (New York: St. Martin’s Press, 1988), 60-95.

difference on this individualism-collectivism dimension is related to the group's sphere of influence on each individual. While the sphere of influence tends to be very specific in individualistic culture, groups' influence on individuals in a collective culture is more general. The "specific" and "general" spheres of influences that groups have on individuals may be best explained by the "part vs. whole" distinction ascribed to the American and Chinese culture, respectively. Ingroup memberships--i.e., decisions about who is accepted in a group--also tend to be extremely strict in China. This is partly because group membership often determines who rules and who benefits in a collective culture, thus heightening the existing ingroup-outgroup dynamic.

Having said all this, it is crucial to stress that no one culture is completely individualistic or collectivist. As William B. Gudykunst has noted, "individualism and collectivism both exist in every culture, but one tends to predominate."⁵² Many Americans routinely subordinate themselves to the group, just as some Chinese may stray from the behavioral norms identified with collectivist societies.

D. High-context cultures and Low-context cultures

⁵²Ibid.

High and low-context cultures constitute the fourth dimension of perceptual barriers that distinguish between Chinese and Americans. People who come from high context cultures tend to communicate differently than those come from low-context cultures, because, once again, their assumptions are different. As the fundamental assumptions about how people should operate differ dramatically between those who come from high-context cultures (Chinese) and low-context cultures (Americans); their responses differ in at least four ways: in person versus situational based behavior; ingroup-outgroup distinctions; in direct versus indirect language usage, and finally, in verbal versus non-verbal language usage.

One fundamental difference between high-context cultures and low-context cultures is the amount and the degree of information revealed before their members can respond.⁵³ People from high-context cultures require little stimuli before they respond because they intuitively match the situation(s) and the implicit information given--although their responses may not be very revealing. The assumption here is that people who come from this high-context culture often share the same experience and value their shared experiences, and since it is often difficult to verbally translate emotions and

⁵³Edward T. Hall, Beyond Culture, (Garden City, NY: Anchor Press/Doubleday, 1976), 88.

feelings that come with such experiences, they develop implicit codes that their members understand under the right circumstances.

Related to their implicit and situation-based messages, people who come from high-context cultures also tend to make greater ingroup-outgroup distinctions than people from low-context cultures. Because the implicit messages themselves are embedded in their rules and rituals of situations, high-context cultures can easily tell who belongs to their group, and who does not. According to Edward T. Hall,

people raised in high-context systems expect more of others than do the participants in low-context systems. When talking about something that they have on their minds, a high-context individual will expect his [or her] interlocutor to know what's bothering him [or her], so that he [or she] doesn't have to be specific. The result is that he [or she] will talk around and around the point, in effect putting all the pieces in place except the crucial one. Placing it properly-- this keystone--is the role of his [or her] interlocutor.⁵⁴

Many outgroup members do not understand that what differentiates them from ingroup members is the emotion that ingroup members have invested in the relationship. Much like those individuals who operate in a collective society, the bond between those who belong to the ingroup in high-context cultures is both strong and deep. Thus, as ingroup members, they are often obligated to place their own concerns after the group's concerns. This degree of loyalty

⁵⁴Hall, 98.

differs dramatically from that found in a low-context culture, in which the bonds between people tend to be more fragile, and the extent of involvement and commitment to long-term relationships is much lower.

Because people from high-context cultures are much more sensitive to implicit messages, they themselves tend to use an indirect and reserved approach. By contrast, individuals who come from low-context cultures prefer a much more direct approach. Once again, the implicit goal for communicating between those who come from high-context and low-context cultures is different. Because the primary goal in high-context cultures is to adhere to group norms in order to preserve harmony and maintain face for all, communicating information assumes a secondary function. Those who come from high-context cultures expect members to know and abide by the tradition. Communication is much more direct for people who come from low-context cultures because their main purpose is to communicate ideas, even at the expense of creating conflicts. Therefore, a person from a low-context culture may speak what is on his or her mind, without great concern about how others in the group may feel. This overtness and directness is often encouraged in many contexts in individualistic cultures such as the United States.

The extent of one's reliance on nonverbal and verbal messages reveals another level of difference between individuals who come from high-context cultures and those from low-context cultures. Owing to the implicit nature of messages in high-context cultures, non-verbal and verbal languages are often used interchangeably to facilitate communication. In contrast, because less is implicitly shared in the individualistic culture such as the United States, nonverbal language is often less precise and less consciously used in favor of a heavy emphasis on overt and explicit messages. Once again, for Americans and others who come from low-context cultures, the most crucial aspect for communicating is what is said in the message. Individuals from high-context cultures, on the other hand, are much more concerned with the ways in which messages are communicated--more specifically, on whether such methods of communicating are traditionally and socially acceptable to others within the group.

E. Stereotypes

A final cultural hurdle concerns the effects of stereotyping on the breakdown of intercultural negotiations. Stereotyping, as defined by Walter Lippman is a "selection process used to organize and simplify perceptions of others."⁵⁵ While stereotypes often have some degree of truth to them, because

⁵⁵Walter Lippman, Public Opinion. (New York: Harcourt & Brace, 1922), 278.

information is categorized by certain easily identifiable traits frequently found in a culture,⁵⁶ stereotypes may harm intercultural communication by influencing the way we process our information and, worse yet, create unrealistic expectations that distort our already biased perceptions about people from other cultures. Stereotypes, however, can shift over time. For instance, early Chinese immigrants to the United States in the nineteenth century were stereotyped as “quiet, peaceable, tractable, ... and [as] are industrious as the day is long.”⁵⁷ At other times, however--for instance, during the Cold War, when communists were deemed to be controlled by a dangerous ideology--Chinese were described as “inscrutable, distrustful, crafty, sneaky, devious, unfathomable, backward, savage, and the Yellow Peril.”⁵⁸ If one accepts the positive stereotypes about Chinese, he or she runs the risk of not negotiating the best deals when faced with some skillful Chinese business people. If, on the contrary, one believes that Chinese are “sneaky” and “inscrutable,” he or she is equally likely to pay a price for letting stereotypes overtake perceptive assessment.

⁵⁶M. Hewstone and R. J. Brown, “Contact is not enough: An intergroup perspective on the contact hypothesis”. in M. Hewstone & R. J. Brown (Eds.), Contact and Conflict in Intergroup Discrimination. (Oxford, Blackwell, 1986).

⁵⁷Moran and Stripp, 68.

⁵⁸Moran and Stripp, 128.

THE RELATIONSHIP BETWEEN CONFUCIAN HIERARCHY,

GUANXI AND MIANZI

The last section examined some general attributes of Chinese and American cultural orientations and cultural stereotypes. While such knowledge about general patterns of culture is crucial, it is insufficient to understand why Chinese negotiators behave the way they do. This section examines not only the independent functions of Confucian hierarchical structure, *guanxi*, (relationships), and *mianzi*, (face) and their influence on Chinese negotiation styles, but also the collective function of these three elements. I will argue that Confucian hierarchy, the maintenance of *guanxi* and the issue of *mianzi* tend to function collectively, and to mutually reinforce each other, in the service of two societal goals: the promotion of social harmony and the reinforcement of ingroup-outgroup distinctions.

A. Confucian Rank-consciousness

As an ideology, Confucianism has tremendous influence over the Chinese and the citizens of many other Asian countries that have long historical legacies of Confucian cultural and political dominance. While many aspects of Confucianism influence Chinese negotiation styles, in this section I examine three points related specifically to the hierarchical aspect of relationships in Confucianism and its effect on Chinese negotiation styles.

As evident in four of the five basic human relationships (superior-subordinates, father-son, husband-wife, elder brother-younger brother, and between friends) that are central to Confucianism, interpersonal relationships in Chinese society are strictly hierarchical. Because of this hierarchical (vertical) nature of traditional Confucian society (and to a lesser extent, a bitter history of foreign intrusion), Chinese are extremely conscious about “status” and the power that comes with it. Applying this hierarchical structure to negotiation situations, the nature of ownership or the percentage of equity shared in a joint-venture can be one of the most contentious issues to be settled between a Chinese partner and a foreign entity. Confucian rank-consciousness and historical memory can reinforce normal self interest in prompting the Chinese partner to demand a majority equity position in a joint venture. At least as important, Chinese believe that the “status” that comes with the larger equity will not only guarantee them extra clout in the venture but increase their power and “face” among their Chinese peers.

A second way that Confucian hierarchy can affect negotiations is by inducing Chinese negotiators to make the preservation of group harmony a more important goal than reaching concrete decisions. Although an adherence to group harmony is grounded in Confucianism, it has been reinforced by the hierarchy and highly centralized decision-making that has characterized

Chinese Communist rule. Reflecting both experiences, a proposal that is under consideration by a government or large business organization in China is likely to circulate throughout an organization from the bottom up, so that by the time it reaches the upper level, there is already a consensus on the desired course of action. While often painfully time consuming, this process minimizes the possibilities of unexpected humiliations in high-level decision-making.

If group harmony reflects a consensus-building process, it also reflects a more fundamental social dynamic: in order to avoid conflicts when making decisions, each person adheres to his/her role so the social boundaries between superiors and inferiors are not crossed. For instance, when an elder member is present within a group in China, it is considered both impolite and improper for a junior member to speak, let alone express views that might depart from the ideas of elders. To do so is to show disrespect to the elder member within the group. Most Americans, however, tend to place their emphasis on effective and efficient decision-making based on what is perceived as logical, with the preservation of group harmony a secondary consideration.

A final aspect of residual Confucian influence in China relates to the principle of *shu*, or reciprocity and the hierarchical structure of Confucian social relationships. Both traditional patriarchal and contemporary

Communist China undeniably fit the pattern of authoritarian regimes. One aspect of the relationship between superiors and subordinates in both societies tends to reflect the principle of reciprocity in ways that a democratic society does not. In Confucianism, the principle of reciprocity is perhaps the most crucial rule guiding individual behavior. Ideally, under this principle of reciprocity, a person who comes from higher status and thus has the “power” to order his subordinates to do things is also expected, as a superior, to assume personal responsibility for the development of his subordinates. This is done to ensure that the subordinates will respond by showing the proper amount of respect and obedience, and thus reflects a belief that mutual obligations exist even in superior-subordinate relationships. In reality, of course, the expectation of reciprocity may exist in the breach.

B. The Maintenance of *Guanxi*

A second specific cultural element that influences Chinese negotiation styles is the pervasive use of *guanxi* in China. The term *guanxi* may be literally translated as “relationships or connections.” In a networked society such as China’s in which one defines oneself in terms of relationships to others and relies on special relationships to accomplish key tasks, *guanxi* is all-important. And, as a general rule, “the more *guanxi* one has, the more it is

possible to increase one's *guanxi* network, because access creates opportunities for additional access.”⁵⁹

There are four aspects of *guanxi* of which Westerners must be aware to improve their understanding about Chinese interpersonal relationships and negotiating styles: the bases of *guanxi*; the use of “intermediaries,” or *jyungjyanren*, in maintaining *guanxi*; the level of emotions (feeling of closeness) invested in *guanxi*; and, finally, the concept of “power” in relation to the use of *guanxi*.

Kinship, friendship, and other interpersonal relationships are three primary bases of *guanxi*. In each of the above relationships, although mutual trust and obligations exist, they are often distinguished by different levels of familiarity, or *shou*. This emphasis on familiarity implies a shared identity or shared personal experiences, and in fact, emotional attachment is a primary prerequisite for building rapport between two people in China. As is true in the West, the sense of familiarity in some Chinese relationships is characterized by physical proximity, as between neighbors. The Chinese have a saying that *yuan qin bu ru jin lin*, or “distant relatives are not as dear as close neighbors.” The logic behind this principle is simply that if one cultivates relationships with one's neighbors properly, when in trouble, one will have

⁵⁹Mayfair Mei-hui Yang, Gifts Favors & Banquets: The Art of Social Relationships in China. (New York: Cornell University Press, 1994), 124.

someone close to call upon for help. While on the surface this may seem like a relationship that merely exploits others, it is crucial to note that the person who receives help is also obligated to return such favors, either by gift-giving or by other means. This, then, creates an ongoing exchange of relationships between two parties that is found more rarely in the West.

Besides building emotional attachment directly with other people, Chinese often use intermediaries to establish relationships. In China, “merely invoking the name of a mutual friend, whether or not he or she is present, provides both parties with a basis for “familiarity.”⁶⁰ This emotional familiarity may be cultivated and is referred to as “achieved familiarity.”⁶¹ The initial strength of “achieved familiarity” relies heavily on the intermediary introducing the two parties, and whether the intermediary has a good relationship with the person who is being introduced. It is also assumed that if the intermediary trusts a person, that person must be reliable. This helps in two ways: it gives *face* to the intermediary, and it expands a person’s existing *guanxi* network. Once a favor is granted, it is then assumed that both the intermediary and the person who has just been introduced owe favors to the third party, and such favors will be reciprocated. Westerners should recognize

⁶⁰Yang, 125.

⁶¹Yang, 126.

that in China or other collective-oriented cultures where ingroup-outgroup distinction is strong, having an intermediary who belongs to the ingroup may obligate the Chinese to treat you by a different standard, thereby facilitating the process of negotiations.

A third characteristic of *guanxi* in China reflects the different types of emotions invested in relationships. Many Westerners perceive relationships as exclusive. It is crucial to note that for the Chinese, mutual obligations may occur at different levels.⁶² Three types of emotions--*renqing*, “basic level of affection;” *ganqing*, “emotional feelings;” and *yiqi*, “ethic of righteousness”--define relationship boundaries for the Chinese.

The lowest level of *guanxi* is based on the element of *renqing*, the most basic level of affiliation. Relationships between Western businessmen and Chinese officials rarely exceed this level, owing both to time constraints and lack of understanding of how each culture operates. In most business transactions, Westerners are advised to bring gifts to the local officials as a matter of courtesy. Westerners should realize that Chinese officials may be impressed by their gifts, and these gifts may in themselves be enough to obligate the Chinese to return some favors. When these officials decide to return favors, however, it is likely that they are doing so only because they are

⁶²Yang, 119-123.

confined by the cultural and social traditions, not because of any emotional attachment.

Another “higher” type of *guanxi* is based on *ganqing* or emotional feelings. Cultivating *ganqing* between Westerners and Chinese is often extremely time-consuming and difficult. In China, a relationship based on *ganqing* is usually developed through two parties’ perceived similarities with each other, and often requires that both parties help each other without calculating the gains and losses of each person’s actions. This level of *guanxi* is difficult to achieve between Westerners and Chinese because Chinese tend to perceive Westerners as incapable of developing such emotions--the West, Chinese know, emphasizes impersonal, detached, and mechanistic relationships.

The deepest level of *guanxi* depends heavily on the use of *yiqi* or the “ethic of righteousness.” This refers to the unchanging loyalty that cements two people’s relationship as if they were blood-related. In such a relationship, this feeling of *yiqi* incurs the most obligation and indebtedness. When *yiqi* becomes the emotional basis between two people, it implies that both are willing to risk danger or sacrifice personal benefits to maintain the relationship. This level of relationship is obviously the most difficult to obtain even among Chinese. One can only imagine how much more difficult *yiqi*

would be to obtain between a foreigner and a Chinese. By definition, the degree of similarity between an ingroup member and an outgroup member is often maximized at this level of relationship. The emotional distance existing between Chinese and foreigners as ingroup and outgroup members is so great that even an intermediary and time are unlikely to bridge the gap sufficiently to approach a bond marked by *yiqi*.

The final aspect of *guanxi* relationships relevant to negotiations involves the concept of “power distance” and its relations to maintaining the ties of Confucian superior-inferior relationships. This power distance dimension focuses on the *guanxi* between people of different status (i.e., superior and subordinate relationships, a central aspect of Confucianism). According to Geert Hofstede and Michael Bond, “power distance is the extent to which the less powerful members of institutions and organizations accept the premise that power is distributed unequally.”⁶³ In high power distance cultures such as China, individuals are taught to accept power as part of society and as a basic fact of life. In simplest terms, they are expected to do as they are told without questioning authority. Hofstede further explains the relationships between superiors and subordinates in a high power distance society:

⁶³Geert Hofstede and Michael Bond, “Hofstede’s Cultural Dimensions.” Journal of Cross Cultural Psychology 15 (1984): 427.

In high power distance countries there is considerable dependence of subordinates on bosses. Subordinates respond by either preferring such dependence in the form of an autocratic or paternalistic boss, or rejecting it entirely, which in psychology is known as counter-dependence: that is dependence.⁶⁴

Thus, the nature of power distance in a collective society, as Hofstede explains it and as characterized by Confucian vertical relationships, reinforces the Chinese belief that for the society to function harmoniously, individuals must fulfill their obligations by adhering without question to their prescribed roles.

C. The Issue of *Mianzi*

A final aspect of Chinese culture worth mentioning here is *mianzi*, or “face,” and how it functions differently in collective and individualistic cultures. In collective cultures, *mianzi* may be defined as the public recognition of a person’s worth, and because of the group-oriented nature of Chinese culture, *mianzi* is inevitably related to family or collective honor. As a result, Chinese and others from collective cultures bear the burden of honoring or shaming not only themselves but the groups they represent as well. As noted, because of the collective nature of Chinese society, Chinese tend to be very concerned about how others perceive them. According to Stella Ting-Toomey’s face-negotiation theory, this attitude makes the concept

⁶⁴William B. Gudykunst, Bridging Differences: Effective Intergroup Communication. Second Ed. (Thousand Oaks, CA: Sage Publications, 1994), 47.

of *mianzi* more significant in China than in individualistic society such as the United States.⁶⁵ Ting-Toomey further suggests that despite the universal application of *mianzi*, when contrasting American and Chinese conception of *face*, they differ not only in how the concepts are defined, but also in the strategies Chinese and Americans use to maintain, save, or honor their *face*. Americans tend to define the concept of *face* as self-pride, reputation, credibility, and self-respect. For Americans, therefore, *face* is individualistic, low context, and prioritizes the role of the individual.

For the Chinese, preserving *face* is an integral element in the proper functioning of their network of relationships. In Chinese society, individuals are interlocked with each other; thus, self is perceived to be an interdependent, group-oriented concept. Because of this interdependency, an individual often relies heavily on others' definitions of who he or she is. The perception of "self-respect" for the Chinese, then, comes largely from others. In a collective society such as China, clearly, the concept of *self* is often more vulnerable and fragile when under public criticism than it would be in an individualistic culture.

"Giving face" to others is another crucial element in maintaining *guanxi* in China. By giving face to others, the Chinese hope to be given face

⁶⁵Stella Ting-Toomey, "A Face-Negotiation Theory" in Y. Kim and William Gudykunst (Ed.), Theories in Intercultural Communication. (Newbury Park, CA: Sage, 1988).

in return, thus reinforcing their own sense of “self-respect.” This idea of reciprocity, of maintaining *guanxi* and giving *mianzi*, is nicely summarized by Mayfair Mei-Hui Yang in her book Gifts, Favors and Banquets: The Art of Social Relationships in China. Adopting Marcel Mauss’s tripartite concept of “total prestation”--“the obligation to give, the obligation to receive, and the obligation to repay”--Yang concentrates on the middle part of this formula, “the obligation to receive.”⁶⁶ According to Yang,

[M]ost Chinese accept gifts even though they would rather not go through the trouble involved in repaying it for at least three reasons. First, it would be a loss of *face* to refuse, as it is an admission of an inability to repay. Second, declining to accept sends antisocial signals to the giver that one does not want to establish a relationship of mutual aid with that person. Third, most people welcome the opportunity to expand their *guanxi* network and are aware that it involves both going into debt and putting others in debt. [In fact], should the recipient find it impossible to gratify the giver’s specific request, an alternative counter-gift serves as a discreet message to the original giver that the debt has been paid off.⁶⁷

From this, it is evident that refusing to accept a gift may cause the gift-giver to lose face, thus jeopardizing the whole relationship.

The link between *face* and Confucianism deals with the “*face* protection” aspects of Confucianism. According to Geert Hofstede and Michael Bond, in collective society, *face* is a reciprocal concept. Hofstede

⁶⁶Yang, 131.

⁶⁷Ibid.

and Bond also discovered that there are both high and low levels of Confucian teachings, and they referred to such concept as “Confucian dynamism.”⁶⁸ In order to distinguish the relationship between collectivism and individualism with Confucian teachings, Hofstede and Bond claim that a high level of Confucian dynamism

characterizes individuals who place more importance on values associated with Confucian teachings that are future oriented (persistence, status-ordered relationships, thrift, and a sense of shame). [L]ow Confucian dynamism [describes] individuals who place more importance on values associated with Confucian teachings that are past and present oriented (steadiness and stability, protection of face, respect of tradition, and reciprocation of greeting, favors and gifts)⁶⁹

Hofstede (1980) reasons that “Confucian dynamism” and individualism are not independent factors; rather, they are highly interrelated. As he explains it, the static characteristics inherent in the past- as well as present-oriented Confucian teachings (respect of tradition, saving and giving *face* to those who are in superior positions, steadiness and stability), reflect individualism in a short-term mode. In the short run, this promotes individuals who are primarily interested in having jobs that simply provide satisfaction in the present with little regard for longer term outcomes or

⁶⁸Geert Hofstede and Michael Bond, “Hofstede’s Cultural Dimensions.” Journal of Cross Cultural Psychology, Volume 15, 1984, 417-433. Also see Ryh-song Yeh and John L. Lawrence. “Individualism and Confucian Dynamism: A Note on Hofstede’s Cultural Root to Economic Growth.” Journal of International Business Studies. Third quarter. 1995: 655-669.

⁶⁹Yeh and Lawrence, 656-657.

rewards. Hofstede then contrasts the individualism-low Confucian dynamism with collectivism-high Confucian dynamism, and claims that persons who score high on collectivism put more emphasis on the opportunity to learn and use new skills. This desire, according to Hofstede, is associated with the forward-looking focus present in the value associated with high Confucian dynamism (e.g., persistence and thrift). His reasoning on this point is that high levels of Confucian dynamism teach individuals to acquire necessary skills that are useful for life, such as acquiring skills and education, working hard, not spending more than necessary, and being patient and persevering.

In sum, *face* protection in Confucian societies is crucial not only to gain self-respect, but is associated with the individual's identification with his or her in-group members. Again, in a collective society such as China, causing someone to lose *face* suggests that an individual is incapable of maintaining group harmony, bringing shame to the group that individual represents and personal failure to the individual.

THE NEGOTIATION PROCESS FROM A CHINESE VIEWPOINT

A. An Overview

The aforementioned differences between Chinese and Western cultures are written as a conceptual foundation to help understand the Chinese perspective in the negotiating process. Three characteristics of Chinese attitudes toward negotiations that hinder the intercultural negotiation process must be noted before examining the negotiation stages. While these attitudes are generally commercially-oriented, some of them may, in fact, apply to political negotiations as well.

First, owing to their cyclical and polychronic time-orientation, Chinese are likely to view negotiation as a cyclical and dynamic process. As suggested earlier, Chinese believe that problems are complex and elements of problems are constantly changing. It is not likely, therefore, that Chinese will perceive negotiations as a linear process, as Richard H. Solomon has suggested.⁷⁰ Solomon's linear model clearly dissects Chinese political negotiation into four stages and attributes certain styles and functions to each stage. In reality, complex technical issues in negotiation, masked behind cultural differences, are not likely to be as clear-cut as Solomon suggests. Solomon's linear model

⁷⁰Solomon, 4.

is nevertheless interesting as a representation of a Western view of Chinese negotiation styles.

The Chinese saying *shang chang ru zhan chang* or “the marketplace is like a battlefield,” reflects the competitive spirit that Chinese bring to negotiations.⁷¹ This saying also suggests that Chinese may indeed share the American view that negotiation is a zero-sum game. However, because of the cultural differences we have discussed, Chinese and Americans tend to adopt different strategies in negotiations. One such difference may be evident in the use of deception in negotiations. While using deceptive strategies such as bluffing is not universal among the Chinese, especially when profits are involved, some Chinese negotiators believe that deceptive strategies are a justified means to an end, that is, winning the negotiation.⁷² Americans, however, tend to “prize a tradition of openness and fair play” and to deem such deceptive behavior as both unethical and illegal.⁷³ It is important for Americans and other Westerners to recognize that the Chinese can view deception less as unethical behavior than as a means of protecting their own

⁷¹Chu, Chin-ning, The Asian Mind Game: Unlocking the Hidden Agenda of the Asian Business Culture: A Westerner’s Survival Manual. (New York: Rawson Associates, 1991), 12.

⁷²Chu, 27.

⁷³Chu, 27.

business interests--and to realize that they expect their counterparts to do the same.

Finally, one should note that Chinese tend to distrust foreigners for historical reasons, thus constituting yet another barrier in intercultural negotiations. As reflected in China's traditional view of itself as the "middle kingdom," or the center of the universe, the Chinese have a tremendous sense of cultural pride. This pride has exacerbated the impact of a string of humiliating incursions into China by foreign intruders since the mid-nineteenth century. From the time of the Opium War in 1840 to the outbreak of World War II, during which signs on the buildings in Shanghai's British quarter read "Chinamen and dogs not permitted to enter," the Chinese have viewed themselves as victims of "barbarians." Westerners should recognize that these events and their humiliations have remained in the Chinese mind, contributing to distrust of foreigners (and an excuse for sometimes questionable behavior) in negotiations.⁷⁴

B. The Three Negotiation Stages

For the purpose of analysis, I have divided negotiation into three stages: pre-negotiation, negotiation, and post-negotiation.

⁷⁴Chu, 171.

1. The Pre-negotiation Stage:

The first stage of the negotiation process, the pre-negotiation stage, refers to the time each negotiating party spends before its formal meeting with the other side. As one might suspect, the nature of such preparation reflects the Chinese tendency to see negotiation as a *relationship-based* matter.⁷⁵ A common misconception concerning the *relationship-based* Chinese negotiation style needs to be addressed. While Chinese negotiating styles tend to be *relationship-based* initially, many Western scholars such as Robert T. Moran and William G. Stripp (1991) fail to point out that substantive issues are also important to the Chinese. In fact, building *guanxi* can be seen as one Chinese strategy to gain consensus with their negotiating counterpart, in the service of achieving concrete objectives in the talks. In this respect, substantive issues may be as crucial to the Chinese as they are to American negotiators. This perspective certainly adheres to the polychronic and flexible view Chinese have toward time discussed earlier, as the Chinese tend to spend more time initially in developing *guanxi*, but do so to enhance the productivity of the later time spent on the negotiations over more substantive issues.

⁷⁵Lucian W. Pye, Chinese Commercial Negotiating Style. (Cambridge: Oelgeschlager, Gunn & Hain Publishers, Inc., 1983), 126.

The strategies Chinese and American adopt in the pre-negotiation stage also differ in a variety of other aspects, including, for example, a sharp contrast in the way Chinese and Americans prepare for their negotiations; the formulation of objectives and strategy; analysis of the situation, definition of problems; evaluation of the environment and the other side; development of an agenda; procedures, arrangements; and game plan development. The Chinese, like the Japanese, tend to place their priorities on “developing a working organization around a discussion leader, who will usually become the spokesperson; then, ensuring that everyone has a thorough understanding of the issues; and finally, developing a position on which everyone can agree.”⁷⁶ Another aspect of the preparation work commonly undertaken by Chinese is researching the opponent negotiating members’ interests, particularly those of the negotiating spokesperson. The purpose of this is to assess the negotiating positions their opponents are likely to take. American negotiators, by contrast, generally spend more time preparing substantive issues. Their goal is “to understand the issues, to debate possible strategies and positions they could adopt and reach some majority agreement on initial and alternative positions, and finally, to try to assess the likely approach of the other side.”⁷⁷ Because of

⁷⁶Robert M. March, The Japanese Negotiator: Subtlety and Strategy Beyond Western Logic. (New York: Harper & Row, 1988), 162.

⁷⁷March, 163.

the priorities Americans place on intercultural negotiations, they tend to adopt strategies that emphasize the structure and the logical connections within their arguments. In doing so, most American negotiators often neglect the fact that their Chinese negotiating counterparts may not possess the necessary skills to understand the Americans' arguments--either because of language and cultural differences--or simply may not believe in such persuasive methods.

2. The Negotiation Stage

During this second stage, four culturally-related tendencies are reflected in the Chinese negotiating style: an insistence their counterparts reveal their interests first, a commitment to general principles; a difference in Chinese strategic thinking and Western strategic thinking; and the notion that nothing is final. Except for expecting their negotiating counterparts to reveal their interests first, it is difficult to assign the exact time-frame of the other three issues for such concerns often reappeared during different stages of negotiations.

- **Insisting Their Counterparts Reveal Their Interests First.** Most Chinese are extremely uncomfortable laying all their cards on the table, in part because such a tactic contradicts the deceptive strategies emphasized in influential Chinese classics such as The Art of War and The Thirty-Six Stratagems and embraced by large numbers of Chinese. In many

instances, the Chinese may suggest to foreigners that it is tradition for the guest (the foreign business person) to first speak what is on his or her mind. Even on the rare occasions when Chinese do speak first, however, they tend to be indirect and hesitant in presenting their positions. In part, this attitude is caused by lack of understanding about technological issues, fear of saying the wrong things and losing *face*, and the lack of autonomy to make decisions. But more importantly, Chinese often believe that the more they know about themselves and their enemy's strength, the better chance they have of winning a negotiation. While such strategies have merit when dealing with people who share the same, or at least a similar, cultural background, they can be counterproductive when dealing with people who operate on assumptions that are almost completely opposite, sometimes generating suspicion and hostility throughout negotiations.

- **Differences in Strategic Thinking.** Just as patterns of logical reasoning may differ across cultures, what constitutes strategic thinking may also differ from culture to culture. In American strategic thinking, because emphasis is often placed on technical issues and presenting objective facts, negotiators are likely to organize facts into their perceived logical structures, to analyze the dimensions of each issue, and to settle each part independently. Unfortunately, this is not how the Chinese see matters.

Rather, Chinese strategic thinking tends to emphasize the use of “psychological traps” and manipulation of emotions when negotiating, for instance playing victim to appeal to one’s sympathy.⁷⁸ Thus, taking the Chinese’s words at face value can be a mistake. As indicated, most Chinese also engage in circular reasoning and thus may seem to Westerners to be talking unsystematically, touching on everything except the crucial points. This apparent meandering without agenda or logical structure often leads Westerners to believe that the Chinese are not only unsophisticated but unprepared for negotiations. Such a belief may constitute a serious misperception.

- **Commitment To General Principles.** One common complaint about Chinese negotiating styles concerns their preoccupation with general principles, particularly in Chinese political negotiations. In his 1985 study, Richard H. Solomon emphasized that the Chinese tend to press for certain key principles, even at the early stage of opening moves. One possible explanation for the tendency to cling strongly to general principles may relate to the historical and emotional appeal of principles for the Chinese. Since general principles are historically significant (in part because they reflect a shared concern to uphold Chinese sovereignty, face, or the Chinese

⁷⁸Solomon, 10.

experiences as a group), at least publicly, it is considered improper for any one individual to openly reject such collective emotional commitment. However, the Chinese may also use such principles as a play either to constrain the interlocutors' bargaining flexibility or to test the "sincerity" of their counterpart's desire to develop and sustain a relationship with China.⁷⁹ This strategy may bear fruit because Americans tend to be more pragmatic and more willing to make concessions to reach an "agreement in principle" during this stage. As one possible counterstrategy, it is important to recognize that under certain circumstances (i.e., privately) when Chinese *face* is not threatened, they may in fact take the initiative in reevaluating the validity of their overall principles and make substantially more concessions than they normally would in public.⁸⁰

- **Nothing Is Final.** In part because of the cyclical and polychronic time-orientation embraced by the Chinese, they are not likely to perceive a clearly defined beginning and end in negotiations. This can result in an apparent noncommittal attitude during negotiations. Even when a negotiation moves

⁷⁹Solomon, 3.

⁸⁰An e-mail discussion with Dr. Harry Harding on October 14, 1995. In it, Dr. Harding suggests that while general principles are important to the Chinese when they negotiate, there are also specific circumstances that may cause the Chinese to rethink their overall principles. Dr. Harding suggests that contemporary Sino-U.S. relationships concerning the Taiwan issue may be one such example.

toward the end, the Chinese may feel no pressure to achieve closure. Instead, they may simply look forward to their next negotiation, seeing it as an opportunity to create an ongoing relationship. This, of course, contrasts dramatically with the standard American approach to negotiations. Lucian W. Pye, who wrote the first important analysis on Chinese commercial negotiation styles, contrasts American and Chinese attitudes toward this issue of “finality” as follows:

Americans from the outset conceive of the negotiating process as properly leading to consummation when an agreement is reached that will be binding on all parties and provide a given period of fixed and predictable behavior. The Chinese [however] seem to have less feeling for the drama of agreement and little expectation that any formalized contract will end the process of negotiations.⁸¹

If specific issues are not in fact resolved during a negotiation session, the Chinese are likely to continue to repeat the same strategies mentioned earlier, by using *guanxi* established earlier with their counterparts in attempt to press the importance of their general principles. Under some circumstances, a negotiation will end only if one party decides to withdraw. Usually, Chinese are patient in waiting for their counterparts to compromise. However, as soon as they realize that agreement is not possible, foreign negotiators should not be surprised by a sudden withdrawal of the Chinese. When such a point is

⁸¹Pye,-78.

reached, it signals that the existing *guanxi* has been ruined, and it may be extremely difficult to rebuild it.

3. The Post-negotiation Stage

The Post-negotiation stage may be separated into the time immediately after negotiation and the “implementation” stage referred to by Richard H. Solomon.⁸² If the negotiations were successful, the Chinese are likely to hold a banquet to celebrate the success. It is crucial to note that banquets are particularly important to the Chinese because they provide an informal setting in which they can continue to pursue the establishment of *guanxi*, as Chinese negotiators get better acquainted with their foreign counterparts. Banquets also provide the chance for both parties to discuss the feasibility of future cooperation in an informal setting.

In practice, the final banquet may prove elusive: issues will rarely be resolved quickly during the first meeting of negotiation. And, in fact, the Chinese view of negotiations as a continuing process can make negotiating with them not only time-consuming but a strenuous exercise that severely tests foreigners’ patience. However, if the correct *guanxi* is built, negotiations can prove very fruitful.

⁸²Solomon, 13.

Implementation is perhaps the most important and challenging task in the post-negotiation stage. Indeed, only during the post-negotiation stage will negotiators know whether an agreement will be honored. During this stage, one common complaint Westerners have regards the Chinese perception of contracts. Westerners, of course, generally view contracts as documents that are inviolable, and tend to seek answers in such legal documents; for the Chinese, in contrast, contracts are rarely perceived as final. Instead, Chinese tend to see contracts not as the end of a relationship but rather as a beginning of sorts, a new basis from which to negotiate. Following from this perspective, the Chinese often focus during the implementation stage on the continuing *guanxi* between the negotiating parties, while Westerners tend to emphasize the written document itself. Thus, while Americans steeped in a tradition that puts emphasis on “rule by law” often use contracts to spell out possible contingencies and provisions for enforcement in fixed detailed terms, Chinese are extremely uncomfortable with such arrangements. This discomfort stems in part from a belief that changing circumstances required flexible measures. However, it also reflects the Chinese notion of *guanxi* and the overriding importance of trust in the relationship between negotiating parties. As a result of this drastically different attitude toward contracts, it

may be extremely difficult to get the Chinese to honor and implement contracts they signed earlier in negotiations.

While I have stressed the significant impact that culture may have on negotiations, it is important to reiterate that culture is not the sole determinant of how negotiators perceive the world. Other factors such as company goals, economic, political, social and legal influences clearly matter in shaping an individual's perception. Reflecting this fact, the following chapter will analyze some of the relevant economic, political, social and legal forces that may affect Sino-U.S. joint venture negotiations.

CHAPTER 3

NEGOTIATING SUBSTANTIVE JOINT-VENTURE ISSUES WITH CHINESE IN THE GLOBAL MARKET

The discussion in Chapter Two focused on the relationship aspect of negotiations by examining the negotiation process and certain key assumptions that influence Chinese negotiation styles. This chapter emphasizes substantive economic, political and related issues that shape Chinese negotiating strategies with respect to Sino-U.S. joint-ventures.⁸³

The chapter is divided into two sections: First, it creates an analytical framework that emphasizes the changes of three factors--ideology, leadership and organization--and illustrates how they affect Dengist reformers' perceptions of joint-ventures. An analysis of the nature of the Chinese joint-venture reforms and their effects on China's Post-Mao political economy will constitute the core of this discussion. It then examines the issues important to foreign joint-venture negotiations (including valuation, pricing, technology transfer, management, and incentive policies) and explains the Chinese

⁸³This idea on emphasizing both relationships and substantive aspects in negotiations is based on Grant T. Savage, John D. Blair, and Ritch L. Sorenson, "Consider Both Relationships and Substance When Negotiating Strategically." in Negotiation: Readings, Exercises and Cases. Edited by Roy J. Lewicki et al. (Homewood, IL: Richard D. Irwin, Inc., 1993): 55-60.

perception of those issues. Finally, it distinguishes the Chinese and American views on five substantive issues at the core of Sino-US commercial relations: Chinese attitudes toward laws; contract terms, length and termination; ownership; intellectual property rights; and export control laws. I argue that, because the underlying assumptions of their cultural orientations are different, as evidenced in Chapter 2, Chinese and Americans not only perceive these five issues differently, but adopt different negotiating strategies in relation to these issues.

SINO-U.S. JOINT-VENTURES & THE DENGIST STRATEGIES

The economic reforms launched by the Dengist reformers in the Post-Cultural Revolution era have liberalized Chinese society economically, politically and socially. The topic of discussion in this chapter, the development of joint-ventures in China, can be seen as one of the more dramatic changes in the Communist Chinese policy of economic reform and opening to the outside world. Several themes are critical to understanding the Chinese rationale and its attitude toward the metamorphosis of the joint-ventures regime in China. These themes include: (1) ideological conflict between socialism and capitalism ; (2) China's historical sensitivity about foreign control; (3) central vs. provincial negotiating leverages and their

impact on joint-venture development; and, finally, (4) the role of leadership rivalry in shaping joint-venture policies. These themes will be discussed in reference to the three factors mentioned above: ideological, leadership, and organizational problems.

A. Ideological Obstacles

For purposes of this study, ideology will be defined as a set of interrelated political ideas that shape individuals' worldviews.⁸⁴ Working from this definition, the dominant problem with ideology in China, as in most countries, is that ideology is often comprised of various layers that combine not only cultural, but also political, social and legal traditions. U.S. investors who wish to conduct business with China should be aware of not only the residual impact of the ideological contention between China and the U.S. but of the complexity of the ideological traditions within China. While the Chinese quest for economic modernization in the Dengist regime has generally resulted in an abandonment of the radical self-reliant and anti-capitalist ideology adopted during the Maoist period, the old thinking can appear to reemerge when the Chinese continue to repeat their positions *ad nauseum* and seem arrogant, stubborn and irrational. Issues that are related to a

⁸⁴Paul Schumaker, Dwight C. Kiel, and Thomas Heilke, Great Ideas/Grand Schemes: Political Ideologies in the Nineteenth and Twentieth Centuries. (New York: The McGraw-Hill Companies, Inc. 1996), 458.

complex mix of Chinese historical, cultural and ideological forces often come into play in joint-venture negotiations. Recognizing some of the sources of Chinese attitudes in these negotiations can sometimes keep talks on track when progress seems like a remote possibility.

Despite the continuing differences between Chinese and American negotiators, the Chinese may be willing to compromise as long as it serves their goal of modernization. This flexibility reflects Deng Xiaoping's larger willingness to sacrifice Maoist ideology when it interfered with the primary goal of strengthening and enriching China. Deng thus abandoned much of the Maoist egalitarian and self-sufficiency principles for a modernization program that stressed material incentives and the acquisition of foreign investment and technology. The Dengist reformers' adoption of the joint-venture regime may be seen as reflecting this pragmatic and "economics first" approach. The rationale behind the Dengist reformers' approach was to use joint ventures as a means to acquire and master the use of advanced technology and equipment without having to make the heavy outlay of foreign exchange that would be involved in outright purchases. Joint-ventures may then be deemed as one means reformers used to offset the expenses of acquiring foreign technology and skills by capitalizing on the resources readily available in China--land, labor, and natural resources. Joint ventures also are a means of providing the

Chinese with valuable experience in modern economic management and production. It is in this context, as least initially, that reformers first bowed to the need to learn from the capitalist countries.⁸⁵

Although China has shown extraordinary pragmatism under Deng--indeed, many would argue that China is no longer socialist--China remains adamant in defense of what it perceives as "sovereign" issues. This would seem to suggest continued difficulties in integrating China into the international community because, as the international political economy becomes increasingly interdependent, sovereign powers of individual nations are likely to diminish. China has already bristled at some perceived "assaults on her sovereignty" demanded for entry into the World Trade Organization (WTO). There is a possibility, particularly at a time of leadership transition, that some leaders will seek to manipulate popular concerns about sovereignty in ways that adversely affect business and other relations with foreigners. Chinese concerns about sovereign rights, *lingtu juchuan*, on a more mundane level are reflected in Article 1 of the PRC's Equity Joint-Venture Law. The law states that

With a view to expanding international economic cooperation and technological exchange, the People's Republic of China permits

⁸⁵Wei Jia, Chinese Foreign Investment Law s and Policies: Evolution and Transformation. (Westport, CN: Quorum Books, 1994),18.

foreign companies, enterprises, other economic entities or individuals (hereinafter referred to as foreign participants) to incorporate themselves, within the territory of the People's Republic of China, into joint ventures with Chinese companies, enterprises, or other economic entities (hereinafter referred to as Chinese participants) on the principle of equality and mutual benefits and subject to authorization.

The fact that Chinese placed the sovereignty issue in the first article of the Equity Joint-Venture Law may be seen as a Chinese proclamation to foreigners that despite China's changing attitude toward cooperating with capitalist countries economically, it is still deeply concerned about its authority politically.

In order to understand China's attitude toward the issue of sovereignty, it is important to relate our current discussion to the earlier one on *mianzi*. This image or *mianzi* problem may help to explain what outsiders see as China's stubborn or irrational negotiating behavior toward the international community. As discussed in Chapter Two, while *mianzi* is a universal concept, its applications differ dramatically from one society to another. Relatively speaking, the primary difference between the interpretations of *mianzi* by people who come from a collective society such as China and individualistic citizens lies in how personally one takes criticisms, whether those criticisms are made in public, whether the criticisms are perceived to be constructive or derogatory in nature, and, finally, whether the *guanxi* between

the two parties is positive or negative. While people from both collective and individualistic cultures tend to dislike criticism, some individualists seem to be able to separate the criticism from the individual.⁸⁶ This relates to the Western belief about objective reality, whereas Eastern traditions tend to synthesize a person's belief and his/her experience. Because of such different logical orientations, collectivists tend to find criticisms as *mianzi* issues because they perceive criticisms, especially those made in public, to be a reflection of personal incompetence, and thus threatening to the images they wish to project to others.

China's firm stand in treating human rights as a sovereign issue when being publicly criticized by the U.S. may be understood in part from this perspective. Much like its collective-oriented citizens, China as a nation lacks the ability to separate criticism of its behavior from criticism of the country's essential image. Consequently, when China perceives itself being humiliated in front of others, its priority becomes restoring *mianzi* instead of resolving problems. In order to restore China's international reputation and curb future foreign interference, China declared human rights an issue of sovereignty

⁸⁶A discussion with Dr. Harry Harding on February 13, 1996, in which he pointed out to me that the degree to which one takes criticism personally is a good operational definition of the concept, *mianzi*.

because such a declaration provides the only option that allows it to project all image of control over domestic matters to the international community.

On a related front, while the Dengist reformers may be flexible about certain economic policies, the long-standing isolationist nature of Chinese foreign policies continues to influence joint-venture development. In 1979, when China first adopted its Equity Joint-Venture Laws, the general principle for China's economic development did not depart in any way from the Maoist self-reliance principle, or *ziligengseng*. The most vivid example may be seen in the hindrance of private sector development even in the Dengist economy. Despite the rapid economic growth in China, the truly independent private sector still constitutes a distinct minority of China's total employment and industrial output, while large State-Owned Enterprises (SOEs) continue to be the largest sector of the Chinese employment and industrial output.

In their effort to modernize China, although the Chinese reformers realize that the large SOEs are filled with flaws undermining managerial autonomy and profit maximization, they must surrender. This is partly because the government fears that inflation and unemployment can turn into popular unrest as evidenced by the Tiananmen Incident in June 4, 1989. Instead, the Chinese government used the profit earned by the private sector to subsidize the losses of the huge SOEs. This *ti-yung* (peripheral and essence)

approach of using the profits made by the peripheral private sector to supplement the core commercial sectors is not unprecedented in China and, in fact, may be attributed to the Chinese emphasis on borrowing others' technology but wishing to sustain political independence.

Additionally, the collective nature of the Chinese society also tends to pose dilemmas for the Chinese government's goals to promote self-reliant policies as a national goal. The core of the problem here is that the concept of self-reliance does not necessarily reach individuals at the societal level. This is mostly because in China, individuals are usually protected and supported by their families or the groups to which they belong. These attitudes have long cultural roots that have made self-reliance, which sometimes requires an individual to make sacrifices for other Chinese they do not know, an unpopular belief.

China's concern about "equality and mutual benefit" is another crucial theme commonly found in early joint-venture documents. The Chinese perception of "equality and mutual benefit" is quite different from U.S. capitalistic traditions. Chinese are likely to proclaim that all phases of joint-venture operations--including domestic market distribution, export, domestic content, the chair of the board, and termination of the joint-venture--must subject to Chinese control. Consequently, while encouraging foreign

investments as a means to modernize China, the Chinese government continues to view joint-ventures as a capitalist element that must be controlled and to stress that joint-ventures will be dominated by socialist public ownership.⁸⁷ It is true that, in small ways, the Chinese reformers have loosened a number of the specific provisions that they had originally designed to protect “socialist” ownership and values. Yet, these changes did not seriously threaten China’s sovereignty or “equality and mutual benefit” as a socialistic or nationalistic ideal. Rather, the changes arose from the reformers’ growing confidence that China’s ability to protect these values was not threatened by its maturing foreign investment policy.

B. Factional Politics and Joint-Venture Development in China

Leadership rivalries within the Chinese Communist Party (CCP) among conservatives, moderates and radical reformers have consistently helped shape much of Post-Mao China’s economic policies. This phenomenon is also exemplified by the evolution of equity joint-ventures in China. Reform-minded leaders are usually moderates, not unlike Deng himself, who endorse somewhat faster and more comprehensive price and wage reform, and urge greater reliance on the market. Radical reformers’ positions are similar to those of the moderate reformers except that they

⁸⁷Jia, 19.

endorse an even more rapid modernization processes and exhibit a greater tolerance of market measures, even to the point of the abandonment of the “socialist” economy.⁸⁸ Conservative leaders, however, who favor a slower pace of reform and more reliance on central planning, oppose such development, fearing that the Chinese government would lose control to foreigners.

If leadership rivalry is a dominant force in China, the Chinese political arena is also by nature highly personal; that is to say, formal positions do not always equate with power. Instead, officials who have more *guanxi* within the bureaucratic network are those who are more likely to have the power to get things done. In contemporary Chinese politics, Deng Xiaoping is perhaps the best example of the extremely personal nature of Chinese bureaucracy. After Mao died, Deng rose to power primarily through the formal positions he held, but through his connection, or *guanxi*, with military and party members, many of whom he cultivated as head of the party’s huge central secretariat. Deng brought Hu Yaobang, Zhao Ziyang, Hu Qiamu and many other crucial figures into contemporary Chinese politics. In 1980 and 1981, Zhao Ziyang and Hu Yaobang became the Vice Premier of China and Chairman of the Central Committee, respectively. Their moderate leadership, exercised under Deng’s

⁸⁸Harding, 1987, 99-128.

protective cloak, contributed to the success of the Dengist “economic miracle.”

The personal nature in Chinese leadership politics tends to operate in a political environment that is viewed as a “zero-sum game”; i.e., whenever one faction gains power, it attempts to suppress other factions that might challenge it. This phenomenon, in conjunction with real differences in policy among factions, has helped to create cycles of economic and political reform and retrenchment during the Dengist era. The struggle over policy has also had an inevitable effect on Sino-foreign joint-venture negotiations, influencing the pace of national integration, the prices to be paid to domestic suppliers, the schedules for delivery of goods, and transfer of technology to the suppliers to make the part and maintain quality.⁸⁹

Another trend that suggests internal struggles in contemporary joint-venture regime development is a periodic concern about what is perceived as the undue independence of joint venture enterprises. While reformers have consistently championed the establishment of joint ventures as a means of accelerating technology transfer and reducing costs, they have been susceptible to conservative criticism when the economy, in part driven by foreign investment and joint venture production, has moved toward periods of

⁸⁹Jia, 239.

hyper-inflation. Such periods inevitably see an increase in Chinese conservatives' criticism of the diminished role of the state, evidenced by increasing foreign domination through the activity of multinational corporations (MNCs) and the rising power of local and provincial governments. Since the reformist coastal provinces contribute the bulk of the central government's tax income, however, provincial interests have had a powerful weapon to wield against their more conservative opponents.

Reflecting its sometimes very justifiable concerns about local autonomy, the central government has often been hesitant to yield too much control to foreign joint-venture partners. This problem may worsen; as the joint-venture regime matures in China, the center's control over joint ventures will likely diminish into a less direct policy of regulation. The move away from central and forward regulation has been reflected in a sequence of four phases of the joint ventures regime: equity joint-ventures, non-equity-ventures, wholly-owned foreign economic enterprises (WFOEs) and the newest forms of joint-ventures. In the earliest stages of Chinese joint ventures--largely because of party concern about the need to maintain "socialist" control--foreign investors had little control in either operational or management matters. China enforced a rigorous standard in selecting joint-venture partners, giving preference to those willing to form joint-ventures with

the state-owned enterprises, but more recently, the Communist attitude toward foreign control in joint-ventures has become less onerous. The constraints placed on who qualifies to be joint-venture partners have also become less restrictive. This loosening of restrictions has occurred largely because of three factors:

- 1) the overall economic structural reform that began in the early 1980s was based on the premise that private initiatives must be liberated;
- 2) a private sector established with the benefit of a fairly stable policy has proved to be not only a necessary supplement, but also the most dynamic sector of the Chinese economy;
- 3) the general trend during the second phase to liberalize FDI control and improve the climate for FDI argued in favor of adopting regulatory measures rather than imposing rigid controls.⁹⁰

A final dilemma affecting foreign joint venture enterprises has been the Chinese leadership's ambivalent attitude toward "modernization" and "westernization." Westerners should realize that Chinese reformers do not equate "modernization" with "westernization." For some Chinese leaders, particularly the conservatives, Western liberal traditions emphasizing the rights of individuals were primary factors in creating social problems such as crime, corruption, and prostitution to China. Conservative leaders have continuously used these adverse effects of Western influence to launch

⁹⁰Jia, 23.

campaigns against radical reform. One such campaign was the Campaign Against Spiritual Pollution (CASP) in 1983, which developed into a serious challenge to the reformers' legitimacy and authority. While Dengist reformers have tended to tolerate the social costs of modernization, they too see individual rights as inferior to the collective right and have made it clear (as at Tiananmen) that they will tolerate no fundamental threat to the Chinese Communist Party (CCP).

C. Organizational problems and joint-ventures in China

In addition to the personal nature of leadership politics in China described above, it is also important for foreign negotiators to understand the organizational aspect of the Chinese bureaucracy. Several aspects of Chinese organizational structure may, in fact, affect Chinese negotiating styles. First, the Chinese political organization and its decision-making processes are comprised of a set of vertically interlinked systems, called *xitongs*. Theoretically speaking, the Chinese government is a hierarchical organization whose apex is a central committee, and, more narrowly, a politburo, with levels of provincial and local organizations descending to the basic units of social organization such as factories. Inherent in this perplexing structure is a problem of "fragmented authoritarianism."⁹¹ Again, because power tends to be

⁹¹Lieberthal, 176.

associated with individuals rather than formal positions, and because of the nature of Chinese politics, authority tends to be spread out at different levels within an organization. According to Kenneth Lieberthal, one consequence of this fragmented organizational pattern is that, although the formal organizational structure is hierarchical, junior officials often respond not only to one leader but to several leaders. During the Maoist regime, this flawed top-down approach at times contributed directly to distorted production, as cadres at each level of government exaggerated the quantity of production in attempts to gain *mianzi* and impress upper level officials in order to build better *guanxi* with their superiors. When this system is transferred to a negotiation context, the difficulty often boils down to who is really in charge in a negotiation and who has the power to make decisions. In fact, foreign negotiators should be aware that those who participate in the negotiations often do not have actual powers to make decisions; instead, they can merely report their perceptions of their counterparts' offers to those who actually do have the power to decide. This structural explanation may help explain the apparently noncommittal negotiating behavior that Chinese often exhibit at the table.

The second problem of which negotiators should be aware is the fine distinction between establishing *guanxi* and engaging in corruption. The

ambiguous nature of the corruption issue is in fact a “catch-22” situation. For instance, the U.S. Foreign Corrupt Practices Act of 1988 (FCPA) prohibits bribery of foreign officials. Its intention from the beginning, however, was to facilitate “grease” payments.⁹² In reality, representatives of the business community have long argued that it is unrealistic to expect them to deal with their negotiating counterparts in an objective manner in the context of complex international transactions where most of the activity takes place outside of ethical constraints accepted by the United States.⁹³ The ambivalence about the anti-bribery provision in FCPA involves the question of the standard used to govern liability for illegal payments by third parties. The technical ambiguity about this provision is summarized by Folsom, Gordon and Sponagle in their book, International Business Transactions: A Problem-Oriented Coursebook. According to these legal experts,

the basic prohibition on payment to foreign officials extends to any foreign political party or official thereof or any candidate for foreign political office, and to third parties who make such payments while “knowing or having reasons to know” that some or all of the money will be paid as a bribe.⁹⁴

⁹²Ralph Folsom, Michael Gordon and John Sponagle, International Business Transactions. (St. Paul, MN: West Publishing Co. 1991), 569.

⁹³Folsom, Gordon, and Sponagle, 569.

⁹⁴Folsom, Gordon, and Sponagle, 569.

Businesses interested in investing in developing countries such as China are thus confronted by a tension between technical legal constraints guided by domestic laws or international laws and the realities of local cultural traditions. For instance, because resources are scarce and often allocated unequally in developing countries such as China, those who have the power or *guanxi* may abuse their positions to benefit themselves or their ingroup. This practice, widely known to both Chinese and foreigners, is called *dzou houmen* or “going through the backdoor.” In such cases, *guanxi* is all-important because, in order to get things done, the person who needs a favor has to call upon the right people to help. Depending on the level of friendship, a “grease payment,” or as Chinese commonly say, “tea money,” is often used to conclude or speed up a transaction.

A third dilemma of which foreign negotiators should be aware is the differing nature of Chinese and Western legal systems. Although China has taken steps to reform its legal system, specifically to make it an institution that offers some protection to foreign investments, it falls short of the Western model. At a basic level, Chinese courts lack the judicial autonomy required to be effective and impartial. In part, this problem of judicial autonomy stems from the legacy of having courts viewed as vehicles of Communist party policy and control. However, in fact, many major judicial decisions are still

made in closed party cell meetings, not in open courts. This judicial policy obviously undermines foreign investors' confidence.⁹⁵

A final point affects the business climate for foreign joint ventures: because of the collective nature of the society, most Chinese are extremely self-conscious about others' opinions. Placing this cultural feature in a complex Chinese organizational context, the problem of *mianzi* is often magnified. Many Chinese will go to great lengths to protect their own images; in fact, they may be willing to break their promises with foreigners to avoid looking incompetent in front of the Chinese ministries to which they report. In one case, the Chinese purchased \$5 million dollar worth of fax machines, then believed that these fax machines they ordered were defective and reported this problem to the ministries at the upper level.⁹⁶ However, the fax machines were not defective; when the Chinese realized that the fault was theirs, they nevertheless returned all the machines to avoid the loss of face that would have occurred had they admitted their mistake. This example supports the significant role that face plays in negotiations. Foreign negotiators should

⁹⁵For a general discussion of the lack of judicial autonomy, see Pitman B. Potter, ed., Domestic Law Reforms in Post-Mao China. (Armonk, NY: M.E. Sharpe, 1993).

⁹⁶James Shapiro, et al., Direct Investments and Joint Ventures in China. (New York: Quorum Book 1992), 237.

be aware that rational decision-making may go by the wayside if their Chinese counterparts believe their reputation has been threatened.

CHINESE PERCEPTIONS ON FIVE SUBSTANTIVE ISSUES

In order to provide a conceptual basis by which one can understand the simulation outcomes in the next chapter, I will now analyze the Chinese perception of five substantive matters concerning Sino-foreign joint-ventures. These issues include Chinese attitudes toward (1) law, (2) ownership, (3) contracts, (4) intellectual property rights, and, finally (5) export controls.

A. Chinese Attitudes Toward Law

Interviews of many Western legal scholars suggest that the Chinese legal system has improved tremendously since the Maoist regime. Unfortunately, there is still considerable tension between various Chinese traditions and Western rationalistic-based legal thinking styles. Four problems are particularly sensitive to the Chinese and thus shape their attitudes toward law.

Western legal experts claim, first, that Chinese do not accept the Western notion of the sanctity of law. While some observers have ascribed this claim to simple xenophobia, the Chinese attitudes toward law illustrate not merely anti-Western rule-based traditions but a deeply-seated gap between

Confucianism and legalism. Although Confucianism has been a dominating philosophical framework during much of Chinese history, a strong emphasis on strict law and punishment gained sway as early as the Ch'in dynasty (221-207 B.C.). This emphasis created a conflict of interest between Confucian rites and law at both the popular and governmental level. The conflict between the two traditions arose because the two basic operating assumptions are different. In order to promote an ordered society, Confucianism emphasizes the cultivation of inner morality and places faith in the practice of commonly accepted "rules of conduct."⁹⁷ At the other extreme, the basic assumption of the Chinese legalists (the Chinese proponents for "rule of law") is that people are essentially evil and not to be trusted. Therefore, the only way to promote an ordered society is for the leaders to impose punitive rules and coerce citizens to follow them. The different views between these two traditions is best illustrated in the following quote:

Govern the people by laws, and regulate them by penalties, and they will try to do no wrong but they will lose the sense of shame. Govern the people by virtue and restrain them by rules of propriety and the people will have a sense of shame and be refrained by themselves.⁹⁸

⁹⁷William Theodore DeBary, ed., Sources of Chinese Tradition. (New York: Columbia University Press, 1960), 28.

⁹⁸DeBary, 32.

Beside the philosophical differences on what laws do, there are also at least two inherent structural differences between laws in China and in the West. One is the direction of laws (the entity laws protect), and another is the substance of laws. The relationship between the direction of laws and the rise of conflicts is not always obvious. Despite the legal reformers' efforts to improve the legal infrastructure, investment laws or joint-venture laws are continually being seen as subsidiary laws, and thus are constructed to supplement the larger legal framework, such as the Constitution. Structural conflicts occur because subsidiary laws and core laws protect different subjects. On the surface, joint-venture laws are subsidiary laws developed to promote investors' confidence to invest in China; therefore, a primary prerequisite of such laws is to protect the individual's investment interests. However, because these joint-venture laws are also only supplementary laws, they are assumed to be inferior to the Chinese Constitution, the core document of the Chinese legal system, which evidently protects the power of the state. Conflicts between these two types of laws arise when a foreign business presumably violates the Chinese state interests: which laws will the Chinese government apply? This is an important question because if the Chinese eventually declare the state's interest supremacy on all occasions, the

development of private investment laws may be seen as just a hollow promise to lure foreign investors to China.

Regarding the substantive differences in Chinese laws, investors should realize that rather than making modifications to a basic investment law, non-market economies such as China have tended to view the joint-venture regime as a transitory institution which constantly needs adjustment and updating. For that reason, language in the Chinese Constitutions tend to be phrased in a more specific, substantive manner, aimed at protecting the core of the system, the state and the CCP. Such an attitude presents a sharp contrast with the general, more procedurally-oriented approach of Western Constitutions, particularly that of the United States.

Western legal and constitutional frameworks tend to create general guidelines to protect individual freedoms while preserving some “checks and balances” in the larger institutional framework. For instance, in the U.S. Constitution, with the exception of the specific rights granted to individuals under the Bill of Rights, the remaining language tends to be general, thereby allowing flexible interpretations.⁹⁹ In contrast, the Chinese Constitution embodies more specific, substantive duties and rights.

⁹⁹This point was addressed by Professor Clyde D. Stoltenberg in a discussion about the direction and substance concerning Chinese laws.

The Chinese specific approach toward laws should not be difficult to understand if one is aware of the legacy of authoritarian tradition in China. In such a tradition, the ultimate priority is protecting the state or the members of the party in power. In fact, since the Communist Chinese took over in 1949, China has adopted four different Constitutions, each presupposing an assumption that, as the society changes, specific language in the Constitution also requires adaptation and change to protect the authority of the state and the CCP.

A third difference between Chinese and Western legal tradition concerns the distinction between the concepts of “rule by law” and “rule of law.” Despite the legal reformers’ continuous efforts to change societal norms, China remains a society emphasizing “rule by law” instead of “rule of law.” The most crucial difference between the “rule of law” and “rule by law” is that the former tradition sees laws as an end in themselves to promote social order and curb the power of individuals and the state. Adhering to the “rule by law” tradition by which law is viewed as subservient to politics, China perceives laws only as a means to achieve modernization under the continued dominance of the party. In Stanley Lubman’s words, contemporary laws in China are seen as “technical adjunct to economic reforms.”¹⁰⁰ In this respect,

laws in Chinese society do not have as much stature as they do in the West. Consequently, problems seen in the West as legal matters and appropriately brought before legal institutions are likely to continue to be ruled by more informal means or socially oriented methods in China.

B. Ownership

Like all other major aspects in our discussion, Chinese perceptions of ownership are also somewhat different than those of the Americans. Laypersons with the field of business management may be inclined to believe that the partner holding majority ownership will have the power to call the shots. However, in no business settings, particularly when they involve cross-national business dealings, are issues so clear-cut. The most important contrast concerning the issue of ownership is that in China, ownership serves primarily collective or, perhaps more accurately, the state's interests; in the West, at least theoretically, ownership protects the individuals' rights. To date, three types of ownership have existed within the Chinese economy: the state-owned enterprises or SOEs (owned by the whole people), collective ownership, and private ownership. The SOEs have been the backbone of the Chinese industrial and commercial sector. The dominant feature of these enterprises is that they are run under the big government premises and have

¹⁰⁰Stanley Lubman, Domestic Law Reforms in Post-Mao China. Pitman B. Potter, ed. (Armonk, NY: M.E. Sharpe, 1994), 8.

little concern with maximizing profits, improving efficiency, or providing financial incentives to motivate employees to work harder. Because large SOEs continue to dominate much of today's commercial activity in China, several problems arise.¹⁰¹

The first problem for foreign investors regarding to negotiation over ownership in China is the state's involvement in private sectors. When China first decided to liberalize its investment climate during the Dengist regime, it selected equity joint-ventures as the method to absorb technology and management skills. For this reason, joint-ventures in China tend to involve limited liability companies that have two or more partners pooling their capital to create a separate legal entity for the purpose of undertaking another business entity. In respect to ownership, the partners (foreign or Chinese) contribute their assets which may be in the form of cash, know-how, material goods, equipment, buildings, or the right to use the venture site. However, it is ironic that while the Chinese partner may claim to contribute land as capital, the formal ownership of land remains with the Chinese government. This then creates a dilemma of state vs. individual in joint-venture ownership. That is, after the contract expires, all assets, including the technology provided by foreigners, revert to the Chinese, even though the foreign investors are said to

¹⁰¹Shapiro, 227.

be compensated.¹⁰² This again illustrates the reformers' thirst for using joint-ventures as a means to transfer technology and modernize China.

The second problem foreign investors face in negotiating with Chinese joint-venture partners is dealing with the Chinese perception of "control" in ownership. The approach China took to preserve its control, as reflected in the arrangement of equity-limits, is not uncommon to other socialist and developing countries. This was particularly true during the 1970s. China, however, unlike other socialist and developing countries, did not see equity-limit as being merely a control issue. As Margaret M. Pearson has pointed out, Chinese reformers believed, even in the early stage of its joint-venture regime, that "the proportion of the contribution of a party to a joint-venture. . ." has nothing to do with national sovereignty.¹⁰³ In fact, while the Chinese prefer majority ownership. They do not limit their foreign joint-venture partner to a maximum of forty-nine percent of the ownership. To compensate for the liberal attitude taken toward the limit on foreign ownership, the Chinese, in fact, share many Westerners' belief that the power to make

¹⁰²Margaret M. Pearson, Joint-Ventures in the People's Republic of China: The Control of Foreign Direct Investment Under Socialism. (Princeton, NJ: Princeton University Press, 1991), 81.

¹⁰³Pearson, 104-105.

decisions in the day-to-day operations is just as important as occupying majority ownership in a joint-venture.

C. Contracts

As suggested in the last chapter, the Chinese hold a completely different view from Westerners regarding contracts. With few exceptions, normal joint-venture contracts have been limited in length to between ten and thirty years. The precise duration is negotiable, and the joint-venture contracts often may be renewed. In this respect, foreign negotiators must be aware of at least two issues that are particularly important in understanding the Chinese perception toward contracts.

First, in the West, negotiating parties are legally bound by contract or, more accurately, the specific language within the contract. The basis of obligation is different for the Chinese. For them, a contract is more likely to be seen as a marriage than a strict legal document. In this respect, the relationship governing the establishment of contracts is much more important and creates a formal obligation on both parties. In fact, in order to demonstrate their sincerity, foreign joint-venture partners are often expected to concede more than their Chinese counterparts in negotiating contracts. In this context, Chinese behavior is often based on what Richard H. Solomon terms

the “you need us” mentality.¹⁰⁴ Realizing its growing importance in the global economy, economically as well as strategically, the Chinese reason that the foreign investors should be willing to make compromises. In addition to the “you need us” mentality, the Chinese also possess a “you can afford to” mentality, i.e., the presumption that developed countries are well-off enough that they should not mind sharing their technology and resources. When negotiating with the Chinese, understanding this point is crucial in balancing precision with flexibility. One needs detailed documentation to define what both parties are willing to commit in the way of resources. U.S. negotiators must expect to show flexibility, however, to integrate future unforeseen circumstances without the need for formal contractual changes.

Despite the rising legal consciousness in China [for instance the promulgation of the Foreign Economic Contract Law (FECL) of 1985)], Chinese laws continue to be subservient to politics. The function of economic contracts in China demonstrates this point. According to James Feinerman, there is a constant tension between the use of contracts as an administrative device and as a means to protect the rights and ensure obligations of the economic actors.¹⁰⁵ In order to remove some controlling aspects of the

¹⁰⁴Solomon, 9.

¹⁰⁵Lubman, 8.

politics-in-command system, reformers have utilized contracts as a tool to strengthen the autonomy of economic actors and increase foreign investors' confidence.¹⁰⁶ However, it is important to note that one's Chinese partners may be subject to pressure from above to which they must bow. In addition, parties to contracts do not have equal power. Even if the parties to disputes are aware of legal rights, for example, political officials can use their leverage to interfere in the settlement process.

Finally, the insertion of *force majeure* as a contract provision is often an acceptable concept even to the Chinese. However, it is important for foreigners to realize that some Chinese, showing little understanding of some of the external constraints placed on their foreign partners, and fail to accept responsibility themselves. Before the Coordinating Committee (COCOM) ceased to exist in 1994, some Chinese used to blame the delays in delivery on the U.S. export regulations. This was because a minimum of 120 days were required to review the export to China of products that the U.S. deemed as high risks. Despite this well-known requirement, however, it was not uncommon for Chinese to demand compensation for delayed delivery. Delays on the Chinese side were even more common and almost never made up to the foreign partner.

¹⁰⁶Shapiro, 247.

D. Intellectual Property Rights

Many conceptual problems are present when examining intellectual property rights (IPR) dilemmas in China, by contrast with resources such as land, which are finite “ideas.” This makes it both difficult to declare ownership and extremely easy to violate. Furthermore, although the international intellectual property rights protection community has exerted considerable effort to come up with universal agreement on IPR, IPR protection continues to be available only insofar as it is provided by individual countries. This fact makes violations of IPR a much more difficult issue when cross-cultural issues are involved.¹⁰⁷ Three problems are particularly sensitive concerning the PRC’s state-centered approach to politics and trade; each increases the chances of IPR violations in China.

First, the most problematic philosophical concerns related to IPR are not only ethical issues, but political and economic ones as well. In order to defend the “ethical” interpretation, it is crucial to define human “motifs” from a Western teleological (consequence-based) approach because such an approach explains the reasoning behind the Dengists’ pragmatic policies. In simplest terms, China views the IPR issue from a strictly utilitarian perspective, i.e., from the perspective that “the end justifies the means.” This

¹⁰⁷Kane et al., 135.

attitude is evident in Deng's famous quote: "It does not matter whether a cat is black or white, as long as it catches mice." In China's view, therefore, as long as violations of IPR serve the purpose of increasing the modernization of China, they are justified. Under the circumstances, it will be extremely difficult for the U.S. to stop China from violating IPR.

Second, as Chapter 2 suggested, there is a notable cultural distinction between U.S. and Chinese views about individualism and collectivism. While individualistic cultures such as the U.S. stress individual rights, rights to privacy, and, more importantly, competition among individuals, a collective society such as China emphasizes cooperation among each member of its society. In the Dengist era, the party has sought to tap a collective commitment to help modernize China at all costs.¹⁰⁸ This cultural issue, then, poses a problem of conflicting interests between individual rights and collective goods. However, currently, copyright laws in most countries, including both the U.S. and China, secure only "a core group of rights" rather than the rights of private persons or individuals. For instance, most copyright conventions only mandate that nations' laws conform to international standards; they do not bind private persons directly.¹⁰⁹ Moreover, if a

¹⁰⁸Marke, 178.

¹⁰⁹Kane et. al, 62.

signatory nation fails to meet the international standards, most international treaties have no effective mechanism with which to compel compliance beyond applying bilateral sanctions.¹¹⁰ However, in China's case, the issue concerning their entrance to the World Trade Organization (WTO) may provide negotiating leverage for the U.S.

The final difficulty of promoting IPR protection in China is less conceptually related, but rather a practical question from the Chinese leaders' political standpoint. In one significant way, the IPR issue is similar to the Most Favored Nation (MFN) trade status issue because the Chinese leadership has initially declared both issues to be sovereign problems. After the U.S. forced China to make significant improvements on human rights as a precondition for renewing China's MFN trade status, the Chinese leadership responded with outrage and hostility. While the Chinese insist that both human rights and IPR protection are sovereign issues, it is perhaps more accurate to say that the Chinese responded the way they did because the leadership felt that they had been humiliated and lost face in front of their own people and other countries as well. More importantly, the economic liberalization China experienced under the Dengist regime directly challenged

¹¹⁰Kane et. al., 1993: 162.

the party leaders' authority and threatened the existence of the current political regime.

The Chinese negotiating pattern in the IPR context suggests that Chinese leaders may not hold IPR to be the sovereign issue they claim it to be, but are instead using this guise as a means to play "hard ball" with the U.S. to protest U.S. interference in Chinese domestic politics, in order to curb future interference with Chinese domestic politics. The decision to sign the IPR argument probably reflects a sober realization that severe economic and political consequences would result if the Chinese leadership responded in the same overtly political fashion as the U.S.¹¹¹

E. Export Control

Unlike import controls, which are governed primarily by a series of trade acts dating back to the 1930's, U.S. controls on exports are primarily ruled by statute.¹¹² That being said, U.S. export controls tend, at times, to be heavily influenced by political forces. This reflects, in part, the three goals they serve: the control of goods in short supply, the goals of American foreign policy, and the interest of national security.¹¹³

¹¹¹Yu Fan Hao and Guo Cang Huan, The Chinese View of the World. (New York: Pantheon Books, 1989), 71.

¹¹²Ralph Folsom and Michael Gordon. International Business Transactions. (St. Paul, MN: West Publishing Company, 1995), 275.

Two examples are important in illustrating the argument that U.S. export control issues reflect not only trade-related concerns, but ideological and strategic concerns as well. First, the structure and content of rules and regulations concerning United States exports are not only extremely complex, but, from a Chinese perspective, often discriminatory as well. Constrained by U.S. export control laws, American negotiators who wish to export technologically advanced products to China may nevertheless be prohibited from doing so. Generally speaking, there are two types of export licenses: general licenses and validated licenses. These two basic types of licenses are then further broken down into more specific categories based on the level of technology involved in such products, whether those products contradict the three priorities established in CFR (short supply control, foreign policy control and national security control), and the country group.¹¹⁴ Exporters should realize that compliance with the U.S. export regulations is absolutely essential

¹¹³According to Ralph Folsom and Michael Gordon, “foreign policy has caused the United States to limit exports at great cost both to United States companies and to foreign relations. The United States imposed severe export restrictions after the USSR invaded Poland in 1982. The controls limited the sales of United States companies’ subsidiaries in Europe and gained the wrath of several European nations.” See Folsom and Gordon, ed., 1995, 276. For a brief discussion on the use of export control for political ends, also see Folsom, Gordon & Sponagle. International Business Transactions: A Problem-Oriented Coursebook. (ed. 1995).

¹¹⁴Folsom, Gordon and Sponagle, 504.

because failing to comply with such laws will cause the U.S. to impose severe sanctions.

Since 1949, China's pattern of export relations with the United States has been directly influenced by U.S. foreign policy. In 1949, after the Communists took over China, the U.S. imposed a trade embargo on China. In 1969, the absolute ban prohibiting exports to and imports from China was lifted under the Export Administration Act (EAA). In 1980, the U.S. export administration granted China a specific one-country group category, "Group P," and formally ceased to associate China with the Soviet Union. In 1981, the U.S. promulgated the so-called "two-times policy" which was meant to allow exports from the U.S. to the PRC to rise to twice the level of technical sophistication allowed for exports to the Soviet Union. Finally, in 1983, the U.S. realized that the "two-times policy" was difficult to implement at a practical level, and placed the PRC into country "Group V." Until recently, the technical definition of Group V included countries that were mostly allies to the U.S., and were subject to relatively few restrictions under Export Administration Regulations (EAR) provisions.¹¹⁵

¹¹⁵Evan R. Berlack and Cecil Hunt, Coping with U.S. Export Controls 1994. (New York: Practising Law Institute, 1994): 64. Also see Harry Harding, A Fragile Relationship: The United States and China since 1972. (Washington, D.C.: The Brookings Institution, 1992), 414 footnote 50 and 51. According to Dr. Harding, "the Coordinating Committee (COCOM), then consisting of Japan and all North Atlantic Treaty Organization (NATO)

While the change from Group P to Group V suggests an improvement in Sino-U.S. trade relations, Chinese reformers may have felt otherwise, for China remained subject to extra license restrictions, for example, COCOM restrictions,¹¹⁶ not imposed on other countries in Group V.¹¹⁷ Technology transfer remains one of the most difficult issues for Americans to negotiate with the Chinese. Besides limiting export products by types, the U.S. Export Administration also created a Commodity Control List (CCL) aimed at limiting the dollar amount allowed for U.S. exports to China that attempts to limit the dollar amount allowed for U.S. exports to China. Generally speaking, the CCL contains various “zones of approval” (green, yellow and red),¹¹⁸ that reveal the types of restrictions imposed on a certain geographical location. The Chinese were placed in a category that, from Beijing’s perspective, is discriminatory toward China and reflects a conscious U.S.

countries except Iceland, reviewed applications for technology transfer to China, the Soviet Union, and other Communist countries.” 414.

¹¹⁶COCOM was eliminated in 1994; instead, many of the technical regulations were integrated into the Export Administration Regulations (EAR). Folsom and Gordon, 505-506.

¹¹⁷Folsom, Gordon and Sponagle, 505.

¹¹⁸The green zone includes items of low technical sophistication and carries a presumption of approval without interagency review. Yellow zone items are reviewed carefully before approval is given. Red zone items, which traditionally include highly sophisticated military application items, are denied approval. According to Folsom and Gordon, items in the green zone have generally been deleted from license GLV; exports of items on the CCL that would ordinarily require a validated license may be exported without a validated license if the shipment is below the allowable dollar amount listed for that particular commodity on the CCL. See Folsom and Gordon, 505-506.

attempt to prevent China from having access to high-level technology. The logic behind the Chinese argument is that although PRC is listed as a Group V country, it is expressly given a zero (\$0) GLV dollar amount for all CCL commodities. This dollar amount exclusion required exporters of controlled commodities to obtain a validated license for every PRC export, including even exports of insignificant value.¹¹⁹

My intention in discussing the relationship aspect of intercultural negotiations (Chapter 2) and the substantive details of Sino-U.S. trade relations (Chapter 3) has been to provide some basis to understand the complexities involved in intercultural negotiations. In this respect, I entirely agree with Grant Savage et al's suggestion that both relationships and substance need to be considered when using negotiation to resolve conflict.¹²⁰ Besides considering one's own substantive interests in relation to his or her negotiating counterparts, however, the outcome of negotiations can be dramatically improved if one can assess his or her opponents' interests and concerns and design strategies to cope with them. For this reason, the importance of relationship and substantive interests cannot be understated. With this in mind, I will turn in Chapter Four to a general discussion of my

¹¹⁹Folsom, Gordon and Sponagle, 506.

¹²⁰Savage et. al, 57.

negotiation research design, the problems inherent in such a design, the theoretical framework of my research, and the findings of simulation. Chapter Four will also relate such findings to the observations made in the previous chapters concerning the differences between Chinese and American negotiating styles.

CHAPTER 4

RESEARCH METHODOLOGY AND OUTCOMES: RESULTS FROM A SINO-U.S. NEGOTIATION SIMULATION

The previous chapters discussed the importance of cultural, political, economic, social and communication issues in analyzing Sino-U.S. negotiation styles. The primary purpose of the current chapter is to discuss the exploratory nature of this pilot study, its research design, methods, instruments, operationalization scheme and research procedures. The explanation is crucial in understanding the simulation outcomes concerning cultural differences between PRC Chinese and American negotiators. For instance, how did the East-West Questionnaire (EWQ) reveal differences in intergroup perception favoring members of the ingroup, while attributing negative assumptions to members of an outgroup? This ingroup-outgroup distinction has received much attention in the social psychology and intercultural communication literature; this existing literature, however, overlooks the concept of cultural distance. In order to help visualize the cultural distance that exists between Chinese and Americans, I designed the EWQ to collect data on fifteen attributes for the purpose of examining the

content of stereotypes American and Chinese hold toward themselves and each other. Later, I will discuss in detail how these fifteen attributes are used. I will also suggest a theory and some initial hypotheses explaining the impact that cultural orientations and stereotypes have on negotiators' perceptions, and how such perception may in turn shape the participants' negotiation styles. This is crucial because previous literature on Sino-U.S. negotiations has paid little attention to the interrelationships of such variables.

Finally, I will use the findings generated by mock negotiations as a basis to discuss the PRC Chinese and American negotiators' responses on five issues (their attitudes toward law, ownership, contracts, intellectual property rights and export controls) in relation to the themes discussed in the previous chapters. Such themes include Geert Hofstede's discussion concerning forward-looking versus past-oriented time orientation inherent in "Confucian dynamism," power distance, uncertainty avoidance, Edward Hall's "high-context" versus "low-context" cultural analogy, Michael Bond and Harry Triandis' measurement on collectivism and individualism, and Stella Ting-Toomey's "face" theory, among others.

RESEARCH OBJECTIVES

This pilot study was designed to explore the following two research questions: (1) What are the most crucial East-West cultural differences perceived in intercultural negotiations? and (2) What are some stylistic differences between PRC and American negotiators? The primary research objectives in this research are fourfold: (1) detecting errors in the current research design, (2) fine-tuning the existing research instruments and tools, (3) determining what is needed to secure measures for elements of the proposed research question, and, finally, (4) developing both a theory to explain the inter-relationships between various variables in the context of intercultural negotiation and some initial hypotheses to be tested for future intercultural negotiation studies. In the following sections, I will discuss the research design, describe possible independent and dependent variables, and examine the methodological problems revealed by this pilot study.

A. Problem Statement

While there have been considerable advances in the study of Sino-U.S. negotiations, two problems continue to be prevalent. The first is a methodological issue. Most analyses of Sino-U.S. negotiation relations have relied extensively on the negotiators' first-hand experience and interviews of

other negotiating experts. The problem with this approach is that it does not allow observers to examine the dynamic negotiating process.

Another problem concerns the time-consuming nature of conducting research. In order to save time, many researchers launch into their negotiation research with certain assumptions about how the Chinese behave without exploring the validity of these assumptions. To remedy such problems, this study was conducted to explore the underlying cultural assumptions affecting Chinese and American negotiating styles. An exploratory simulation study, this research focuses on possible explanations for the interrelationships among the different variables.

A second general criticism of most existing research on Sino-U.S. negotiation is the tendency to examine cultural concepts such as Confucian hierarchy, *guanxi*, and *mianzi* as separate variables. In this study, these cultural concepts are treated as interrelated concepts, and a theory also developed to help explain the interrelationships among political, economic, cultural, social and psychological variables affecting intercultural negotiations. The simulation exercise is crucial in observing how these cultural concepts play out in the negotiation process. The advantage of using simulation as a research tool is that it permits the researcher immediately to test expectations that arise during the planning stage. Other methods, such as time-series

analysis, require much more time to determine the research flaws. Simulation also creates a situation in which the researcher may observe the entire negotiation process. This facilitates my effort to construct a theoretical model for intercultural negotiations. Finally, the reliability of a simulation study can be markedly improved once its flaws have been remedied. One way to achieve such improvement is by increasing its sample, which also serves the application of statistical methods such as correlation analysis or regression analysis.¹²¹

B. Simulation Background

The hypothetical case I designed involves two fictional companies: U.S. Maxwell, Inc., a large computer corporation in the United States, and a PRC company called Hung Yuen. U.S. Maxwell, one of the largest computer firms in the U.S., is interested in setting up a plant in China to produce computer software, monitors, microchips and other hardware. Owing to their limited experience doing business in China, the Maxwell board has decided to seek out a joint-venture partner in China. U.S. Maxwell has decided to invest in China largely because of a deteriorated labor-management relationship within the U.S. plant; in addition, Maxwell's labor union has threatened to

¹²¹Ilan Vertinsky, "Methodology for Social Planning: Simulation and Experimentation on Processes for Participatory Social Developments," in Experimentation and Simulation in Political Science. J. A. Laponce and Paul Smoker, eds., (Toronto: University of Toronto Press, 1972), 435.

strike if employees' benefits are not improved. Hung Yuen, the Chinese company, seeks to use this joint-venture to lure advanced computer technology, increase its capital, and promote future export opportunities.

In this hypothetical joint-venture scenario, the U.S. Maxwell negotiating team is comprised of three members: the president, the vice-president and a general manager. The Hung Yuen negotiating team has six members: the president, the vice-president and four technical managers. It is worth mentioning here that the asymmetrical size of the U.S. and Chinese negotiation team is not uncommon in actual Sino-U.S. commercial and political negotiations. Two reasons may help explain this. First, the Chinese continue to have the view that quantity is better than quality; that is, by having a large negotiation team, the Chinese side may appear to be stronger and thus place its counterpart in an inferior position. Another reason accounting for the smaller size of the U.S. negotiation team is a cost issue. As it is extremely expensive to send a large team overseas to negotiate on a business deal, U.S. negotiation teams are frequently limited to those in the upper level of the organization. Perhaps more importantly, U.S. companies tend to send those who are in the positions to make firm decisions to negotiate. This may not be true for the Chinese side.

In designing this case, I have included five issues for negotiation: ownership, intellectual property rights, contract length and termination, law, and export controls. These issues are not only typical of most U.S.-China negotiations but often provoke conflict between the two sides--a factor that helps to elucidate cultural differences, the existence of stereotypes and other key aspects taken up in this study.¹²² For the purpose of the simulation, each company was given a negotiating position, but the negotiators were allowed a certain degree of authority to change that position. As just noted, the primary motives behind the simulation design are to create conflict and to observe how the Chinese and American negotiators work through the conflicting issues (See Table 1: Original Positions for Joint-Venture Case on next page).

¹²²This simulation case was designed primarily by me in Fall 1994, with assistance from Professors Terry M. Weidner, Clyde D. Stoltenberg, Pete Rowland, and John W. Head. However, I take full responsibility for any flaws in the case design.

TABLE 1 ORIGINAL POSITIONS FOR JOINT-VENTURE CASE

	<u>U.S. Proposal</u>	<u>PRC Proposal</u>
1) <i>Ownership</i>	50: 50 (equity)	70:30 (China holding majority Ownership)
2) <i>Intellectual Property Rights</i>	Take a tough stand demanding the Chinese side to take full responsibility	Refuse to negotiate on this IPR issue
3) <i>Contract Duration</i>	Negotiate a one year contract with the power to terminate	Negotiate a three to five year contract. Refuse to negotiate on the issue of contract termination.
4) <i>Law</i>	Demand that the Chinese comply with both U.S. laws and international laws	Obey Chinese laws and international laws, but not U.S. laws
5) <i>Export Controls</i>	Ask the Chinese to comply with U.S. export regulations	Only comply with Chinese and international laws, not U.S. regulations on export controls

RESEARCH METHODOLOGY

A. Research Design and Operational Procedure

Nine mock negotiators including six Chinese from the People's Republic of China (PRC) and three Americans participated in the mock negotiation created for this project. All subjects except for the Chinese chief negotiator previewed twenty-five minutes of Professor Roger Fisher's "Getting to Yes" videotape during the informational meeting. This informational meeting may be perceived as the pre-negotiation phase, in which the negotiators were also asked to complete the EWQ to understand the content of their stereotypes toward themselves and members of the other group.

All nine subjects (N = 9) were male graduate students, visiting professors or professors at the University of Kansas. Their ages ranged from 25-50. Written materials including negotiating instructions were given to the negotiators, and each side's positions was clearly listed. Both the Chinese and American negotiators were asked to discuss their strategies with their negotiating team for half an hour. Afterward, the actual negotiation took

place; it lasted for an hour.¹²³ As indicated, the subjects were asked to negotiate a joint-venture paying particular attention to five issues: attitude toward laws, ownership, contract, intellectual property rights and export controls.

Several of my assumptions about the dynamics of intercultural negotiations must be mentioned here because they are associated with development of questionnaires and the creation of research procedures to implement the goals of this project.

Stage 1 Pre-negotiation: cultural stereotypes and cultural distance

I used cultural stereotypes as an independent variable (IV) to examine the differences between underlying Chinese and American assumptions about themselves and each other. In this study, stereotypes are an indirect means to examine the concept of perceptual difference and cultural distance. Cultural distance results from the negotiators' use of different languages, different philosophies, different life-styles, different social experiences and different perceptions of each other. Understanding this perceptual difference between Chinese and Americans becomes extremely important because successful negotiation is related in part to how accurately negotiators from both sides

¹²³This joint-venture mock negotiation was held in the conference room of the Lawrence Chamber of Commerce. Arrangements for using the conference room were made possible by Mr. Mike O'Donnell, Director of the KU Small Business Development Center.

perceive each other. In fact, when intercultural negotiations initially take place, negotiators from both sides generally do not have enough information to form accurate pictures of each other; as a result, they turn to how the other culture is stereotypically viewed.

Because of this assumption, I first administered the East West Questionnaire or EWQ (See Appendix B) to survey the stereotypical cultural views that Americans have toward themselves and toward the Chinese. I then compared the outcomes with how Chinese perceive themselves and how they perceive Americans. The EWQ is structured with two columns: the first is labeled “Degree of Attributes for Americans” and the second labeled “Degree of Attributes for the Chinese.” The negotiators were asked to give their opinions of whether the fifteen personality traits are prevalent among Americans and Chinese. These measurements were taken on a 5-point scale ranging from 1 = strongly prevalent to 5 = definitely non-prevalent. In order to help visualize the perceptual differences between two negotiators, in this study “cultural distance” is defined as a multidimensional concept reflecting not only cultural characteristics, but political, economic, social and psychological variables as well. I am working on the assumption that interaction between these variables will create a perceptual difference between two people and this perceptual difference then becomes a key marker of

difference between high-context and low-context culture, between collectivism and individualism, and between the implicit and explicit nature of communication styles.

In order to improve the outcome in intercultural negotiations, cultural distance must first be recognized and narrowed to facilitate effective communication despite the differences. To measure the “cultural distance” between Chinese and Americans, I used Microsoft Excel 5.0 to create bar graphs showing the differences of how Chinese perceive themselves, how they perceive Americans, how Americans perceive Chinese and, finally, how Chinese view themselves as illustrated in the EWQ. On average, it took the Chinese and American negotiators approximately ten to fifteen minutes to complete the EWQ.

The EWQ included fifteen adjectives: intelligent, materialistic, ambitious, industrious, deceitful, arrogant, practical, aggressive, cooperative, impulsive, stubborn, competitive, assertive, logical and trusting. These fifteen attributes were later separated into three categories: positive perception, negative perception and culturally-dependent perception (See Table 2 Categories of East-West Questionnaire). The first two categories are almost universally recognized as being either positive or negative personality traits, whereas attributes of the third category, the culturally-dependent perception,

are more controversial in that whether the attributes are viewed as positive or negative depends on the context of the culture. A good example illustrating this point is how Chinese and Americans view the trait of ambition. Being ambitious is most likely to be seen as a positive trait in an individualistic society like America, where there are hopes for progress and chances for upward social mobility. However, in societies such as China where there are stricter social boundaries and relatively fewer opportunities for individual advancement, an ambitious person may just be deemed impractical and dreamy, thus constituting a negative trait.

TABLE 2 CATEGORIES OF EAST-WEST QUESTIONNAIRE

<i>ATTRIBUTES</i>		
<u>Positive Perception</u>	<u>Negative Perception</u>	<u>Culturally-Dependent Perception</u>
1. Intelligent	2. Materialistic	3. Ambitious
4. Industrious	5. Deceitful	8. Aggressive
7. Practical	6. Arrogant	12. Competitive
9. Cooperative	10. Impulsive	14. Logical
13. Assertive	11. Stubborn	15. Trusting

Stage 2 Negotiation: cultural orientations and negotiators' styles

The negotiation stage itself was designed to explore the connections between cultural orientations and individuals' negotiation styles. This is particularly important because negotiation styles are the dependent variable (DV) in this study. The dependent measures that were taken were only two types of negotiation styles (cooperative and aggressive). A cooperative negotiation style was identified when the negotiator patiently listened to what the other side had to offer and attempted to make a comparable offer. This was measured by how many times a person said "yes" and when he said it. For instance, if a negotiator accepted the offer at the beginning, he was defined as a cooperative negotiator rather than an aggressive negotiator. In contrast, an aggressive negotiation style as defined in this study refers to the negotiator who wanted to take advantage of the situation and made unreasonable demands without compromising at all. Aggressive traits were measured by how many times a person said "no" and the type of offer that he made.

Additionally, in order to determine whether a negotiation was successful or unsuccessful, outcomes were divided into three categories. The first two (accept, accept with modifications) were considered successful while the latter outcome (refusal) was considered an unsuccessful attempt to

negotiate. Such conditions were explicitly stated in the forms provided for each negotiator, and the negotiators were asked to write down their perceptions of the following developments during the remaining negotiation:

1. Team's original position;
2. Team's approach to the other party;
3. The way in which negotiation developed;
4. The tactics the team used during negotiation.

Stage 3 Post-negotiation: Negotiators' responses

Each of the negotiators was instructed to describe the progress of negotiation according to his own view; this was my attempt to maintain some individual differences in the study. The subjects were then asked to complete a questionnaire about negotiations (See Appendix D). Most of the subjects were so preoccupied with the negotiation that they did not complete the questionnaire until the negotiation was over. In general, it took the negotiators twenty minutes to complete their questionnaires.

B. Theoretical Framework

This section will use both the relationship and substantive issues involved in intercultural negotiations discussed in the previous chapters to create a theoretical framework. The primary rationale leading me to develop the current conceptual framework is that while all of the previous Sino-U.S.

negotiation literature examined some aspects of cultural issues, such as *guanxi* or *mianzi*, none of the literature explained the complex interrelationship among political, economic, cultural, social and personal factors and negotiators' perception. Perception in this study is referred to as the process by which individuals "tune in" to their environment.¹²⁴ I see this element as particularly crucial because inaccurate perceptions of the other may lead to erroneous assumptions about the motives of one's counterparts.¹²⁵

This theory examines the psychological effects caused by four types of conditions. These four conditions are political and economic, cultural, social, and personal; all have their roles in influencing how individuals selectively interpret the message provided by their negotiating counterparts (See Figure 1 Factors Influencing Negotiators' Perception During Intercultural Negotiation on p. 117). This selective perception and interpretation may be detrimental to the existing negotiating relationship because it tends to exacerbate the perceived ingroup-outgroup similarities or differences,¹²⁶ hence shaping the individual's

¹²⁴Roy J. Lewicki et. al, Negotiation. (Homewood, IL: Richard D. Irwin, 1985), 161.

¹²⁵Lewicki et. al, 165.

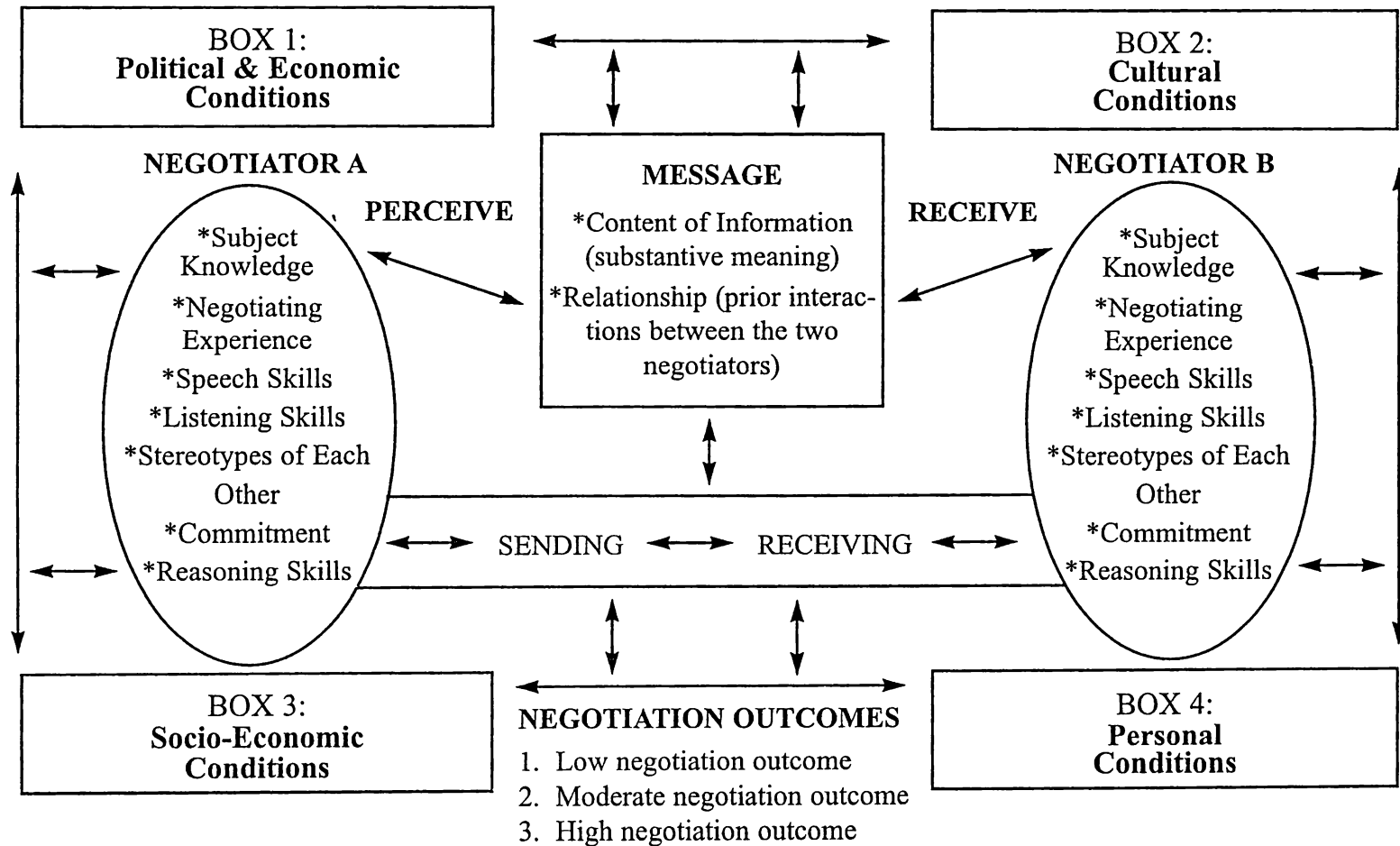
¹²⁶Bert R. Brown and Jeffrey Z. Rubin, The Social Psychology of Bargaining and Negotiation. (New York: Academic Press, 1975), 118.

cooperative or aggressive negotiation styles.¹²⁷ Because stereotypes as perceptual biases tend to cast one's own position and behavior in more favorable terms and to cast the opponents in more negative terms, one of the most effective ways to understand intercultural relations is to examine the content of the stereotypes each group has about another group's members. These biases will in turn affect the expectation that one has for opponents, and lead to assumptions about the opponents and their positions.

An important feature of the current conceptual model is that it is an interactive one. By interactive, I mean that each condition described below will have reciprocal effects on another; however, the degree of influence of some conditions, such as personal conditions, may have relatively less impact than cultural conditions. Each of the four conditions can also have direct or indirect influences on the individual negotiators' perceptions and the outcomes. In this interactive negotiation model, the focal points are four conditions: political and economic conditions, cultural conditions, social conditions and personal conditions.

¹²⁷Gerald R. Williams, "Style and Effectiveness in Negotiation." Edited by Lavinia Hall. Negotiation: Strategies for Mutual Gain. (Newbury Park, CA: Sage Publications, 1993), 151-174.

FIGURE 1 FACTORS INFLUENCING NEGOTIATORS' PERCEPTION DURING INTERCULTURAL NEGOTIATION



*Note: See theoretical framework for explanation of the diagram

Box 1: Political and Economic Conditions

The first set of conditions in this interactive negotiation model includes political and economic forces. (See Box 1 on the upper left corner.) In this category, availability of economic resources within the society, ideology, the concept of power, the view of technological progress, and concept of rules and regulations are all interrelated factors and pertinent in shaping stereotypical views of negotiators, their negotiation styles and, consequently, the negotiation outcomes.

Direct competition for limited economic resources is likely to force the negotiators from both sides to view the negotiation as a zero-sum game, thus leading the negotiators on both sides to focus on their differences rather than their common interests. According to M. Sherif's study in 1979, direct competition for scarce resources and conflicting values and ideologies are two elements that will significantly enhance the stereotyping process.¹²⁸ While Sherif's study is not designed to examine intercultural negotiations, it is extremely relevant to the development of my theory because both Sherif's findings and my theory deem perceptual distortions as the heart of breakdown in communication. This perceptual bias then helps justify one's own position and behavior in more favorable or justifiable terms, instead of rationalizing

¹²⁸Sherif, 260.

that the other side is being irrational or negative. More importantly, this bias creates an assumption that because there are always winners and losers in negotiation, the more unyielding negotiators are, the better chance they have of getting the best deals. As explained in Chapter 2, both Chinese and American negotiators tend to share the view that negotiation is a competitive process; thus the initial goals for Chinese and American negotiators are usually to create an image that they are firm in their positions. In reality, this unyielding attitude is often just a tactic negotiators adopt in the hope that the other side will be the first to make concessions.

Another factor that can cause negotiators to have perceptual biases toward the substantive issues and each other is ideology. As discussed earlier, although it has been nearly two decades since the Dengist reformers launched the current economic reforms, Maoist notions have continued to have impact not only on China's technological and economic development but on individual personal values. For instance, when Chinese and foreign investors negotiate on the issue of ownership, the problem of equality versus equity often arises. Particularly the early Dengist economic reform when the Chinese were still unfamiliar with Western management styles, they tended to negotiate ownership with reference to Communist egalitarian principles. Additionally, in light of the historical humiliation and exploitation of the

Chinese by the West, the Chinese still often hope to gain at least equal control on the issue of ownership and thus make sure that history does not repeat itself.

In terms of power distance, China has long been recognized as an authoritarian regime; in such a regime; power distance between the superior and inferior tends to be greater than in democratic society. Furthermore, in authoritarian society, power is justified through the inferior's acceptance of the superior's authority and is not achieved by the rule of law. In this respect, the Chinese acceptance of authority affects the Chinese concept of certainty, or perhaps more accurately, avoiding certainty.¹²⁹ By this I mean that Chinese decision-making is likely a result of their priorities of decision-making focusing on making decisions that are "popular" rather than decisions that are made based on rules and procedures. Depending on the outcomes of the negotiation, this uncertainty aspect may provide grounds to explain why the Chinese adopt flexible negotiating approaches at some times, and a noncommittal attitude in making decisions at others. For instance, if the negotiation outcome is positive, it is more likely for the opponents to view the Chinese negotiating styles as flexible, allowing both sides leverage to make concessions later. However, when the relationship turns sour as a result of an

¹²⁹Hofstede and Bond, 427.

unfruitful negotiation, U.S. negotiators are likely to perceive the Chinese negotiating styles as noncommittal and blame the failure of the negotiation on lack of sincerity or stubbornness on the Chinese part. Hence, negotiation outcome is also important in understanding one negotiator's perception of another.

Box 2: Cultural Conditions

In this second category, such culturally-related variables as time-orientation, perceptions of the relationship between groups and individuals, whether one emphasizes emotion or logic, and, in the Chinese case, an emphasis on *guanxi* and *mianzi* contribute the most significant factors on negotiation style. As discussed earlier, because of the Chinese cyclical view of time and history, Chinese tend to see the negotiation process as cyclical as well. This view is dramatically different from the Western linear logic in which there is more likely to be a clear-cut beginning and end in every relationship. Cause and effect relationships perceived by Westerners may likewise not be so apparent to the Chinese. Furthermore, because of their cyclical time-orientation, Chinese logic tends to be holistic and focuses on the interrelationships between various components. In contrast, Americans tend to believe that breaking things into small components and analyzing them will yield more precise understanding of the matter. In negotiations, the Chinese

negotiators' cyclical views of time and logic are often transformed into repetition of issues and positions throughout the negotiation, an approach that often omits "sound arguments" made according to Western linear logic. The time pressures negotiators often operate under may contribute to the distorted views they develop toward each other, particularly as deadlines approach and complex agreements must be concluded quickly.

The Chinese cyclical time-orientation also influences lines of reasoning and thus affects the strategies they employed to persuade others in negotiations. As suggested in Chapter 2, the historically-minded Chinese tend to employ presentational and analogical strategies. Presentational style places a heavy focus on the people who present the idea and not the idea itself, whereas analogical strategies emphasize wisdom rooted in traditional notions. This presents a dramatic contrast to the persuasive strategy used by many Americans, particularly by those who do not view truth as a matter of individual decision and believe that as long as an argument is presented logically, the audience will eventually "come around." The different assumptions and presentational approaches that negotiators bring to the table can in themselves contribute to conflict in negotiations.¹³⁰

¹³⁰When attributing certain persuasive styles to Chinese and Americans, I do not mean to suggest that Chinese use strictly presentational or analogical styles and Americans always adopt quasilogical styles. There are always exceptions. For instance, when lawyers

The literature on collectivism and individualism suggests that the Chinese tend to prioritize collective interests over individual needs. This individualistic versus collectivist orientation suggests that whereas American negotiators are more likely to focus on presenting what is best in accordance with individual's interests, some Chinese are more likely to compromise individual interests in order to satisfy the collective goals of the group. The collectivists' concern for achieving the group's needs may also lead them to avoid conflict and confrontation that may cause a loss of face. Generally speaking, however, the Chinese use of avoidance in negotiation is more likely a strategic behavior than be an option taken by default.¹³¹

Consistent with the collective nature of Chinese society, Chinese negotiators place heavy emphasis on *guanxi* and *mianzi* when negotiating with others. As a result, they tend to be defensive when negotiating if they feel that they have been humiliated in front of others. Defensive behaviors occur when an individual receives criticism and translates such criticism into threats to one's competency projected to others. Put somewhat differently, because of their collective orientation, the Chinese also tend to devote their attention to defending themselves from the other communicator, anticipate the other's

appeal to historical precedents to attempt to persuade judges, their assumptions adhere closely to analogical persuasive styles.

¹³¹Savage et. al, 58.

reactions to their comments, protect themselves from attack by the opponents, and impress, dominate, retaliate against, or attack the opponents.

This cultural difference can prove to be especially significant if what is viewed as a mere technical or procedural problem by an American is perceived as an issue of *guanxi* or *mianzi* by Chinese. Two factors may temper Chinese perceptions of what distinguishes a *mianzi* issue from a pure technical and procedural issue: the negotiation context and the types of language negotiators use to communicate with each other. If negotiation takes place in an informal context, Chinese are less likely to take criticisms as personal or as a face issue because only few people know about the criticisms. However, if negotiation takes place in a formal context, Chinese are more likely to appear unyielding, causing technical dilemmas to be transformed into face issues.

The fine line between a technical problem and a *mianzi* issue can also be affected by how personally one takes another's criticism. For example, the Chinese appear to have taken U.S. criticism of their human rights record as a public humiliation. When the U.S. has indicated that China's MFN status would not be renewed unless China improved its human rights standard, the leadership in China perceived such a demand as outrageous, claiming human rights to be a sovereign issue and insisting the U.S. should not interfere with

domestic policies in China. In so doing, China's leaders essentially connected a substantive but potential peripheral issue to a matter of face, creating tensions with a direct and tangible effect on business.

Whether the language used in negotiations is overtly critical or supportive in nature also has an impact on how the Chinese perceive conflicts. According to Bert R. Brown's article entitled, "Saving Face," if counterparts are deemed to be unduly critical, it is fair to assume that the existing relationship is not a trusting one, or more accurately, that the perceiver believes that the communicator is not worth trusting.¹³² In this scenario, the negotiators' attention tends to focus almost exclusively on the relationship between the communicator and the receiver, and the receiver to be unable to separate the criticisms from himself or herself. Conversely, supportive comments tend to promote trust in a relationship, thus giving the receiver a chance to explore the substantive content of the criticisms. In sum, as in the earlier discussion of the political and economic aspects of negotiation theory, culturally-related perceptions are equally important in shaping how the Chinese perceive issues and thus their negotiating behaviors.

¹³²Bert R. Brown, "Saving Face." in Negotiation: Readings, Exercises and Cases. Roy J. Lewicki, et al., eds. Homewood, Illinois: Richard D. Irwin, Inc., 1993), 308-314.

Box 3: Socio-economic Conditions

Socioeconomic status or “place” is also a significant factor in shaping an individual’s negotiation style. The discussion in this section focuses on the concept of place and how one’s concept of self and others emerges in societies where social boundaries are well developed. The concept of place is important to our understanding of individuals’ negotiation styles. Because of this concept of place, boundaries are developed between people of different classes based on how much power they have and how much money they make. There are two categories of social boundaries. The first type is referred to as “hard boundaries.” In societies with a “hard boundaries,” the separation between those who are in superior and inferior positions is so clear-cut that there is little or no mobility in and out of inferior group. By contrast, a “soft boundaries” society tends to make less of a distinction based on social and economic status, and membership in a group is seen as relatively more open.¹³³ China, as one might suspect, has historically tended toward being a hard boundaries society. Therefore, when Chinese negotiate, the individual negotiator may be constantly aware of his or her membership in a social

¹³³Gerry Philipsen, “Speech and the Communal Function in Four Cultures.” in Language, Communication and Culture. Stella Ting-Toomey and Felipe Korzeny, eds., (Newbury Park, CA: Sage Publication, 1989), 82.

group, and their behavior governed by the values and emotional significance attached to that membership.¹³⁴ This ingroup-outgroup distinction emphasized by people who come from a hard-boundaries society can pose a great problem for negotiators who come from a soft-boundaries society, in that the negotiators from the former tend to be more cautious and less trusting of people outside of their group membership.

Self-concept and self-esteem are also important at the societal level in determining the response of an individual's negotiation style. In this context, a negotiator who has low self-esteem may see the need to compensate by presenting his or her group or culture in a more positive light than a negotiator who has high self-esteem. Furthermore, as Ervin Staub suggests in his book entitled, The Roots of Evil: The Origins of Genocide and Other Group Violence,

idealization of one's group may heighten frustration in difficult times. In groups as in individuals, very high self-evaluation often masks self-doubt. Persistent life difficulties may contradict the high self-evaluation and bring self-doubt to the surface. Even if there is no underlying self-doubt, a very high self-evaluation may be associated with limited concern for others. Among individuals, a moderately positive self-concept is more strongly associated with sensitivity and responsiveness to other people.¹³⁵

¹³⁴This view is adapted from Henri Tajfel's social identity theory. Tajfel, 1978, 61.

¹³⁵Ervin Staub, The Roots of Evil: The Origins of Genocide and Other Group Violence. (New York: Cambridge University Press, 1989), 55.

Individual's beliefs and world views, then, are often affected by social forces, which are crucial to understanding the assumptions behind their negotiation styles.

Box 4: Personal Conditions

Besides political, economic, cultural and social variables, psychological conditions also influence negotiation styles. Several personality factors can be powerful predictors of the strategies a negotiator is likely to use.

One personality dimension affecting an individual's negotiation style may be the extent to which they are affected by the extremes of idiocentrism or allocentrism, corresponding to individualism and collectivism, respectively. In 1977, Triandis found that allocentric individuals exhibit traits similar to those characterizing individuals who come from a collective society.¹³⁶ For instance, they tend to subordinate individual needs to group goals, to view ingroup membership as an extension of oneself, and to possess a stronger ingroup identity than an idiocentric individual would. In this respect, an idiocentric or self-centered approach resonates with previous explanations of a confrontational style toward conflicts. By this I mean that, as long as an idiocentric individual believes that his or her reasoning is correct, it is not likely that he or she will be sensitive to making others uncomfortable; rather,

¹³⁶Triandis, 78-80.

the goal for idiocentric individuals is to get the task done, perhaps at the expense of creating conflicts and a hostile negotiation relationship.

In contrast, allocentric individuals, much like the collectivists, tend to see promoting a harmonious negotiation relationship as a more important goal than resolving the substantive conflicts inherent in the issues being negotiated. Consequently, both collectivists and allocentric individuals tend to avoid negotiating sensitive issues rather than confronting them. Allocentric individuals' very avoidance of issues, however, may be a source of conflict, as their opponents may deem such conduct as insincere behavior.

Interpersonal trust is another important variable that may affect a negotiator's risk-taking propensity. Two factors are significant in understanding the trust dimension. First, the history of interactions between the negotiators may make a tremendous difference in whether the relationship is a trusting one. Clearly, if an individual has trusted someone and has been "rewarded" by reciprocal trust, he or she is likely to take more risks in both the current and future interactions. Conversely, if an individual's trust has been violated by another in a relationship, he or she may refuse to cooperate where high risks situations are involved.¹³⁷ It should be noted that the fact that an individual is trusting does not necessarily mean that he or she is more

¹³⁷Lewicki et al, 271-273.

gullible than someone who is less trusting. In fact, high trusters seem to be able to read cues as well or as poorly as low trusters. The difference between them, however, is that high trusters tend to trust people until that trust has been violated, whereas low trusters do not trust others until they have been proven to be worth trusting.

Apparently, the problem with being either too trusting or too cynical in negotiations is that both orientations may easily lead to self-fulfilling prophecies. For instance, a high-trust individual may approach negotiations in a manner that communicates trust and search for only the positive aspects of the other's behavior in order to initiate cooperative behavior. By contrast, a low truster may often pay attention to only negative aspects to justify his or her own aggressive and competitive behavior. The potential for these kinds of preconceptions to affect talks heightens when negotiators have not had significant interaction with one another.

Interpersonal orientation (IO), a concept developed by Bert R. Brown and Jeffrey Z. Rubin adds an interesting dimension to help examine negotiators' selection of their styles.¹³⁸ According to Brown and Rubin, individuals may be classified as either high or low in their interpersonal orientation. An individual who scores high on IO tends to look for clues to

¹³⁸Brown and Rubin, 78.

cooperate with another. However, when faced with an opponent who is competitive, a high-IO individual may well change strategy in order to defend himself or herself against potential exploitation or retaliate against what they perceive as unfair tactics from the other side.

In contrast, a low-IO individual tends to be competitive and less attentive to another's needs, instead searching for information to help gain strategic advantage. If the other behaves cooperatively, an individual with low-IO will discount such behavior; however, if the other behaves competitively, the same type of self-fulfilling prophecy we saw in the interpersonal trust dimension will also develop for this IO dimension. This IO concept is significant because it helps make an individual focus on either the symbolic relationship or a substantive aspect of a conflict. For instance, a high-IO individual tends to be more concerned with the equality of an outcome, whereas a low-IO individual is more concerned with allocating rewards according to the equity standards.¹³⁹

As illustrated in the diagram, both the substantive and relationship aspects of a message are also significant factors in negotiation outcomes. For instance, if both the substantive and relational aspects of a message are

¹³⁹Brown and Rubin, 97.

positive, it becomes much easier for the negotiators from both sides to communicate, because both may focus on their joint interests instead of emphasizing conflicts. Achieving this task is much more difficult, however, if the negotiation agenda itself creates hostile or negative feelings. As shown in the Person A and Person B box, an individual's previous negotiating experience, a negotiator's commitment to the negotiation, negotiator's attitude toward the opponent, stereotypes one has toward his or her opponents, the organizational position of the negotiator, and the negotiator's language and reasoning skills are also important factors in determining a person's negotiation style.

In examining the interrelationship among various political, economic, social, cultural and personal factors, our discussion inevitably leads to the problems inherent in different negotiation outcomes in an intercultural context. For the purpose of this study, I have described some characteristics constituting different negotiation outcomes and the interrelationship between them and various conditions discussed earlier. Three negotiation outcomes (low, moderate and high) will be discussed in detail.

Low Negotiation Outcome: Low negotiation outcomes are likely to occur in intercultural talks when negotiators have relatively little knowledge about each other's political, economic, cultural and social conditions. If outcomes are

low, it may be likely because the focus of negotiation tends to be placed heavily on substantive issues, and the individual negotiator has neglected to see that a good negotiating relationship may in fact help achieve substantive outcomes. Furthermore, low negotiation outcomes are likely to occur when the negotiators bargain rigidly based on their own positions,¹⁴⁰ rather than acknowledging their common interests.

Besides the focus on substantive outcomes, personal negotiation styles of the negotiators may also affect negotiation outcomes. Because their assumptions and motives are different, minimal substantive outcomes may be achieved, for instance, when one negotiator is extremely aggressive while another is naively cooperative.¹⁴¹

Moderate Negotiation Outcome: Inter-cultural negotiation outcomes are likely to be improved from low to moderate when negotiators are aware that both substantive and relationships are important in achieving substantive benefits in negotiations, although However, substantive issues still constitute a larger concern. In this scenario, while the negotiators are likely to have some level of understanding about how the other negotiator operates in his or her culture, many factors may still hinder the optimal use of such knowledge.

¹⁴⁰Fisher and Ury, 3-4.

¹⁴¹Williams, 173-174.

Again, the personalities of the negotiators may constitute a major problem in this context. For instance, even someone knowledgeable about how another culture operates may insist on his or her own approach, assuming that if the other side is also interested in substantive outcomes, they must adhere to such decisions. However, such styles are extremely unpredictable in determining outcomes, particularly if one side subordinates the need for substantive results to other factors such as face.

High Negotiation Outcome: Negotiators who achieve high negotiation outcomes generally are not only knowledgeable about how things operate in another culture but, more importantly, are also able to put aside personality and other non substantive differences to explore the common interests in a negotiation. Furthermore, these negotiators realize that relationship is an important means of obtaining substantive outcomes in any negotiations. These negotiators tend to employ an interchange of cooperative and aggressive strategies. In doing so, they adopt strategies that place a more balanced emphasis on both substantive and relationship matters than negotiators in the previous two outcomes.

By no means do the variables mentioned in this model represent an exhaustive list; in fact, many other variables, such as the structure of the negotiations, also affect negotiators' perception, hence shaping their

negotiation styles and negotiation outcomes. Nonetheless, in creating this model, I hope to show the complex dynamics inherent in an intercultural negotiation model. It is crucial to note that the conditions described in the above four boxes all have interactive effects on each other and, more broadly, on negotiation styles and outcomes. Each condition has some effect on at least one another. For instance, the allocation of power and economic resources in society will likely affect the attitude of its people, as will whether the social boundaries are hard or soft, and whether individuals choose to be competitive or cooperative. Likewise, cultural attitudes also influence whether people accept authority or question it, whether there is great distance between those who belong to the upper class and the lower class, and whether people define themselves in terms of individual goals or by submit to the collective interest.

C. Working Hypotheses:

For purposes of analyzing the output of my case simulation, I drew on the negotiation literature from multiple disciplines. In synthesizing that literature, I have developed the following preliminary working hypotheses:

Hypothesis 1: Perceptual differences are greatest when two negotiators come from different cultural backgrounds and their interaction is seriously affected by their acceptance of stereotypes.

Furthermore, the perceptual differences are greatest when the content of stereotypes is either extremely positive or negative.

Hypothesis 2: A negotiator who comes from a collective-oriented society is more likely to employ a cooperative negotiation style. In contrast, a negotiator who comes from an individualistic society tends to use an aggressive or competitive negotiation style.

D. Data Analysis

Data were collected at four different phases. First, during the informational meeting, subjects submitted their perceptions of members of their own group and members of an outgroup. Second, prior to the actual negotiation, each group was asked to convene privately for half an hour. Both meetings were videotaped. Subsequently, the actual negotiation was also videotaped. Finally, when the negotiation was over, both Chinese and Americans were asked to report their perceptions of what went on during the negotiation.

My analysis of the simulated negotiation itself is based largely on observation of the videotapes. The only statistics involved in this study were descriptive in nature and were obtained from the results of the EWQ. Both American and Chinese responses on the EWQ were broken down into percentages based on the aforementioned 5-point scale I created for this study.

The results were then tabulated according to three categories (positive perception, negative perception, and culturally-dependent perception) and illustrated through bar graphs. The remaining questionnaires were analyzed based on the knowledge I obtained through reviewing the literature.

A major problem of using direct observation as a research method is that it is extremely subjective. Coupled with the fact that this study lacks inter-coder reliability, non-random samples, and experimental controls, my research is susceptible to criticism from statisticians and social scientists. However, as I have stated from the outset, my primary goal in this project is to integrate concepts from multiple disciplines in an effort to refine the research tools and discover the flaws of the current research design. It is in this light that I see this research as worthwhile.

SIMULATION FINDINGS

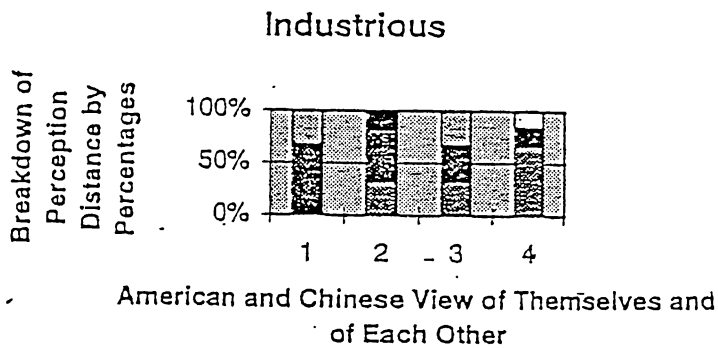
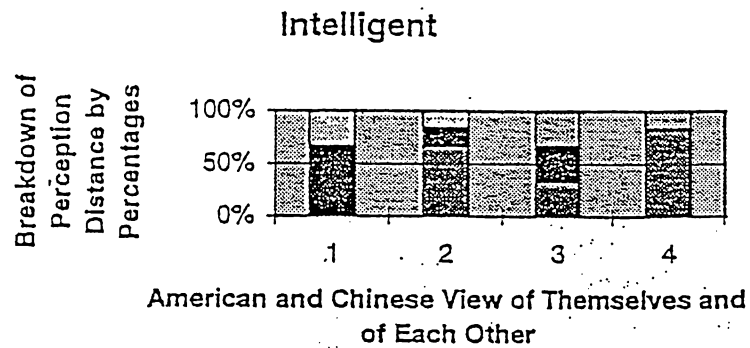
A. Outcomes of EWQ

To explore the problems of Hypothesis 1, the results of the EWQ were considered. As suggested earlier, all fifteen attributes were examined and categorized into positive, negative or culturally-dependent perceptions, and were placed in Figures 2.1 to 4.3. As indicated on the bottom of each page of

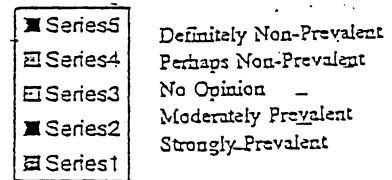
the attached diagram, the four columns across the X-axis illustrate how Americans perceive themselves, how Chinese perceive Americans, how Americans perceive Chinese, and how Chinese perceive themselves. Within each color, there are different gray-scales to show the degree of difference on the content of stereotypes. The Y-axis represents the breakdown of perception distance by percentages.

EWQ outcomes indicate three trends about perceptual differences between the Chinese and American negotiators in this simulation: First, while the responses among respondents are often mixed, the Chinese and American negotiators' responses illustrate consistent intergroup perceptual differences. This intergroup perception may be broken down into two categories: first, how Americans view themselves and how the Chinese view Americans; second, how Chinese view themselves and how Americans view Chinese.

**FIGURE 2.1 OUTCOMES OF EAST-WEST QUESTIONNAIRE
(POSITIVE PERCEPTION)**

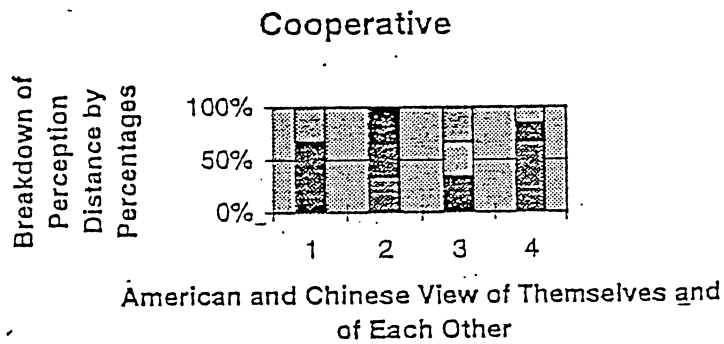
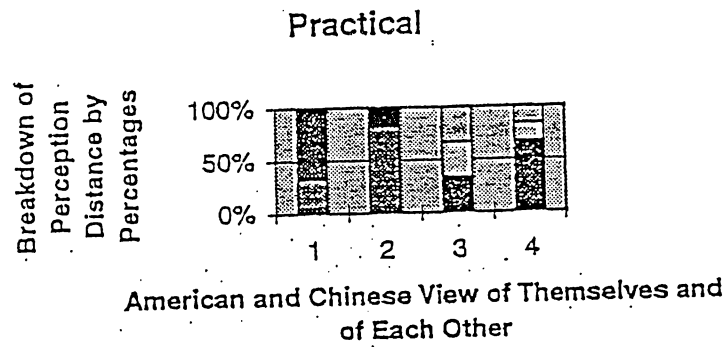


Column 1 = How Americans perceive themselves
 Column 2 = How Chinese perceive Americans
 Column 3 = How Americans perceive Chinese
 Column 4 = How Chinese perceive themselves

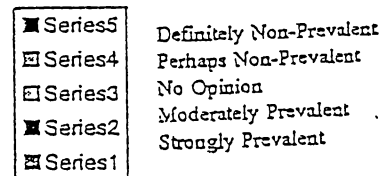


*Note on Sample Size: 6 = Chinese from People's Republic of China, 3 = American

FIGURE 2.2 OUTCOMES OF EAST-WEST QUESTIONNAIRE
(POSITIVE PERCEPTION) -- CONTINUED

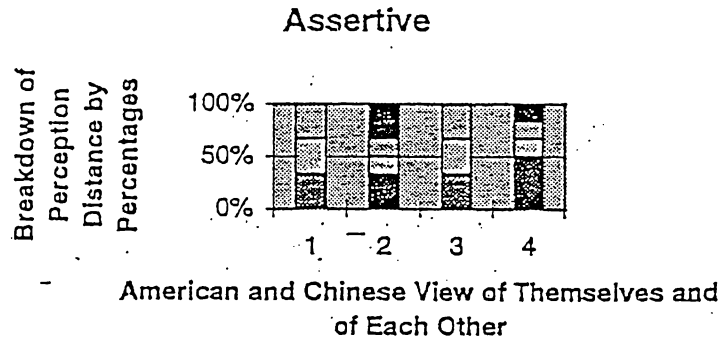


Column 1 = How Americans perceive themselves
 Column 2 = How Chinese perceive Americans
 Column 3 = How Americans perceive Chinese
 Column 4 = How Chinese perceive themselves

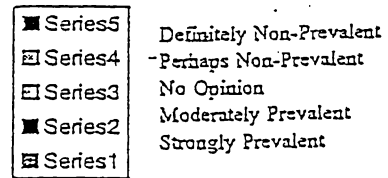


*Note on Sample Size: 6 = Chinese from People's Republic of China, 3 = American

FIGURE 2.3 OUTCOMES OF EAST-WEST QUESTIONNAIRE
(POSITIVE PERCEPTION) -- CONTINUED



Column 1 = How Americans perceive themselves
 Column 2 = How Chinese perceive Americans
 Column 3 = How Americans perceive Chinese
 Column 4 = How Chinese perceive themselves



*Note on Sample Size: 6 = Chinese from Peoples's Republic of China, 3 = American

When examining the EWQ outcomes of positive perception (Figure 2.1, 2.2, and 2.3), both Americans and Chinese (not surprisingly) tend to see the members of their own group as exhibiting more favorable traits. For instance, both Americans and Chinese tend to see themselves as more industrious and cooperative than members of the other group. This finding is consistent with the literature review on the effects of stereotypes in which people tend to see their ingroup members in a more positive light than outgroup members.

The second noteworthy point about the EWQ outcomes is that deception as an attribute receives the most “No opinion” responses. When comparing the Chinese and American negotiators’ responses on this category, Americans tend to see deception as a personality trait being “perhaps non-prevalent” among themselves and showed a split response between “perhaps non-prevalent” and “definitely non-prevalent” among the Chinese. However, approximately 16.6% (1 out of six PRC subjects) of the Chinese respondents did indicate that deception is “moderately prevalent” among Americans. Overall, while the results as shown in the negative category are consistent with the first observation--that people tend to see the negative traits as less prevalent among their own members but moderately prevalent or strongly prevalent in an outgroup member--, this simulation indicates that there are

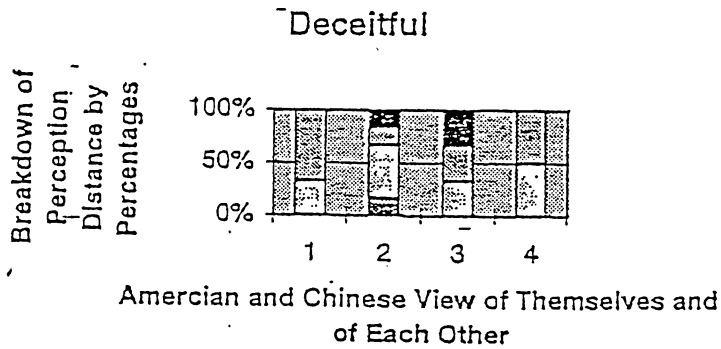
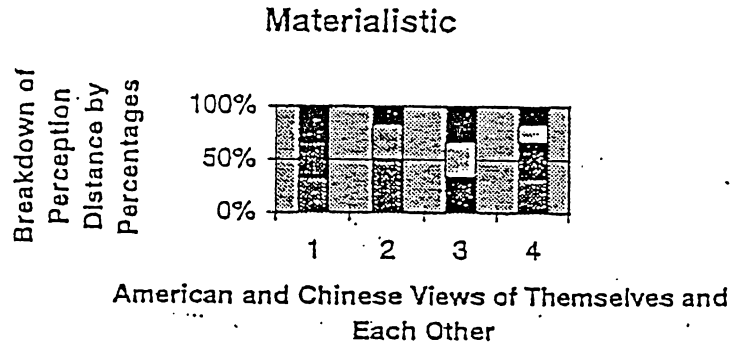
often exceptions to a trend. Deception as a negative perception is one such example.

According to the EWQ survey, the greatest perceptual difference between Chinese and American negotiators exists with respect to cultural-dependent attributes. Three attributes present the most drastic comparison; aggressive (Figure 4.1), competitive and logical (Figure 4.2). All the Americans perceive aggressive and competitive as strongly prevalent traits among Chinese. This is interesting because on no other occasion did the American negotiators show such unanimity. Equally interesting is the fact that the Chinese negotiators show more variation, with their response ranging from strongly prevalent to definitely non-prevalent on aggressive as a personality trait for Americans. The attribute logical also deserves some attention, as that result, too is counterintuitive. Again, the Chinese response on whether logical is a common trait among Americans varies from “strongly prevalent” to “perhaps non-prevalent,” whereas the Americans show little variation in their responses, agreeing that logical is “moderately prevalent” among Chinese. The above responses indicate that while social psychologists may be correct in assuming that members of ingroups tend to attribute more favorable labels to their own members while attributing more negative labels to outgroup

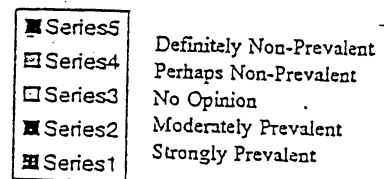
members, there are always exceptions to the rules. The responses in the “culturally-dependent” categories are one such example.

Again, it is not my intention to generalize from the findings of the EWQ. Rather, I used the EWQ to explore the relationship between the contents of stereotypes and intergroup perception. In general, the EWQ outcomes are consistent with the literature on the impact that stereotypes have on an individual, particularly on an individual’s sense of an ingroup-outgroup distinction. With modifications, this research tool may help improve cultural understanding and decrease cultural distance (See Outcomes of the East-West Questionnaire in the following pages).

**FIGURE 3.1 OUTCOMES OF EAST-WEST QUESTIONNAIRE
(NEGATIVE PERCEPTION)**

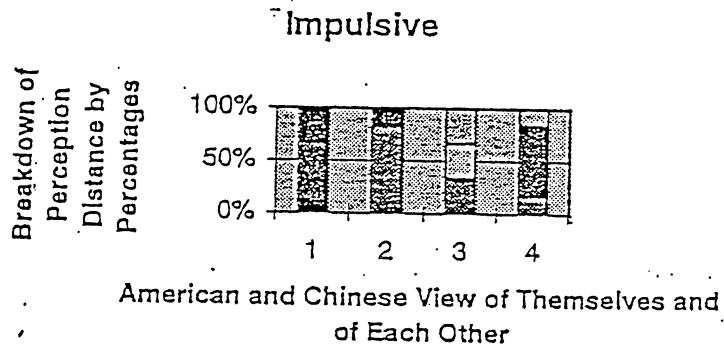
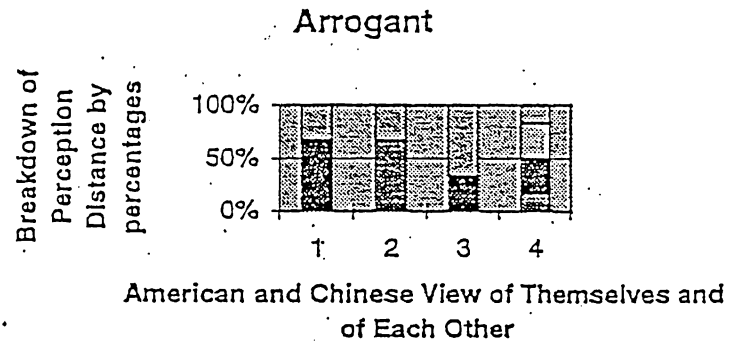


Column 1 = How Americans perceive themselves
 Column 2 = How Chinese perceive Americans
 Column 3 = How Americans perceive Chinese
 Column 4 = How Chinese perceive themselves

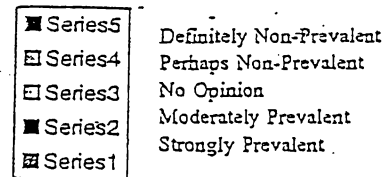


*Note on Sample Size: 6 = Chinese from Peoples's Republic of China, 3 = American

**FIGURE 3.2 OUTCOMES OF EAST-WEST QUESTIONNAIRE
(NEGATIVE PERCEPTION) -- CONTINUED**

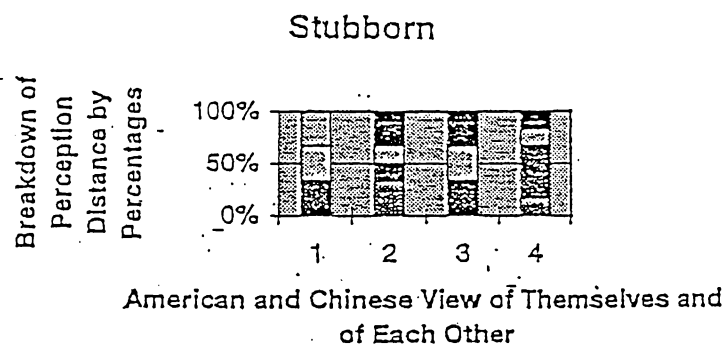


- Column 1 = How Americans perceive themselves
- Column 2 = How Chinese perceive Americans
- Column 3 = How Americans perceive Chinese
- Column 4 = How Chinese perceive themselves



*Note on Sample Size: 6 = Chinese from People's Republic of China, 3 = American

FIGURE 3.3 OUTCOMES OF EAST-WEST QUESTIONNAIRE
(NEGATIVE PERCEPTION) -- CONTINUED

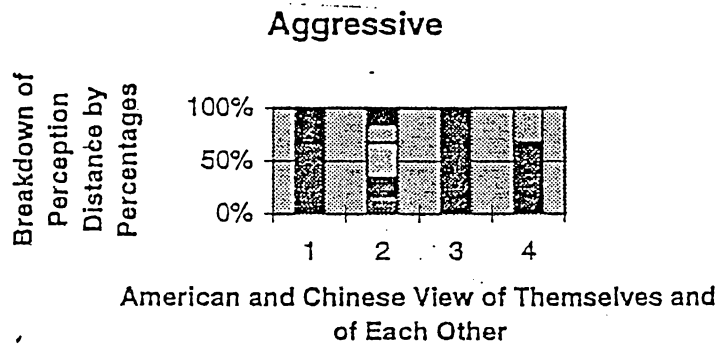
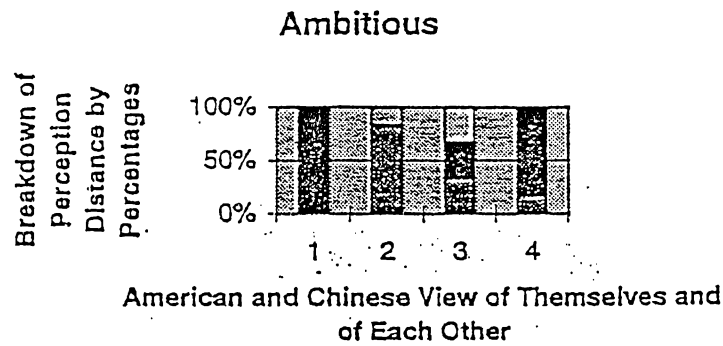


Column 1 = How Americans perceive themselves
 Column 2 = How Chinese perceive Americans
 Column 3 = How Americans perceive Chinese
 Column 4 = How Chinese perceive themselves

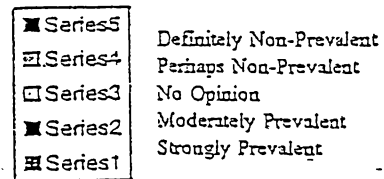
Series 5	Definitely Non-Prevalent
Series 4	Perhaps Non-Prevalent
Series 3	No Opinion
Series 2	Moderately Prevalent
Series 1	Strongly Prevalent

*Note on Sample Size: 6 = Chinese from Peoples's Republic of China, 3 = American

**FIGURE 4.1 OUTCOMES OF EAST-WEST QUESTIONNAIRE
(CULTURE DEPENDENT PERCEPTION)**

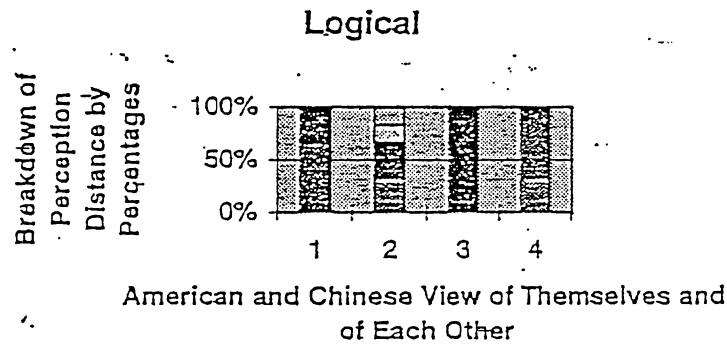
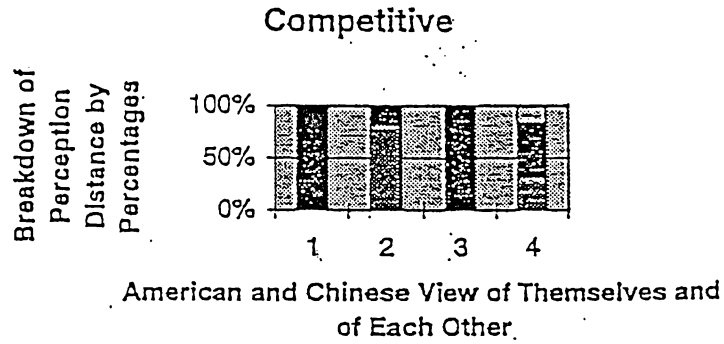


Column 1 = How Americans perceive themselves
 Column 2 = How Chinese perceive Americans
 Column 3 = How Americans perceive Chinese
 Column 4 = How Chinese perceive themselves

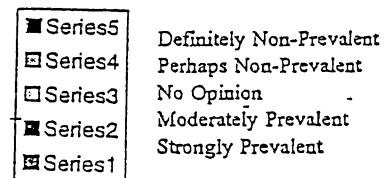


*Note on Sample Size: 6 = Chinese from People's Republic of China, 3 = American

**FIGURE 4.2 OUTCOMES OF EAST-WEST QUESTIONNAIRE
(CULTURE DEPENDENT PERCEPTION) -- CONTINUED**

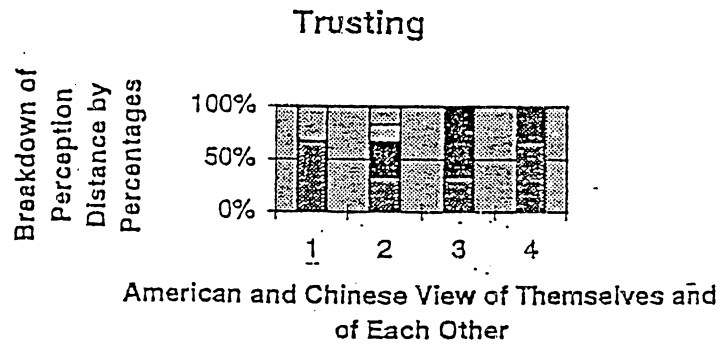


Column 1 = How Americans perceive themselves
 Column 2 = How Chinese perceive Americans
 Column 3 = How Americans perceive Chinese
 Column 4 = How Chinese perceive themselves

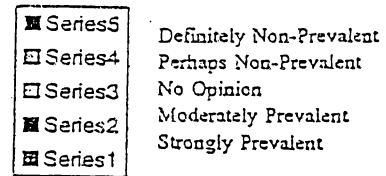


*Note on Sample Size: 6 = Chinese from Peoples's Republic of China, 3 = American

**FIGURE 4.3 OUTCOMES OF EAST-WEST QUESTIONNAIRE
(CULTURE DEPENDENT PERCEPTION) -- CONTINUED**



Column 1 = How Americans perceive themselves
 Column 2 = How Chinese perceive Americans
 Column 3 = How Americans perceive Chinese
 Column 4 = How Chinese perceive themselves



*Note on Sample Size: 6 = Chinese from Peoples's Republic of China, 3 = American

B. Negotiation Issues

Perhaps tellingly, the chief negotiator of the Chinese team introduced his members at the outset of the simulation based on the position each occupied within the company. The American chief negotiator, however, did not begin to introduce his members until he negotiated the ownership issue on the table and was reminded by other members of his team to introduce them; when he did make the introductions, he did so without reference to their positions in the company. This is certainly consistent with the literature's characterization of China as a more status-oriented society. However, there may also be other explanations. For instance, except for two negotiators, the remaining Chinese negotiators in this simulation were older than the Americans; thus age, maturity or experience may also be an important factor in this scenario.

- **Issue 1: Ownership.**

Negotiating the issue of ownership proved to be the most problematic issue in the simulated negotiation and thus deserves discussion. Three points proved especially interesting.

First, and not surprisingly, ownership was the most frequently discussed topic throughout the entire simulation. Both sides initiated their original offers. On the surface, the U.S. side made more concessions by

agreeing to change its original proposal of equal ownership and allow the Chinese to own a 51% majority ownership. The Chinese negotiating team, however, insisted that they should own 70% of the company because of the plant's physical location in China. Another reason the Chinese negotiators offered as a rationale for a 70% ownership interest is that Chinese law provides that the Chinese side hold the majority ownership when establishing a joint-venture in China.

Although the Chinese appeared to be firm during the negotiation, they never said the word "no," even when they clearly disagreed with the Americans. This presents a great contrast to the American direct approach. When the Chinese first initiated their 70-30% proposition, the American chief negotiators immediately said "no" to them. Not surprisingly, the Chinese chief negotiator seemed to be less firm when the American side abandoned their 51-49% position by proposing a 60% and 40% split on ownership, with Chinese holding the majority ownership. However, the Chinese continued to remain non-committal on this point, with the Chinese chief negotiator suggesting "this is a matter for further negotiation." In saying that, the Chinese are seemed to be giving themselves an opportunity to reopen the subject during a later stage in negotiations. This response may evince the Chinese tendency to hold fast to principle and to patiently await a return to

topics that Americans may want settled in a sequential order. The Chinese stand on 70% ownership, however, cannot be explained only in terms of culturally-related approaches to negotiation; the pre-negotiation strategy session among the Chinese side indicated their belief that dominant ownership might reduced the chance of future bankruptcy for the company.

The second observation concerns Geert Hofstede's forward-looking versus past-oriented aspect of Confucian dynamism. Hofstede suggests that there are two aspects of Confucianism: one is the reverence for the past, while another is using past examples as precedents to anticipate the future. This view also seems to support the Chinese cyclical and polychronic time-orientation. This attitude is found in the simulation. When the Chinese deliberated among themselves prior to the actual negotiation, the discussion of ownership was linked to possible bankruptcy in the future. In this scenario, the Chinese negotiators believed that and they would be in a latter position. Initially, this seems counterintuitive given the Chinese distaste for discussing contract termination in joint-ventures. However, when relating this to Hofstede's discussion of Confucian dynamism, it is not difficult to see that the Chinese in this case may be aware of the social consequences created by the long, drawn-out process of adoption of bankruptcy laws in China. This is particularly true when the issue of bankruptcy is of great relevance to a wide

spectrum of issues--namely, the ultimate unprofitable disposition, inefficient state-owned factories, and the issues of unemployment that go with the closing of factories.

The final issue raised in the simulation concerning ownership is related to the Chinese concept of sovereignty. When negotiating, the Chinese insisted that because the joint-venture was to be located in China, the American negotiators should adhere to the Chinese law that Chinese joint-venture partners should hold the majority ownership. In this scenario, the Chinese communicated the idea that Chinese laws will be the primary means to control and protect the joint-ventures. In presenting this position, the Chinese negotiators tended to take the concept of sovereignty literally, by interpreting issues based on the location of the enterprise. This attitude coincides with the Chinese government's claim that human rights is a Chinese sovereign problem simply because the problem exists within China. Interpreting sovereign issues so literally (that is, that problems arising in China must be dealt with as internal matters) obviously neglects the growing interdependency of the global marketplace and the increasing visibility of international laws such as the United Nations Convention on Contracts for International Sales of Goods (CISG) and harmonized intellectual property and investment codes.

- **Issue 2: Contract Length and Termination.**

On the issue of contract length and termination, the U.S. negotiators initially fought for a one-year contract in order to maximize their flexibility, but they were ultimately willing to settle for a three year contract. The Chinese, for their part, also showed a willingness to bend by lowering their original proposition from a five-year contract to a three-year one. Neither side mentioned the details to be specified within the contract. There seemed to be some initial agreement on this contract issue. However, as soon as the American negotiators attempted to make their concessions to the contract length a conditional issue (that is, contingent on a Chinese compromise on percentages of ownership at the end of the term), the Chinese chief negotiator refused, stating “it’s really interesting that whenever you give up something you want something back.” Again, while the Chinese attitude here was unambiguous, consistent, it was consistent with their earlier position of avoiding a definitive “no” during negotiations.

The fact that the Chinese displayed an inflexible attitude without directly saying “no” during negotiation suggests that my initial decision to measure Chinese attitude by taking their verbal responses at face-value was not a good idea. Their preference for conflict-avoidance and, implicit communication styles, and the fact that they are collective-minded tend to

suggest that Chinese are less likely to be direct and blunt when giving negative responses, although this approach often seems to Americans as “beating around the bush.”

The use of indirect language, according to Edward T. Hall, reflects the tendency in high-context cultures to rely heavily on non-verbal codes as a means of communicating instead of emphasizing the explicit content of the message. Put differently, the form a message takes is particularly important to people who come from high-context cultures, whereas people from low-context cultures focus more on the message itself. For this reason, recognizing non-verbal messages and responding accordingly may be one way to improve negotiation with those who come from high-context cultures.

- **Issue 3: Compliance with U.S. laws and international laws**

During the simulation, the U.S. negotiators tried to persuade the Chinese that, as a U.S. company, Maxwell must abide by U.S. laws as well as Chinese ones. However, they were unable to persuade the Chinese to abide by U.S. laws. As a result, the U.S. negotiators were willing to allow the Chinese to settle for compliance only with Chinese laws and international laws. The Chinese based their refusal to comply with U.S. laws on grounds that the plant

would be geographically located in China: therefore, the issues arising would constitute sovereign issues.

A noteworthy point here arose when the American chief negotiator asked the Chinese which law they would comply with in the event that Chinese laws conflicted with international laws. Once again, the Chinese chief negotiator answered that in case of conflicts between Chinese laws and international laws, the Chinese would abide by only Chinese laws. However, they would abide more by international laws when China enters the World Trade Organization (WTO). The American negotiator then appeared to be slightly irritated and said that if the Chinese were to abide only by Chinese laws in cases of conflicts with international law, then the Chinese were really not abiding by the international laws. This is an interesting interpretation, unveiling the underlying Chinese implicit assumption that their laws are deemed superior to others.

This issue of which laws China would comply with is a significant one to understanding China's attitude toward the international regime and its rules in the twenty-first century. The Chinese negotiators' attitude also suggests their *quid pro quo* belief that if they give up something, they want something back. They are also most aggressive in suggesting that China is likely to

comply relatively more with international laws when China gains its WTO membership.

- **Issue 4: Intellectual property rights**

In this simulation, the intellectual property rights (IPR) issue was the only issue resolved between the Chinese and American negotiators. Compared to the Beijing-U.S. IPR negotiation which occurred in February 1995, the American negotiators in this simulation did not take a tough stand on the IPR issue. In fact, during the intra-negotiation session (among the Americans themselves), there were indications that even the U.S. negotiators believed that the IPR issue was the most difficult one, and that it would be the most difficult one to hold the Chinese responsible for. As expected, when the Chinese were asked to be legally responsible for any violations of IPR issues in China, they refused by saying such responsibility was impossible. In the end, the U.S. conceded by saying that the Chinese will not be responsible for any future IPR,violations concerning their joint-venture products. Given the heated debate generated in the U.S. over copyright issues, it is difficult to believe that the IPR issue was the only issue resolved during this negotiation.

- **Issue 5: Export controls**

When negotiating the issue of export controls, the outcome was similar to that on the issue of compliance with U.S. laws: The American chief

negotiator failed to persuade the Chinese to comply with U.S. export control regulations, but the Chinese agreed to comply with international laws, especially after China gains accession to the World Trade Organization (WTO). In this case, the Chinese reasoned that because the joint-venture plant would be located in China, the U.S. government should not interfere with export problems. Realizing the Chinese interpretation of U.S. controls over export regulations, the American chief negotiator was annoyed and complained that they had made too many concessions, but the Chinese negotiators were simply unyielding. It was at this point that the American side ended the negotiation. Consistent with the claims made in existing literature, American negotiators tended to make slightly more concessions than Chinese would.

C. Post-negotiation responses

After the negotiation, both Chinese and American negotiators stayed to complete the questionnaires they were asked to fill out during negotiation. The responses were indicative of the negotiation process and the Chinese negotiation styles. The first problem, as shown in the responses to question #1, was the vague answers given by the Chinese negotiators during this simulation. When compared to the American responses, the Chinese responses were extremely vague. For instance, to the question “What was

your team's original position during this negotiation?" The three American negotiators responded as follows:

They seemed unreasonable in their positions on 1) majority ownership; 2) domestic/international law. Chinese negotiators were insensitive to American company concerns (political and economic). We wanted more significant modifications than were offered.

The Chinese responses, however, were nonspecific, as follows:

Because their proposal is close to our goal.

Our interests are in conflict with theirs. We want to restate our interest, however, we don't want to break the negotiation too quickly.

Reject. The reasons are several. First, they want us to abide by international law instead of Chinese law. Second, we do not want to give up the 70% ownership.

Three negotiators did not explain. The Chinese nonspecific responses to question #1 appear to be problematic because the Chinese failed to communicate to the other side what they really wanted. In some respects, this supports the claim that people who come from a "high-context culture" tend to employ implicit rather than explicit assumptions when communicating with others.¹⁴²

The second dilemma illustrated here regards the negotiators' perception and the mood changes during negotiation. When asked how their teams approached the negotiation, the American negotiators agreed that they

¹⁴² Hall, 78.

did not have a uniform strategy. However, all three American negotiators agreed that they grew more aggressive when they perceived the Chinese negotiators as being unreasonable, especially on the issues of majority ownership and compliance with only Chinese laws. While continuing to emphasize that they wanted to be cooperative, indicated that they did not want to concede too much and appear to be weak, lest U.S. negotiators get too much from them, and the Chinese get nothing in return. In general, the Chinese negotiators perceived themselves as being cooperative but aggressive when necessary, whereas the American negotiators perceived the Chinese as being unreasonable.

The final point here concerns the use of “mixed strategies” by the Chinese and American negotiators. In response to the question, “In your opinion, what tactics did your team use?” the negotiators from both sides tended to answer that they would compromise if possible but used threats whenever they could. For instance, the American negotiators perceived themselves as having made a lot of compromises, including the length of contract and intellectual property rights; but indicating that they did not feel that they could compromise on issues such as majority ownership, international/domestic laws and export controls. While the Chinese also perceived themselves as having used a “mixed approach” of threats and

compromises, the responses they gave were again ambiguous. For instance, one Chinese negotiator offered the response that “during the negotiation process, we tried to compromise as much as possible. But we couldn’t give up those not negotiable.” However, he failed to specify several important points. For instance, which issues were not negotiable? And why were those issues non-negotiable? A noteworthy point here is that the Chinese in fact deemed their tactics moderately effective, but the failure of negotiation was perhaps inevitable due to conflicting interests between both parties.

DISCUSSION

While there are fundamental flaws in this exploratory research design and the instruments I developed, I feel the project was not without merit. In general, the simulation outcomes support the literature surveyed in earlier sections. However, several non-technical points about the simulation deserve some attention, in this section.

The first point concerns the perceptual differences that existed between Chinese and Americans. According to the questionnaire outcomes exhibited in the EWQ, the Chinese and Americans’ attitude toward five issues (ownership, contract length and termination, compliance with U.S. laws and international laws, intellectual property rights and export controls) supported

social psychologists' claim that people tend to perceive members of their own group more favorably than members of an outgroup. Based on this assumption, then, it is logical to assume that the contents of stereotypes will tend to be more negative if two people come from two different cultures.

Furthermore, the most perceptual differences were exhibited in the cultural-dependent category in the EWQ outcomes. This suggests that attributes such as logical, competitive, and aggressive have no universal meaning; instead, the definition varies based on the various conditions as illustrated in my interactive negotiation model.

A second point concerns the claim that Eastern logic tends to be cyclical in nature. During the simulation, the numerous repetition of issues (particularly on the issues of majority ownership and the problem of compliance with international laws and U.S. laws), is one indication in support of this hypothesis. Whenever the Chinese negotiated on another issue, the issue of ownership inevitably arose, suggesting that the Chinese see ownership as an integral issue in a joint-venture negotiation rather than merely one item on a laundry list that can be kept compartmentalized in a specific discussion. This type of cyclical negotiation style presented a great challenge to the American negotiators who, true to their own culture, tried prior because they claimed that they had tried prior to the negotiation to rearrange issues in a

prioritized order ranging from the least difficult to the most difficult issues to be negotiated.

The third problem concerns the Chinese and American insistence on majority ownership. In actual negotiations, the literature suggests that it is not likely that the Chinese would ask for a 70-percent majority share-holding. In this simulation, however, the Chinese and U.S. teams both initially insisted that they hold majority ownership. This finding is not consistent with the Chinese and U.S. positions according to the contemporary literature. On this point, it is highly possible that, when designing the case, I may have exaggerated the position both sides should take, thus creating greater conflict than necessary. This may also explain why even the American negotiators neglected to see managing the day-to-day operations as a more important means of control.

The issue of *mianzi* and the internal dynamics of the Chinese negotiation team constitute the fourth point of this discussion. After the negotiation, some Chinese respondents revealed to me that the team's position differed from the chief negotiator's position. When I asked these individuals why he was not stopped during the negotiation, the Chinese negotiators responded, "We did not want to make him look foolish in front of the Americans." This response suggests that face-saving is in fact an extremely

pervasive issue, as the Chinese were not only concerned with whether they had gained face from the American side but also concerned with ways to save face for their ingroup members. In saving face for their ingroup members and promoting harmony within the group, the Chinese chose to remain silent as a tactic.

A fifth non-technical problem which may be observed during the simulation is the different roles “listening” skills play to the Chinese and American negotiators. American negotiators tended to listen for the content of the message to make sure that they heard the Chinese correctly; the Chinese negotiators tended to listen for a message within the American team that fit most close to their own team’s position. Thus, Americans, when negotiating with Chinese, should pay particular attention so that the Chinese negotiators do not change the American’s position when paraphrasing it.

The interactive negotiation model I discussed in this chapter constitutes a final point of discussion. As stated earlier, it is my belief that no single element (political, economic, cultural, socio-economic and psychological) is solely responsible for shaping an individual’s negotiation style. The main goal in creating such a model is to explore the interrelationship of various variables in the context of intercultural negotiations. This attempt, I believe, is crucial if we are to gain a more

comprehensive understanding of the complex relationships inherent in intercultural negotiations.

CHAPTER 5

CONCLUSION

Throughout this research, I have examined both the relationships and substantive aspects inherent in complex negotiation processes. I have also examined the interactive effects of various political, economic, cultural, economic, social and psychological variables. This final chapter provides an overview of the research outcomes, proposes changes to my working hypotheses, discusses the limitations of my research and recommends ways to improve the current research.

OVERVIEW OF RESEARCH OUTCOMES

As demonstrated in the previous chapters, while understanding cultural differences is an important component of improving one's intercultural negotiation skills, understanding how another culture operates is only a basic prerequisite. The more important task is applying the knowledge of cultural understanding in practical situations. A rigorous scrutiny of the past literature on Sino-U.S. negotiating relations and the joint-venture simulation yielded

eight key points that can improve intercultural relations, particularly in the context of cross-national negotiations.

A key issue relates to the methods used by intercultural researchers. As indicated earlier, traditional means of exploring Sino-U.S. negotiation processes relies heavily on analysis from negotiation experts. Before the 1980s, negotiation analyses also tended to focus on political matters. However, as China opened itself to the global market through its “open-door policy,” topics related to the commercial aspects of Sino-U.S. negotiations begin to appear in Sino-U.S. negotiation literature. While I may have been harsh in criticizing the methods used during the early phases of Sino-U.S. negotiation research, after conducting this simulation, I find that many of my results are consistent with what the literature has suggested in the past. Therefore, the previous literature is crucial in providing a framework for others to explore the role culture plays in shaping an individual’s negotiation style.

Having said that, it is crucial for researchers to recognize that the means used to generate data are just as important as the data collected. In this research, I developed the East West Questionnaire (EWQ) to examine the content of stereotypes Americans have toward themselves and the Chinese and to link the content of stereotypes to the concept of intergroup perception. My

approach contributes to the existing Sino-U.S. negotiation literature because I attempt to explore how assumptions are influenced by various factors. Furthermore, it is noteworthy that while most of my findings are addressed by researchers from different fields, no one has yet attempted to integrate political, economic, social, cultural and psychological factors into a coherent theoretical framework to explain the dynamics of intercultural negotiations. One obstacle to this approach, the intense pressure on researchers to launch immediately into projects in search of quick answers, which mitigates against creating an exploratory project on the grounds that it wastes time. Yet exploratory research may prove to be beneficial because it provides a useful step toward developing a sound approach to research drawing from multiple disciplines.

A second impediment commonly encountered in intercultural relations is developing the ability to understand why people from another culture behave the way they do. In this context, perhaps the most difficult task in intercultural negotiation is not understanding cultural differences, but developing the capability to recognize the influence of cultural orientation (monochronic and polychronic time-orientations, cyclical and linear logic, individualism and collectivism, high-context culture and low-context culture, views on *guanxi* and *mianzi*), and cultural stereotypes that bias our

perceptions. For instance, if an American negotiator begins an intercultural negotiation with some preconceived ideas that Chinese negotiators are illogical and insensitive to U.S. needs without understanding why Chinese behave the way they do, it will be very difficult for the American negotiator to develop accurate interpretations about the problems raised in negotiation. The perceptual differences, based on cultural stereotypes or other means, will lengthen the existing cultural distance.

A third problem hindering the improvement of intercultural relations relates to many researchers' insistence that culture is the most important force affecting negotiators' decision-making styles. As mentioned throughout this research, while culture is an important element, it does not solely determine how people perceive the world. Political, economic, social, psychological and legal factors may also influence an individual's perception. The interactive negotiation model in Chapter 4 is one attempt to assess how these variables interact with each other, and is critical in understanding the complex dynamics of negotiation. Generally speaking, I propose that political, economic, social, cultural and psychological factors all have their places in influencing the choices a negotiator makes. Additionally, depending on the negotiator's negotiating experience, speech skills, listening skills, reasoning skills and the positions they hold within the organization, the choices negotiators make are

also likely to be different. All too often, in intercultural negotiations, the substantive matters may impose conflicting interests on the negotiating parties, but because the other factors I mentioned in the theoretical framework are not always apparent, substantive conflicts may appear to pose a larger threat in the negotiator's achieving any meaningful negotiation outcomes. To that extent, one way to improve one's intercultural negotiation skills is to be aware of how political, economic, cultural, social and psychological factors play out in relationships and substantive matters, and act accordingly. Only when negotiators realize the importance of this increased awareness will negotiation outcomes be substantially improved.

The fourth point concerns the transitional and experimental nature of the joint-venture regime in China. Since China's initial adoption of the Equity Joint-Venture Law in 1979, the joint-venture regime has changed dramatically. However, two important trends of joint-venture policies signal that the Chinese government is only interested in economic development, not altering its authoritarian political tradition. First, the changes of Chinese discriminatory policies toward the selection of joint-venture participants indicate that the Chinese government realizes that if it wishes to use joint-ventures as a vehicle to modernize China, absorbing capital, and foreign technology to consolidate the level of the technological sophistication, it will

require a pragmatic approach which involves less involvement from the state-owned enterprises and relatively more involvement from individual entrepreneurs. In some respects, the level of commercial participation from individual entrepreneurs has increased substantially, but by and large, because it constitutes only two-percent of the Chinese population, its influence is minimal.

Second, China, along with many developing nations, tends to perceive the private sector as a supplementary sector of the market, while regarding the state-owned industries as dominant. One such problem hindering development of the private sector is the government's continued use of the revenue earned in private sectors to subsidize the losses of huge state-owned enterprises, instead of reinvesting the money to better use. Part of this problem illustrates my point that various factors are interrelated, in this case, economic and political factors. While the Chinese government may realize that the Chinese market would prosper even more if some of the inefficient state-owned enterprises were eliminated; however, this strategy is not feasible politically. This is because the state-owned enterprises, while possibly inefficient, are the primary employers of many Chinese. If they shut down, the Chinese government fears that many of the unemployed may begin to criticize the government and create a source of political unrest. The evolution

of the joint venture regime indicates that negotiating with the Chinese will continue to be difficult because they have different concerns on their negotiation agendas than those who are only concerned with efficiency.

A fifth point about intercultural negotiation is that knowledge about one's own culture may indeed help negotiators understand people from other cultures. In intercultural negotiations, such knowledge may prove to be particularly beneficial because it provides a basis for comparison. The rationale behind this idea is that if people are able to understand how and why they themselves interpret events or behave the way they do, it is more likely that they will be able to select alternative interpretations and behaviors that will be more appropriate and effective when interacting in another culture. However, if a negotiator insists that his or her ways are better than others, then having this basis of comparison may not change the negotiation relationship in any significant ways. This failure arises from the flaw of negotiating based on the positions or the beliefs held about what should be, while not attempting to show the other party to the common interests they may gain if they choose to cooperate.¹⁴³ Therefore, knowing the difference between your own culture

¹⁴³Roger Fisher and William L. Ury, Getting to Yes: Negotiating Agreement Without Giving In. (Boston, MA: Houghton Mifflin Company, 1981). Avoiding bargaining based on position is one crucial theme in this work.

and another but not having the common sense to apply such knowledge, will prove to be equally detrimental to a negotiating relationship.

A sixth lesson that may be learned from this research is that while the above discussion may seem like pure common sense to critics; even negotiation experts such as Roger Fisher, William Ury, and Richard Solomon recognize that many errors committed by negotiators reflect simple mistakes. For instance, almost all negotiators know that they should separate the problem from the people. However, under pressure, many negotiators tend to take criticisms personally and to behave defensively. If such defensive behavior continues and both sides stubbornly insist on their positions, a deadlock may ultimately result. One important way of resolving deadlocks is by introducing a third party to help ease the tension. Once the conflicts have been resolved, negotiators are then obligated to the mediator as well, and it is crucial to maintain that relationship. Thus, while the upkeep of *guanxi* is both a time-consuming and tiring process, cultivating the proper relationships can be fruitful in obtaining substantive negotiation results.

A seventh point evident in this research is that not all Chinese and Americans behave exactly in accordance with their cultural norms. Even in an individualistic society such as America, there are individuals who are collective-minded and cooperative when negotiating. By the same token,

there are perhaps an equal portion of Chinese who are fairly individualistic, emphasize their own goals before the group's interests, and demonstrate aggressive and competitive negotiation styles. In this respect, perhaps the best explanation is that individual differences exist across cultures. If this is true, one might be tempted to argue whether understanding cultural-orientations or cultural stereotypes make any difference at all in predicting an individual's negotiation style. The problem of this question is that it assumes that understanding cultural differences will help create a fool-proof strategy in winning a negotiation, instead of finding ways to resolve conflicts.

Finally, as demonstrated, assumptions about what constitute proper interpersonal behaviors may vary both within and across cultures, thus adding obstacles to the technical conflicts existing in intercultural negotiations. This is evident from the emphasis Chinese place on Confucian hierarchy, *guanxi* and *mianzi*. As discussed earlier, these three tenets of Chinese tradition are often analyzed as adjuncts of cultural matters. This thesis, however, argues that these three elements hold a much more important role than most scholars have attributed to them. As discussed, these three tenets of Chinese tradition are important because they act as interdependent forces, mutually reinforcing the Chinese notion of social harmony and stressing a sense of uniqueness by pointing to ingroup-outgroup differences. It is in this context that I present my

propositions and revised hypotheses concerning cultural orientations and cultural differences.

To improve the outcomes of intercultural negotiations, one should remember that despite the many cultural differences on how individuals deal with decision-making, public embarrassment, and conflict-management styles, all negotiators still have one thing in common. That is, they are only human and all have human emotions. In any negotiation, therefore, it is naive to assume that one can get away with continuously criticizing his or her opponents without changing the negotiation relationship and impeding the prospects to achieve substantive results. To conclude this section, an ancient Chinese proverb pointed out by William Ury may help illustrate this point, “Tell them, they may listen; teach them, they may remember; involve them, they will do it.”¹⁴⁴ The next section discusses the differences between my working hypotheses and the revised hypotheses in light of this simulation research.

REVISED HYPOTHESES CONCERNING CULTURAL ORIENTATIONS AND CULTURAL STEREOTYPES

After examining the literature from various disciplines, the outcome of the EWQ, the simulation findings, and the post-negotiation responses, the two

¹⁴⁴William L. Ury. Getting Past No. (New York: Batnam Book, 1991).

working hypotheses were amended. The new hypotheses have not only been specified, but some assumptions used in building these revised hypotheses have also been changed.

Two important changes were made in Working Hypothesis 1,

WORKING HYPOTHESIS 1: Perceptual differences are greatest when two negotiators come from different cultural backgrounds and interactions are based on stereotypes. Furthermore, the perceptual differences are greatest when the content of stereotype is either extremely positive or negative.

PROPOSITION 1: The level of perceptual differences between two individuals may be a result of cultural differences.

HYPOTHESIS 1: Perceptual differences are greater when two people have different cultural backgrounds, specifically when one comes from an individualistic-oriented society and another comes from a collective-society.

First, I now refer to individualistic and collective orientation of the society as the difference in cultural backgrounds. After examining the relevant literature and simulation findings, I am even more convinced that most problems causing breakdowns in intercultural negotiations occur at the levels of assumptions. These assumptions, again, are dependent on political, economic, social, cultural, and psychological influences of a nation. The interplay of these factors, in addition to the negotiator's personal experience, technical knowledge about the subjects, personality, reasoning skills, language

competency, and many other factors will shape the choices that an individual negotiator makes in negotiation.

WORKING HYPOTHESIS 2: A negotiator who comes from a collective-oriented society is more likely to employ a cooperative negotiation style. In contrast, a negotiator who comes from an individualistic society tends to use an aggressive or competitive negotiation style.

PROPOSITION 2: Ingroup-outgroup distinction, coupled with the effects of collectivism and individualism on an individual, will affect the person's willingness to negotiate cooperatively if the individuals are seeing each other for the first time.

HYPOTHESIS 2: Based on the ingroup-outgroup distinction and its relationship with stereotypes,¹⁴⁵ and the assumption that collective-oriented individuals see ingroup members as a reflection of their own identities,¹⁴⁶ it is much more difficult for an individual to negotiate with someone with whom there has been no prior interactions.

The assumption behind Proposition 2 and Hypothesis 2 changed dramatically from the original Working Hypothesis 2. The original assumption in my working hypothesis 2 was that the collective nature of Chinese culture tends to nurture cooperative negotiation styles because collectivists have the tendency to do things to please others. After reviewing the literature and the simulation results, an important distinction has been made --the difference between how Chinese and other collectivists tend to see

¹⁴⁵Tajfel, 17.

¹⁴⁶Triandis, 127.

greater differences between ingroup and outgroup members. This ingroup-outgroup distinction suggests that negotiators from collective cultures may tend to adopt cooperative strategies because they place a priority on collective interests; however, whether they employ such cooperative strategies depends largely on whether they regard the other individual as their own, or at least share significant similarities. In fact, this ingroup-outgroup distinction suggests that these collectivists may adopt more aggressive strategies if they perceive the other negotiator as an outsider. Thus, my original assumption has been modified as follows:

Another important way to examine the effects of Western competitive education and cultural influences on an individuals' negotiation style is to study the level of explicitness found in their arguments. For that, I created Proposition 3 and Hypothesis 3.

PROPOSITION 3: Both age and the level of Western education a collectivist receives will be indicative of whether he or she explicitly--states his or her interests.

HYPOTHESIS 3:

(a) A young negotiator who originally comes from a collectivist society is likely to be implicit about his or her interests when negotiating.

(b) The level or explicitness of his or her arguments will increase if he or she has received some level of Western education. This level of explicitness is likely to increase as the level of Western education increases.

The underlying assumption here is that collectivists who have stayed in an individualistic culture for a long period of time are likely to be more expressive about what they want because they inevitably adapt to the Western societal norms. Some Westerners' assumptions about time and efficiency reinforce their beliefs that the level of precision in an argument is much more important than obtaining other goals such as fostering harmony within groups. This is a theme consistently repeated by scholars such as Edward Hall, Geert Hofstede, Michael Bond, Harry Triandis, Stella Ting-Toomey, and other intercultural researchers. In order to test these hypotheses, one must seriously consider the types of operational scheme one employs. For instance, in Hypothesis 3, the independent variable may easily be operationalized by using the age of the negotiator and the years of Western education one received. However, defining one's negotiation styles is a subjective opinion. Thus, the operationalization scheme must be carefully chosen if these hypotheses were to be implemented in a full-fledged study.

RESEARCH LIMITATIONS

Before I discuss the limitations of this research, the four goals I established at the outset shall be revisited. As mentioned earlier, the primary

goals of this exploratory research are to (1) detect errors in the current research design, (2) fine-tune the existing research instruments, (3) determine whether the research questions are appropriate, and (4) develop both a theory to explain the interrelationships between various variables in the context of intercultural negotiations and some initial hypotheses concerning cultural orientations and stereotypes and Chinese and American negotiation styles to be tested for future negotiation studies.

Perhaps the most significant flaw I face in selecting this simulation case study is recent criticism of the case study approach as “scientifically worthless.”¹⁴⁷ Critics from the increasingly quantitative disciplines such as business, political science, and psychology tend to undermine the significance of well-designed exploratory case research. While remedying the flaws inherent in this simulation will not be easy, particularly when one has to find enough mock negotiators to participate in such time-consuming project, it is not impossible.

The second limitation concerns the use of mixed research methods. The prevailing research methods used to investigate the topic of Sino-U.S. negotiations continue to be interviews or first-hand negotiating experience. While such methods are extremely useful in understanding some aspects of

¹⁴⁷C. William Emory and Donald R. Cooper, Business Research Methods. (Homewood, IL: Richard D. Irwin, Inc., 1991), 143.

negotiation, they do not allow readers to capture the complex dynamics existing in the intercultural negotiation process. This exploratory methodological approach breaks new ground in the study of Sino-U.S. negotiation research. Rather than testing my working hypotheses however, I was simply looking for clues through the EWQ and the simulation outcomes for further development. While the project can be criticized for the non-random sampling of subjects and the lack of statistical analysis, critics should realize that the main purpose of a pilot test such as this is to detect weaknesses in research design and instruments through the proxy data generated through a non-probabilistic sample. In this respect, the burden on exploratory research to claim statistical significance is lessened.

Another major limitation of this research design is the small and non-random nature of the sample. The statistical rule of normal distribution states that a larger sample would create a higher probability for the sample to be approximately normal in a real population, thus increasing the credibility of an experiment. The goal in this research however, was to develop hypotheses to be tested for future studies. A related drawback of this study concerns the fact that I am relying on only one negotiation exercise. Accordingly, I cannot generalize the results nor claim statistical significance in this study. In a future study, this sampling problem may be remedied by increasing the

samples of negotiation subjects, introducing experimental controls, and applying statistical tests to examine the hypotheses I develop in this exploratory study.

The fourth dilemma deals with the PRC subjects themselves. The subjects selected to represent the PRC were, to some extent, educated in the West; hence, their ideas are likely to be more “westernized” than those Chinese who have never left home. This condition creates an opportunity for critics to suggest that this study is not useful in predicting Chinese negotiating behavior. While such a claim may have merit, one must recognize the limitations on subject availability in light of the scope of this project and resources available. In any event, more and more Chinese negotiators have now been exposed to Western modes of operation. This research, then, should spark some interest among Chinese researchers who are interested in examining their own negotiation styles.

The fifth dilemma deals with the literature I surveyed in conducting the current research. In this respect, it is important to note that my literature review is based on almost exclusively Western-based research. Perhaps this in itself constituted a problem when designing my research. Unfortunately, the fact is that very few Chinese themselves have investigated the topic of negotiation. This being the case, some of the important observations about

Chinese negotiating styles have been made by Western scholars such as Lucian W. Pye (commercial negotiation) and Richard H. Solomon (political negotiation).

Other dilemmas that flaw the research outcomes include the fact that the negotiation subjects were exclusively male participants. However, the use of male samples in this study is an elementary means of control to relieve some of my burden by controlling gender differences in this simulation. Moreover, male participants still tend to dominate commercial negotiations between American and Chinese organizations. This imbalance will undoubtedly continue to evolve.

RECOMMENDATIONS FOR FUTURE STUDIES

Several means may help improve the credibility of current research. First, in terms of scientific rigor, one may increase the sample and apply statistical tests to improve the statistical significance of a real simulation study. However, given the time-consuming nature and other logistics of running a simulation, such a change could be extremely costly.

Second, one may introduce various control mechanisms into the simulation situation. For instance, if one is interested in finding out the effect of *guanxi* on the negotiation outcome, it is possible to separate the simulation

subjects into two groups: one with a mediator who is familiar with the Chinese negotiators and another without. Another possible control is to examine whether Western-style education has had any effect on the collectivists using more aggressive styles. This can be accomplished by separating the Chinese subjects into two groups: subjects from the first group who are relatively new in the United States or another Western country; another group consists of members who have stayed in the United States for a relatively long time and have received considerably more Western-style education.

A third way of improving this study is to examine the differences between intercultural (negotiating with those who come from different cultures) and intracultural (negotiating with people who share similar cultural backgrounds) negotiation styles. Below are seven possible combinations of studying this intercultural versus intracultural effects on negotiation styles:

Intercultural Negotiations:

First Condition: Americans - Hong Kong/Macau Chinese

Second Condition: Americans - Chinese from the PRC

Third Condition: Americans - Taiwan Chinese

Intracultural Negotiations:

Fourth Condition: Chinese from the PRC - Hong Kong/Macau

Chinese

Fifth Condition: Hong Kong/Macau Chinese - Taiwan Chinese

Sixth Condition: Chinese from the PRC - Taiwan Chinese

Seventh Condition: Americans - Americans

If implemented correctly, this complex design would help illustrate some stylistic differences exhibited by the Chinese from PRC, Hong Kong/Macau, and Taiwan. In the long run, this might correct the belief that Chinese, regardless of where they come from, share similar negotiation styles.¹⁴⁸

A fourth way of improving this study, and testing the effects of stereotypes, is to conduct a pre-negotiation EWQ test and a post-negotiation EWQ test. By doing this, one can easily compare the differences illustrated on the bar graphs between the contents of stereotypes one has toward members of one's ingroup and members of an outgroup before and after the negotiation. To do that, the operational definition of "cultural distance" could be improved.

¹⁴⁸The intercultural negotiations (negotiating with people who come from different cultures) and the intracultural negotiation dynamic (negotiating with people who share similar cultural backgrounds) was prompted by Roger Fisher's comment on my initial research design. Professor Fisher suggested that categorizing the negotiation teams will allow me to improve understanding of how Chinese negotiate with other Chinese who share relatively similar cultural backgrounds and Americans who have dissimilar cultural backgrounds.

The above four recommendations represent initial attempts to improve the current negotiation simulation. While the investigation process has been time-consuming, it challenged existing knowledge and frameworks, and seemed to generate some interesting questions to be investigated in future studies. In this respect, I believe that further research, with significant modifications of this original research design, will be useful in improving our understanding of Chinese negotiation styles and the complex milieu of intercultural negotiation processes.

APPENDIX A

INTERCULTURAL NEGOTIATION SIMULATION SUBJECT'S CONSENT FORM

The Department of East Asian Languages and Cultures at the University of Kansas supports the practice of protection for human subjects participating in research. The following information is provided to help you decide whether you wish to participate in the present study. You should be aware that even if you agree to participate, you are free to withdraw at anytime without penalty.

As part of my M.A. thesis research, I am interested in studying the effects stereotypes have on inter-cultural negotiations in search of negotiation strategies that may facilitate East-West exchanges. As a subject, you will fill out an East-West Questionnaire (EWQ), meet your negotiation team during the general information meetings, additionally, you will be watching a short video concerning negotiation. This first meeting will last approximately one hour. During this meeting, you will also be given an information package that contains your goals as a negotiator and a set of confidential instructions known only to you and your teammates. Finally, you will be assigned to enter into mock negotiation as part of a larger team.

The actual negotiations will last for approximately two hours. During the negotiation, you will answer questions on the forms provided concerning the progress of negotiation. For the researcher's later analysis, all sessions of negotiations will be videotaped; however, I assure you, the videotapes will only be reviewed by me and my project advisers. It is not likely, but there may be a chance that, initially, you might feel slightly uncomfortable with the videotaping. However, it is my belief that as soon as you concentrate on negotiation, any tension caused by the videotaping will decrease. Additionally, I will once again assure you that your name will not be associated in any way with the research findings because the information will only be identified by the specific dyad (team). As the designer of this project, it is my belief that this project will bring personal growth to your negotiating experience and enhance your understanding about the East-West negotiating styles, which will provide you immense benefits in the future.

If you would like additional information concerning this study before or after this research is completed, please feel free to contract me by phone, mail or e-mail.

Sincerely,

Ashley F. Cheung
105 Lippincott Hall
Lawrence, KS 66045
(913) 864-3849
E-mail: ashleyc@falcon.cc.ukans.edu

Participant's Signature

With my signature I affirm that I am at least 18 years of age and have received a copy of the consent form to keep.

APPENDIX B

East-West Questionnaire

1 = Strongly prevalent, 2 = Moderately prevalent, 3 = No opinion, 4 = Perhaps non-prevalent,
5 = Definitely non-prevalent

<i>ATTRIBUTES</i>	<i>DEGREE OF ATTRIBUTES FOR</i>									
	<i>AMERICANS</i>					<i>CHINESE</i>				
1. Intelligent	1	2	3	4	5	1	2	3	4	5
2. Materialistic	1	2	3	4	5	1	2	3	4	5
3. Ambitious	1	2	3	4	5	1	2	3	4	5
4. Industrious	1	2	3	4	5	1	2	3	4	5
5. Deceitful	1	2	3	4	5	1	2	3	4	5
6. Arrogant	1	2	3	4	5	1	2	3	4	5
7. Practical	1	2	3	4	5	1	2	3	4	5
8. Aggressive	1	2	3	4	5	1	2	3	4	5
9. Cooperative	1	2	3	4	5	1	2	3	4	5
10. Impulsive	1	2	3	4	5	1	2	3	4	5
11. Stubborn	1	2	3	4	5	1	2	3	4	5
12. Competitive	1	2	3	4	5	1	2	3	4	5
13. Assertive	1	2	3	4	5	1	2	3	4	5
14. Logical	1	2	3	4	5	1	2	3	4	5
15. Trusting	1	2	3	4	5	1	2	3	4	5

APPENDIX C

JOINT-VENTURE SIMULATION CASE:

Background Information:

U.S. Maxwell, Inc., a large computer corporation company, earned \$15 million net profit last year within the United States. Currently, however, the labor/management relationship at U.S. Maxwell and within the computer industry itself has worsened, and U.S. Maxwell's improved. Because Maxwell is investing heavily on Research & Development (R&D) to compete with other major U.S. industries such as IBM, it is impossible for the management to meet the labor union's demands.

During one meeting, U.S. Maxwell's vice-president raised an idea about establishing a joint-venture in Asia because of low labor costs and other overhead expenses there. The President of U.S. Maxwell, Inc. subsequently ordered the investment team to conduct further research on that proposal. After months of research, the team reported to the management that Hong Kong/Macau, PRC-China and Taiwan represent best investment opportunities for joint-ventures, in part because of minimal political and economic risks.

In another meeting, the Executive Board decided that the new joint-venture, once established, would produce a new type of Chinese computer software that is currently in great demand among academics, libraries, and students. The company also intends to manufacture hard-drives, monitors, and micro-chips for export to other countries. At this point, the Executive Board of U.S. Maxwell Company intends to invest approximately \$20 - 35 million dollar. If this initial plan is successful, U.S. Maxwell, Inc. will consider broadening its investment in the country they target for their East Asian operations.

Under the Executive's Board order, Maxwell's research team in December identified three companies that are interested in joint-venturing with Maxwell and whose proposals are quite sound. Three important representatives from U.S. Maxwell will travel to China to select the most favorable joint-venture partner for U.S. Maxwell. This negotiation delegation includes: the President, vice-president and a general manager of the company.

U.S. Maxwell, Inc. (United States)
Fact Sheet and Companies' Investment Plan

Profit: \$15 million (1993)

Sales: \$388 million (1993)

Number of franchises opened in 1993: 2 in European countries

Number of employees in the 2 joint-ventures established in 1993: over 5,000

Total investment cost for this project: \$38 million

Start-up capital: \$20 million

Number of employees intended to hire: over 1,000

Contract Length: 1 year

Manufactured Products include: Chinese computer software, monitor, microchips, hardware

U.S. Negotiators' Goals:

Your task include negotiating the best possible deals on the following issues:

1. **Ownership Issue:** Your goal is to negotiate a 50-50 equal partnership but within which the Chinese side will have primarily responsibility for labor issues. Additionally, you want to get complete autonomy on management decisions. As negotiators, you will have some freedom to modify this proposition, but in general, it has to adhere to the aforementioned goal.

2. **Intellectual Property Rights Issue:** There have been gross violations of intellectual property rights in China. Your responsibility here is to get the Chinese to take full responsibilities to protect intellectual property rights on the joint-venture products. You warn that, in case of violations, you will take legal actions against not only the violators, but the joint-venture partner as well.

3. **Contract Length and Termination Issue:** You want your contract length to be one (1) year in order to test the results of this joint-venture partner. Additionally, you want to negotiate terms under which you can terminate this joint-venture contract.

4. **Law Issue:** Because you are aware of the shaky legal frameworks in PRC, in particular, you wish the Chinese to submit to the U.S. law (or at least international laws). U.S. Maxwell believes that this is the safest way to protect its own interests.

5. **Export Controls Issue:** Eager to avoid possible violations involving the transshipment of goods, and the export to political enemies of the U.S. You demand that the Chinese comply with the U.S. laws and export regulations on the matter of the countries to which the export regulations on the matter of the countries to which the joint-venture company can export its goods. The failure to do so may subject your company to a huge lawsuit initiated by the U.S. government.

PROBLEM AREA: * A lawsuit was filed against Hung Yuen last year, as the company was sued by Microsoft windows in the United States for violating its intellectual property rights (IPR). The court is still pending this case. In order to protect U.S. Maxwell's interests, you are to press on the PRC Chinese on this IPR issue as much as possible.

Hung Yuen Computers (PRC)
Fact Sheet and Company's Investment Plan

Profit: \$1 million RMB (1993)

Sales: \$25 million RMB (1993)

Number of franchise opened in 1993: 4 all in Special Economic Zones (SEZs) in China

Number of employees in the 2 joint-ventures established in 1993: over 1,500

Total investment cost for this project: \$10 million RMB

Start-up capital: \$4 million

Number of employees intended to hire: over 1,000

Contract length: 5 years

Manufactured products include: Chinese computer software and microchips

PRC Negotiators' Goals:

Your task include negotiating the best deals for the following issues:

1. **Ownership Issue:** Your goal is to negotiate a 70-30 partnership with the Chinese company holding the majority ownership. You also wish to obtain control over both labor and management decisions. As negotiators, you will have some freedom to modify this proposition, but in general, it has to adhere to the aforementioned goal.
2. **Intellectual Property Rights Issue:** There have been gross violations of intellectual property rights in China. Your opponent had just asked you to take full responsibilities to protect intellectual property rights of the joint-venture and claims that, in event of IPR violations, they will take legal action against not only the violators but your company as well. Initially, you are to refuse to negotiate on this issue because you cannot police your entire population. It is entirely up to your team to come to terms with this issue.
3. **Contract Length and Termination Issue:** You want your contract length to be at least three to five (3 - 5) years because you think the time you spend on negotiation on merits considerably more than a one-year contract. You also refuse to negotiate the terms under which this joint-venture contract will be terminated, arguing that the American company should not anticipate the termination of a contract at the beginning of negotiation.
4. **Law Issue:** U.S. Maxwell has just asked your company to obey Chinese law, the U.S. law and international law because they have heard about the notorious PRC legal system. You are extremely angry that the U.S. negotiators have just demanded China to comply to U.S. law. However, you agreed to obey both Chinese and international law, but not U.S. law. It is up to you and your teammate to decide how to negotiate on this issue.
5. **Export Control Issue:** The Americans have just demanded that your company to consult with the U.S. export regulations and complies to the U.S. laws as to what countries this joint-venture company can export its goods to. You believe that some of the markets prohibited by U.S. export regulations (such as Iraq) are extremely profitable; in order to protect your future interests, you are tempted to turn down this joint-venture and joint-venturing with companies from Hong Kong/Macau and Taiwan, -- particularly because you realize that such terms may be common to other American companies.

APPENDIX D

QUESTIONNAIRE FOR NEGOTIATORS

Please circle the appropriate response below:

1. Nationality: 1 = American 2 = Chinese from the People's Republic of China (PRC)
 2. Age: 1 = 18 - 22 2 = 23 - 27 3 = 28 - 32 4 = 33 - 37 5 = 37 or above
 3. Year in school: 1 = Freshman 2 = Sophomore 3 = Junior 4 = Senior 5 = Other
 4. How long have you been in the United States?
1 = 1 year 2 = 2 - 4 years 3 = 5 - 7 years 4 = 7 - 9 years 5 = more than 10 years
-

INSTRUCTION: Please record your response during this negotiation in the most concise form in the space provided.

5. What was your team's original position during this negotiation?
 - a. Accept offer as it is presented by your counterpart. Explain.

 - b. Accept counterpart's offer with slight modifications. Explain.

 - c. Accept counterpart's offer with major modifications. Explain.

 - d. Reject counterpart's offer altogether. Explain.

6. How did your team approach the other party:
 - a. Try to be friendly and helpful. Explain.

 - b. Negotiate very aggressively because you don't want them to see you as the weak party. Explain.

c. Try to be aggressive sometimes, but other times be very cooperative. Explain.

7. In your opinion, what tactics did your team use?

a. Threats. Explain.

b. Compromises. Explain.

8. How did negotiation develop during this simulation?

a. Very smoothly. Explain.

b. Generally smooth but with slight difficulties. Explain.

c. Somewhat difficult. Explain.

d. Very difficult. Explain.

9. How effective were these tactics that your team has chosen to use?

a. Very effective. Explain.

b. Moderately effective. Explain.

c. Very ineffective. Explain.

APPENDIX D

FOREIGN ECONOMIC CONTRACT LAW OF THE PEOPLE'S REPUBLIC OF CHINA ON ECONOMIC CONTRACTS INVOLVING FOREIGN INTEREST

(Adopted on March 21, 1985 at the 10th Session of the Standing Committee of the 6th National People's Congress)

CHAPTER 1 GENERAL PROVISIONS

- Article 1 This law is enacted with a view to protect the lawful rights and interests of the concerned parties to foreign economic contracts and promote the development of China's foreign economic relations.
- Article 2 This law applies to economic contracts (hereinafter referred to as contracts), concluded between enterprises or other economic organizations of the People's Republic of China and foreign enterprises, other foreign economic organizations or individuals, but with the exception of the international transport contracts.
- Article 3 Contracts should be made in conformity with the principles of equality and mutual benefit, and of achieving unanimity through consultations.
- Article 4 Contracts must be made in accordance with the law of the People's Republic of China and without prejudice to the public interests of the People's Republic of China.
- Article 5 The parties to a contract may choose the law to be applied to the settlement of the disputes arising from the contract. In the absence of such a choice by the parties, the law of the country which has the closest connection with the contract applies.

Contracts for Chinese-foreign equity joint ventures, Chinese-foreign cooperative enterprises and for Chinese-foreign cooperative exploitation and development of natural resources to be performed within the territory of the People's Republic of China shall be governed by the law of the People's Republic of China. The international practice may apply in case no relevant provision is stipulated in the law of the People's Republic of China.

Article 6 When an international treaty that relates to a contract and which the People's Republic of China has concluded or participated in has provision(s) that differ from the law of the People's Republic of China, the provision(s) of the said treaty shall be applied, but with the exception of clauses to which the People's Republic of China has declared reservation.

CHAPTER II FORMATION OF CONTRACT

Article 7 A contract is formed when the clauses of contract are agreed in written form and signed by the parties. In case one party requests to sign a confirmation letter when the agreement is reached by the means of letter, telegram or telex, the contract is only formed upon the confirmation letter being signed.

Contracts, which are under the provisions of the law and administrative regulations of the People's Republic of China, shall be approved by the competent authorities of the state. They are only formed when the approval is granted.

Article 8 Appendices specified in a contract are integral parts of the contract.

Article 9 Contracts that violate the law or the public interests of society of the People's Republic of China are invalid.

In a case where any clauses in a contract violate the law or the public interests of society of the People's Republic of China, the validity of the contract is not derogated if such clauses are canceled or revised by the parties through consultations.

- Article 10 Contracts concluded by means of fraud or under duress are invalid.
- Article 11 The party who bears responsibility for the invalidity of the contract is obligated to pay the other party for the loss arising from the invalidity of the contract.
- Article 12 Contracts should generally constrain the following items:
- (1) The corporate or personal names of the contract parties and their nationalities, principal place of business or residence addresses;
 - (2) Date and place of signature of the contract;
 - (3) Type of contract and the kind, scope of the subject matter of the contract;
 - (4) Technical conditions, quality, standard, specifications and quantities of the subject matter of the contract;
 - (5) Time limit, place and method of performance;
 - (6) Terms of price, amount and way of payment, and various additional changes;
 - (7) Whether the contract could be assigned or conditions for assignment;
 - (8) Compensation and other liabilities for breach of the contract;
 - (9) Ways for settlement of disputes in case of disputes arising from the contract;
 - (10) Languages to be used in the contract and their effectiveness.

- Article 13 The limits of risks bore by the parties for the subject matter to be performed should be specified in the contract according to its requirement; and the coverage of insurance for the subject matter should be specified when it is necessary.
- Article 14 With regard to a contract that needs to be performed continuously in a rather long period, the parties should set a valid term of the contract and may also set conditions for extension and early termination of the contract.
- Article 15 A guarantee clause may be agreed upon in the contract by parties. The guarantor shall undertake responsibility within the agreed scope of the guarantee.

CHAPTER III PERFORMANCE OF CONTRACTS AND LIABILITIES FOR BREACH OF CONTRACT

- Article 16 A contract formed in accordance with law is legally binding. The parties should fulfill their obligations stipulated in the contract. No party should arbitrarily alter or terminate the contract.
- Article 17 A party may suspend performance of his obligations temporarily if it is proved by conclusive evidence that the other party cannot perform his obligations. However, the party who suspends performance should promptly inform the other party. When the other party provides a full guarantee of performance of the contract, the party shall perform the contract. The party who suspends performance of contract, in case of no conclusive evidence for proving the other party is not able to perform the contract, shall be responsible for breach of contract.
- Article 18 If a party does not perform the contract or its performance of the contractual obligations does not conform to the agreed conditions, that is in breach of contract, and the other party is entitled to demand completion for losses or to adopt other reasonable remedial measures.

If the losses suffered by the other party still cannot be made up completely after taking remedial measures, the other party retains the right to claim for damages.

- Article 19 The liability for damages by a party for breach of contract should be equal to the loss suffered by the other party as a consequence of the breach. However, such damages may not exceed the loss which the party in breach ought to have foreseen at the time of the conclusion of the contract as a possible consequence of the breach of contract.
- Article 20 The parties may agree upon in a contract that a certain amount of liquidated damages will be paid to the other party if one party breaches the contract; and may also agree upon a method for calculating the damages arising over such a breach of contract.
- The above-mentioned liquidated damages shall be regarded as compensation for the loss caused by breach of contract. However, if the liquidated damages agreed upon in the contract is much more or less than the loss, the parties may request an arbitration body or court to cut or increase it appropriately.
- Article 21 In a case where both parties are in breach of the contract, each shall bear the corresponding liabilities respectively.
- Article 22 A party who suffers losses arising from a breach of contract by the other party should take appropriate measures in time to prevent the loss from aggravating. If he fails to adopt appropriate measures and that aggravates the loss, he shall have no right to claim damages for the aggravated part of the loss.
- Article 23 If a party fails to pay on time the due amount agreed upon in the contract or any other due amount related to the contract, the other party is entitled to interests on the amount in arrears. The method for calculating the interest may be specified in the contract.

Article 24 A party should be exempted from his obligations in whole or in part in case he fails to perform all or part of his obligations as a result of a force major event.

In case a party cannot perform his obligations within the time limit set in the contract due to a force major event, he should be relieved from the liability for delayed performance during the period of continued influence of the effects of the event. An event of force major means the event that the parties could not foresee at the time of conclusion of the contract and its occurrence and consequences cannot be avoided and cannot be overcome.

The scope of force major events may be specified in the contract.

Article 25 The party who fails to perform all or part of the obligations of the contract because of an event of force major should inform the other party in time so as to mitigate the loss which might possibly occur to the other party, and should also provide a certificate issued by the relevant agencies within a reasonable period.

CHAPTER IV ASSIGNMENT OF CONTRACT

Article 26 When a party intends to assign all or a part of his contractual rights and obligations to a third party, consent should be obtained from the other party.

Article 27 As for a contract which, as provided by the law of administrative regulations, is formed only after getting approval from the competent authority of the state, the assignment of the rights and obligations of such contract should be subject to the approval authority, but with the exception of already approved contracts in which it is otherwise agreed.

CHAPTER V
MODIFICATION, CANCELLATION AND TERMINATION OF
CONTRACT

- Article 28 A contract may be modified by the parties through consultations.
- Article 29 A party is entitled to inform the other party to cancel the contract if one of the following situations occurs:
- (1) The expected economic interests are infringed seriously for the breach of the contract by the other party;
 - (2) The other party fails to perform a contract within the time limit agreed upon in a contract, and still fails again within a reasonable period of time allowed for delayed performance;
 - (3) The whole obligations of the contract cannot be performed due to the occurrence of a force major event;
 - (4) The conditions agreed upon in the contract for cancellation of the contract have arisen.
- Article 30 For a contract containing several independent parts, some of them may be canceled and the others shall remain valid according to the provisions of the previous article.
- Article 31 A contract should be terminated if one of the following situations occurs:
- (1) The contract has already been performed in accordance with the agreed conditions;
 - (2) The arbitration body or the court decides to terminate the contract;
 - (3) The parties agree to terminate the contract through consultations.
- Article 32 Notices or agreements for modification or cancellation of the contract should be made in written form.

- Article 33 Contracts that under the provisions of the law and administrative regulations of the People's Republic of China, are only formed after getting approval from the competent authority of the State, the significant modification of such contracts should be approved by the original approval authority and the cancellations of such contracts should be filed with the original approval authority.
- Article 34 Modification, cancellation or termination of a contract does not deprive a party of the rights to claim for damages.
- Article 35 The clauses agreed to in a contract on the settlement of disputes shall not become invalid because of the cancellation or termination of the contract.
- Article 36 The clauses agreed to in a contract on settlement of account and winding-up shall not become invalid because of the cancellation or termination of the contract.

CHAPTER VI SETTLEMENT OF DISPUTES

- Article 37 Any disputes arising from a contract ought to be settled by the parties, if possible, through consultations or mediation of a third party.
- In case the parties are unwilling to solve a dispute through consultation or mediation, or fail to do so, the dispute may, in accordance with the arbitration clause provided in the contract or the written arbitration agreement reached by the parties afterwards, be submitted to a Chinese arbitration body or other arbitration body.
- Article 38 In case neither an arbitration clause is provided in the contract nor a written arbitration agreement is reached afterwards, the parties may bring suit in the People's Court.

CHAPTER VII
SUPPLEMENTARY PROVISIONS

- Article 39 The limitation of action for litigation or arbitration concerning disputes over a contract of purchase and sale of goods is four years from the time the party knew or ought to know his rights are infringed. The limitation of action for litigation or arbitration concerning disputes over other contracts shall be separately stipulated by the law.
- Article 40 Even if the law makes new provisions, contracts for Chinese-foreign equity joint ventures, Chinese-foreign cooperative enterprises and for Chinese-foreign cooperative exploitation and development of natural resources to be performed within the territory of the People's Republic of China, which have already been approved by a competent authority of the State and made, may still be performed according to the stipulations of those contracts.
- Article 41 Contracts made before the enforcement of this law may be governed by this law in cases where the parties so agree through consultations.
- Article 42 Rules for the implementation of this law shall be formulated by the State Council in accordance with this law.
- Article 43 This law shall enter into force on July 1, 1985.

APPENDIX E

THE LAW OF THE PEOPLE'S REPUBLIC OF CHINA ON JOINT VENTURE USING CHINESE AND FOREIGN INVESTMENT

(Adopted by the Second Session of the Fifth National People's Congress on July 1, 1979 and Promulgated on and effective as of July 8, 1979)

- Article 1 These Procedures for registration, examination and approval are formulated in accordance with the "Regulations of the People's Republic of China on the Registration and Administration of Joint Ventures Using Chinese and Foreign Investment" promulgated by the State Council of the People's Republic of China.
- Article 2 Joint ventures between Chinese and foreign investors (hereinafter called "joint ventures") must apply for registration with the administrations for industry and commerce in the provinces, municipalities or autonomous regions where they are located within 30 days of approval by the Foreign Investment Control Commission of the People's Republic of China (hereinafter called the "State Foreign Investment Control Commission") or the provincial, municipal and autonomous regional governments it entrusts.
- Article 3 A joint venture, when applying for registration, must present the following certificates and materials:
- (1) A request or registration signed by the chairman and vice-chairman of the board of directors or the general manager and deputy general manager (one each from the Chinese and foreign sides);
 - (2) The certificate of approval issued by the State Foreign Investment Control Commission. Those approved by the provinces, municipalities and autonomous regions as entrusted by the State Foreign Investment Control Commission must present the certificates of approval issued by the provinces, municipalities and autonomous regions where the joint ventures are located;

- (3) The agreement, contract and regulations of the joint venture (both in Chinese and foreign languages in triplicate);
- (4) A feasibility study report of the joint venture;
- (5) The legitimate business certificate issued by the competent government department in the country (or region) where the foreign partner resides; and
- (6) Verified documents concerning construction conditions such as environmental protection, urban construction, water and power supply, etc. issued by the relevant departments of the people's government in the city or county where the joint venture is located.

Article 4 A joint venture applying for registration must fill out the application form in triplicate. The forms shall be printed and distributed in a unified way by the State Administration for Industry and Commerce. The joint venture must truthfully fill out the items listed in the form. The chairman and vice-chairman of the board of directors or the general manager and deputy general manager shall be held fully responsible for the contents submitted therein.

Article 5 The State Administration for Industry and Commerce shall reply within one month of receiving the registration application form of the joint venture and the related documents. Its procedure of examination and approval is as follows:

- (1) The provincial, municipal or autonomous regional administration for industry and commerce that handles the application shall examine the above-mentioned certificates and application form presented by the joint venture, and write an examination report. Where anything is found not in accordance with the stipulations, the applicant shall be promptly notified to make alterations.
- (2) The provincial, municipal or autonomous regional administration for industry and commerce that handles the application shall send to the State Administration for Industry and Commerce for approval all the documents and application forms together with the examination report, apart from keeping a copy of the agreement, contract and

regulations of the joint venture and sending another copy to the administration for industry and commerce in the city or county where the joint venture is located.

(3) The State Administration for Industry and Commerce, having approved the above documents, shall reply to the relevant provincial, municipal or autonomous regional administration for industry and commerce, instructing the latter to issue on its behalf “Notice of Approved Registration” and “Business License of the People’s Republic of China”.

(4) The items “Examination, Approval and Comments by the State Administration from Industry and Commerce of the People’s Republic of China” in the application form shall be signed by the general director or the deputy general director in charge. Where the general directory authorizes the director of the provincial, municipal or autonomous regional administration for industry and commerce to sign on his behalf, he shall issue the certificate of authorization.

Article 6 Where a joint venture moves site, changes to another line of production, adds or reduces or transfers its registered capital, or extends the term of the contract, it must, within one month of approval by the State Foreign Investment Control Commission, submit the approval certificate to the administration for industry and commerce in the province, municipality or autonomous region where the joint venture is located, to change the registration. Where the chairman of the board of directors or the general manager of a joint venture is changed, it must immediately change the registration, fill out the registration change form and change the business license.

Where there is any change in respect of the contents of the registration, it must be reported at the end of the year to the administration for industry and commerce in the province, municipality or autonomous region where the joint venture is located.

Article 7 Where a joint venture wishes to conduct business abroad and to obtain a “Business Certificate of the People’s Republic of China”, it must apply to the administration for industry and commerce in the province, municipality or autonomous region where it is located, and send a draft business certificate in duplicate to the State Administration for

Industry and Commerce. The business certificate shall be issued by the department that handles the application on behalf of the State Administration for Industry and Commerce upon the latter's approval.

- Article 8 A joint venture, during registration or when amending the registration, shall pay fees according to the "Provisional Regulations of the People's Republic of China on the Standards of Registration Fees to be Paid by Joint Ventures Using Chinese and Foreign Investment prepared by the State Administration for Industry and Commerce.
- Article 9 A joint venture whose contract term expires or terminates ahead of time, must bring the approval documents of the State Foreign Investment Control Commission and the certificates of the Ministry of Finance and the Bank of China concerning the clearance of property to the department that handled its registration and go through the procedures to cancel the registration and hand in the business license.
- Article 10 Upon the termination of the joint venture contract, if the Chinese party wishes to continue the business, it must register anew and obtain another business license.
- Article 11 The procedures of applying for registration and its examination and approval regarding enterprises jointly run by overseas Chinese, compatriots in Xianggang (Hong Kong) and Aomen (Macao) or their firms or enterprises together with other economic organizations in various localities or departments shall be handled with reference to these Procedures.
- Article 12 Matters not included in these Procedures shall be amended or revised by the State Administration for Industry and Commerce.

APPENDIX F

REGULATIONS OF JOINT VENTURES' BALANCE OF FOREIGN EXCHANGE REVENUE AND EXPENDITURE

(Promulgated on January 15, 1986 by the State Council.)

- Article 1 These Regulations are formulated for the purpose of encouraging foreign joint ventures to establish in China Sino-foreign joint equity ventures involving Chinese and foreign investment and of promoting the balancing of their foreign exchange income and expenditure, to the advantage both of production management and the repatriation of legally earned profits by foreign joint ventures.
- Article 2 Sino-foreign joint equity ventures should maximize the export of their products and the generation of foreign exchange in order to achieve a balance in foreign exchange income and expenditure.
- Article 3 Where it is necessary to adjust the foreign exchange income and expenditure of Sino-foreign joint equity ventures approved and established in accordance with the law, this shall be administered and resolved at the separate levels of examination and approval jurisdiction.

In the case of a Sino-foreign joint equity venture established with the approval of central administering authorities, these authorities shall be responsible for adjusting its foreign exchange balance within the foreign exchange income derived by Sino-foreign joint equity ventures throughout the country. These authorities may also undertake the adjustment, in conjunction with local People's Government, in proportions to be discussed and agreed between them. In the case of a Sino-foreign joint equity venture established with the approval of a local People's Government authorized by the State Council or entrusted by the competent central authorities or with the approval

of a relevant department of the State Council, the said local People's Government or relevant department shall be responsible for adjustment using the foreign exchange income derived from the Sino-foreign joint equity ventures established with their approval.

Article 4 In the case of sophisticated products produced with advanced or key technology provided by the foreign joint venture, or of internationally competitive products, where such products are urgently need on the domestic market, have been certified as up to standard by the competent department and have been approved in accordance with the regulation of the State concerning jurisdiction and procedures for approval, special consideration may be granted with regard to the proportion and period of sales into the domestic market. Such domestic sales should be set forth clearly in a contract signed between the producer and the purchaser.

The foreign exchange balance plans for the enterprises referred to in the preceding Article shall be formulated, in accordance with paragraph two, Article 3 of these Regulations, by the approving body. They shall be submitted separately, in accordance with administrative procedures, to the Ministry of Foreign Economic Relations and Trade or the local foreign economic relations and trade department for examination and comment, and following submission to and approval by the State Planning Commission or the local planning commission shall be included in long-term or annual plans for foreign exchange expenditure.

Article 5 Products of Sino-foreign joint equity ventures which China needs to import on a long-term or urgent basis may, depending on requirements as to quality and specifications and the import situation, be approved as import substitutes by the competent department of the State Council or local government. Such substitutions must be clearly specified either in the Sino-foreign joint equity venture contract or in a producer-purchaser contract.

The departments of foreign economic relations and trade shall actively support domestic end-users in concluding purchase and sales contracts at international prices, with the Sino-foreign joint equity ventures referred to in the preceding Article. Their foreign exchange

expenditure plans shall be formulated in accordance with paragraph two, Article 3 of these Regulations and submitted separately, in accordance with administrative procedures, to the Ministry of Foreign Economic Relations and Trade or the local foreign economic relations and trade department for examination and comment, and following submission to and approval by the State Planning Commission or the local planning commission shall be included in long-term or annual plans for foreign exchange expenditure.

- Article 6 In order to achieve a balance of foreign exchange income and expenditure, Sino-foreign joint equity ventures may, with the approval of the Ministry of Foreign Economic Relations and Trade, utilize the sales connections of the foreign joint venture to promote the sale of domestic Chinese goods on the export market, by way of comprehensive compensation. But in the case of products which come under unified State control, those which are restricted by export quota, and those which require application for an export license, it is necessary to apply to the Ministry of Foreign Economic Relations and Trade for special approval. Without such approval, Sino-foreign joint equity ventures may not engage in the export of goods in these categories.
- Article 7 Where a Sino-foreign joint equity venture does not fulfill stipulated contractual obligations for exports and generation of foreign exchange, thereby creating a foreign exchange imbalance, the authorities concerned shall not be responsible for resolving the situation through adjustment.
- Article 8 In selling products to enterprises which are outside the special economic zones and the economic and technological development zones of the open port cities and which have the capacity to pay in foreign exchange, Sino-foreign joint equity ventures are permitted, with the approval of the foreign exchange control department, to set prices and settle accounts in foreign exchange.
- Article 9 Where one foreign joint venture establishes two or more joint ventures in China (including where these are in different locations and with different sectors) and where the legitimate foreign exchange income of one is in surplus and another is in deficit, that joint venture may, with the approval of the foreign exchange control department,

solve the problem through adjustment between the various enterprises in which the joint venture is involved. Such adjustment must be agreed to by all parties to the joint venture.

Article 10 With the approval of the foreign economic relations and trade departments and the foreign exchange control departments, a Sino-foreign joint equity venture which is unable to achieve a balance of foreign exchange income and expenditure may, in accordance with the stipulations of Article 7 of the Law of the People's Republic of China on Joint Ventures Using Chinese and Foreign Investment, reinvest its share of renminbi profits in other ventures in China which have the capacity to generate new or additional foreign exchange earnings. In addition to enjoying, according to law, the preferential tax treatment of a rebate on tax already paid, the foreign joint venture may obtain foreign exchange from the newly generated foreign exchange income of that investment enterprise and remit it abroad as legitimate profit.

Article 11 These Regulations shall apply to Sino-foreign joint equity ventures established in China and to joint equity ventures or co-operative joint ventures established in China by companies, enterprises or other economic organizations from the Hong Kong, Macao or Taiwan regions. They shall also apply to joint equity ventures or co-operative joint ventures involving overseas Chinese investment.

The Regulations shall not apply to financial or insurance enterprises established in China by foreign joint ventures or joint ventures from Hong Kong, Macao or Taiwan.

Article 12 In the case of any conflict with any other regulations relating to the foreign exchange balance of Sino-foreign joint equity ventures promulgated prior to the promulgation of these Regulations, these Regulations shall prevail.

Article 13 The Ministry of Foreign Economic Relations and Trade shall be responsible for the interpretation of these Regulations.

Article 14 These Regulations shall come into force on February 1, 1986.

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