U.S. POLICY OF CONDITIONING CHINA'S MOST-FAVORED-NATION STATUS ON INTELLCTUAL PROPERTY PROTECTION: 1991-1993

by

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(ABSTRACT)

This study focuses on the U.S. policy of conditioning China's Most-Favored-Nation (MFN) status on its intellectual property protection in the 1991-1993 period. It seeks to evaluate the importance of U.S. foreign policy interests, societal actors, institutions (the presidency or Congress), and the interaction between these institutions in the MFN decisionmaking process.

By applying three conceptual models -- the rational actor model, the interest group model, and the interbranch politics model -- to the three distinct phases in the development of the MFN-IPR policy, this study finds that it is most useful to combine the international explanation with one stressing domestic rules and institutions. Although U.S. strategic interests define the boundary of China policy and provide a justification of why the United States would continue to grant MFN status to China, MFN policy formulation has also been a function of U.S. domestic political process. With the diversification of China policy objectives and the pluralization of the policymaking process, U.S. strategic interests are frequently weighted and balanced by concerned governmental and societal institutions in the process, and are eventually reconciled with various political preferences to shape foreign policy outcomes. By breaking down the concept of a unitary state actor in the foreign policymaking process and unpacking the "black box" of domestic politics, the interest group model and the interbranch politics model allow us to see how domestic actors and institutions could serve to modify U.S. response to systemic conditions. They are useful supplements to the rational actor model in explaining the U.S. policy of conditional MFN.

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Introduction

Explaining U.S. Policy Concerning China's Most-Favored-Nation Status: A Theoretical Framework

Studies of American foreign policy toward China tend to stress strategic interests in describing and explaining U.S. policy. However, the inadequacy of such a systemic approach has become particularly pronounced in the post-Cold War era when U.S. strategic considerations have increasingly been altered to accommodate other foreign policy priorities and when many bilateral issues with strong domestic implications have emerged to affect the policy process. With the diversification of China policy objectives and the decentralization of U.S. China policymaking, domestic bargaining and U.S. governmental processes have assumed a central role in explaining policy outcomes. To better understand U.S. policy toward China in this new political landscape, one needs to go beyond the strategic approach to look at how domestic actors and institutions may act and interact to influence policy formulation.

This study focuses on the U.S. policy of conditioning China's Most-Favored-Nation (MFN) status on its protection of intellectual property rights (IPR) in the 1991-1993 period. It seeks to evaluate the importance of U.S. foreign policy interests, societal actors (the pro- and anti-MFN coalitions), institutions (the presidency or Congress), and the interaction between these institutions in the MFN decisionmaking process. Three conceptual models -- the rational actor model, the interest group model, and the interbranch politics model -- will be employed for this purpose. The rational actor model explains U.S. policy in terms of the foreign policy objectives of the United States on the MFN issue. The interest group model stresses the competing influence of societal actors (specifically the pro- and anti- MFN lobbies in the business community) in the policy arena. The interbranch politics model conceives of the MFN outcome as the product of conflict and compromise between two governmental institutions -- the executive and the legislature -- because of their different objectives, priorities, and approaches. By applying these models to the three distinct phases in the development of the MFN-IPR policy, this study attempts to identify the factors that have led the United States to pursue such a policy of conditional MFN.

The following empirical studies support the two-level game theory which combines the international explanation with one stressing domestic rules and institutions.[1] Although U.S. strategic interests define the boundary of China policy and provide a justification of why the United States would continue to grant MFN status to China, MFN policy formulation has also been a function of U.S. domestic political processes. As more and more actors and political interests have been drawn into the China policy arena, U.S. strategic interests have been frequently weighted and balanced by concerned governmental and societal institutions in the process. By breaking down the concept of a unitary state actor in the foreign policymaking process and unpacking the "black box" of domestic politics, the interest group model and the interbranch politics model allow us to see how domestic actors and institutions could serve to modify the U.S. response to systemic conditions. They are useful supplements to the rational actor model in explaining the U.S. policy of conditional MFN.

Background

To study U.S. policy of conditional MFN, it is important to understand and grasp the context in which the policy has come into being and evolved. The U.S.-China relationship has undergone some important changes since the Tiananmen Square incident in 1989. Most importantly, the event ended a decade of consensus on China policy in the United States. Since then, U.S. policy on China has been characterized by confrontation between the legislative and executive branches, not just over the issues involved, but over the respective roles of each branch in formulating U.S. policy. The Bush administration has criticized Congress for being obstructionist on China issues, while Congress has accused the administration of ignoring congressional initiatives and giving away some important U.S. leverages without receiving concessions in return. By the beginning of 1990, frustrated with the dominance the executive branch had enjoyed on China matters during the past year, Congress turned to its chief remaining weapon -- approval of China's Most-Favored-Nation (MFN) status -- for influencing the general direction of U.S. China policy. For the next few years, China's MFN status has become the focus of Washington's struggle over China policy. Congress tried to pass legislation that would have made China's MFN renewal contingent on a number of new conditions. Most of the proposed conditions concerned human rights issues. But in light of the substantial losses that the U.S. has incurred from rampant piracy in China, providing adequate protection for U.S. intellectual property has also been set as an important condition for China to retain its preferential trading status.

The U.S.-China relationship has enjoyed rapid and steady expansion in the post-normalization era. However, two decades of progress toward improved relations stagnated with the advent of the Tiananmen Square incident in June 1989. The event in Tiananmen had a profound impact on the politics of U.S. China policymaking. First of all, it altered the past policy norm of "encouraging Chinese domestic political and socioeconomic reforms, but not making U.S. policy contingent upon Chinese domestic practices"[2].

Second, it reflected the diversification of China policy goals and the pluralization of the policymaking process. The end of the Cold War removed much of the rationale that had governed Sino-American relations in the 1980s. It also significantly altered China's position in U.S. strategic calculus. As a result, U.S. China policy has been conducted less on the basis of geopolitics alone and has incorporated a wider range of domestic interests and objectives to address bilateral political, economic, cultural, human rights, and arms sales issues. U.S. China policy objectives have become more diversified and the policy process more pluralized and decentralized.

Finally, the event in Tiananmen also marked the breakdown of a decade of consensus on China policy in the United States and signified an explicit change in congressional orientation toward China policy. Increasingly, U.S. China policy has been characterized by confrontation between the legislative and executive branches, with Congress being more and more assertive in China policymaking and the president equally determined to retain control of the process. Differences between the executive and the legislative branches on China policy goals, priorities, and approaches loomed as an extremely important factor affecting China policy outcomes.[3]

In a swift move to seize the initiative on China policy decisions, the Bush administration announced a series of sanctions to protest Beijing's actions in the immediate aftermath of Tiananmen. Although these actions were initially commended by many in Congress, Congressional support soon began to unravel because of the perceived "softness" of the executive response. In particular, a series of presidential actions in late 1989 had alienated many in Congress by appearing to prevent the legislative branch from serving as an equal partner in the policy process. By early 1990, having exhausted other legislative avenues and frustrated with the predominant executive control over China policy, Congress started to look to the annual MFN renewal as the key to expanding congressional influence over China policy.

To understand why Congress would focus on MFN to assert its foreign policy prerogatives, it is necessary to look at the legal provisions of MFN and the congressional

sharing of foreign policymaking power as defined by that status. Most-favored-nation status (MFN) is actually a misnomer. It is the normal, nondiscriminatory treatment that the United States extends to almost all of its trading partners. It entitles the exports of a "most favored nation" the lowest tariff rates the United States charges its other MFN partners. Communist countries, however, are an exception to this general rule. Under the Trade Agreement Extension Act of 1951, the president was directed to withdraw or suspend the MFN status of the Soviet Union and all other communist countries. Title IV of the Trade Act of 1974 (the so-called Jackson-Vanik amendment) represents a liberalization of this provision. It authorizes the president to waive the freedom of emigration requirements of that title and grant MFN status to a nonmarket economy country, only if he could certify that its government permits the free emigration of its citizens, or if he could assert that such renewal would substantially promote freedom of emigration. The waiver must be renewed annually and Congress can reject the president's waiver by approving a joint resolution. The measure must be signed by the president or enacted over his veto.[4]

MFN status was first granted to China through a trade agreement in February 1980 under the Carter administration, and has been renewed annually since then on the basis of a presidential waiver. Each year, the president's waiver authority under Title IV expires on July 3. It may be extended on an annual basis upon a presidential determination and report to Congress that such extension will substantially promote the objectives of freedom of emigration. The waiver authority continues in effect unless disapproved by the Congress--either generally or with respect to a specific country -- within 60 days after July 3. Under amendments to the Jackson-Vanik statute adopted as part of the Customs and Trade Act of 1990, disapproval takes the form of a joint resolution disapproving presidential waivers and reports relating the Trade Act's freedom of emigration requirements. Under the 1990 amendments, Congress has 15 legislative days, in addition to the 60 calendar days for initial passage, to consider any veto message. If both chambers of Congress do not pass a resolution of disapproval within the 60 calendar days following July 3, China's MFN status is automatically renewed for another year.[5] Until 1990, the renewal of that status has been a routine event: the president announces his decision to renew it, and Congress, by failing to enact (or usually even to consider) a resolution of disapproval, consents to the president's action.

For five consecutive years since 1990, however, Congress has introduced a plethora of legislative proposals which sought either to withdraw China's MFN trading status or to make it contingent on China's performance in the areas of human rights, trade, and non-

proliferation. The Bush and Clinton administrations, on the other hand, have consistently tried to resist congressional efforts to restrict China's trade privileges and have granted MFN to China each year. In doing so, they have also taken a tougher stance toward China to dilute congressional pressure. By linking their China initiatives more directly to congressional concerns, the Bush and Clinton administrations have in a sense conditioned China's MFN on its domestic practices -- not explicitly by specific statutes, but implicitly by presidential policy. Considering these facts, it seems appropriate for us to characterize the U.S. MFN policy that has evolved after Tiananmen as one of conditional MFN based on presidential policy.

Of the various conditions Congress has attempted to attach to China's MFN status, human rights was top on the list. But in addition to the sweeping language on human rights, several bills also required China to show "significant progress" in the areas of trade, arms sale and non-proliferation. In the trade category, providing adequate protection of U.S. copyrights, patents and other intellectual property rights has enjoyed extensive coverage. For example, proposed bills in 1991 (HR2212 and S 1367) and 1992 (HR 5316) have all explicitly included conditions concerning intellectual property protection.

This congressional effort to link China's MFN status with its intellectual property protection is not surprising in light of the rampant piracy of U.S. intellectual property in China. Indeed, intellectual property rights (IPR) has been an enduring irritant in the bilateral trade relationship due to the different cultural and historical background of the two countries. The notion of intellectual property protection has a short history in China. It was only in the early 1980s when China had decided to carry out a policy of reform and opening to the outside world that intellectual property protection began to receive any public attention. This delayed concern with intellectual property rights can largely be attributed to the fact that until then the concept of intellectual property rights in general had little importance or relevance to the Chinese society. For one thing, Western concepts of intellectual property are at odds with the deeply embedded socialist notions that public ownership extends not only to objects, but also to ideas. For another, Chinese culture encourages the imitation of others' works rather than honoring and rewarding individuality. In addition, most of the developing industries in the country see little benefit in protecting the intellectual property rights of the developed world, feeling that such protection can only hinder their own development. Therefore, China's growing economic exchanges with the outside world have sharpened the differences between Western and Chinese practice in the IPR sphere, forcing China to upgrade its intellectual protection system.

Chinese efforts at protecting intellectual property rights have centered on the promulgation of a series of laws and regulations. The 1982 Trademark Law marks the beginning of its intellectual property protection efforts. The 1984 Patent law for the first time provides protection of rights relating to inventions. With the enactment of the Copyright Law and the promulgation of the Computer Software Protection Regulation in 1991, a relatively comprehensive scheme for intellectual property protection has been put in place.[6] In addition to domestic legislation, China has also stepped up its effort to participate in international intellectual property conventions.

Most of these new laws, however, are vague and lacking in many aspects by Western standards. To take just a few examples, Chinese patent law does not protect pharmaceutical or chemical products --- a major source of concern for American pharmaceutical and chemical industries. The period of protection afforded to some intellectual property rights is shorter in China than in the United States. In particular, computer software receives a shorter period of protection than other protected works. Also, the software regulations fail to protect works which were first published prior to 4 June 1991 (the promulgation date of these regulations). In addition, there exist certain open-ended exceptions which permit the Chinese government to deny copyright to any foreign software or other copyright subject matter.[7] In short, the scope of China's current protection framework is far from adequate and requires further expansion.

Of particular concern to American businesses, however, is not the deficiencies in China's protection framework, but its lax enforcement of existing laws and regulations. The mere existence of laws does not ensure the implementation of effective and adequate protection. But enforcing laws governing intellectual property rights is not easy in China, a vast country with little, if any, public awareness of the importance of intellectual property protection. Regional protectionism and parochialism that result in failure to enforce final court judgments further compound the difficulty. Since copyrights received legal protection only in 1991, the difficulty of enforcement is even more acute.

As a result, piracy of intellectual property is omnipresent in China. According to International Intellectual Property Alliance (IIPA), Chinese piracy rates in computer software, motion pictures, sound recordings, books and periodicals are almost 90-100 percent. Because of unauthorized copying, the U.S. loses an estimated $827 million in annual sales in China.[8]

In the case of computer software, it is estimated that 95 percent of all software used in China is illegal and that resulting losses to American companies amount to more than

$300 million a year.[9] Along Zhongguancun Street in western Beijing, which has some 4,000 science and technology outlets, programs are sold at US$1 a disk. A fake copy of a US$ 3,500 advanced networking program produced by Microsoft cost less than $35.[10] More interesting still is that much of the offending software is running on computers inside government agencies.

With regard to audiovisual products, the situation is equally serious. In 1991, there was not one CD factory in China. By 1994, U.S. record companies estimated that there were a total of 29 CD factories (15 of which were located in Guangdong province) with a production capacity of 80 million CDs, laser disks and CD-roms, although virtually no American record producers have licensed reproduction in China. One laserdisc and CD factory in the Shenzhen special economic zone alone was reported to have the capacity to produce 5.5 million CDs a year.[11] Illegally produced CDs have not only flowed into domestic market, but have also been exported to Hong Kong, Southeast Asia and Latin American. Movie piracy has caused even more alarm in recent years. Through the use of sophisticated laser disc technology, pirates were able to produce high-quality videos of many first-run movies and export pirated copies to much of Asia, Europe and North America, long before the movies have been released on video.

In view of the rampant piracy of intellectual property in China, it is only natural that in the battle over the annual renewal of China's MFN status, providing adequate protection for American intellectual property rights has been set as an important condition for China to retain its trading privileges.

Three Cases in U.S. Policy of Conditional MFN

The policy debate over China's MFN status has undergone three distinct phases: the emergence of the issue of intellectual property rights in the MFN debate in 1991; the intense battle over MFN-IPR in 1992; and events leading to Clinton's 1993 executive order dropping intellectual property rights from the linkage.

Intellectual property protection and other trade issues were largely irrelevant to the struggle over MFN in 1990. Legislation in 1990 (HR 4939 and S 2836) focused almost exclusively on human rights issues (for example, they required China to release political prisoners, account for those arrested since Tiananmen, ease restrictions on the news media and end the intimidation of Chinese citizens abroad). The lack of any language on IPR in the bill could perhaps be attributed to the fact that one year after Tiananmen, human rights

remained a most sensitive issue drawing a considerable amount of press and public attention. It was only in 1991 when the accumulation of a series of contentious issues in bilateral trade relations (such as China's trade surplus with the United States, sale of products made by prison labor, and evasion of American import quotas) had come to the fore that the powerful political linkage between China's MFN status and its trade practices was established.

By early 1991, because of substantial dollar losses from Chinese piracy, the computer, music, and motion picture industries started to press the administration to address this problem. The International Intellectual Property Alliance (IIPA), the Business Software Association (BSA), and the Motion Pictures Association (MPA) took the lead in voicing the demands of these industries. Under the pressure of IPR and other trade lobbyists, both houses of Congress began to address the issue legislatively. The Senate measure, sponsored by Majority Leader George Mitchell, demanded that China make "overall significant progress" in providing adequate protection for U.S. patents, copyrights and other intellectual property in order to retain its preferential trading status in 1992. The Bush administration, meanwhile, committed its resources to defeat congressional legislation. First of all, the White House actively pushed the Chinese to improve their intellectual property protection, thus lessening the pressure Congress felt to act. Second, it mobilized societal groups to lobby in the Senate and stressed Republican allegiance to the President. Third, the administration sought to cooperate with the moderate element in Congress to defeat the tougher approach advocated by Mitchell. The White House strategy enabled the Bush administration to sustain a potential presidential veto over the Mitchell bill and win an important victory in the legislative-executive struggle for control over China policy.

When it came to 1992, the struggle over China's MFN status gained in intensity as the various actors involved in the MFN-IPR issue became more defensive of their respective positions. The pro-MFN lobby was more involved in the MFN debate since their stakes in China had increased substantially from 1991 to 1992; the dissatisfaction of the IPR industries grew as it became clear that little progress had been made by the Chinese to protect American intellectual property rights. Congress, frustrated by its inability to modify China's MFN treatment in 1991, worked harder to assert itself in U.S.-China policy making; the executive, meanwhile, remained adamant in defending the economic and strategic interests of the U.S. in China as well as the continuity in U.S. China policy. What distinguishes the 1992 debate over MFN from that in the previous year is that Congress twice mounted legislative battles in order to link China's MFN status with its IPR protection. In order to win enough votes to override the presidential veto, legislators adopted a different tactic which aimed the

tariff sanctions only at China's state-owned industries. The Bush administration's response was similar to that in 1991. The administration reached an agreement with China on the protection of intellectual property rights in early 1992 and continued to press China to adhere to its promises throughout the year. At the same time, the White House reaffirmed its commitment to the comprehensive policy of engagement on several separate fronts to produce the desired results. These efforts again enabled the administration to prevail over the legislature. Although House passed the bills with a veto-proof margin, the Senate vote fell short of the number needed for an override.

The coming to power of a Democratic President in 1993 introduced some significant differences in the MFN debate. With Congress and the White House controlled by the same political party, congressional Democrats no longer perceived a need to use MFN to attack the foreign policy of the executive. While accusing Bush of "coddling the dictators in Beijing" during his presidential campaign, Clinton, by early 1993, had come to see administratively-imposed conditions on future MFN renewal as a suitable compromise between the rhetoric of the campaign and the realities of growing U.S. economic interests in China. In a dramatic reversal of his campaign promises, Clinton not only averted legislation by attaching his own conditions, but modified his views even further to drop fair trade (along with non-proliferation) from the linkage. Consequently, even in light of continuing charges against Chinese intellectual property infringement, protection of U.S. intellectual property rights was not incorporated as part of the conditions for China to retain its MFN status. Clinton's partial use of MFN thus marks a significant change in longstanding U.S. policy.

As can be seen from the above discussion, U.S. policy on China's MFN status has gone through three important phases. Each of these phases has yielded a different policy outcome. In 1991, Congress failed to attach legislated IPR conditions to MFN renewal. But by pledging to more resolutely deal with the IPR issue, the Bush administration has implicitly linked IPR protection with MFN renewal through presidential policy. In 1992, Congress again failed to make MFN renewal contingent on IPR protection through specific legislation. However, through a separate IPR agreement with the Chinese, the Bush administration has incorporated some of the congressional concerns into the executive policy. When it came to 1993, Clinton signed an executive order severing the linkage between MFN and IPR.

These three phases in the evolution of U.S. policy of conditional MFN will be the focus of the three empirical chapters of this study (see Table I). In each of these chapters, the three conceptual models will be applied to the case under consideration for analysis, then the strengths and weaknesses of each model will be discussed. The delineation of the general

trajectory of the MFN policy should help us better understand the politics of MFN and see how well the models explain and describe the policymaking process.

Table I: The Evolution of the U.S. Policy on MFN-IPR (1991-1993)

	1991	1992	1993
Institutions/ Actors			
Initiative takers	IPR lobby & Congress	Congress	
Voice of Status Quo	executive; pro-MFN coalition	executive; pro-MFN coalition	pro-MFN coalition; executive
Policy Debate Executive-Legislative Interactions	persuasion; co-opting	severe confrontation; conflict; co-opting	consultation; cooperation; persuasion; inclusion
Policy Outcomes	no legislated IPR conditions; presidential pledge to deal with IPR	no legislated IPR conditions; separate IPR agreement	executive order severing the MFN-IPR linkage

Explaining U.S. Policy of Conditional MFN: A Framework

Although theoretical literature in foreign economic policy and decision-making has flourished in recent years, theoretical analyses concerning U.S. China policymaking have remained tentative. A significant body of the literature in the field tends to be descriptive and offers broad historical and cultural understandings of Sino-American relations. John Fairbank's well-known book *The United States and China* represents an earlier example of such an account. In *A Fragile Relationship,* Harry Harding provides a more recent survey of the development of Sino-American relations since the early 1970s. Another part of the literature tends to be policy-oriented and to investigate policy feasibilities, recommend options, and develop potential policies. These policy studies bear stronger semblance to the multidisciplined China study or area studies. With the rare exception of Tan Qingshan's *The*

Making of China Policy and several other similar works, few scholars have engaged in theoretically-based studies on Sino-U.S. relations and U.S. China policy.

Given the complexity of U.S.-China relations, theories can be extremely useful, even essential, for us to gain a better understanding of the bilateral relationship. In terms of U.S.-China trade relations, theoretical literature on American foreign economic policy can be particularly helpful because they direct us to single out the propelling force driving U.S. policymaking, to ask some fundamental questions about how U.S. economic policy toward China is made, to "seek the essential factors where innumerable factors are present."[12] In short, they enable us to better "describe how things happened, explain why they happened the way they did, and predict the reoccurrence of similar things in a given situation."[13] This study seeks to place U.S. policy on China's MFN status within the general theoretical framework of American foreign economic policy. In doing so, it attempts to look for the essence of the MFN decisionmaking and shed some light on the central theoretical issues concerning U.S. China policy.

A number of analytical and theoretical frameworks have been employed to develop explanations of American foreign economic policy. According to John Ikenberry et al., three broad approaches have enjoyed prominence in the field: system-centered, society-centered, and state-centered approaches.[14] The system-centered approach traces the causes of different international outcomes to the international environment, whereas the other two approaches locate the source of policy outcomes within the nation-state. These theoretical approaches will then form the basis for the three conceptual models of this study.

This study utilizes three conceptual models to analyze U.S. policy concerning China's MFN status: the rational actor model, the interest group model, and the interbranch politics model. The rational actor model leads us to seek explanations by examining U.S. foreign policy, particularly foreign economic policy objectives and values. The other two models, by unpacking the "black box" of domestic politics, allow us to see how different political interests and policy objectives are reconciled and transformed into the policy output.

The Rational Actor Model

The rational actor model has its root in the system-centered approach, which emphasizes the relative attributes of countries in the international system. The system-centered explanations derive theoretical propositions from the interrelationships and interactions among nation-states. In this perspective, both the United States and China are

viewed as unitary rational actors responding to the particular set of opportunities and constraints imposed by their positions in the international system. U.S. policy is perceived as a function of the structural constraints of international systems or balance of power. Domestic politics has simply been reduced to a "black box", a "transmission belt", or an intervening process, through which international imperatives are translated into state policies.[15]

As one important variant of the systemic approach, the rational actor model for international politics bases its analysis on the assumption that a nation is a unitary, rational, and goal-seeking decisionmaker. The rational actor has a set of specified goals, objectives and preferences which it seeks to obtain. It will develop alternatives, evaluate the consequences of various options, and consistently select the most effective means to maximize its goals.[16] Essentially the model seeks to explain international events by analyzing the aims and calculations of nations or governments. Many works in the realist tradition such as Hans Morgenthau's *Politics Among Nations* have provided us explicit illustrations of the state-as-decision-maker model. The model was further elaborated and tested in Graham Allison's study of the Cuban missile crisis, and has also been applied extensively to studies of arms race and strategic deterrence.

Like other variants of systemic theories, the rational actor model may have formal deductive logic and parsimonious power for explaining and predicting a nation's foreign policy. But the model has difficulty in addressing a number of questions. First of all, given the interdependent characteristics of the contemporary world and the pluralist nature of a large number of Western democracies, one can not always treat governments as unitary actors.[17] Second, the "imperfection of information" makes it more difficult to accurately assess the consequence of each option and choose the most effective one. Third, given the complexity of foreign policy problems, decisionmakers do not always define and share foreign policy goals.[18]

In addition, the rational actor model does not provide clear answers to two other questions. . One is that the model does not directly address the question of who the actual decisionmaker is. The model assumes that the state is a unitary actor, but it does not tell us what the "state" really means, or who is the sole actor that represents the "state" to act and be acted upon. Does it refer to the executive branch? Or Congress? Or both? The rational actor thus needs to be specified. The other question is that the model conceives of the decisionmaking process as one in which a rational actor defines goals, develops alternatives, and assesses consequences that might result from each option. One might therefore want to

ask what the decisionmaking process actually involves: Does it entail the executive decisionmaking process, the congressional process, or the interactive process between the two branches?

In spite of these problems, the rational actor model provides a useful analytical perspective on foreign economic policies, for although there might be a variety of policy options and approaches, some national consensus exists with regard to fundamental national interests and values. The key is to identify those shared interests, values, and objectives.[19] In this study, the rational actor consists of those key politicians and administrators in the executive who are relatively insulated from specific societal pressures (i.e., the President, his national security and economic advisors, the State and Commerce Departments, etc.).

In utilizing the rational actor model to explain U.S. policy concerning China's MFN status, it is essential for us to identify U.S. foreign policy, particularly foreign economic policy, goals and objectives with regard to China. An examination of the post-normalization U.S. China policy speeches and statements reveal that three important objectives characterize U.S. China policy. The first objective is to promote economic, cultural and other exchanges. Closer ties with China would not only benefit the U.S. economically, but would also enable the U.S. to better cooperate with China on such issues as environmental protection, drug trafficking, arms sale, and population. The second is to secure American strategic interests in East Asia. For the United States and its allies, a better relationship with China could serve as a useful balance of power in the Asia-Pacific region. It could also help stabilize the situation in such regions as Cambodia and the Korean peninsula. The last objective has to do with American global strategic objectives. During the Cold War years, a good bilateral relationship was considered to be a useful counterpoise to Soviet expansionism and hence conducive to the achievement of the overall U.S. foreign policy goals. In the post-Cold War era, as a permanent member of the U.N. security council, China also has an important say in many U.S.-led multilateral efforts (such as U.S. action in Iraq and Bosnia) and could significantly influence the ability of the U.S. to maintain the new international security arrangement. In terms of the narrower U.S. China economic policy objectives, promoting American exports, boosting investment, enhancing the competitiveness of U.S. industries, and gaining a larger share of the China market against Western European and Japanese competitors seem to be most salient.

The rational actor model predicts that the United States would define many of its China policies to maximize its foreign policy interests. In applying the rational actor model

to explaining U.S. policy on MFN-IPR, this study will focus on the decisionmakers' perception and calculation of U.S. interests and policy objectives on MFN. By analyzing the Bush and Clinton administrations' China policy articulation, it will argue that the perceived high cost of revoking China's MFN status in both economic and strategic terms is the key to understanding why the United States has opted for a policy of conditional MFN.

The Interest Group Model

While the system-centered approach locates the source of international outcomes in the international environment, the society-centered and state-centered approaches break down the notion of the state as a unitary rational actor in the foreign policymaking process to probe into the "black box" of domestic politics. The society-centered approach focuses on the ability of groups to organize and give their interests prominence in the policy process. It explains foreign economic policy in terms of the preferences and capacities of groups or coalitions competing within the policy arena. Of the several strands of society-centered explanations, the interest group approach, rooted in pluralist theory, is particularly prominent and has also enjoyed analytic primacy in the literature on American trade policy.[20]

The interest group approach views policy as the product of the competition among affected societal groups for influence over particular policy decisions. Groups form alliances or coalitions on the basis of the issue at stake. The composition of these alliances or coalitions changes as the issue changes, making interest group involvement somewhat fluid and variable. State officials and institutions serve primarily as a passive arena for group competition, and do not play any important intervening role in shaping or constraining policy.[21] The interest group model posits that U.S. foreign economic policy is the result of the influence of interest groups and that the private arena is the critical decisional locus for explaining U.S. foreign economic policy. In terms of the U.S. policy on MFN-IPR, this model directs us to ask questions in which interest groups are central. For example: What are the groups that are involved in the MFN decisionmaking process? How are these groups able to gain access to key decisionmakers and influence them? Which groups won, and which lost, and why and how? And to what extent does the policy reflect the politics and the relative influence of the interest groups?

Foreign economic policy is assumed by many analysts to be more vulnerable or permeable to the power of interest groups than national security issues because its impact on

particular societal groups is more diffuse and differentiated. In economic policymaking, government tends to be more responsive to the demands of particular societal groups. One of the early applications of this line of reasoning can be found in E. E. Schattschneider's classic, *Politics, Pressures,and the Tariff,* which treats foreign economic policy as the hand-wrought product of special interests. More recent scholars such as Robert E. Baldwin explain U.S. import policy in terms of the "rent-seeking" behavior of private economic actors.[22] Peter Gourevitch also traces the origin of the different responses by five industrial democracies to international crises to the constellation of societal forces.[23]

Critics of the interest group model have centered on several points. First, one cannot realistically talk about business influencing U.S. policy without realizing that divergent views exist within the business community and that the interests of different sectors of business may differ, or even conflict on a given issue. Second, scholars such as David Truman point out that the influence of interest groups depends not only on their preferences or motivations, but also on the extent to which they can organize themselves and gain access to key decisionmakers.[24] Third, Bauer, Pool, and Dexter's study finds that contrary to the public's presumption, the arrow of causality between interest groups and Congress actually goes the other way around and that interest groups are actually ineffective in pursuing their agenda in some policy arenas.[25] Fourth, the extent of the influence of interest groups may also be a function of the feature of the political "goods" or the nature of the issue area in question.[26]

In addition, since it lacks an independent measure of group power, the interest group model tends to lack theoretical vigor and predictive value. It is therefore difficult for scholars working within this approach to identify the dominant group or coalition on any particular issue.[27] Often times, a given group's influence is assessed by observing the policy outcome. In other words, the outcome of a group struggle is explained only after the fact. This not only runs the risk of ad hoc explanation, but could also place a severe limitation on the predictive value of the model. Moreover, state officials and institutions may not be entirely inept in the face of societal pressures. State officials could exert an important impact on policy formulation by shaping the array of interest groups that compete over policy; state institutions could shape interest groups' ability to access the policy arena, or they could serve to channel the demands of particular groups.[28] By focusing exclusively on societal groups, the interest group model risks obscuring the critical intervening role that state actors and institutions may play in shaping the constellation and impact of interest groups in the policy process. As Ikenberry et al. nicely put it, the model captures only the

"demand" for policy, but not its "supply".[29] To address the latter requires attending to the policymaking process.

Nevertheless, the interest group model provides some insight into the ways in which societal groups' preferences and resources may affect policy formulation and outcomes. Using the interest group model to analyze U.S. policy on China's MFN status, one would be directed to look at the preferences of the groups affected and their interactions. Rather than treating business as a monolith, this study will look at different sectors of the business community (particularly U.S. businesses benefiting from the China trade and the intellectual property industries) and see how these different voices and interests within the group have influenced the policy outcome. With regard to the linkage between MFN and human rights issues, the political cleavage is relatively clear-cut and the coalitions that have formed over the issue are also relatively easier to identify. However, in the MFN-IPR case, the pro- and anti-MFN forces are mainly found within the business community. In particular, a contradictory set of interests held by the intellectual property industries -- wanting intellectual property protection, but sharing with the pro-MFN forces a common interest in trading with China -- have significantly influenced their involvement in the MFN debate and hence the policy outcome. Focusing on the linkage between MFN and intellectual property rights therefore has the advantage of allowing us to see how intra-group competition operates in the decisionmaking process on MFN.

In this respect, the interest group model invites us to address a number of questions: Who are the major societal actors in the MFN drama? In what ways and to what degree have they influenced the policy output? What role, if any, do state officials and institutions play in shaping the extent to which social actors affect the policy outcome?

The Interbranch Politics Model

The state-centered approach stresses the institutional rules and norms of the state as well as the role of political and bureaucratic officials in the policymaking process. It sees foreign economic policy as being constrained not only by domestic institutional arrangements that have persisted over time, but also by the ability of state officials to translate international and domestic constraints into policy goals.[30] Here state officials and institutions are treated as relatively autonomous or active participants. The state is conceived as a set of roles and institutions possessing its own "peculiar drives, compulsions, and aims" that are more or less "distinct and separate from the interest of any particular

societal group".[31] These state goals and preferences, which are usually associated with some "general material objectives or with ambitious ideological goals related to beliefs about how societies should be ordered",[32] are therefore tied more closely to the conception of the "national interest".

Much of the previous literature on foreign economic policy have focused on separate roles that Congress, interest groups, or bureaucratic politics play in the decisionmaking process, namely, these works identify the "loci of power" in a single institution or "black box". But although a lot of scholars have directed their attention to the interaction between Congress and interest groups, the process by which the executive and Congress interact with each other to shape policy has largely been ignored.

Earlier studies of congressional influence vis-à-vis the executive in foreign policy basically take the view that while the executive branch is primarily charged with formulating policy, the legislature mainly serves to monitor, oversee, and challenge executive initiatives. The most succinct statement of this perception is perhaps found in James Robinson's work, which summarizes the role of Congress in foreign policymaking as one of "legitimating, amending, or vetoing executive proposals."[33] Robert Dahl's conclusion that "the President proposes and the Congress disposes"[34] also describes this traditional view of the executive-legislative relationship. Arthur Maass, in examining congressional-executive relations as two separate political processes, develops a model that emphasizes the two different roles (initiative and oversight) that two institutions (Congress and the executive) play in two distinct processes (legislative and administrative). As he sees it, whereas the executive plays the leadership role -- "to initiate and impel", Congress tends to control -- "to oversee and to approve, reject, or amend."[35]

Critics of this approach argue that by focusing on the separate roles the two institutions play in the policymaking process, one can not adequately explain the form or the content of the policy after it comes out of the decision-making process in one branch and moves to the other, and vice versa. They also point out the need to address the question of initiative. In other words, it is necessary to ask the question of "who is pushing whom, for what purpose, and to what effect?"[36]

In an important revision of previous literature, Robert Pastor develops a model which uses the congressional-executive interactive process as the explanatory vehicle for understanding foreign policy. Looking through this "interbranch politics" lens, U.S. foreign policy is the "resultant of a sometimes subtle or tacit, sometimes forceful or conflictual, always interactive process between two branches of institutions, the Executive and

Congress."[37] Since each of the institutions has its own particular "institutional biases or predispositions", each of them is likely to rank its objectives differently. Whether or how these different objectives can be effectively accommodated and reconciled in the interactive process between the two branches thus largely determines the contour and the substance of the policy that is going to emerge. As Pastor sees it, "the extent of responsiveness and trust between the two branches" is most crucial in this respect.[38]

An important assumption of this line of reasoning is that each of the institutions is a relatively coherent and united entity when confronted with the other. For example, although the literature on bureaucratic politics has revealed the divisions and fragmentation within the executive branch, advocates of the interbranch politics model maintain that those differences are not as significant as the essential unity the executive branch displays when dealing with Congress.[39] In this view, the President is seen to be able to retain a hierarchical control over the bureaucracy; the executive branch is viewed as a coherent, presidentially directed institution.[40]

Similarly, while acknowledging the important differences within Congress, proponents of the interbranch model view the Congress as a branch whose own institutional interests enable it to react to the executive in a way that has some overall consistency. Of course, because of its electoral politics, Congress as an institution is characterized by decentralization and fragmentation. The electoral connection can significantly influence the behavior, accountability, and the structure of Congress. As a result, "individual responsiveness" often takes precedence over "collective responsibility" in the decisionmaking process. For proponents of the interbranch politics model, however, several factors makes it possible to speak of Congress as a more or less independent and coherent institution vis-à-vis the executive. First, Congress has an institutional interest in enhancing its "image and status" as well as its share of power in foreign policy-making. Second, according to the theory of cue-taking, members tend to follow the lead of those who have developed expertise on specific issues, a practice which could serve to foster internal cohesion. In addition, members also have a tendency to follow the prevailing sentiment in Congress.[41]

The interbranch politics model has been applied in studies of American foreign economic policy, particularly trade policy. In *American Trade Politics*, for example, I.M. Destler assesses the interaction between Congress and the executive resulting from congressional delegation of responsibilities for specific trade decisions. The model has also been utilized by China specialists to examine issues in Sino-American relations. For instance,

Michael Oksenberg examined the ways in which Congress influences the debate within the executive arena and vice versa. He also suggested the respective roles of the two branches in China policymaking. According to him, the executive is more likely to stress long-term policy goals related to strategic, regional and other international interests, whereas the Congress is more inclined to respond to the demands of special interest constituencies and hence more likely to seek policy objectives that have strong domestic implications.[42] Tan Qingshan's more recent study of four cases in Sino-American relations finds that the interbranch politics model is rather effective in describing, explaining, and understanding U.S. China policies since normalization.[43]

In sum, the interbranch politics model focuses on two important institutions of policymaking and uses the interactive political process as an independent variable to account for foreign policy outcomes. The model sees the two branches as the most important institutional players in the game. It assumes that each branch is able to overcome its intrabranch divisions, maintain institutional unity, and present itself as a coherent institution when interacting with the other in the process. Since each branch has its own institutional interests and predispositions, the two institutions differ in their foreign policy objectives, priorities and approaches. Compared to the legislature, the executive is more oriented to the status quo, less responsive to outside pressures, and more likely to associate its decision on a particular policy with the national interest. Moreover, out of the fear that more congressional activity would circumscribe executive power, the executive also has a preference for fewer new laws and less congressional involvement. In general, Congress would consistently push the debate within the executive toward stressing domestic priorities, while the executive would weight the congressional debate toward the maintenance of the long-term U.S. foreign policy interests. Whether or how the two branches could mold their respective institutional interests into a single coherent policy largely depends on the degree of trust and responsiveness between the branches, institutional cohesion, executive leadership, and bargaining skills.[44]

Therefore, with regard to U.S. policy on China's MFN status, the interbranch politics model would instruct us to look at the interactive policy process between two government institutions. Since on balance the executive branch has a tendency to evaluate the long-term consequences of policy choice and to relate the issue to broader strategic concerns, whereas the Congress is more inclined to stress specific issues that have strong roots in U.S. domestic politics, the MFN outcome can be explained as a product of the conflict and compromise between the two branches of their different goals, aims, and approaches. Presidential

influence, leadership skills, and the strength of the president's party in Congress also play a role in explaining the policy output.

In this respect, the analysis that follows will be shaped around the central questions that this study attempts to deal with: What are the policy objectives, priorities and preferences of each branch on the MFN issue? To what extent and in what ways does the executive affect the debate in the congressional arena? To what extent and in what ways is congressional influence manifest in the policymaking process? What are the respective roles that the two branches play? What is the pattern of interaction between the two branches: consultation, persuasion, confrontation, or exclusion? What accounts for accommodation and conflict between the branches?

Each of the conceptual models outlined above allows us to see the MFN decisionmaking from a different lens. Each of them highlights a different aspect of the policymaking process and raises a different set of questions. However, each of them alone cannot provide a satisfactory answer to the research question and must be supplemented by the other models. Moreover, the three models also overlap and are linked to one another. For instance, to the extent that congressional action is at least partially driven by responses to interest groups, the interest group model overlaps with the interbranch model. Also, since there is an increasing congruence of interests between the majority of the business community and the rational calculation of the administration, the rational actor model overlaps with the interest group model. The overlapping of the models will be discussed in more detail in the following chapters. In short, the three models are not entirely distinct and separate explanations. Although they differ from one another in some important respects, there are also certain connections among the models. The three analytical frameworks work both independently of one another and jointly with one another to explain the MFN policymaking.

In addition, these lenses are not exhaustive. It may well be that some contextual factors could indirectly influence the policymaking process by altering the conditions upon which players act. For instance, international events, reactions by the Chinese, presidential ideology, and electoral mandate may influence decisionmakers' perceptions and predisposition, bring forth additional factors for decisionmakers to consider, and affect the stance of actors and their relations with one another.[45] Therefore, the analysis that follows also needs to take the possible influence of these contextual factors into account. In the course of developing the analysis, I will refer to these factors where necessary and will also

relate them to the assessment of the three conceptual frameworks in the concluding chapter.

To sum up, the three conceptual models are constructed to describe, explain, and predict foreign policy behavior. U.S. policy on China's MFN status (specifically the MFN-IPR linkage) is selected as the raw material of this study in the belief that MFN is an important issue in U.S.-China relations deserving further exploration and that a better understanding of the MFN decisionmaking process may also help to shed light on studies of other critical issues in the bilateral relationship and on U.S. China policymaking in general. I hope such an exercise could at least yield a sketch of the events surrounding China's MFN status as well as a fair assessment of the explanatory powers of the three conceptual models: How well do the models apply to the case at hand? Are models useful? If so, under what circumstances and in what ways is each useful? Is one of them better at explaining the outcome than others? Are there any factors that the models fail to take into account? Are there any other variables that may affect the outcome?

Notes

1. See Peter B. Evans, Harold K. Jacobson, and Robert Putnam, ed., *Double-Edged Diplomacy: International Bargaining and Domestic Politics* (Berkeley: University of California Press, 1993).

2. Qingshan Tan, *The Making of U.S. China Policy* (Boulder: Lynne Rienner Publishers, 1992), p.1.

3. Ibid.

4. U.S. Congress, House, *Disapproval of Extension of Most-Favored-Nation Treatment to the Products of the People's Republic of China*, House Report 102-632 (Washington, D. C.: Government Printing Office, 19912): pp. 1-2.4.

5. "Sentiment Grows in Congress To Reject MFN for China," *Congressional Quarterly Weekly Report* 49, no. 17, April 27, 1991, p. 1045.

6. Xiao-Lin Zhou, "U.S.-China Trade Dispute and China's Intellectual Property Protection," *New York University Journal of International Law and Politics* 24, no. 3, 1992, p. 1118.

7. Peter A. Schloss, "China's Long-Awaited Copyright Law," *China Business Review*, September-October, 1990, pp.24-28; "PRC Software Rules Offer Dubious Relief From Piracy's Bite," *Business China* 17, no. 13 (July 15, 1991), pp.97-99.

8. "Will China Scuttle Its Pirates?" *Business Week*, August 15, 1994, p.40.

9. Philip Shenon, "Chinese Accused of Pirating Disks," *New York Times*, August 18, 1994. p. D17.

10. P.T. Bangsberg, "U.S. Software Companies File Suit in China over Copyright Fraud," *The Journal of Commerce*, July 28, 1994.

11. "Will China Scuttle Its Pirates?" p. 41.

12. Kenneth N. Waltz, *Theory of International Politics* (Reading, Mass.: Addison-Wesley, 1979), p.10.

13. See Tan, *The Making of China Policy*, p.9.

14. G. John Ikenberry, David A. Lake and Michael Mastanduno, "Introduction: Approaches to Explaining American Foreign Economic Policy," in G. John Ikenberry, David A. Lake, and Michael Mastanduno, eds., *The State and American Foreign Economic Policy* (Ithaca: Cornell University Press, 1988), p. 1.

15. Ibid., pp.3-4.

16. Graham T. Allison, *Essence of Decision: Explaining the Cuban Missile Crisis* (Boston: Little, Brown and Company, 1971), pp. 30-33.

17. See Robert Keohane and Joseph Nye, Power and Interdependence: World Politics in Transition (Boston: Little, Brown, and Company, 1977), Chapter 1.

18. See Tan, *The Making of U.S. China policy*, p. 13.

19. Ibid.

20. For a classic statement of the pluralist perspective, see David Truman, *The*

Governmental Process: Political Interests and Public Opinion (New York: Knopf, 1951), and Robert Dahl, *Who Governs?* (New Haven, Conn.: Yale University Press, 1963). Important works on American trade policy utilizing the interest group approach include E. E. Schattschneider, *Politics, Pressures, and the Tariff*; Robert E. Baldwin, *The Political Economy of U.S. Import Policy* (Cambridge: M.I.T. Press, 1986); Peter Gourevitch, "International Trade, Domestic Coalitions, and Liberty: Comparative Responses to the Crisis of 1873-1896," *Journal of Interdisciplinary History* 8 (Autumn 1977).

21. Ikenberry, Lake and Mastanduno, ed., *The State and American Foreign Economic Policy*, p.7.

22. See Robert E. Baldwin, *The Political Economy of U.S. Import Policy* (Cambridge: MIT press, 1985).

23. See Peter Gourevitch, *Politics in Hard Times: Comparative Responses to International Economic Crises* (Ithaca: Cornell University Press, 1986).

24. See David B. Truman, *The Governmental Process*, rev. ed., (N.Y.: Alfred Knopf, 1971).

25. See Bauer, Raymond, Ithiel De Sola Pool, and Lewis Anthony Dexter, *American Business and Public Policy* (Chicago: Aldine-Atherton, 1972).

26. Joanne Gowa maintains that the degree to which society influences foreign economic policy depends on the susceptibility of the political "goods" in question (for example, trade, monetary policy) to collective action. See Joanne Gowa, "Public Goods and Political Institutions: Trade and Monetary Policy Processes in the United States," in Ikenberry, Lake, and Mastanduno, eds., *The State and American Foreign Economic Policy*, pp. 15-32.

27. Ikenberry, Lake, and Mastanduno, "Introduction: Approaches to Explaining American Foreign Economic Policy," in Ikenberry, Lake, and Mastanduno, eds., *The State and American Foreign Economic Policy*, p. 8.

28. Ibid., pp. 8-9.

29.Ibid.

30. See Peter Katzenstein, "Conclusion: Domestic Structure and Strategies of Foreign Economic Policy," in Katzenstein, ed., *Between Power and Plenty: Foreign Economic Policies of Advanced Industrial States* (Madison: University of Wisconsin Press, 1978); Ikenberry, Lake and Mastanduno, "Introduction: Approaches to Explaining American Foreign Economic Policy"; Stephen Krasner, *Defending the National Interest: Raw Materials, Investment, and United States Foreign Policy* (Princeton: Princeton University Press, 1978).

31. Stephen Krasner, *Defending the National Interest: Raw Materials Investments and U.S. Foreign Policy, p.*10.

32. Ibid.

33. James A. Robinson, *Congress and Foreign Policy Making: A Study in Legislative Influence and Initiative*, rev. ed. (Homewood, Ill.: Dorsey Press, 1967), p. 180.

34. Robert Dahl, *Congress and Foreign Policy* (New York: Norton, 1950).

35. Arthur Maass, *Congress and the Common Good* (New York: Basic Books, 1983), p.13.

36. Pastor, *Congress and the Politics of U.S. Foreign Economic Policy 1929-1976*, p.51.

37. Ibid., p. 53.

38. Ibid., pp. 53-54.

39. Ibid., p. 54.

40. See Tan, *The Making of U.S. China Policy*, p.19.

41. Ibid.

42. Michael Oksenberg, "Congress, Executive-Legislative Relations, and American China Policy," in Edmund S. Muskie, Kenneth Rush, and Kenneth W. Thompson, eds., *The President, The Congress and Foreign Policy* (Lanham: University Press of America, 1986), pp. 207-230.

43. Tan, *The Making of U.S. China policy*, pp.154-155.

44. See Pastor, *Congress and the Politics of U.S. Foreign Economic Policy 1929-1976*, p. 54. Also see Tan, *The Making of U.S. China Policy*, p. 18.

45. See Tan, *The Making of U.S. China Policy*, p. 20.

Chapter 1
Forging the MFN-IPR Linkage

Introduction

Most-Favored-Nation status (MFN) was used as a policy instrument against China mainly to address American human rights concerns in 1990. However, as Congressional and public discontent with other areas of China's domestic practices grew in 1991, it was only inevitable that MFN was used to address these other issue areas in the U.S.-China relationship. In particular, protection of intellectual property rights (IPR) had become an area in which China needed to make "significant, overall progress" in order to retain its preferential trading status. An important question that deserves further explanation is therefore why a previously latent issue in the MFN debate, intellectual property rights, has become such a focus of contention and has eventually been linked with MFN renewal through presidential policy. This chapter discusses the emergence of the MFN-IPR linkage and addresses the following questions: What made the establishment of the linkage between MFN and IPR politically possible in 1991? Why has the United States granted MFN status to China, but conditioned the next MFN renewal on intellectual property protection through executive, rather than legislative policy?

The emergence of the issue of intellectual property rights (IPR) in the 1991 MFN debate could be traced to a large extent to the emergence of what could be called the "IPR lobby." Greatly hurt by Chinese infringements of their intellectual property rights, the computer software, motion pictures, music, chemicals and pharmaceuticals, and book publishing industries started to press Congress to take actions against China. The IPR lobby further joined forces with human rights advocates, conservative organizations, and other industries hurt by China trade (such as textile and apparel), forming a powerful protectionist-liberal-conservative coalition to push for conditional MFN renewal.

Congress acted in response to the concerns of intellectual property industries. Under the lead of Senator George Mitchell (D-Maine), senators with strong protectionist sentiments, along with liberals and conservatives, formed an unusual congressional coalition aimed at attaching IPR conditions to MFN renewal. This coalition enhanced the congressional perception that the legislature should act more aggressively to balance the

dominance that the executive branch had established on China affairs. It also affected the executive's effectiveness in persuading the Congress not to put any conditions on MFN.

The emerging IPR lobby was challenged by another societal coalition which firmly supported unconditional MFN. This coalition, comprised mainly of American aircraft manufacturers, farmers, toy and apparel manufacturers, consumers, importers and exporters, as well as businesses in Hong Kong, had made some powerful arguments with regard to the negative impact of conditional MFN on U.S. businesses trading with China. This pro-MFN coalition worked hard to influence congressional votes on China and to lessen the effectiveness of the IPR lobby.

Congressional efforts to attach legislated IPR conditions to China's MFN renewal, meanwhile, had encountered strong opposition from a Bush Administration committed to maintaining the general trajectory of Sino-American relations. As the only national actor mandated to safeguard the security and economic well-being of the nation, the executive was apt to take the "national interests" of the United States into consideration when handling the MFN issue. Since rescinding MFN would inflict substantial costs on the economic and strategic interests of the U.S., such a policy was regarded as detrimental to U.S. foreign policy objectives both in East Asia and at a global level.

Consequently, the Administration committed its resources to defend China's MFN status. First, it signified its strong commitment to unconditional MFN early in the debate, in effect deterring many congressional members from voting against the administration's position. Second, it stressed Republican allegiance to the President and mobilized societal groups to lobby in the Senate. Third, the White House resorted to administrative measures to urge China to improve its intellectual property protection, thus lessening the pressure that Congress felt to act. Lastly, the Administration sought to work with more moderate senators such as Max Baucus (D-Mont.) to defeat the tougher approach advocated by Mitchell. In doing so, the Administration had made certain pledges to Congress to take even further measures on the issue of intellectual property rights, a move which otherwise would have been hard to come by. Although Senate failed to override the President's veto over the conditional MFN in the end, the Bush Administration, by pledging to take tougher stance toward China on IPR protection, had in effect made MFN conditional through presidential policy.

During this phase of the debate over MFN and IPR, the executive, Congress, various interest groups, and American foreign policy interests in China all played a role in influencing the policy outcome. Conditioning MFN on China's intellectual property protection through

administrative measures reflected the different political orientations of these players as well as the relative roles they played in the process.

This examination of the first stage of the MFN-IPR debate enables us to make some preliminary evaluations of the utilities of the three conceptual models. The rational actor model correctly predicts that the United States would continue to grant China MFN status in order to preserve its political and economic interests in China. However, the model does not and can not explain why MFN renewal was implicitly linked with IPR protection through presidential policy. The interest group and interbranch politics models prove to be useful supplement to the rational actor model in explaining this residual in the policy outcome. Societal forces were a necessary pre-condition for the issue of intellectual property rights to emerge in the 1991 MFN debate. The rise of the IPR lobby explains to a large extent why intellectual property industries were able to make IPR protection a salient issue in this round of the debate. Responding to societal demands, Congress seized on the issues in an attempt to challenge the executive dominance on China policy. Congressional-executive interaction, a process characterized by confrontation, bargaining and compromise between the two institutions, helped to reconcile the different objectives, interests, and priorities of the two branches and bring about the policy outcome observed above. By probing into these policy processes in which societal and legislative actors played an important role, the interest group and interbranch politics models have yielded some useful insights into those phenomena which the rational actor model fails to explain. At the same time, although each of the three models is distinct in the way in which it approaches the research question at hand, there has also been a considerable amount of interaction among the models and the final policy product is one that cannot be adequately accounted for by any one of the models alone.

Pressure Building

The context for MFN renewal in 1991 was substantially different from that in the previous year because more bilateral issues came to occupy the bilateral agenda. In the realm of non-proliferation, evidence mounted that China was helping Algeria develop a nuclear weapons capability and was also selling advanced military technology to volatile regions, especially the Middle East. In the area of trade, China's behavior appeared even less defensible. The American trade deficit with China swelled from $6.2 billion in 1989 to $10.4 billion in 1990.[1] Concerns grew that China was using convict labor to produce goods that were subsequently exported to the United States. At the same time, trade barriers in China

remained formidable. Complaints abounded that inadequate protection of intellectual property rights had reduced the opportunities for the sale of American goods and services to China.

The concern over China's lack of intellectual property protection was fueled by reports of dollar losses to American industries from Chinese piracy and several cases of severe intellectual property rights infringement in late 1990 and early 1991. In 1990, for example, the United States lost an estimated $420 million from Chinese theft -- $300 million in computer software, $100 million in books and $20 million worth of movies and tapes.[2] The widespread feeling within the business community was that China had become the world's No. 1 pirate and that U.S. copyright owners suffered greater trade losses due to piracy in China than in any other country in the region.

One of the worst offenders was the Ministry of Chemical Industry, which was found to be secretly making multiple copies of a $300,000 software package it had bought from a U.S. engineering firm. Another industrial ministry was reported to have a special unit dedicated to piracy. A Chinese expert estimated that more than 80 percent of the software used in China, starting with a system software called Chinese character DOS, was based on U.S. designs.[3] Oracle Corp. complained that piracy had increased greatly since September 1990, when a Chinese computer magazine openly advertised printed copies of Oracle software.[4]

Trademark infringement was also extensive. "Copycats" of the products of Coca-Cola, Walt Disney, IBM, Mobile Oil, and many other U.S. companies were springing up in China. Microsoft found out that the state-owned Shenzhen Reflective Materials Institute in southern China was engaged in the production of at least 650,000 fake holograms similar to those Microsoft used on its packages. Those holograms were then used on counterfeit software packages sold overseas, at a value of between $20 and $150 million.[5] Another Shenzhen factory was found to produce and sell fake 3M diskettes. In addition, Disney reported the appropriation of some of its most valuable assets by a Chinese book publisher.

Many firms also complained of deficiencies in the laws that were supposed to protect them. For instance, Chinese law only protected the end product in chemical and pharmaceuticals, not the process used to create it. An infringer only needed to change one small aspect of the final product to make it legal.[6] This inadequacy in the Chinese legal system had been of particular concern to the chemical and pharmaceutical industries.

The increasing domestic dissatisfaction with China's intellectual property protection came at a time when the annual debate over China's MFN status was about to start once

again. It had therefore given fresh arguments to opponents of unconditional renewal to further strengthen their position. As the issue of intellectual property protection came into play in the battle over MFN renewal, the political linkage between China's preferential trading status and protection of intellectual property rights had gradually come into existence.

Congressional Initiative

Largely in response to public sentiment and the demands of U.S. industries adversely affected by U.S.-China trade, Congress moved to act on the MFN issue in early 1991. The prevailing sentiment in the Congress was that President Bush -- a former envoy to Beijing and a president often described as his own China desk officer -- was too gentle on China and that Congress had no choice but to take the lead in asserting a tougher U.S. policy.

In the House, Democrats Nancy Pelosi , Don J. Pease and Stephen J. Solarz played a prominent role in producing a bill (HR2212) that would have conditioned China's MFN status in 1992 to its human rights performance. After being toughened by the House Ways and Means Committee, the bill was sent to the floor and was subsequently approved by lawmakers from both parties with a veto-proof margin.

It was clear from the outset, however, that the chief fight over MFN renewal would occur in the Senate since support for revoking MFN or attaching conditions to its renewal was less overwhelming and unanimous there than in the House. The key figure in the Senate who sought to wrest control of China policy from the executive was Senate Majority Leader George J. Mitchell, D.-Maine. In a Senate floor speech on May 16, Mitchell introduced a bill (S 1367) that would have cut off MFN within six months of passage unless China met a series of stiff conditions, including conditions on protecting intellectual property rights. In justifying his proposal, Mitchell argued that the president's policy, which had offered no incentive for Chinese leaders to improve their performance in the areas of human rights, trade, and weapons proliferation, had failed and that it was necessary to change a failed policy.[7] Other conditions in the bill included releasing or accounting for political prisoners; stopping arrests of pro-democracy activists; ceasing the export of products made with prison labor; providing U.S. exporters non-discriminatory access to Chinese markets; ending unreasonable and discriminatory unfair trade practices against the United States; and adhering to multilateral non-proliferation agreements.[8] Whether Mitchell would succeed in his attempt to set the terms for extending MFN trade status to China thus hinged on the fate of

the bill as it passed through the Finance Committee and then the full Senate.

Interest-Group Politics

As the debate over the MFN-IPR issue unfolded, affected societal groups rushed to Capitol Hill to make their pleas. As outlined at the beginning of this chapter, two coalitions had gradually evolved around this issue. The pro-MFN coalition, comprised mainly of U.S. aircraft manufacturers, farmers, toy and apparel manufacturers, importers, exporters and businesses in Hong Kong, had pressed hard to retain China's MFN status. The other coalition, formed by such industries as computer software, chemicals and pharmaceuticals, motion picture, music, and book publishing, favored revoking or attaching conditions to MFN renewal. This coalition further joined forces with human rights advocates, conservatives and other protectionists to oppose unconditional MFN renewal.

The Pro-MFN Lobby

The pro-MFN coalition launched a massive campaign in a bid to defend $40 billion worth of investments and $15 billion in annual trade with China.[9] It swamped Capitol Hill with letters and position papers detailing the damage that denial of MFN status or its equivalent -- conditional MFN -- might inflict on American producers and the American economy. The U.S.-China Business Council, a Washington-based group representing the interests of companies doing business with China, had taken the lead to urge Congress to renew China's MFN status. The Council prepared numerous position papers and published comprehensive studies to educate Congress and the public about the cost of MFN denial. Other business groups, such as the American Association of Exporters & Importers, National Committee on United States-China Relations, Emergency Committee for American Trade, National Association of Wheat Growers, North American Export Grain Association, and Toy Manufacturers of America, were also outspoken in pressing Congress to renew China's MFN status.[10]

The lobbying group which was most successful in influencing congressional votes on China was probably American agribusiness. U.S. agriculture had a long-term stake in the China market. According to Agriculture Department statistics, during the year that ended June 1990, China was the leading purchaser of American wheat, importing 5.5 million metric tons. A Congressional Research Service (CRS) study estimated that in the event China's MFN

status were discontinued and China retaliated against wheat exporters, the combined costs to the federal government and the wheat sector could amount to $740 million.[11] Representatives of the National Association of Wheat Growers and the North American Export Grain Association all rushed to the Capitol Hill to tell lawmakers that the future of American wheat and grain producers depended on continuing China's trade benefits.

The lobbying efforts of U.S. grain companies and wheat farmers later proved to be a key factor prompting some "grain Democrats" from the Midwest and Great Plains states to balk at imposition of trade restrictions on China. Senators Max Baucus of Montana and Quentin N. Burdick and Kent Conrad of North Dakota, for example, were among the few Democratic senators who refused to support Mitchell's effort to impose conditions on the renewal of China's trade benefits. In explaining his decision to vote in favor of unconditional MFN, Baucus particularly referred to Montana wheat growers' concerns about the consequences of revoking China's MFN status. The widespread concern among wheat growers was that in the event of MFN withdrawal, China might retaliate by cutting its purchases of U.S. wheat as it did in the early 1980s, when the Reagan administration sought to restrict China's textile exports into the United States.[12]

As one of those U.S. companies with the biggest stake in China, aircraft manufacturers would face severe losses if the trade status were revoked. American commercial aircraft manufacturers sold more than $700 million worth of airplanes and parts to China in 1990.[13] The Seattle-based Boeing Co. and McDonnell Douglas Corp. of Los Angeles were the two biggest exporters of airplanes to China. These two companies had been wooing Chinese authorities for more than four years in bids to supply China's domestic route airplanes well into the next century. McDonnell Douglas had a plant in Shanghai that had been co-producing airplanes with China since 1985. In early 1991, the company was close to a deal worth $7 billion to sell 150 MD-90 airplanes to China. Similarly, Boeing did about $4 billion in business with China in 1990. It had orders to send a record number of 18 airplanes to China in 1991. Sale of these planes was worth roughly $1 billion to Boeing.[14] The Chinese leadership had warned that the United States would suffer if Washington failed to renew the trading status. In a speech to foreign business executives and government officials in late June, Chinese premier Li Peng explicitly told chief Beijing representative of Boeing Co. that with the MFN status revoked, Boeing would have no more orders and if the MFN status were retained, they would have more orders coming.[15] In light of these potential costs, the two companies started early to urge Congress to renew China's MFN status, arguing that denying MFN status to China would not only close off the opportunity to cut lucrative deals

with the Chinese, but would also cost jobs at home.

American importers and exporters had also mobilized. In dollar terms, U.S. companies that imported from China had a higher stake in the battle over MFN than firms that exported to China. U.S. exports to China had held at roughly $5 billion a year for the three years before 1991, while Chinese exports to the U.S. shot up to a record level of $15 billion in 1990.[16] For American importers, MFN could be a crucial competitive edge. If MFN were revoked, U.S. tariffs on Chinese-made toys, footwear, and other goods would soar to prohibitive levels. With MFN, for example, the tariff on imported toys is 6.8 percent; without MFN, it would be 70 percent.[17] Terminating MFN would therefore require a vast number of U.S. importers and retailers to find new sources for goods upon which consumers had come to rely. Companies like Nike, which made about 10% of its shoes in China, and giant retailers such as Toys "R' Us and J.C. Penney therefore argued that trade restrictions would hurt U.S. consumers by driving up the cost of Chinese goods and that lower-income consumers in particular would bear a disproportionate burden in such an event.[18]

While importers emphasized the costs of MFN denial to American consumers, exporters focused on the consequences of a closed Chinese market to the United States. As representatives from the American Association of Exporters & Importers pointed out, China had become a consistent importer of U.S. goods, purchasing 19 percent of all U.S. grain exports, 9 percent of U.S. aerospace products, and 8 percent of U.S. fertilizer exports in 1989.[19] Rescinding MFN and the subsequent Chinese retaliation would not only mean lost sales over the short-term, but lost markets to European and Japanese competitors, forcing a cut in U.S. production and employment.

The state of Washington had a special interest in preserving China's trading status. Businesses in the state of Washington, including aircraft, lumber, and apple producers had cultivated extensive commercial exchanges with China over the years. Washington state's products such as Boeing jetliners, Kenworth trucks, and apples could be potential targets of Chinese retaliation if MFN status were withdrawn. Under the lead of the Washington State-China Relations Council, a Seattle-based business group, Washington businesses started early in the year to express to Congress their concerns about MFN revocation.[20]

A number of foreign governments joined the lobbying chorus, too. In particular, the British government and the Hong Kong authority had got into the act. In June 1991, the British ambassador to the United States personally wrote to senators to urge a continuation of China's trade status, arguing that MFN was an important cornerstone of Sino-U.S. relations

and that any restriction would harm the economy of Hong Kong. According to estimates by the Hong Kong government and the American Chamber of Commerce in Hong Kong, the territory would lose between $7 billion and $10 billion in trade, and approximately 20,000 jobs, in the first year after any revocation of China's MFN status. At a time of increasing uncertainty over Hong Kong 's economic viability and political stability as it approached its return to Chinese sovereignty in 1997, it was argued that Hong Kong could ill afford a reduction in rate of growth by 2 or 3 percentage points.[21]

The American Chamber of Commerce in Hong Kong also spoke out for the interests of Hong Kong. From their point of view, revoking MFN status would potentially damage business in southern China and Hong Kong and strengthen Chinese leaders' resistance to outside pressure. The resulting decline in foreign commercial contact would also harm the emerging reform movement within China. President of the American Chamber of Commerce in Hong Kong described the withdrawal of MFN as the equivalent of "dropping an atom bomb on the U.S-Chinese relationship," arguing that it would not only hurt American consumers and business, but further destabilize an already shaky Hong Kong.[22] The Chamber of Commerce was also actively urging Chinese officials to take certain measures to dissolve pressure against extending MFN.

Similarly, the Chinese government began to use all the available means to try to influence the MFN decision. In addition to working indirectly through U.S. businesses, China hired Hill & Knowlton, a public relations firm whose president formerly served as head of Bush's vice presidential staff, for $150,000 a month to lobby Congress in the fight over trade benefits.[23] At the same time, the Chinese Embassy in Washington D.C. and the Chinese government also sought to lobby the U.S. Congress directly. Instead of wielding influence behind the scenes and gently persuading congressional representatives that continuing China's MFN status was in the best interest of the U.S., however, they had tended to use both threats and counterattacks in their lobbying efforts -- a tactic that was widely regarded as being counterproductive.[24]

In sum, the arguments made by the pro-MFN coalition in support of unconditional MFN centered around two points: First, the coalition maintained that ending MFN status would inaugurate a trade war with China that would reduce American export, yield market shares to foreign competitors, threaten the viability of American investments in China, and increase the price of Chinese imports to American consumers. Second, withdrawing MFN would seriously damage the economy of Hong Kong and hurt the progressive forces in China

whom the U.S. was presumably trying to help. The pro-MFN lobby had been focusing most of their attention on the Senate since the chances for an override looked slim in the House. As mentioned earlier, the pro-MFN coalition had some success in gaining the support of "grain Democrats". But in addition to that, the coalition also won over two key Southerners, J. Bennett Johnston (D-La) and Richard D. Shelby (D.-Ala.), whose states sell petrochemicals and fertilizers to China.[25]

The IPR Lobby

Industries hurt by China's intellectual property violations, particularly computer software, motion pictures, music, chemicals and pharmaceuticals, and book publishing, formed another coalition to oppose unconditional MFN renewal. The increasing dissatisfaction of these industries with China's intellectual property protection has been discussed at the beginning of this chapter.

Organizations such as the International Intellectual Property Alliance (IIPA), which represented 1,600 companies, Business Software Association (BSA), Motion Picture Association of America (MPA), and the Recording Industry Association of America (RIAA) served as major channels through which the intellectual property industries voiced their concerns to the Capitol Hill and the administration. The concerns these organizations conveyed to Congress included the following: First, China was the only U.S. trade partner that offered neither product patent protection for pharmaceuticals and chemicals nor copyright protection for U.S. works. Second, the Chinese law granted trademarks to the first registrant, regardless of who actually owned the mark. Third, the country's failure to effectively protect trade secrets had resulted in widespread piracy of intellectual property and substantial losses to U.S. industry. Fourth, China's refusal to commit to early accession to the Berne Convention for the Protection of Literary and Artistic Works (Berne Convention) and the Geneva Phonograms Convention would hinder Chinese progress in correcting the inadequacies in its legal regimes.[26]

To be sure, the issue of intellectual property rights alone was probably not sufficient to make Congress to challenge Bush's decision to extend China's trade status. But in combination with human rights issues and other new irritants in the U.S.-China relationship, it had served to strengthen the position of China's opponents. Allied with the IPR lobby in supporting the rescinding of MFN as an indication of U.S. dissatisfaction were certain domestic businesses who would benefit from a curb on Chinese exports. U.S. textile and

apparel manufacturers, for example, had traditionally asked for protection from cheap textile imports from China. China was the U.S.'s top foreign supplier of textile and apparel, accounting for 13.5% of U.S. textile and apparel imports in 1989.[27] The MFN debate thus provided textile and apparel manufacturers with another opportunity to make their pleas in Congress.

In addition, Beijing's token attempts to improve China's human rights record during 1990 fell short of assuaging the anger of human rights groups over Tiananmen. Its use of prison labor in the manufacturing of exports had given such powerful organizations as the AFL-CIO labor union new ammunition towards legislators. Conservative organizations, such as the U.S. Business and Industrial Council, an organization of 1,500 business leaders, also opposed unconditional MFN renewal. They particularly pointed to Chinese piracy to argue for their case.

The IPR lobby had joined these anti-MFN forces, specifically human rights groups, labor organizations, and other industries hurt by U.S.-China trade, to oppose unconditional renewal of MFN. The joint effort of this coalition greatly aided the IPR lobby, enabling it to make intellectual property rights a salient issue in the debate over MFN renewal.

The White House Strategy

Ever since Tiananmen, the Bush administration was determined to move U.S. foreign policy away from the short-term and issue-specific concerns of domestic constituencies toward one aimed at preserving long-term U.S. political and economic interests in China. Because of its strong views of U.S. China policy, the administration had made every effort to resist congressional attempt to attach conditions on China's MFN status in 1990. In 1991, it again appeared adamant in defending the unconditional renewal of China's MFN status.

In offhand comments to reporters on May 15, President Bush indicated that he intended to renew China's MFN status for one year, saying that he wanted to see MFN for China continue and that the administration did not want to isolate China.[28] In a commencement address at Yale University on May 27, Bush spelled out his views on China policy and announced that he was extending MFN status to China. He cited both geostrategic and economic reasons to justify his decision. He said his desire to renew China's trade status came from looking at "the big pictures," adding that " I look at the support we got from China in Desert Storm. I look at the importance of China as a country."[29] Bush referred to China's ability to affect the stability of the Asian Pacific region as well as the entire world's

peace and prosperity. He reflected on the impact that withdrawal of MFN could have on South China, a region where free-market reforms and the challenge to central authority were the strongest. He also invoked moral reasons to back up his argument, saying that "it is wrong to isolate China if we hope to influence China."[30]

President Bush's determination to maintain firm control of U.S. China policy following Tiananmen had a lot to do with his perception of Sino-American relations. His experience as the chief U.S. diplomat in Beijing in 1974-75 certainly had a special role in shaping his outlook and approach on China issues. Bush believed that he had a special understanding of China, was able to deal effectively with Chinese leaders, and had a proper perspective on U.S. policy toward China.[31] Since coming into office, he almost served as his own China policy desk officer, taking personal control of major issues in the bilateral relationship. In terms of his China policy, Bush favored maintaining a friendly and healthy relationship with China, which could benefit the two countries both economically and strategically. Consequently, he claimed that extending MFN and remaining engaged offered the best chance of changing Chinese behavior and of stimulating economic and political reforms, whereas terminating MFN or imposing conditions making trade impossible would dash hopes of further progress. Although the policy he announced at Yale had engendered a considerable amount of political and public controversy, he nevertheless expressed his confidence that his China policy was correct. In a meeting with a bipartisan group of senators on June 4, Bush again made it clear that he opposed imposing any conditions on MFN status for China.

Bush was able to enlist overwhelming support for his MFN policy from the State Department. Taking its cue from Bush, the State Department suggested in late May that it would recommend against using the MFN as a vehicle for promoting Chinese reforms and for dealing with such issues as weapons proliferation, human-rights violations and unfair trade practices. In a Senate hearing, Assistant Secretary of State Richard Solomon argued that the denial of MFN "would be an extremely serious blow to a relationship that took 20 years to construct after two decades of very hostile confrontation."[32]

The administration's position on the MFN issue was clearly reflected in Deputy Secretary of State Lawrence Eagleburger's testimony before the House Committee on Foreign Affairs. In his testimony, Eagleburger presented several arguments in favor of granting MFN to China. Having argued that MFN for China should not be conditioned on issues outside the scope of the Jackson-Vanik amendment, whose requirements China met, he asserted that it was in the interest of the United States to extend MFN to China. He outlined the mutual

benefits that the two countries had derived from the expanding bilateral trade relationship and the role that commerce and MFN had played in effecting the changes that had taken place in the Chinese economy. According to him, MFN had become over the past decade an underlying structural component of the bilateral relationship, providing the United States with an effective instrument for promoting positive change and U.S. interests in China. After discussing the damage that denial of MFN might inflict on the American business community, Hong Kong, and the most progressive segments of the Chinese economy, Eagleburger concluded that unconditional renewal of China's MFN status is a policy that had the best chance of promoting U.S. economic and political objectives in China.

Eagleburger stressed that although the administration shared many of the same goals with Congress and was aggressively addressing issues of concern in Sino-American relations, they disagreed with the approach advocated by Congress. Denying MFN would not put pressure on the Chinese to change their behavior in specific areas, but would undercut the U.S. ability to engage them and thereby influence their behavior. Rather than revoking MFN which would have an indiscriminate effect, the administration intended to continue the selective application of pressure directly on the three key issue areas.[33]

Bush had also been able to gain support from the office of the United States Trade Representative (USTR), whose position Deputy USTR Linn Williams enunciated before the same congressional hearing. The Williams testimony discussed in detail the growth of the U.S.-China trade and the increasing importance of China to the U.S. economy. In particular, it addressed the impact of MFN denial on U.S. domestic business interests, U.S.-Chinese governmental commercial relations, the position of the U.S. as an international trade leader, the Hong Kong-U.S. trade relationship, and China's economic reform. The testimony concluded that terminating MFN would adversely affect American economic interests and that maintaining a stable commercial and economic relationship would help advance American objectives in China.[34]

In an effort to defend its China policy and to lessen congressional pressure to link China's MFN status with its intellectual property protection, the Bush administration resorted to a series of administrative means to address the issue. On April 26, several weeks before the Congress would make the decision on MFN, the U.S. Trade Representative Carla Hills cited China for inadequate protection of intellectual property rights and named it one of three "priority foreign countries" under the Special 301 provision of the 1988 Trade Act. Under this provision, China was placed on a "priority watch list". That is, the USTR's office would begin investigations of China within 30 days of registering its charges and conclude

them within six months. The United States would retaliate against Chinese imports by the end of six months unless progress had been made in China's intellectual property protection.

During the first six months of 1991, U.S. officials also met with senior Chinese trade and intellectual property officials to discuss the issue on several occasions. Undersecretary of State Robert Kimmit visited Beijing in May to discuss a full range of bilateral and global issues, including the issue of intellectual property protection. A delegation led by assistant USTR Joseph Massey visited Beijing in June to discuss IPR and other trade problems with senior-level economic officials in the Chinese government.[35] The citation under Special 301 and these frequent discussions with Chinese officials were meant to convey to Congress and the public that intellectual property rights was at the top of the administration's economic agenda with the Chinese and that the administration was pursuing a vigorous dialogue with Beijing in this area.

At the same time, the White House also mounted an intensive lobbying campaign in the Senate against Mitchell's legislative attempt. The White House lobbying strategy focused on two points. First, it sought to persuade Republican senators to vote in line with the President's position. Second, it mobilized affected societal groups, particularly farm groups to argue for unconditional MFN.

The Mitchell Bill in the Finance Committee

The Senate Finance Committee took up Mitchell's bill (S 1367) on June 27, one day after the House Ways and Means Committee sent an equally tough measure to the floor. The effectiveness of the lobby by the White House and the Republican leadership was apparent. Although several committee Republicans had previously expressed doubts about Bush's position, no one voted for the bill. Republicans argued that the bill was tantamount to withdrawing China's MFN status since Beijing was unlikely to comply with the conditions. Many expressed the fear that it would terminate U.S.-China relations, leaving the United States without influence and abandoning reforms within the country.

Mitchell, who served on the committee, did not even get the support of all the Democrats. Panel member Max Baucus (D-Mont.) was instrumental in resisting the Mitchell bill. Baucus favored an approach that would forgo placing conditions on MFN if the administration would agree on its own to impose sanctions against China, including retaliation for unfair trading practices. Baucus joined in an 11-9 party line vote to send Mitchell's bill to the floor, but he and other Democrats balked at giving it a favorable recommendation. The

committee also sent to the floor a bill introduced by Alan Cranston, D-Calif., to withdraw China's MFN status in 1991. But that bill received an unfavorable recommendation.

Mitchell had considerable difficulties in attracting support for his legislation. He not only needed Republicans, but also needed to win back a block of Democrats, including Baucus, who, either because of the pressure from their home constituencies or out of their ideological leaning, had signed a letter urging Bush to take further steps against China to try to lessen the pressure Congress felt to act. In order to gain the necessary vote, Mitchell unveiled a modified version of the bill he had introduced on May 16, two days before the markup. This compromise won him the support of several Democrats, including Lloyd Bentsen (D.-Texas), chairman of the Finance Committee. But he had only one Republican cosponsor. However, the tasks facing Mitchell were still formidable. The prospects for him to gather the two-thirds majority needed to override a veto in the Senate looked pretty slim as the bill was brought to the floor for vote.

The Mitchell Bill Up For Vote

The effort by Mitchell and other Democrats to seize a major foreign policy issue from the President fell short on July 23, as his bill passed the Senate -- but without the necessary votes to override a veto.

Republicans had demonstrated a tremendous amount of loyalty to the President. Echoing the administration's arguments, Republicans accused Democrats of trying to embarrass the president, while misguidedly moving to withdraw the best lever the United States had to force China toward reform. Almost all of the Republicans who had remained publicly uncommitted going into the debate sided with the administration in the end.[36]

Not only was Mitchell unable to counter a concerted White House lobbying effort, he also failed to overcome a split within his own party. Seven Democrats voted against the measure. In particular, Mitchell lost the votes of farm-state Democrats and both Louisiana Democrats whose state was a leading exporter of fertilizers to China.[37] These senators had been under intense pressure from their home constituencies not to attach any conditions to China's MFN renewal.

The administration's success also represented a victory for Baucus, who was forthright in articulating his opposition to withdrawal of MFN for China. Baucus worked closely with Minority Leader Bob Dole, R-Kan., in urging the White House to take additional punitive steps against China to deflect sentiment in Congress to act. On June 20, along with 13 other

Senate Democrats and Republicans, Baucus and Dole sent a letter to President Bush supporting extension of MFN, but urging him to take separate action to address China's problems with human rights, unfair trade practices, and weapons proliferation. While agreeing that the United States could not continue to tolerate Chinese intransigence, these senators stressed that MFN was the "wrong tool for the job." In their opinion, revoking MFN would be "counterproductive", as it would hurt American businesses, the economy of Hong Kong, and the most dynamic and market-oriented regions in China. They proposed that there be cooperation between Congress and the administration, that the administration take "appropriate actions" in a wide range of areas to respond to congressional concerns.[38]

Bush responded to the Baucus initiative by pledging in a July 19 letter to take several steps to increase pressure on Beijing. He pledged to take trade actions against China if progress on intellectual property protection were not forthcoming. He promised to strengthen multilateral controls on future Chinese weapon sales and to toughen enforcement of U.S. laws prohibiting imports from China made with prison labor. The most significant element of the letter was a pledge to "work actively" to see that Taiwan was able to join the General Agreement on Tariffs and Trade.[39]

Events during the rest of the year did little to reduce the friction between the administration and congressional opponents of unconditional MFN for China. In late October, conferees were appointed to reconcile the Pelosi/Mitchell bills supporting MFN status for Chinese exports to the United States only with firm conditions. The conference bill (H.R. 2212) again contained languages on intellectual property protection. Although the House voted in favor of the conference report by a veto-proof margin, the Senate ended the session without taking action on the conference bill as bill sponsors realized that they had not made significant gains among senators who had voted against the conditional MFN measure in July.[40] As a result, the China trade bill was not completed in 1991.

Chinese Reaction To U.S. Pressure

The Bush administration's efforts to press the Chinese to improve their intellectual property protection did produce some positive results. Partly in response to U.S. pressure, China enacted its first Copyright Law and its Implementing Regulations in June 1991. At the same time a U.S. delegation was visiting Beijing for the Special 301 investigation in June, China released its new software regulations. By American standards, however, these new laws and regulations contained some serious deficiencies in several respects.

A number of inadequacies in the laws were of particular concern to American industries. For example, the Copyright Law and Software Regulations did not protect the unpublished works of foreigners. They also failed to explicitly grant copyright owners in motion pictures the exclusive right to display their work to public audiences (for instance, in cinemas and at so-called "video theaters") and to protect foreign sound recordings used by broadcasters for "non-commercial" purposes. The software regulations offered no protection to works which were first published prior to June 4, 1991 (the promulgation date of these regulations). The failure of the software regulations to treat computer software as "literary works" had resulted in a shorter period of protection for software. Certain open-ended exceptions existed in the laws that would allow research institutes and "state organs" to copy materials for non-profit purposes. Since many research institutes had commercial branches and the wording of the regulations was considerably vague, state organs could also be understood to include industry. Many of these deficiencies in China's newly promulgated anti-piracy laws were in direct violation of the requirements of the Berne and Geneva Conventions.

In addition, enforcement provisions of the laws were ambiguous. The regulations appeared to give sole authority to the National Copyright Administration to deal with infringement cases involving foreigners. They did not provide criminal penalties, such as jail terms or fines. Administrative penalties alone would therefore be inadequate to deter most large-scale infringements. Also, the laws contained no provisions to address state ministries' practices which allowed technology imported by one unit to be shared freely with others.[41]

Following the release of these laws and regulations, the Bush administration officials continued to talk with the Chinese in order to remedy the deficiencies in these legislation and to bring China's intellectual property protection up to international standards. Unfortunately, however, the two sides failed to reach an agreement on measures to guard against alleged infringements of U.S. copyrights, patents and trademarks before a U.S.-imposed November 26 deadline. As a result, USTR Carla Hills announced at the end of the year that she would publish a list of Chinese products that could be subject to punitive tariffs of up to 100 percent to compensate for the estimated US$400 million that U.S. firms lost each year from Chinese piracy.

Why the MFN-IPR linkage: An Analysis

In 1991, the administration successfully defeated congressional attempt to attach

intellectual property rights conditions to China's MFN status via legislation. At the same time, by pledging to take tougher administrative measures to deal with the issue of intellectual property rights, the Bush Administration had in effect established a political linkage between MFN and IPR through presidential policy. An examination of U.S. foreign policy objectives toward China as well as societal, congressional, and presidential factors provides an explanation of why the United States has eventually conditioned China's preferential trading status on its protection of intellectual property rights via executive policy.

A Rational Calculation -- U.S. Policy Interests

The Bush Administration was bent on maintaining the momentum of Sino-American economic relations. The Administration saw that healthy political and economic relations with China would serve the foreign policy interests of the United States. Conditional MFN, which would inflict substantial costs on the economic and strategic interests of the United States, would be detrimental to the "national interest" of the United States. The best way to influence Chinese behavior was not through isolation, but through continued engagement. Using the "smart" weapon targeted on specific problems with the Chinese rather than the "atom bomb" of MFN withdrawal provided a better leverage to achieve U.S. objectives in China. This rationale was enunciated by President Bush in his Yale address and had subsequently become the driving force of the Administration's policy.

When deciding on the MFN issue, the Administration focused primarily on the potential benefit the U.S. could derive from continued economic exchanges with the Chinese and the damage of MFN denial to U.S. economic interests. Revoking or conditioning MFN could have several adverse impacts on U.S. economic interests.

Most importantly, withdrawing MFN would reduce the volume of bilateral trade, cost the U.S. a major overseas market, and damage the reputation of the U.S. as a reliable trade partner. A decade after it introduced economic reform and the open policy, China had become more important to the United States as indicated by its rank in 1990 as America's 10th largest export market, absorbing $6.3 billion of U.S. produced goods in 1991.[42] In its economic development, China had enormous demands in the areas of infrastructure, telecommunications, and construction development, etc. If MFN status were withdrawn, Chinese goods would be subject to tariffs five to ten times as high as when the status was retained, significantly reducing both Chinese exports to the U.S. and U.S. exports to China. Since the United States was the only nation even contemplating withdrawal of MFN, it would

not be difficult for China to import equivalent goods from other countries. The U.S. would therefore lose a major export market to its European and Japanese competitors and be locked out of the fastest growing economy in the world at a time when the U.S. economy was undergoing a downward spiral.

The reduction in U.S. exports could have several consequences: First, American exporters to China would be hardest hit. The possible Chinese retaliation would reduce their sales even further. Second, the loss of exports could lead to lost jobs. It was estimated that over 118,000 largely high-tech American jobs might disappear if China's MFN status were revoked.[43] Third, revoking MFN would be likely to exacerbate America's overall trade deficit with the world because while the United States would lose as much as $6 billion in exports, its overall import bill would be relatively unaffected, as China could simply be replaced by other low-wage countries as the source of intensive goods.[44] Fourth, the resulting downward spiral in bilateral economic relations would reduce the future flow of U.S. foreign direct investment into China. Since many of the manufacturing enterprises that U.S. firms had invested in China remained dependent on inputs from the United States and/or sold their finished products in the U.S. market, they would be put at risk if MFN were withdrawn. Also, U.S. firms would be less interested in exploring investment opportunities in China either because of the fear that they could become the object of Chinese pressure or because they would find Chinese officials more reluctant to approve their joint venture projects.[45]

Removing China's MFN status would also seriously affect U.S. consumers. Increasing tariffs on goods imported from China from 6 percent to over 40 percent was tantamount to levying a $7 billion - $10 billion cumulative sales tax on American purchasers.[46] Low- and middle-income consumers who were the major purchasers of many of China's low-end products would therefore bear a disproportionate burden. Although in reality the same goods would not be purchased from China because of high duties, retailers would experience severe short-term disruption while they shifted to other low-cost suppliers.

The adverse effects of MFN withdrawal would not be limited to the U.S. economy; withdrawal could also have a tremendous impact upon America's allies and friends abroad. In particular, the economy of Hong Kong would be severely affected. By early 1991, nearly 70 percent of U.S. imports from China were transshipped through Hong Kong, enabling the territory to earn significant income from banking, insurance, shipping, and legal services involved in this entrepot trade.[47] Moreover, more than a third of Hong Kong's manufacturers had moved their operations to South China. If MFN status were withdrawn, Hong Kong would see significant reductions in its overall trade, re-exports from China to the

U.S., lost jobs and income, and a decline in its direct investment in China. Since Hong Kong's economic prosperity was clearly dependent on China's participation and integration into the global economy, revocation of MFN would inhibit the further development of Hong Kong's economy.

Another region that would be adversely affected was the semi-private sector in South China, which accounted for over half of all China's exports to the United States. Removing MFN would retard the growth of this thriving, market-oriented segment of the Chinese economy which serves as the engine for China's economic development. It could also undermine the U.S. policy objective of seeking political liberalization through increased economic freedom in China.

Certainly, enhancing protection of intellectual property rights was also in the economic interests of the United States. But the substantial economic costs of revoking or conditioning China's MFN status far outweighed the gains that could potentially be derived from IPR protection. Conditional MFN through legislation thus runs counter to the U.S. policy objective of reaping benefits from expanded economic exchanges with the Chinese. Not surprisingly, such a policy had encountered strong opposition from the administration. But in addition to these economic considerations, the administration also had strategic reasons in mind in handling the MFN issue.

In particular, the Administration believed that a comprehensive and institutionalized economic relationship with China would contribute to the stabilization of Asian affairs as well as a balanced U.S. global strategic posture. As Bush stated it clearly in his Yale address:

> China can -- easily can -- affect the stability of the Asian Pacific region and therefore affect the entire world's peace and prosperity. The Chinese play a central role in working to resolve the conflict in Cambodia, to relax tensions on the Korean peninsula. China has a voice now in multinational organizations, and its votes in the United Nations Security Council against Iraq's brutal aggression helped us forge the broad coalition that brought us victory in the gulf.[48]

Consequently, conditioning China's MFN status and the resulting deterioration in bilateral economic and political relations would significantly affect the ability of the U.S. to stabilize Asian affairs and develop strategic cooperation with the Chinese at a global level. The leverage that the Chinese hold on strategic issues was therefore another important factor that the Administration had to reckon with.

In addition, economic interdependence between the two countries would serve as a vital force for change in China, lead to greater bilateral cooperation in other areas and strengthen the overall relationship. Deputy Secretary of State Lawrence Eagleburger made it

explicit that healthy economic relations with China would profoundly increase U.S. access to Chinese society as well as its ability to influence China's economic and political reforms. It would also help to "facilitate the development of a broad range of relations" with that country.[49]

Out of the economic and geopolitical considerations outlined above, the Bush Administration had committed itself to defending China's preferential trading status. The Administration believed that it did so to advance the "national interest" of the United States. President Bush repeatedly affirmed that the policy proposed by the Administration was "good foreign policy" and that such a policy served the U.S. economic and strategic interests in China.[50]

Business Interests

On the MFN issue, the interests of the majority of the business community converged with those of the administration. As mentioned earlier, since U.S. exporters (particularly aircraft manufacturers, industrial and construction machinery manufacturers, fertilizer producers, and wheat and grain farmers), importers, investors, retailers and consumers saw their interests at stake if MFN were withdrawn, these groups had lobbied heavily to retain China's MFN status.

What made the establishment of the MFN-IPR linkage possible in 1991 was mainly the emergence of the IPR lobby. Greatly hurt by Chinese piracy, the computer software, motion pictures, music, chemicals and pharmaceuticals, and book publishing industries tried hard to urge Congress to take actions against China. The IPR issue, together with other new irritants in Sino-American relations, had given opponents of renewing China's preferential trading status new ammunition to bombard legislators. As a result, the IPR lobby had joined forces with human rights advocates, conservative organizations, and other industries hurt by China trade (such as textile and apparels), forming a powerful protectionist-liberal-conservative coalition to push for conditional renewal. With the help of these other anti-MFN forces, the IPR lobby had found more success advancing their argument.

One important factor that contributed to the effectiveness of the IPR lobby was that although the pro-MFN lobby was active in 1991, it was not as involved as it had been in 1990. The decreased involvement of the pro-MFN forces was due to the fact that many businesses were focusing on winning congressional approval for U.S.-Mexican free-trade negotiations. This had diverted their attention from the MFN debate, leading to less pressure

from normally pro-MFN forces. The arguments made by these U.S. firms benefiting from the China trade were thus less decisive than those made by companies hurt by Chinese piracy and cheap Chinese imports. In contrast, growing attention to China's intellectual property rights violations, along with the ballooning U.S. trade deficit with China, had brewed a protectionist sentiment on Capitol Hill. Consequently, the IPR lobby had found Congress more sympathetic to its concerns and had effectively urged Congress to introduce legislation conditioning China's MFN status to its intellectual property protection.

The ability of intellectual property industries to link MFN with their own concerns thus reflected the shifting balance of forces between two societal coalitions whose interests on the MFN issue conflicted with those of the other.

Congressional Processes and Executive-Congressional Interaction

Unlike the executive, Congress was predisposed to place more emphasis on issues with strong domestic implications. Under the lead of Senator George Mitchell, Congress took up the demands of intellectual property industries in the 1991 debate over MFN. Senators with protectionist sentiments, along with liberals and conservatives, formed a powerful congressional coalition aimed at withdrawing or attaching conditions to China's MFN status.[51] This coalition played an important role by asserting that Congress could act as an effective counterbalance to the executive predominance on U.S. China policy. It also significantly affected the Administration's ability to influence congressional opinion.

George Mitchell was the key figure leading the fight to attach IPR and other conditions to MFN renewal. In order to secure the two-thirds majority necessary for a veto override, Mitchell worked hard to galvanize Democrats and to win votes from the Republicans. His combative stance against Bush, however, had alienated many Republicans who might be inclined to support punishing China if it were not being orchestrated by the Democratic leader. As the debate progressed, Mitchell had to temper his rhetoric and his legislation. He modified his bill to put less strict conditions on MFN renewal and to give the president another year to change Chinese behavior rather than withdrawing MFN status in six months.

Mitchell's position was challenged by Max Baucus, who favored working more closely with the executive to address congressional concerns. Baucus' views supported those of the Administration, who argued that withdrawing MFN was too blunt an instrument, with too many negative consequences for U.S. interests. Baucus succeeded in gaining the support of 14

other senators to urge the President to take a tougher stance on China. In particular, he was able to win over those senators whose states had a substantial stake in trading with China. This more moderate approach thus had the effect of weakening the anti-MFN coalition led by Mitchell.

The White House committed its resources to winning the Senate vote. They adopted several important measures in response to congressional aggressiveness. First, they waged an extensive lobbying effort in the Senate and sought to win over Democratic votes while at the same time stressing Republican loyalty to the President. They also mobilized societal groups, particularly farm groups to lobby in the Senate. Second, the White House announced a series steps on IPR to bring pressure to bear on China -- and lessen the pressure Congress felt to act. The Administration sent several official delegations to Beijing to discuss the issue of intellectual property rights. President Bush authorized the USTR to designate China as a "priority country" under the Special 301 provisions of the 1988 Trade Act. The Administration took similar steps to help lessen the pressure from the allies of the IPR lobby. The meeting between Bush and the exiled Tibetan leader Dalai Lama in April, for instance, was intended to appease the human rights groups. In addition, the White House made it clear at the very beginning of the debate that it would renew China's MFN status. This firm stance indirectly conveyed a message to Congress that it would be extremely difficult to block the president's opposition to renewing MFN with conditions attached, in effect deterring many congressional members from voting for conditional MFN. The executive was even prepared to use the last resort of the presidential veto to deflect congressional attempts at conditional MFN. Congressional perception of presidential determination thus inhibited many members from voting in favor of the Mitchell bill.

Senators who favored the more moderate approach played an important role in securing executive assurances that the tougher measures and other policy changes asked for would be forthcoming. For example, although Bush had approved several punitive steps when he asked for the MFN extension in late May, the letter circulated by Baucus and Dole nevertheless urged Bush to go further by offering "tangible evidence that the administration is taking action." As a result, the administration in its July 19 statement pledged to retaliate against Chinese imports under Section 301 of U.S. trade law unless there were progress in the upcoming talks with Beijing on intellectual property protection. It also threatened action against China unless it took measures on several other issues of particular concern to the United States. The more moderate approach advocated by Baucus therefore played a crucial role in encouraging a balance of the objectives of the two institutions.

In short, congressional initiative and assertiveness had brought the issue of intellectual property rights into the MFN debate. Presidential determination and leadership enabled the administration to achieve its objective of not attaching IPR conditions to China's MFN status through specific statutes. However, through the more moderate approach, Congress succeeded in obtaining executive assurances to work harder on the IPR issue to satisfy congressional demands. This interbranch interaction helped to reconcile institutional differences into a compromise policy that both the executive and the Congress could accept.

Conclusion

With regard to the issue of intellectual property rights, the United States had eventually adopted a policy which conditioned China's MFN status on its intellectual property protection through presidential policy rather than specific legislation. Conditioning MFN through administrative measures reflected the different roles and political orientations of the executive, Congress, and various interest groups.

The rational actor model assumes that the United States would continue to grant China MFN status in order to preserve its political and economic interests in China. This assumption is only partially confirmed by the outcome. It is true that U.S. economic, and, to some extent, strategic interests in China were the driving force of the policy output. The Administration defined its policy goals for MFN in broader economic, strategic, and political contexts. Largely in response to the demands of the majority of the business community to retain their share of the China market, the administration firmly opposed revoking China's preferential trading status. The executive also defended its approach in the name of the national interests of the U.S. As a result, the United States continued to grant preferential trading status to China. In order to emphasize U.S. interests on intellectual property rights, the administration also chose to link MFN renewal to IPR protection through executive measures. This policy outcome reflects the rational actor approach.

However, although the executive (the president and his advisors) was able to define the goals of foreign policy and select the best alternative to maximize U.S. interests, it could not just make the policy without the policy being seriously amended in the process. In particular, the Congress, with different policy concerns and priorities, had some serious disagreement with the executive, strongly challenged the executive policy by insisting on legislating IPR conditions, and succeeded in having some of its priorities accommodated in the policy process. Therefore, conditioning MFN renewal through executive policy was also

partly a response to congressional concerns. In this sense, the rational actor model does not fully explain why there were administrative conditions attached to MFN renewal. The model does not take into account other policy processes in which societal and legislative actors played a role. When foreign policymaking involves more political institutions and actors than the executive decisionmaking elite, the model misses the substance of different viewpoints that emerge from the interactive process among different players.

Societal forces had a strong influence on the policy outcome. The emergence of the IPR lobby was the precondition for the IPR issue to enter into the 1991 MFN debate. The pro-MFN coalition was rather effective in persuading senators to vote in their favor. The parochial business concerns of legislators was a major factor determining how they voted on the bill. In particular, the coalition was able to gain access to a number of Democratic senators and convince them to support MFN unconditionality and vote against the bills, despite legislative-executive conflict.

As mentioned above, however, the pro-MFN lobby was not as involved as it had been in the previous year. The emerging IPR lobby was therefore able to take advantage of the decreased level of involvement of the pro-MFN lobby to strengthen its own arguments. Further aided by the efforts of other protectionists, human rights advocates and conservatives, the IPR lobby was in a better position to present its case to the Capitol Hill. The relative decline of the pro-MFN forces and the rise of the IPR lobby thus explains to a large extent why intellectual property industries were able to make IPR protection an issue in the 1991 debate over MFN. The final policy outcome partly reflects the relative capabilities of societal groups to penetrate into the policy arena. The role of interest groups is therefore a factor that cannot be ignored in explaining why the linkage between MFN and intellectual property rights had come to be forged in 1991.

The interbranch politics assumption that there would be confrontation and compromise between the executive and Congress in determining U.S. policy on MFN is confirmed by both the outcome and the process. Congress had a different orientation toward balancing executive interests in unconditional MFN and played an assertive oversight role in stressing U.S. interest in IPR protection in the process. Contrary to the conventional wisdom that the executive proposes and the legislature disposes, however, Congress had actually taken the initiative on the MFN and IPR issues. Congress took up the MFN issue first in response to the human rights concerns of domestic constituencies. It then sought to link the demands of intellectual property industries with the MFN debate. The purpose of invoking these issues is to try to challenge the executive dominance on China policy. The

executive, meanwhile, sought to prevent any extreme measures through consultation, persuasions, and even the veto threat in the interbranch policy process.

One congressional factor that contributed to this congressional assertiveness was the presence of a partisan element in the debate. Although it would be inaccurate to characterize the 1991 debate over MFN and IPR as simply partisan, and many congressional Republicans joined in the criticism of China and Bush administration policy, a partisan element nevertheless existed in the debate. According to an interview conducted by Robert G. Sutter with Democratic staff members, some Democrats in Congress were anxious to exploit President Bush's and the Republican Party's perceived vulnerability over China policy. Following the president's triumph in the Gulf War, China policy seemed to provide a good target to show the perceived poor judgment of the administration and its approach to foreign affairs.

Two different approaches dominated the congressional process: the tougher approach favored by George Mitchell and the more moderate one favored by Max Baucus. The tougher approach placed the legislature in direct confrontation with the executive. It inevitably encountered staunch opposition from the executive. This approach was also weakened by many senators' business concerns and the natural deference to presidential authority on foreign policy. It was further challenged by moderate senators who sought to coordinate with the administration on the MFN issue. As a result, attaching IPR conditions to MFN renewal through legislative avenues did not become a reality. The administration, however, did not completely prevail over the legislature. In order to defeat Congress' legislative attempt, it had to pledge to take further measures on the issue of intellectual property rights, a move which otherwise would have been hard to come by. As a result, the Congress was able to stress its interest in IPR protection, but was not able to go so far as to attach legislated conditions to China's MFN renewal, due to diverse views within Congress itself and the strong executive opposition.

As we can see, in the legislative-executive interactive policy process, each branch had to adjust its own approach in order to accommodate the foreign policy priorities of the other. Both branches resorted to a number of strategies to bargain out its differences with the other. Most importantly, the White House tried to persuade Congress to come to terms with the executive policy through the Republican and farm group lobby. It also attempted to co-opt the legislature by incorporating some of their demands into the executive agenda. More moderate senators, by pushing the executive to take tougher measures on IPR, similarly encouraged a balance of objectives between the two institutions. This executive-legislative

interactive process is therefore one characterized by persuasion, co-opting, bargaining, and compromise between the two institutions. The bargaining position of the two institutions depended on the latitude of law, congressional cohesiveness and presidential determination. The final policy output reflected the reconciliation of the different objectives, interests and priorities of the two branches as well as their relative bargaining positions.

In sum, each of the three models approaches the policy outcome from a different perspective, but each of them alone is insufficient to solve the central puzzle of this chapter. Indeed, certain inherent connections exist among the models. The rational actor model defines the objectives, goals, and orientations of the executive, providing the context within which it acts. It therefore provides a rationale for granting MFN to China without any conditions. It defines the boundary of U.S. policy on MFN and IPR. But this model alone is inadequate to answer two important questions. First, why did intellectual property rights become a salient issue in the 1991 MFN debate? Second, why was China's MFN renewal linked with its intellectual property protection through presidential policy? The interest group and interbranch politics models prove to be useful supplements to the rational actor model in addressing these questions.

The interest group model explains to some extent congressional assertiveness. The emerging IPR lobby is a key factor explaining the emergence of the IPR issue in the MFN debate. The balance of group strength also contributes to the divergent views and approaches on MFN within Congress. The interbranch politics model goes beyond the rational actor model and the interest group model to capture the ascending congressional role in dealing with important diplomatic questions. Congressional priorities and preferences were obtained in a substantial interactive process in which the Congress was able to initiate its MFN and IPR efforts and counter the executive's proposed policy.

In addition, the three models also overlap with one another. For instance, since the major strategic interests of the Administration had shifted to focus more and more on economic considerations, there was an increasing congruence of interests between the majority of the business community and of the rational actor as embodied by the administration. Because of this congruence of interests, societal groups were not only able to penetrate the legislative process, but could also impact on the rational calculation of the executive. The executive, when confronted with legislative opposition, also needed to take U.S. commercial interests into consideration when making its decisions. In this sense, the interest group model overlapped with the rational actor model. The congruence of interests between the interest groups and the executive further affected the executive's stance vis-à-vis

the legislature on MFN and hence the interbranch policy process.

Because of these connections and overlapping among the models, it is reasonable to conclude that the three models can not be viewed in isolation from one another. Although the three models depart from one another in a number of ways and each of them highlights a different aspect of the MFN policymaking, there nevertheless exist certain points where the different models converge with one another. The policy process discussed in this chapter can best be captured by looking at how the three models have worked both separately and in tandem to produce the policy in question.

Notes

1. Harry Harding, *A Fragile Relationship: The United States and China since 1972* (Washington, D.C.: The Brookings Institution, 1992), pp.276-277.

2. "US-PRC Update: USTR Takes Tough Stand On China's IPR Abuses," *Business China* 17, no. 9 (May 13, 1991), p. 67.

3. Emily MacFaquhar, "On the Defensive: As Washington Debates Whether to Get Tough, China Braces Itself," *U.S. News & World Report* 110, no. 20 (May 27, 1991), p. 39.

4. Stuart Auerbach, "China, U.S. Reach Trade Accord," *Washington Post*, January 17, 1992, p.A24.

5. "Will China Scuttle Its Pirates?" *Business Week* August 15, 1994: p.41.

6. "Foreign Firms Optimistic About China's Progress on Intellectual Property Rights," *Business China* 17, no. 19, (October 14, 1991): p.150.

7. "China MFN Vote Falls Short of Veto-Proof Margin," *Congressional Quarterly Weekly Report* 49, no. 30 (July 27, 1991), p. 2056.

8. "Bill To Limit China Trade Not Completed," *Congressional Quarterly Almanac* Vol. 47, 1991, p. 124.

9. "Will China Remain A Most-Favored Dictatorship?" *Business Week*, July 29, 1991, p. 38.

10. See Congress. House. *United States-People's Republic of China Trade Relations, Including Most-Favored-Nation Trade Status for China:Hearing Before the Subcommittee on Trade of the Committee on Ways and Means, House of Representatives*, 102nd Cong., 1st sess., 1991.

11. Jim Mann, "U.S. Firms Lobby for China Trade Benefits," *Los Angeles Times*, July 15, 1991, p.A15.

12. Ibid.

13. Lena H. Sun, "China Warns U.S. Against Ending MFN," *Washington Post*, June 26, 1991, p. A9.

14. Ibid.

15. Ibid.

16. Mann, "U.S. Firms Lobby for China Trade Benefits," *Los Angeles Times*, July 15, 1991, p.A15.

17. "Sentiment Grows in Congress To Reject MFN for China," *Congressional Quarterly Weekly Report* 49, no. 17 (April 27, 1991), p. 1044.

18. "Will China Remain a Most-Favored Dictatorship?" *Business Week*, July 29, 1991, p. 38.

19. Congress. House. *United States-People's Republic of China Trade Relations, Including Most-Favored-Nation Status for China: Hearing Before the Subcommittee on Trade of the Committee on Ways and Means, House of Representatives*, 102nd Cong., 1st sess., 1991, p.208.

20. Mann, "U.S. Firms Lobby for China Trade Benefits," *Los Angles Times*, July 15, 1991, p.A3.

21. "PRC-US Trade Update," *Business China* 17, No. 2 (January 28, 1991), p.10.

22. See Congress. House. *United States-People's Republic of China Trade Relations, Including Most-Favored-Nation Trade Status for China: Hearing Before the Subcommittee on Trade of the Committee on Ways and Means, House of Representatives*, 102nd Cong., 1st sess., 1991.

23. "Will China Remain A Most-Favored Dictatorship?" *Business Week*, July 29, 1991, p. 38.

24. "China's MFN Renewal: U.S. Domestic Politics Are Determining Factor." *Business China* 17, no. 10 (May 27, 1991), p. 78.

25. "China MFN Vote Falls Short Of Veto-Proof Margin," *Congressional Quarterly Weekly Report* 49, no. 30 (July 27, 1991): p. 2054.

26. "U.S.-PRC Update," *Business China* 17, no. 9 (May 13, 1991), pp. 66-67.

27. "The MFN Issue: Who Stands To Lose If the U.S. Rescinds?" Business China 16, no. 10 (May 28, 1990), p. 74.

28. "China MFN Vote Falls Short of Veto-Proof Margin," *Congressional Quarterly Weekly Report* 49, no. 30 (July 27, 1991), p. 2056.

29. Don Oberdorfer and Ann Devroy, "Bush Seeks To Renew China Trade Status,"

Washington Post, May 16, 1991, p.A1.

30. Ibid.

31. Robert G. Sutter, "American Policy Toward Beijing, 1989-1990: The Role of President Bush and the White House Staff," *Journal of Northeast Asian Studies*, Winter 1990, pp.3-4.

32. "Status Quo, No!" *Far Eastern Economic Review* 152, no. 22 (May 30, 1991), p. 19.

33. Congress. House. *Renewal of MFN Trading Status for the People's Republic of China: Hearing and Markup Before the Committee on Foreign Affairs, House of Representatives*, 102nd Cong., 1st sess., 1991.

34. Ibid.

35. Sandy Hendry, "Limited Protection," *Far Eastern Economic Review* 153, no. 29 (July 18, 1991).

36. "China MFN Vote Falls Short Of Veto-Proof Margin," *Congressional Quarterly Weekly Report* 49, no. 30 (July 27, 1991): pp.2053-2054.

37. Ibid., p.2054.

38. "China MFN Vote Falls Short Of Veto-Proof Margin," *Congressional Quarterly Weekly Report* 49, no. 30 (July 27, 1991), p.2054; "Mitchell Struggling for Votes To Restrict MFN for China," *Congressional Quarterly Weekly Report* 49, no. 29 (July 20, 1991), p.1972.

39. "Bill To Limit China Trade Not Completed," *Congressional Quarterly Almanac* 47, 1991, pp. 122-123.

40. "China MFN Bill Going Nowhere As Adjournment Approaches," *Congressional Quarterly Weekly Report* 49, no. 46 (November 16, 1991), p. 3366.

41. The discussion of the deficiencies in China's intellectual property legislation is derived from Morton D. Goldberg and Jesse M. Feder, "China's Intellectual Property Legislation," *The China Business Review* (September-October, 1991), pp. 8-11; "Copyright Concerns," *Far Eastern Economic Review* 153, no. 30 (July 25, 1991), p. 7; "Limited Protection," *Far Eastern Economic Review* 153, no. 29 (July 18, 1991), p. 61-62.

42. "The Case for China's MFN Status," *China Business Review* 19, no.4 (July-August, 1992), p.14.

43. Ibid.

44. Ibid.

45. See Nicholas R. Lardy, "MFN Denial: The Economic Consequences," *NBR Analysis* 5, no. 1, July 1994, pp. 26-28.

46. "The Case for China's MFN Status," *China Business Review* 19, no.4 (July-August, 1992), p. 15.

47.Ibid., pp. 15-16.

48. "Bush Says China MFN Status Will Be Catalyst for Change," *Congressional Quarterly Weekly Report* 49, no. 22 (June 1, 1991): p.1459.

49. Congress. House. *Renewal of MFN Trading Status for the People's Republic of China: Hearing and Markup Before the Committee on Foreign Affairs, House of Representatives*, 102nd Cong., 1st sess., 1991, p.11.

50. Don Oberdorfer, "President Plans Major Push on Renewal of Trade Status for China," *Washington Post*, May 29, 1991, p. A23. "Bush Says China MFN Status Will Be Catalyst for Change," *Congressional Quarterly Weekly Report* 49, no. 22 (June 1, 1991), pp.1459-1460.

51. Some prominent leaders of the coalition included Congressman Stephen Solarz, Senator Jesse Helms, and Congressman Richard Gephardt. These people opposed unconditional MFN for different reasons: Solarz opposed it for liberal human rights reasons, Helms, for his anti-Communist ideology, and Gephardt, out of his protectionist sentiment.

52. "China MFN Vote Falls Short of Veto-Proof Margin,"*Congressional Quarterly Weekly Report* 49, no. 30 (July 27, 1991): p. 2054.

53. See Robert G. Sutter, "The Crisis in U.S.- China Policy, 1991: The Role of Congress," *Journal of Northeast Asian Studies* 10, Winter 1991/92, p.9.

Chapter 2
Heated Debate Over MFN-IPR

The struggle over China's MFN status was more fierce in 1992 than in the previous year. Congress, frustrated with the failure to wrest control of U.S. China policy, attempted twice in the year to attach legislated conditions (including conditions on intellectual property protection) to China's MFN renewal. The Bush Administration, because of its views on China affairs, strongly opposed such an approach and had worked more actively than before to defeat Congress' legislative effort. Direct confrontation and conflict between the two branches had become a prominent feature of this round of the MFN debate.

Meanwhile, the pro-MFN coalition, faced with growing economic stakes in China, had mounted a more aggressive lobbying campaign in favor of unconditional MFN. The coalition sought to persuade both the Administration and Congress that placing restrictions on China's trade status would severely harm the rapidly expanding U.S. commercial ties with China. The IPR lobby's worries about Chinese piracy, however, were allayed by an IPR agreement that the Administration had reached with the Chinese early in the year, under which the Chinese promised major improvements in their protection of U.S. intellectual property rights. Consequently, the IPR lobby was far less outspoken on China's MFN status than it was in 1991. The decrease in the extent and intensity of the IPR lobby gave the pro-MFN coalition an edge in the debate, enabling them to voice their demands with more force and potency.

Because of the administration's staunch opposition to MFN conditionality as well as the growing strength of the pro-MFN coalition, the Bush administration again succeeded in defeating the two legislative efforts and granted MFN to China. But although there were no legislated IPR conditions attached to MFN renewal, the administration, by reaching the separate IPR agreement, had incorporated some of Congress' demands and maintained the political linkage between MFN and IPR. This policy outcome was essentially the same as the one in the previous year.

This chapter looks at the increasingly intense battle over MFN and focuses on the following questions: why were there no legislated IPR conditions on MFN renewal even though congressional assertiveness on intellectual property rights remained strong? What were the respective roles that the executive, the Congress, and societal groups played in

shaping this policy outcome?

The three conceptual models offer useful guidelines for us to answer these questions. The rational actor model provides a powerful rationale for the U.S. to extend MFN treatment to China. But the model overlooks the division within the U.S. government. In other words, it does not lead us to see why the foreign policy executive was able to unconditionally renew China's trade status only after overcoming strong resistance from the legislature. In this sense, the model does not seem to be particularly helpful for explaining the increasingly raucous and heated debate over MFN between the two governmental branches.

The insight of the interest group model that a certain policy outcome reflects the balance of power among societal groups over the issue at stake was partly confirmed by the ability of the pro-MFN forces to penetrate the policy process. However, congressional insistence on IPR conditions in the face of a weak IPR lobby and tremendous pro-MFN pressure seems to challenge the utility of the model by suggesting that societal forces may not be directly and unilaterally translated into policy outcome. Congress is not completely inept when faced with societal pressure and may significantly influence the effectiveness of interest groups in achieving their objectives.

The interbranch politics model, by probing into congressional and presidential factors, enables us to see how U.S. foreign policy processes provide opportunities for the two institutions of decisionmaking to interact and conflict with each other in formulating the MFN policy. By highlighting the institutional competition which fostered the heightened tension between the two branches, the model explains why Congress was more intent on exploiting the MFN and IPR issues to attack the executive's China policy and why the executive branch was equally committed to deflect the congressional initiative. In this sense, the model is particularly useful for explaining the confrontational and conflictual pattern of interaction between the two branches as well as Congress' insistence on IPR conditions.

Here it is necessary to notice that U.S. domestic politics of presidential and congressional elections had also contributed to the heated debate over MFN in 1992. Congressional Democrats' intention to attack Bush's foreign policy in the presidential election complicated and further exacerbated the institutional rivalry, adding to the intensity of the MFN fight. In this respect, the interbranch policy process was also somewhat influenced by the issues of electoral and party competition. By focusing on the struggle for

power between two institutions of decisionmaking, the interbranch politics model may have overlooked how the issues of electoral and party competition could intrude into the turf struggle between Congress and the White House and influence the ways in which they interact and influence each other. How to sufficiently distinguish the influence of the party competition going on between the branches from that of the interbranch politics is a question that the model still needs to wrestle with.

The 1992 Memorandum of Understanding on IPR

In order to diffuse societal pressure on intellectual property rights, the Bush Administration was actively pushing the Chinese to strengthen their intellectual property protection. In early 1992, China's refusal to meet U.S. requirements to protect intellectual property rights prompted the office of the USTR to prepare for retaliation against Chinese imports. The USTR's office imposed a January 16 deadline for China to agree to improve its intellectual protection system or face sanctions on an estimated $1.5 billion worth of Chinese exports to the United States.[1] After a week of contentious negotiations, the two sides reached a Memorandum of Understanding (MOU) on intellectual property protection just hours before the January 16 midnight deadline, narrowly averting a potentially disruptive trade war and a new chill in diplomatic relations between the two countries.

The MOU on IPR committed China to significantly improve its protection of patented and copyrighted programs and trade secrets. Specifically, the Chinese agreed to protect U.S. patents for 20 years after they are filed, a major improvement over an earlier Chinese offer to provide such protection for only 15 years. China also offered to protect old products that had been developed since 1986 for 7 more years, limit the ability of companies to license the production of patented products, and provide protection to all existing copyrights on computers, software, books and recordings.[2]

At the same time, China promised to join the Berne Copyright Convention by October 1993 and the Geneva Phonogram Convention by June 1993. The Berne Convention, which requires its signatories to respect copyrights for the life of the author plus 50 years, would presumably help China to stick to its commitments to protect U.S. copyrighted works. China also expressed a willingness to consider software as "literary works" and give it 50-year protection. Previously, China protected only the works of

Chinese nationals or those first published in China and refused to recognize software as a "literary work." China's commitments covered existing copyrighted works as well as those yet to be copyrighted. Moreover, China pledged to give the holders of software and recording copyrights control over the rental of their products. In addition, China agreed to submit trade secret legislation and provide effective enforcement procedures and remedies against infringement of intellectual property rights. The agreement provided for "consultations" between China and the U.S. on prospective Chinese measures to enforce protections.[3] In exchange for Chinese promises to enhance its protection of intellectual property rights, the United States removed China from the "priority list" of foreign countries.

The new accord came about largely as a result of the Bush Administration's eagerness for IPR concessions. The Administration hoped that Congress would construe the agreement as the sort of substantial concession required to retain unconditionally China's MFN status when it came up for a vote in 1992, thus gaining a useful leverage to bargain for unconditional MFN. It also hoped that the agreement would mute the criticism of intellectual property industries and reduce their pressure to attach IPR conditions to China's MFN status.

The agreement did help to appease the IPR lobby to a considerable extent. The International Intellectual Property Alliance (IIPA), which represents U.S. computer, software, motion picture and other copyright-sensitive industries, hailed the agreement as a major breakthrough shortly after it came into existence. The IIPA was even prepared to moderate its position on China's MFN trade benefits in return for the forceful action the Administration took on intellectual property protection.[4]

Bush's eagerness for IPR concessions was further reflected in his decision to meet with Chinese premier Li Peng after they attended the January 31 UN Security Council summit in New York. As the highest-level bilateral talk since 1989, the meeting implicitly completed Beijing's diplomatic rehabilitation after Tiananmen. Although the political risks of such a meeting were apparent, Bush nevertheless hoped that in the face of mounting criticism of his economic policies toward China, the trade gains derived from the meeting would outweigh its political risks. To cover the Administration's back politically, USTR Carla Hills cited endorsements of the new accord by the IPR lobby and the pharmaceutical industry.[5]

In spite of the encouraging promises made by the Chinese, certain issues in the IPR

area remained unsettled. For example, it was not clear when China would submit its application to join the Berne Convention and there was still some resistance to protect pharmaceutical patents. Assistant USTR for China and Japan Joseph Massey visited China in February and further talked with the Chinese to ensure the effective enforcement of the agreement.

The First Legislative Attempt: The Fight Over The Conference Bill

Legislative effort in 1991 was not completed as the Senate adjourned without taking any action on the conference report on H.R. 2212. The conference bill, drafted in late October 1991, essentially reconciled the Mitchell/Pelosi bills supporting MFN status for Chinese exports to the United States in 1992 only with firm conditions. Under the bill, for China to retain its MFN status in 1992, the president was required to report that the Chinese government had accounted for and released those detained as a result of the Tiananmen demonstrations, and had made "overall significant progress" in specific issue areas concerning human rights, trade, and weapons proliferation questions. In the area of trade, China was expected to improve its protection of intellectual property rights and cease to restrict the import of U.S. goods and services.[6]

The House debate and vote in favor of the conference report at the end of 1991 clearly demonstrated the broad support the measure had in the House. However, the measure had stalled in the Senate as its sponsors realized that they had not made significant gains among senators who voted against the conditional MFN measure in July 1991. Although many of those senators were reportedly frustrated with Chinese policies and practices, they remained supportive of the Bush administration efforts to harden policy on sensitive issues selectively, while preserving the advantages to the United States from continued MFN treatment of Chinese exports.[7]

By early 1992, it appeared highly likely that Congress, frustrated with the executive's predominant control over China policy, would renew the debate targeted on MFN and other China-related questions during the second session of the 102nd Congress in 1992. In this situation, Senate Democrats, in a bid to turn the Administration's China policy into an issue in the presidential campaign, were poised to take the initiative to determine an appropriate time for the Senate to address the measure.

As had been expected, the Senate Democratic leadership brought the conference report on HR 2212 up for a vote once again in late February 1992. Some Republicans charged that the Democrats were trying to exploit the MFN issue in a presidential election year and had deliberately delayed considering the bill until the presidential campaign heated up.

Senate Majority Leader George Mitchell, D-Maine and Finance Committee Chairman Lloyd Bentsen, D.-Texas led the effort to enlist support for the bill. During the Senate debate, both Mitchell and Bentsen argued that the Administration's approach had failed to give China any incentive to change its policies and that it is important for Congress to exert more pressure on Beijing to improve its performance in the three key issue areas.[8]

But the bill had also encountered some opposition in the Senate. Senators Max Baucus (D-Mont.), Minority Leader Bob Dole (R-Kan.), and Frank Murkowski (R-Alaska), for instance, were firmly against the conditional approach. Baucus, who played a major role swinging the votes of some Democrats, defended his position on the ground that "unilateral cutoff of MFN would hurt the United States far more than it would hurt China, especially since no other country would follow our lead." [9] While noting a consensus that China's behavior was "intolerable", Baucus suggested that conditional MFN would be counterproductive and would be the wrong tool to use in attempting to force China to make reforms. At the same time, Minority Leader Bob Dole lobbied actively on behalf of the White House against the conference report. He worked particularly hard on the floor to press Republicans to vote against the measure. Similarly, Sen. Murkowski defended Bush's policy, saying that isolating China would reduce U.S. influence, adversely affecting the ability of the United States to achieve its foreign policy objectives.[10]

On Feb. 25, the Senate voted 59-39 on a largely party line to adopt the conference report on HR 2212, clearing the measure for the president. A total of 50 Democrats and 9 Republicans voted for the bill, while 34 Republicans and 5 Democrats sided with Bush and opposed the measure. Although opponents of the Administration had gained four more votes than they did in July 1991, the vote was still shy of the two-thirds margin needed to override a veto. Nevertheless, it was clear that Congress was becoming increasingly impatient with the Chinese government as more members of both parties were willing to impose trade sanctions on China.

The Bush Administration opposed the bill from its very inception. The Administration's opposition to the bill stemmed above all from its perception of the significance of a healthy U.S.-China relationship to long-term U.S. foreign policy interests. But it was also intended to ward off Congress' increasingly vehement attack on the executive's China policy. At a House hearing on Feb. 24, Secretary of State James Baker made it clear that the Administration "believed strongly" that China should not be isolated because in such an event, it would be very hard for the Administration to get the Chinese to come along with U.S. concerns in the areas of trade, proliferation, and human rights.[11] At the same time, Administration officials expressed a weariness of congressional carping against China, one of the five permanent members of the U.N. Security Council. Officials argued that without Beijing's cooperation and support, several U.S.-led efforts, including the war against Iraq and the Cambodian peace accords, would have been impossible to broker. The consensus in the Administration was that extending MFN status, for all its shortcomings, was the only means available to the U.S. to moderate China's behavior and promote American economic interests.[12]

As expected, President Bush vetoed the conference report on HR2212, the "United States-China Act of 1991" on March 2. In his veto message, Bush reaffirmed that the Administration shared the goals and objectives of the bill, but objected to the methods proposed to achieve those objectives. Bush asserted that the Administration's policy of comprehensive engagement provided the best policy tool to deal with U.S. concerns effectively and with realistic chances for success. In particular, he cited the January IPR accord as evidence of the effectiveness of the executive's policy. In conclusion, Bush said his decision to disapprove HR2212 was intended to "protect the economic and foreign policy interests of the United States."[13]

House easily mustered enough votes to override the President's veto on March 11. During House debate on the veto override, several Republicans used harsh terms to denounce the administration's trade policy toward China, accusing the President for following a policy of appeasement which failed to address U.S. concerns with human rights and unfair trade practices.[14] A two-thirds majority of House Republicans voted against Bush.

A week later, Senate voted 60-38 on the bill, falling five votes short of an override.

The margin was virtually unchanged from Feb. 25 when senators adopted the conference report on the bill. The vote, which was the closest on U.S. China policy since 1989, signified Congress' increasing impatience with the administration's "soft" approach. Congress' failure to put legislated conditions on the China bill made it inevitable that the battle would be renewed in mid-1992 when China's MFN status came up for renewal.

The Growing Stakes of U.S. Business in China

As the U.S. started to play a larger role in the Chinese economy, businesses benefiting from the China trade had mounted a highly extensive lobbying campaign in favor of unconditional MFN. In 1992, prospects looked particularly bright for U.S. companies ready to tap into the growing Chinese economy. Because of a new Chinese economic development plan, companies like General Motors, Motorola, and Du Pont were able to push ahead with major manufacturing investments that had been shelved after Tiananmen. Chrysler Corp. began to prepare for the expansion of its long-troubled Beijing jeep operations. Manufacturers such as Boeing, Hewlett-Packard, and General Electric also saw increasing sales in China.

China's long-elusive market of 1.1 billion people was also picking up in 1992. Chinese consumers, benefiting from the economic reform, had more discretionary income to spend than before, particularly in coastal regions such as Guangdong. As a result, a host of U.S. consumer-product giants were finding a booming business in everything from Head & Shoulder shampoo to Heinz baby food. For instance, Colgate-Palmolive Co. had announced its first joint venture to produce and market Colgate toothpaste in southern China. Procter & Gamble had seen its business in China grow at a 50% rate. H.J. Heinz Co. was building a second baby-food plant for $17 million in the port city of Tianjin. Avon Products Inc., whose operation in Guangdong had signed up 8,000 saleswomen since opening in November, 1990, also expressed optimism about the China market.[15]

The auto industry was also gathering speed. The auto industry was so sluggish two years before that the Chinese government had to bail out several ventures including Chrysler. By 1992, however, all these companies were selling everything they could produce. Chrysler's Jeep plant, once plagued by parts-supply problems and acrimonious disputes with its Chinese partners, began to be profitable and was weighing plans to double output to

100,000 Cherokees by 1995. Similarly, GM expected to be turning out 50,000 pickup trucks annually by 1998.[16]

Motorola was also taking the plunge. The company was about to launch a $300 million venture in Tianjin at the time of Tiananmen. By 1992, it was going ahead with an assembly plant for semi-conductors, mobile phones, and auto electronics, although it had scaled the investment back by nearly two-thirds.[17]

In short, the mood among U.S. executives in China was uncharacteristically upbeat in 1992. Considering the brisk business and the growing U.S. stakes in China, companies had vehemently defended China's preferential trade status when it came up for renewal in 1992.

Proponents of the lobbying campaign (which included the American Association of Exporters and Importers, Emergency Committee for American Trade, National Association of Manufacturers, Footwear Distributors and Retailers of America, National Committee on United States-China Relations, Toy Manufacturers of America, etc.) had got an early start for the battle. These organizations repeated the arguments they had made in the previous year, only to emphasize the increasing stakes of U.S. business in China and the harm of conditional MFN to U.S. commercial interests. A position paper prepared by the U.S.-China Business Council, an organization which took the lead each year in urging Congress to retain China's MFN status, detailed the potential impact of conditional MFN on U.S. businesses whose presence in China had increased substantially over the past year. According to the paper, withdrawal of MFN would lead the United States to lose a major export market--$6.3 billion in 1991, up nearly 30% over 1990-- and over 100, 000 American jobs. American exporters whose sales to China had increased dramatically during the past year would be hardest hit. Revoking or conditioning MFN was also likely to increase consumer prices and the U.S. trade deficit, dampen the nearly $5 billion American investment in China, and seriously harm Hong Kong and the semi-private sector in South China. The position paper argued that the U.S. possessed policy options other than MFN to influence China's behavior, citing the January agreement on IPR as evidence these alternative approaches had achieved in the trade area.[18]

The American Chamber of Commerce and the Federation of Hong Kong Industry, concerned about the effect of MFN withdrawal on Hong Kong's economy, were also actively lobbying for MFN renewal. They sent several delegations to Beijing and Washington, trying to spur the Chinese to respect intellectual property rights and convince China's critics in

Congress that increased trade is the best way to achieve U.S. objectives with regard to human rights, trade, and non-proliferation.

The active business lobby had two important effects: first, it helped to strengthen the Administration's commitment to defending U.S. economic interests; second, it put more pressure on Congressional members to take U.S. commercial interests into consideration when voting on China's MFN status.

Renewing the Battle over MFN

Since Bush's veto of the conference report in early 1992 had delivered another blow to congressional initiative on conditional MFN, Congress was aiming at the annual MFN renewal in mid-1992 to once again assert its own China policy prerogatives. Congressional Democrats in particular were agitated as the presidential campaign was imminent. All signs in much of spring 1992 indicated that the battle for control over the MFN policy would be fought with renewed rigor.

Three months after the first override battle on the conference report, President Bush announced on June 2 that he would renew MFN treatment for China for another year. In a written statement announcing the MFN extension, White House spokesman Marlin Fitzwater reiterated Bush's contention that "it is wrong to isolate China if we hope to influence China." The statement succinctly summarized the Administration's position:

> We have generated positive results without withdrawing MFN from China. Withdrawal of MFN would inflict severe costs on American business people, investors, and consumers. It would mean lost jobs and failed business in the United States and a multi-billion dollar surcharge on American consumers' imports. ... Maintaining non-discriminatory trade status gives China an incentive to stay engaged on issues of vital concern to the United States. Our direct engagement with the Chinese is, on the whole, a successful policy. We intend to maintain it in order vigorously to protect American interests while we promote positive change in China.[19]

The House Ways and Means Committee responded to Bush's announcement on July 2 by approving yet another bill (HR 5318) placing stiff conditions on the president's ability to extend China's MFN status. Under this bill, the Chinese government would have to make "significant progress" in achieving a list of human rights, trade, and weapons proliferation reforms. Among other conditions relating to trade, the bill specified that the Chinese

government must make progress in protecting intellectual property, such as patents and trademarks, and in ceasing unfair trade practices that restrict U.S. commerce.[20]

The new bill differed from previous legislation on China's MFN status in that it aimed the tariff sanctions only at exports from state-owned industries in China. The low tariff levels would still be in effect for products from companies that were joint Chinese-foreign ventures or from factories that were collectively or privately owned. By targeting state-owned industries, sponsors of the bill were hoping to appeal to members who had complained in the past that denying MFN status to China would harm U.S. business interests and hurt reform-minded forces in China, thereby creating the support necessary to override a presidential veto.

Sponsors of the bill -- Nancy Pelosi (D-Calif.), and Don J. Pease (D-Ohio) -- argued that Bush's approach had failed to moderate China's behavior. Pease dismissed claims that Bush's policy had brought about significant improvement in China's performance in the key issue areas. Pelosi also disagreed with the administration, arguing that the agreement on IPR as well as the success in the Special 301 negotiations came about as a result of the pressure from congressional debate on China's MFN status. Both lawmakers believed that by focusing sanctions on Chinese government-owned enterprises, they were undercutting the Administration's argument that revoking MFN status would harm the progressive elements in China that were helping to bring about economic and political liberalization. However, some critics on the committee disputed this view, arguing that the change did not eliminate their objections to using trade sanctions to force a political change. Robert T. Matsui (D-Calif.), for instance, doubted that it might not be possible to distinguish easily between state-owned enterprises and those not subject to the higher tariffs imposed by the bill. He and some other committee members also feared that some high-profile deals involving U.S. companies might be jeopardized if the bill were enacted.[21]

President Bush had promised to veto the bill once it came into existence. Administration officials argued that while they agreed with the intention of the bill, threatening China with trade sanctions or cutting off trade ties would only make China more reluctant to accept international standards on human rights, trade, and weapons proliferation. They contended that the Administration's policy was slowly producing a positive effect in China and that conditioning MFN to the achievement of U.S. foreign policy objectives would

be both unworkable and counterproductive.[22] Further, they argued that isolating state-owned enterprises and exporters was impractical. State Department representatives also warned House members that if the legislation went into effect, and China failed to meet the conditions, sanctions would impact on some high-profile deals involving U.S. companies, including a $1 billion cooperative agreement between China and aircraft manufacturer McDonnell Douglas Co.[23]

Despite strong opposition from the Bush administration, House members of both parties voted overwhelmingly in favor of the Pease-Pelosi bill (HR 5318) on July 21.

In the Senate, the legislative battle was again waged under the lead of George Mitchell. On Aug. 4, the Senate Finance Committee voted along party lines to report a bill introduced by Mitchell, which contained identical conditions to those specified in the Pease-Pelosi measure. Both the House and Senate bills were called "The United States-China Act of 1992."

The 1992 Mitchell bill gained the support of Senate Foreign Relations Committee Chairman Claiborne Pell (D-RI) and Senate Judiciary Committee Chairman Joseph Biden (D-Del), who favored using trade as a lever for change in China. But it again encountered strong Republican resistance. Senators John H. Chafee (R-R.I.) and Minority Leader Bob Dole (R-Kan.), for instance, attacked the measure as a political gesture aimed more at embarrassing President Bush than pressuring the Chinese government.

Max Baucus, the key Democrat who opposed limiting trade with China in the preceding year, appeared to be far less decided in this second legislative battle in 1992. Nevertheless, he and nine Senators who had opposed MFN restrictions in the past sent a letter to Bush on July 30 noting that negotiations with the Chinese government had produced certain positive results, although more could be done in some areas. But there was no suggestion that these signers intended to support Mitchell's measure.

On Sept. 14, the Senate approved the bill by voice vote. The lack of a roll call left unclear precisely how many votes the measure would have gotten. With adjournment approaching, the Senate sent the bill back to the House, which accepted the Senate version, clearing the bill for the President.

On Sept. 28, President Bush vetoed the measure, saying in his veto message that the bill would have imposed "unworkable constraints on our bilateral trade" and inflicted serious

harm on various sectors of the U.S. economy.[24] He further dismissed the focus on state-owned enterprises, arguing that it would be impossible to shield those newly-emerged independent industrial and agricultural businesses which had become interlinked with large, state-controlled enterprises in the manufacturing process from the effects of the bill.[25] While acknowledging that the progress the Chinese had made in some areas were inadequate, Bush referred to the accord on intellectual property rights as proof that the Administration could settle trade disputes without revoking MFN. In conclusion, he stressed that MFN is the foundation the U.S. needs to engage China and that the policy of "comprehensive engagement" could serve to transform U.S. influence into positive change.[26]

The House voted overwhelmingly on Sept. 30 in favor of an override. But the Senate for the second time in the year upheld Bush's veto by a vote of 59-40, short of the two-thirds needed to override the president. The Senate vote meant that for the second time in the year, Congress had failed to attach intellectual property rights conditions to MFN renewal through legislative avenues. The executive once again successfully defended its China policy objectives and approaches.

As can be seen in these several legislative battles over MFN since 1991, the conditional MFN bills had consistently found more unanimously support in the House of Representatives. This difference between the House and the Senate in their support for the bill may be attributed to the fact that the House of Representatives was more preoccupied with voicing the concerns of domestic constituencies and was more responsive to public opinion, whereas the Senate also had in interest in
balancing the competing influence on U.S. foreign policy in addition to its role of representation.

Chinese Action on IPR Protection and the Franklin Mission

The Administration's tough stance on intellectual property protection appeared to be slowly producing some intended results. In September 1992, China was accepted as an International Examining Authority under the Patent Cooperation Treaty, a move which would help ensure that accredited patents obtained elsewhere would be recognized in China. In October, China joined two international copyright treaties, the Berne Convention and the Universal Copyright Convention. China also revised its patent law under which it would

begin spending an estimated US$180 million each year on royalties for pharmaceuticals that it previously copied for free.[27]

In amending its patent and copyright laws to international standards, China had enhanced its chances of joining the General Agreement on Tariff and Trade (GATT), which drafted an intellectual property provision in 1991. The country's attractiveness to foreign investors also increased. Encouraged by Beijing's promises to protect U.S. intellectual property, Walt. Disney Co., who had withdrawn from China two years before because of rampant piracy of its product there, had announced plans to re-enter the China market. When it pulled out of China, Disney cited piracy losses of more than US$2.6 million in direct revenue since its 1987 debut in that country.[28] After withdrawing, Disney actively lobbied the U.S. government to press Beijing to reform its copyright legislation, helping to bring about the January accord on intellectual property protection. Several U.S. computer firms, including Sun Micro-systems, IBM and Hewlett-Packard, also announced intentions to expand their business in China.

In order to review the January agreement on intellectual property rights and push for more American business, U.S. Commerce Secretary Barbara Franklin led a lameduck delegation of the Bush Administration to China in December 1992. During her visit, Franklin expressed several areas of concern in the implementation of the January IPR agreement. In particular, she pointed out that China's new patent law strayed from the memorandum by not being specific enough about the practice of compulsory licenses or about administrative protection that should be afforded to U.S. products patented abroad after Jan. 1, 1986, and before the law's implementation, on Jan. 1, 1993.
At the same time, she obtained promises from Chinese officials to inform Washington of exactly how and when they planned to implement the memorandum on IPR. In addition to reaffirming U.S. commitment to full implementation of the IPR agreement, the Franklin trip also succeeded in cutting several big deals with the Chinese.

Analysis

A key feature of the 1992 debate over the linkage between MFN and IPR was the close interaction between the executive and the legislature. Congress, determined to exert greater control of U.S. China policy, twice passed legislation trying to place IPR and other

legislated conditions on China's MFN renewal. The Bush Administration, meanwhile, sought to defend the continuity in its China policy and persisted in the stance it had always taken on the MFN issue. The conflict between the legislative and executive branches over China's MFN status had thus gained in intensity. This section seeks to further explore the two important questions posed at the beginning of this chapter: Why, at a time of congressional assertiveness, were there no legislated IPR conditions attached to MFN renewal? What are some of the factors that have influenced this outcome?

Continuity in the Bush Administration's China Policy

Ever since Tiananmen, the Bush Administration had consistently sought to preserve the advantages to the U.S. from continued political, economic, and other relations with the Chinese. Its policy on China's MFN status was designed in line with this policy objective and had remained more or less the same over the years. In 1992, the Administration had similarly insisted on its views and approaches to MFN out of the belief that such a policy would be conducive to the foreign policy interests of the United States as well as the long-term development of U.S.-China relations. Indeed, faced with the increasingly vociferous business lobby and the need to fend off congressional attack, the Administration had worked especially hard to defend its long-held views on China policy.

As mentioned earlier, the Bush Administration's desire to preserve China's preferential trading status was rooted in economic and strategic calculations of U.S. foreign policy interests. This motivation could be easily discerned in Bush's 1992 MFN policy.

In terms of economic calculations, the Administration was particularly concerned about how revoking or placing restrictive conditions on MFN could jeopardize the interests of U.S. businesses in China and impact on the bilateral trade relationship, which had reached $25 billion in two-way trade in 1991. As Assistant USTR Ira Wolf pointed out in his statement before the Senate Finance Committee, the year 1991-1992 had seen unprecedented growth in U.S. business presence in China. In 1991, Americans imported more than $19 billion of Chinese goods. The U.S. became China's largest export market, with 76% of China's exports going to the U.S. During the same year, U.S. companies had exported $6.3 billion in airplanes, computers, chemicals, chemical fertilizers and scientific instruments to China. The much lower figure of U.S. exports indicated a large potential to expand U.S.

exports to China's huge and increasingly lucrative market. Also, by early 1992, roughly 1,720 U.S. companies had committed investments of $4.7 billion to long-term, U.S.-China joint ventures, making the U.S. one of China's largest investors.[29] Withdrawing or conditioning MFN would therefore severely constrain and even devastate the rapidly growing economic ties between the two countries. It would also adversely impact on several high-profile deals that U.S. businesses had recently reached with the Chinese.

In terms of the geopolitical considerations associated with China's MFN status, the Bush administration was attentive of the constructive role China had played in many international forums. Administration officials emphasized how China had cooperated with multilateral efforts to enforce sanctions against Iraq and Libya, facilitated the entry of North and South Korea into the United Nations, opposed North Korean efforts to develop nuclear weapons, and contributed to a comprehensive settlement of the Cambodian conflict. They pointed out that many of these U.S.-led multilateral efforts would be impossible to broker without Chinese cooperation and that China remained essential to the achievement of U.S. foreign policy objectives both in the Asia-Pacific region and at a global level.

In order to achieve its China policy objectives and defend the unconditionality of MFN, Administration officials resorted to several important measures. First, the Administration was pursuing an aggressive agenda with the Chinese on intellectual property protection. By reaching the agreement on IPR protection, the Administration succeeded in addressing the specific concerns of the intellectual property industries and protecting their interests on the one hand, and reducing congressional complaints about executive ineptitude on the other. Forceful administrative actions hence served to alleviate societal and congressional pressures to attach IPR conditions to MFN renewal.

Second, the Administration tried to counter congressional rhetoric on MFN and convince Congress of the effectiveness of the executive policy. Most importantly, Administration officials maintained that the congressional-executive disagreement on China's trade status was one over strategy and tactics, not one over objectives. They insisted that unconditional MFN, coupled with aggressive pursuit of specific issues of concern, provided a best approach for encouraging positive change and U.S. interest in China.

For example, in his statement before a House hearing, Undersecretary of State for Political Affairs Arnold Kantor noted that there was a consensus on the basic objectives of the U.S. toward China, including the objective of sustaining a healthy bilateral trade

relationship from which the U.S. could derive great benefit. He emphasized that the approach adopted by the Administration to achieve those objectives was one of engagement rather than confrontation, which had produced positive results in the areas of particular concern to the U.S. while at the same time promoting and protecting American business and consumer interests.[30] Assistant USTR Ira Wolf also defended the Administration's trade policy of using the "smart weapons" to address China's trade practices, citing the achievements the Administration had obtained in the area of intellectual property rights to buttress his argument.[31]

President Bush's two veto messages also reflected such a theme in the Administration's 1992 MFN policy. In these messages, Bush restated that the Administration shared the goals and objectives of the congressional legislation but objected to the methods proposed to achieve those aims. He discussed the harmful effects of conditional MFN on various sectors of the American and Chinese economies, and stressed the effectiveness of the administration's policy of "constructive engagement". In Bush's words,

> MFN is a means to bring our influence to bear on China. Comprehensive engagement is the process we use to transform this influence into positive change. The relationship between these two key elements of our China policy is a powerful one, and the absence of one element diminishes the potency of the other. ... Engagement through our democratic, economic, and educational institutions instead of confrontation offers the best hope for reform in China. MFN is the foundation we need to engage the Chinese. HR 5318 places conditions on MFN renewal for China that will jeopardize this policy and includes a requirement that infringes upon the President's exclusive authority to undertake diplomatic negotiations on behalf of the U.S.[32]

In addition to emphasizing the utility of the policy of "comprehensive engagement", Administration officials contended that conditionality of MFN (even the revised version of targeting state-enterprises) would be unworkable and counterproductive. At the same time, they relied on Republican and business lobby to influence the debate in the congressional arena.

In short, the Bush Administration had consistently pursued a China policy aimed at maintaining the cooperative element in U.S.-China relations. It preferred employing the appropriate policy instrument to bring about incremental change in Chinese behavior than using a measure of indiscriminate effect such as MFN. Long-term economic and strategic considerations loomed as extremely important in the executive's calculation. The executive's special interest in safeguarding the foreign policy interests of the U.S. was reinforced by the

increasingly vocal business lobby in 1992. Coupled with Congress' determination to challenge the executive dominance on China policy, it had lent the Administration a powerful incentive to defend the unconditionality of China's MFN status and helped to strengthen the Administration's commitment to maintaining the continuity in its China policy.

Societal Factors -- Can They Explain the Outcome?

To a considerable extent, the intensified lobbying effort of the pro-MFN forces was dictated by the growing stakes of U.S. businesses in China . As mentioned earlier, 1992 saw a substantial increase in U.S. business activities in China from the previous year. U.S. exports to and investment in China rose sharply and many companies also began to expand their operations in the country. The brisk China market presented U.S. businesses with tremendous opportunities and huge potential for profit. As these emerging businesses would be put at risk if China's MFN status were withdrawn, companies and organizations particularly affected by China trade had lobbied harder than before to salvage China's preferential trading status. The increasing intensity of the pro-MFN lobbying campaign was thus related to the growing interests of U.S. businesses in China.

The IPR lobby, however, was virtually silent on China's MFN status in 1992. Although infringement of U.S. intellectual property rights continued throughout the year, the discontent of intellectual property-sensitive industries lessened considerably following the January IPR accord. Most of these intellectual property industries construed the agreement as proof that the Administration was using the means at its disposal and acting forcefully to address their concerns. They were even prepared to refrain from outright opposition to the Administration's policy on MFN. For instance, after the agreement came into existence, U.S. copyright sensitive industries as represented by the International Intellectual Property Alliance (IIPA) and the Business Software Alliance (BSA) applauded the agreement as a major breakthrough. They were also prepared to endorse continuing MFN trade benefits as a reward for China's "statesmanship."[33]

The moderation in the IPR industries' stance had to do with the nature of their demands and concerns with regard to the China trade. On the one hand, the IPR industries were frustrated with the lack of intellectual property protection in China and were actively calling for measures to curb the rampant piracy of U.S. copyrighted works and products. On

the other hand, however, they also had an interest in capturing many important sectors of the untapped China market and did not want to see overly sweeping conditions attached to China's MFN status. For example, the open policy carried out in the past few years had brewed a curiosity and hunger for Western culture, producing an enormous demand for imports and investment from U.S. motion pictures, sound recording, and other entertainment industries. Similarly, the China market also presented U.S. computer and software manufactures with tremendous opportunities. In the early 1990s, the use of computers and computer- related technologies were still limited to the public domain. But with the increase in the purchasing power of Chinese consumers, there was apt to be an increasing demand for computers and software in ordinary households. This could perhaps be evidenced by the 23% increase in the sales of U.S. computer industries to China during the 1990-91 period. Several U.S. computer software giants, including IBM and Microsoft, had turned their eyes to China. These companies hoped that they would not lose the potentially lucrative China market because of the annual MFN tussle.[34]

Consequently, MFN was one of the outlets for U.S. intellectual property industries to voice their demands. They pushed for IPR conditions in the preceding year as one way to express their concerns. However, they would not necessarily insist on placing legislated IPR conditions on China's MFN renewal if their demands could be satisfied through avenues other than conditional MFN. Not surprisingly, once their needs were taken care of in the form of a separate agreement, the interest in trading with China quickly led them to give in on IPR conditions. After the agreement was reached, groups such as the Business Software Alliance, the Motion Picture Association of America, and the Recording Industry Association of America were apparently content that they had achieved their long-sought-after objective in China. Representatives from these organizations expressed optimism about the effectiveness of executive measure to address intellectual property concerns. They also pointed out that it would no longer be necessary to push for legislated IPR conditions.[35]

In short, the IPR coalition that had formed on the MFN issue was more fluid. While differing from the pro-MFN coalition in its demand for more effective IPR protection, the IPR lobby nevertheless shared with the pro-MFN forces a common interest in the China trade. In the previous years, the IPR industries' interest in pushing for intellectual property protection outweighed its interest in trading with China. But once their IPR concerns were temporarily put to the rest, their interest in the latter quickly asserted itself. A contradictory

set of interests held by the IPR coalition -- in favor of continued trade with China, but wanting IPR protection -- thus contributed to the coalition's silence in the 1992 MFN debate.

The relative strength of the pro-MFN coalition vis-à-vis the IPR lobby proved to be extremely helpful for explaining why in both veto fights, a number of Democrats did not simply vote the line of their party. Most of the Democrats who supported continuing MFN for China, including Max Baucus of Montana, Kent Conrad of North Dakota, and the late Quentin of North Dakota, were under heavy pressure from the pro-MFN coalition and particularly farm groups to vote against the conditional measure. Other Democrats who opposed conditional MFN, such as Robert T. Matsui, were influenced by U.S. companies who had some high-profile deals with China when making their decision. The pro-MFN coalition also successfully influenced the vote of some Republicans, especially those whose states had substantial trade ties with China.

The 1992 MFN outcome may have presented the interest group model with some interesting questions for if, as the interest group model tells us, a given policy outcome reflects the competitive struggle of societal groups in the policy arena, we would expect that the U.S. decision on MFN would be a product of the overwhelming ability of the pro-MFN coalition to influence the form and content of the final policy. As we have seen, however, this was not nearly the case in the MFN debate in 1992. In both proposed legislation, intellectual property protection was listed as an important condition in the trade category. Congress insisted on the fulfillment of this condition for China to retain its trade status. Although the Bush Administration vetoed both legislation, an outcome which may have reflected the predominance of the pro-MFN lobby in both the legislature and the Administration, the interest group model fell short of settling the question of why congressional assertiveness on IPR remained strong at a time when societal push on the issue was considerably weak. To answer this question, it may be necessary to probe into the congressional factors and the interactive policy process between the executive and legislative branches.

The Two Veto Fights: Intense Executive-Legislative Struggle

The 1992 debate over MFN-IPR was characterized by intense confrontation between

the executive and the legislative branches. Congress twice passed legislation trying to place IPR conditions on China's MFN status and the executive twice vetoed the bills and sustained the potential congressional override. The continuing series of legislative attempts signaled the acceleration of the MFN tussle between the two institutions.

The animosity and combativeness exhibited by both branches could largely be attributed to the widening gap in their perceptions of China policy priorities, preferences, and approaches. In both veto fights, the conditional bills had gained the support of more congressional members of both parties. The increasing conditional MFN vote reflected the fact that Congress, defeated in its previous efforts to link intellectual property protection and other issues with China's MFN renewal and frustrated with the predominance the executive had enjoyed on China affairs, was more determined to win back its policymaking power on MFN. Congress was becoming more impatient with the Chinese government as well as with the executive's China policy which sought to influence Chinese behavior through persuasion and diplomacy. It started to put even greater emphasis on the importance of using trade sanctions to punish China for its unfair trade practices and other offensive behavior. Because of increasing congressional dissatisfaction with the executive approach to China policy, a number of Congressmen who had opposed the conditional bills in the past changed their position and voted in favor of the conditional bills in this round of the debate. There was also a gain in the number of Republicans who did not vote with Bush. Most of these Republicans cited the ineffective executive policy as the major reason for their switch.

Because of the attitude with which the two branches entered the debate, the interbranch policy process in 1992 reflected less trust and responsiveness between Congress and the White House. It also featured direct confrontation and conflict rather than negotiation, bargaining, and reconciliation between the two branches. Congress tried to influence the executive agenda mainly through legislative avenues. The congressional anti-MFN force, under the lead of Rep. Don J. Pease, Rep. Nancy Pelosi, and Sen. George Mitchell, again took the initiative and led the fight over China's preferential trade status. In order to win the necessary votes and to undercut the administration's argument that denying MFN status to China would harm U.S. business interests and hurt reform-minded forces in China, these lawmakers adopted a new tactics which narrowed the scope of the tariff sanctions to target specifically on goods produced by Chinese government-owned enterprises.

The White House attempted to influence the debate in the congressional arena in a number of ways. Although the Administration had tried to do so by way of persuasion (for instance, the Administration tried to win congressional support through the lobbying effort of societal groups and senators whose districts and states were involved in China trade; it also tried to alleviate societal pressure on the legislature and reduce congressional discontent with executive inaction by reaching an agreement with the Chinese on the protection of intellectual property rights), it relied primarily on the constitutional veto power of the President to counter the congressional initiative.

Also, in 1991, the reconciliation of the different preferences and priorities of the two branches was facilitated by moderate senators such as Max Baucus. However, this moderate element in the Senate was far less involved in 1992, which made it more difficult for the two institutions to balance their objectives and to bring about a compromise policy through consultation and negotiation.

In sum, institutional differences and rivalry led the two branches to be more defensive of their respective positions. Absent of any substantial consultation and concessions from both sides, the interactive policy process became one in which the two branches conflicted with each other on MFN policy goals, priorities, and approaches. The final outcome represented a victory for the executive, who had achieved its goal of MFN unconditionality without making any explicit promises to Congress on the issue of intellectual property rights. But although Congress again failed to attach legislated conditions to China's MFN status, by trying to amend the executive's MFN policy and asserting itself in the process, it had left some marks on the final outcome.

Conclusion

In terms of China's MFN status, the rational actor model predicts that the United States would grant MFN status to China without any conditions attached to advance its political and economic interests. Unconditional renewal of China's MFN status during this stage of the MFN debate partly corroborated such an assumption. Growing U.S. economic interests in the China market became a potent force driving the U.S. to engage the Chinese in various areas in the bilateral relationship. The executive acted as a major guarantor of long-term U.S. foreign policy interests in China, ensuring that U.S. economic and strategic

interests in China would not be jeopardized because of the revocation of MFN. However, the case in 1992 also pointed out that the decision on MFN was not made by a unitary actor. There was an obvious division within the U.S. government on MFN. Congress sought to counter the executive policy by stressing issues which carried strong domestic implications. Although in the end there were no legislated conditions attached to China's MFN renewal, an outcome which was more or less consistent with the model's prediction, the model overlooked how the executive had overcome strong congressional resistance for its own approach to prevail and why the form of the final policy had come to bear a strong congressional imprint. The rational actor model cannot explain several important phenomena that we have observed during this stage of the MFN debate: Why did the U.S. policy emerge only after several rounds of intensive exchanges between the two branches? Why had the debate become more heated and fierce than that in the previous year? The model alone is therefore inadequate to fully account for U.S. policymaking on MFN and IPR in 1992.

The interest group model, emphasizing the importance of societal forces in MFN policymaking, was also only partially confirmed in this case. The pro-MFN coalition, facing a remarkably higher stake in China, mounted an intensive lobbying campaign in both Congress and the White House. Their increased level of activity influenced how congressional members voted on the MFN issue. It was particularly instrumental in influencing the Democratic senators who voted against the conditional bills. The pro-MFN lobby also contributed to the executive's insistence on unconditionality for MFN. The intellectual property industries, however, were not visibly vocal in 1992. With their needs taken care of by a separate agreement the Administration had reached with the Chinese on intellectual property protection early in the year, the IPR lobby became virtually silent on the MFN issue. This poses some puzzling questions for the interest group model: why did IPR conditions remain in the proposed bills at a time when the pro-MFN forces were able to prevail over the IPR lobby? Why was the overwhelming influence of the pro-MFN coalition not directly and unilaterally translated into the policy outcome? Why did Congress insist on setting intellectual property rights as an important condition for China to retain its MFN status when there was a significant decrease in the level of involvement of the intellectual property industries?

There are two answers to this question. First, although the IPR lobby was largely

uninvolved in the 1992 MFN debate, it still enjoyed some influence in the MFN decision as its demands had already been incorporated in the policy formulation process. In the previous year, the IPR groups' intense activity had led to the adoption of their demands by congressional representatives. When it came to 1992, then, their influence from the previous year of intense activity had some carry-over effect and was implicitly affecting congressional members' perception of the importance of the IPR issue as well as how IPR should fit into the overall MFN agenda. Because legislative initiative on IPR conditions had in a sense been institutionalized in the policymaking process, it was more likely for IPR groups' influence from the previous year to persist into this stage of the MFN debate. The policy inertia and the evolution of policy could thus help to explain the apparent contradiction between group power and policy outcome.

Second, Congress may not act entirely in response to societal pressure. In its rivalry with the executive branch, Congress seized on the IPR and MFN issues independently of group demands. In order to assert its own prerogatives in China policymaking and counterbalance the executive dominance on China matters, Congress went ahead to insist on attaching IPR and other conditions to MFN renewal even in the face of a highly vocal pro-MFN coalition and a strenuous IPR lobby. In other words, Congress may be able to manipulate the demands of societal groups in its pursuit of an independent congressional agenda. Congressional members are not entirely inept in the face of societal pressure; the influence of interest groups is also subject to congressional attention. The contradiction we have observed between the interest group model and the IPR group's silence therefore reveals the fact that contrary to the conventional wisdom, Congress is not simply an empty shell in which societal groups compete; it can also avail itself of the means at its disposal to affect the effectiveness of societal groups in pursuing their agenda.

The interbranch politics model, predicting that the MFN decision would be a product of the interaction between the executive and Congress, appears to be more useful for explaining the policy outcome. In 1992, the institutional rivalry between Congress and the White House accelerated for two important reasons. First, the executive-legislative differences over China policy objectives and approaches further deepened. Congress became increasingly impatient with the Administration's approach of using the appropriate policy instruments targeted on specific issue areas to address U.S. concerns. More congressional members started to favor using the leverage provided by MFN to obtain the necessary

improvements in Chinese behavior. Second, frustrated with its failure to put any legislated conditions on China's MFN status in the previous year, Congress was more determined to challenge the executive dominance on China affairs by stressing its own preferences on the MFN issue. In addition, congressional Democrats also intended to exploit the issue to attack President Bush's foreign policy in the presidential campaign.

As a result, Congress twice initiated the fight on this important foreign policy matter. It seized on the MFN issue partly in response to public opinion on human rights, trade, and weapons proliferation issues, and partly in an attempt to challenge the executive dominance on China policy. In order to enhance the likelihood of a veto override, Congress narrowed down the scope of the MFN retaliation to focus on Chinese government-owned enterprises. This tactic helped to assuage those congressional critics who opposed an overly sweeping and indiscriminate approach. The new bills were endorsed by more congressional members of both parties. In the House of Representatives, the conditional measures gained the overwhelming support of both Republicans and Democrats. Although there was more of a partisan element in the Senate vote, more Republicans switched their position and voted in favor of the conditional measures because of their increasing dissatisfaction with the executive policy.

Meanwhile, the executive branch vehemently defended its China policy and committed its resources to counter the congressional anti-MFN forces. First, the Administration took forceful administrative measures to press the Chinese to improve their system of intellectual property protection, thereby appeasing the IPR lobby and congressional members dissatisfied with the administration's seemingly softness. Second, the administration enlisted the support of those members whose districts and states had a substantial interest in trading with China (e.g., the farm-states and the State of Washington) to persuade senators to sustain his veto. Third, the President was also prepared to use the last resort of the veto power to defeat Congress' legislative attempt. In doing so, the White House was again able to avail Republican loyalty to the President and the requirement of the law to its own advantage. Since a two-thirds majority in both Houses of Congress is needed to override the presidential veto, it was always difficult to do so in reality. In particular, it became more partisan politics when it came to the final showdown between the President and the Congress, and most senate Republicans had some reservations about overriding the presidential veto.

Two other factors contributed to the intensity of the 1992 debate. One was that the debate was complicated by U.S. domestic politics because of presidential and congressional elections. In an election year, Senate Democrats were poised to exploit the MFN issue to attack Bush, pushing the executive onto the defensive and hence increasing the intensity of the debate. The electoral competition added to the White House-Congress hostility, helping to bring about a more heated MFN struggle. The interbranch policy process was thus somewhat influenced by the party competition going on across institutions. By focusing on the struggle for power between the legislative and the executive branches in the area of foreign policymaking, the interbranch politics model may have overlooked how the configuration of party power across institutions could impact on the nature and pattern of legislative-executive interaction, and hence the policy outcome.

The other factor was that moderate senators who had played an important role in facilitating the compromise between the executive and legislative branches in 1991 were distinctively uninvolved in 1992. Because of this, the congressional-executive interactive process had taken on a pattern of direct confrontation instead of consultation and reconciliation, rendering it more difficult for the two branches to mold their different institutional dispositions and priorities into a compromise policy.

In short, the MFN-IPR issue in 1992 was mainly a political game between the White House and Congress. Several important factors influenced the pattern of legislative-executive interaction and the policy outcome: the lack of trust and responsiveness between the branches, institutional cohesiveness, and the degree of presidential readiness to defend his China policy. In 1992, both Congress and the White House were more deeply committed to defending their respective causes. As hostility between the two branches grew, Congress twice initiated the fight on MFN. Although the executive attempted to work out its difference with Congress through bargaining, negotiation, and co-opting, increasing congressional assertiveness propelled the White House to rely primarily on the constitutional veto power of the President to emphasize its own prerogatives. Because of the substantive measures the administration was taking to address the IPR issue, the natural deference to the President on foreign policy matters, and also because of the requirement of the law which worked in the President's favor (a two-thirds majority in both Houses of Congress is needed for an override), the executive branch succeeded in defending its position on the MFN issue. Therefore, the strong commitment by both branches to their respective causes and the lack

of trust and responsiveness between the two branches led to an interactive process characterized by more frictions and conflicts. Because of this confrontational policy process, the final policy outcome also reflected less accommodation and integration of the different institutional preferences and priorities.

To sum up, the rational actor model provided a useful framework for analyzing the MFN issue and led us to look at the strategic and economic calculations of the executive in foreign policymaking. The 1992 case reveals an important anomaly in the interest group model; that is that congressional assertiveness may not be directly related to societal pressure. Congress may exploit or ignore an issue irrespective of societal demand. In other words, what will emerge out of the policy process may not be an accurate reflection of the relative influence of societal groups, as the interest group model would have us believe. The interbranch politics model, by looking at how the U.S. foreign policy processes provide opportunities for Congress to interact and conflict with the executive in formulating U.S. foreign policy, is most useful in explaining and understanding the intensity of the 1992 debate over MFN as well as the shape and content of the policy outcome.

Notes

1. Auerbach, Stuart. "China, U.S. Reach Trade Accord." *Washington Post*, January 17, 1992, pA24.

2. See Joseph T. Timone, Jr., "Improving Protection of Intellectual Property," *China Business Review* (March-April 1992), pp.9-11; Eduardo Lachica, "China Settles Dispute Over U.S. Patents, Copyrights, Heading Off Tariff Threat," *Wall Street Journal*, January 17, 1992, p. A2.

3. Ibid.

4. Ibid.

5. Lincoln Kaye and Susumu Awanohara, "Down To the Wire: U.S. and China Narrowly Avert Trade War," *Far Eastern Economic Review* 153, no. 4 (January 30, 1992), p.37.

6. "Senate Clears China MFN Bill; Bush Has Promised Veto." *Congressional Quarterly Weekly Report* 50, no. 9 (February 29, 1992), p. 460.

7. See Robert G. Sutter, "The Crisis in U.S.-China Policy, 1991: The Role of Congress," *Journal of Northeast Asian Studies,* Winter 1991, pp.18-19.

8. John Cranford, "Senate Clears China MFN Bill; Bush Has Promised Veto," *Congressional Quarterly Weekly Report* 50, no. 9 (February 29, 1992), p.460.

9. "Two Bills Limiting Trade with China Vetoed,"*Congressional Quarterly Almanac* 48, 1992, p.158.

10. Ibid.

11. Ibid.

12. Ibid.

13. George Bush, "Message to the House of Representatives Returning Without Approval the United States-China Act of 1991," *Weekly Compilation of Presidential Documents* 28, March 2, 1992, p. 386.

14. "House OKs Override of China MFN," *Congressional Quarterly Weekly Report* 50, no. 11 (March 14, 1992), p. 608.

15. "Yankee Traders Breathe a Sigh of Relief," *Business Week*, February 3, 1992, p.42.

16. Ibid.

17. Ibid.

18. "The Case for China's MFN Status," *China Business Review* 19, no. 4 (July-August 1992), pp. 14-16.

19. "U.S. Extends Most-Favored-Nation Status to China," *U.S. Department of State Dispatch*, June 8, 1992, pp.452-454.

20. "House Tries Again To Restrict MFN Status for China," *Congressional Quarterly Weekly Report* 50, no. 30 (July 25, 1992), p. 2160.

21. "Two Bills Limiting Trade with China Vetoed," *Congressional Quarterly Almanac* 48, 1992, p.159.

22. Ibid.

23. John Cranford,"House Committee Tries Anew To Press China for Reforms," *Congressional Quarterly Weekly Report* 50, no. 27 (July 4, 1991), p. 1933.

24. "Message to the House of Representatives Returning Without Approval the United States-China Act of 1992," *Weekly Compilation of Presidential Documents*, September 28, 1992, p.1794.

25. Ibid., p. 1795.

26. Ibid.

27. "Learning the Soft Way," *Far Eastern Economic Review* 155, no. 48, December 3, 1992, p. 54.

28. Michael Duckworth, "Disney Plans to Re-enter China Market As Beijing Promises Copyright Reforms," *Wall Street Journal*, March 23, 1992, p.B5A.

29. Congress. Senate. *Extending China's MFN Status: Hearing Before the Committee on Finance,* Senate, 102nd Cong., 2nd sess., 1992, pp.81-82.

30. Arnold Kantor, "U.S. Policy Objectives and MFN Status for China," *U.S. Department of State Dispatch* 3, no. 27 (July 6, 1992): pp.551-554.

31. Ibid.

32. "Two Bills Limiting Trade with China Vetoed," *Congressional Quarterly Almanac* 48,1992, p.159.

33. Eduardo Lachica, "China Settles Dispute Over U.S. Patents, Copyrights, Heading Off Tariff Threat," *Wall Street Journa*l, January 17, 1992, p.A2.

34. Stuart Auerbach, "China, U.S. Reach Trade Accord," *Washington Post*, January 17, 1992, p.A24.

35. Ibid.

Chapter 3

Clinton's Executive Order Severing the MFN-IPR Linkage

The coming to power of a Democratic President in 1993 introduced some remarkable changes in the battle for control over the MFN policy. Suddenly, Congress, also controlled by the Democratic party, started to demonstrate a willingness to let President Clinton take the initiative in deciding whether to extend China's MFN status and on what conditions. The increasing realization of China's economic and political significance among many congressional members also helped to reduce the differences between the two branches in their perceptions of China policy objectives and priorities. One party's control of both branches, coupled with the change in congressional attitude toward China, greatly lessened the tension between the two governmental institutions and gradually fostering a consensus on U.S. China policy.

Meanwhile, Clinton, who had accused Bush of "coddling the dictators in Beijing" and promised to make economic opportunities and human rights pillars of his foreign policy during the presidential campaign, had come under intense pressure from business groups whose stakes in China were constantly on the rise to extend MFN without any conditions. The new and widespread recognition that China was well on its way to becoming a global economic and political power also compelled Clinton to reconsider his position. To compromise the rhetoric of the campaign and the realities of Sino-American economic and political relations, Clinton eventually adopted a policy that linked China's MFN renewal to progress in human rights via executive order. Intellectual property rights and other trade and weapons proliferation conditions were dropped from the linkage.

The 1993 MFN outcome distinguished itself from those in previous years in two important respects: first, China's MFN status was made conditional through formal administrative fiat; second, human rights was the only condition spelled out in the executive order; intellectual property rights was not longer linked to MFN renewal.

These differences in the MFN outcome could largely be attributed to the new executive-legislative interactive policy process. The fact that Clinton was a Democrat, and increasing executive-legislative concurrence on China policy goals, helped to bring about a Congress-White House entente in which Congress was willing to suspend hostilities and let the president take charge of major foreign policy decisions. For the first time since Tiananmen, there was no strong congressional initiative to legislate any conditional MFN bills. This

drastic moderation in Congress' stance gave Clinton a considerable amount of leeway in handling China-related issues. It also influenced the pattern of interaction between the two governmental institutions by encouraging more consultation and collaboration in the policy process. In response to some congressional members' insistence on conditional MFN, Clinton eventually opted for administratively-imposed MFN conditions, a policy which would also allow him the most flexibility in managing China affairs.

But the conditions set out in the executive order were also more moderate than what was expected. In the face of Congressional dissatisfaction with China's intellectual property protection and other unfair trade practices as well as continuing evidence of Chinese arms sale, Clinton nevertheless dropped these two categories from the MFN linkage. This moderation reflected two other important constraints Clinton faced in making the MFN decision. First, there was a tremendous amount of pressure from the U.S. business community to extend MFN without any conditions attached at all. U.S. businesses, in recognition of the substantial U.S. commercial interests in China, became increasingly vocal and articulate in opposing conditional MFN. Their concerted efforts far outweighed the voice of the IPR lobby as well as other anti-MFN forces, forcing Clinton to take U.S. commercial interests into serious consideration. Second, there was an increasing realization of China's potential economic and political impact. China's emergence as an economic and political power and as the fastest-growing export market for U.S. products called for a healthy Sino-American relationship and continued engagement with the Chinese. Economic and geopolitical realities thus helped to moderate Clinton's original stance, leading him to retain human rights conditions but abandon the conditions on trade (including IPR) and weapons proliferation. This new approach further obtained congressional endorsement because of the now more unanimous congressional support for presidential policy. The growing feeling that attaching too many conditions to MFN renewal was both futile and unrealistic also contributed to this modified approach to some extent.

As we can see, societal forces, U.S. foreign policy interests, and the executive-legislative interactive process worked together to bring about Clinton's executive order. The interbranch politics model, by looking at how the two governmental institutions were able to mold their different institutional predispositions into a compromise policy through a process of consultation and persuasion, was extremely important for explaining the form of the policy outcome -- why there were formal executive conditions attached to MFN renewal. The model alone, however, is inadequate to account for the content of the policy. The rational actor model and the interest group model, by probing into the constraints Clinton

faced in making the MFN decision, provided further explanation of why the executive order contained only human rights conditions and why intellectual property rights were no longer linked to MFN renewal. In this sense, all three conceptual models were relevant to explaining the 1993 MFN outcome. Only by employing all three theoretical frameworks could one fully grasp the 1993 MFN picture.

Preparing for the MFN Policy

While Clinton had promised to be tough on China's MFN status during the presidential campaign, what kind of strategy and approach he would pursue once he assumed office remained a mystery in early 1993. To be sure, legislators had warned that if Clinton let them down, they would once again take the lead themselves and attempt to condition China's MFN on its performance in the areas of human rights, weapons exports and trade practices. However, there was a growing feeling among Congressmen that the U.S. should moderate its policy at a time when China was rapidly emerging as an economic power and the fastest growing export market for U.S. products. In addition, there also appeared to be an implicit understanding among congressional Democrats that they did not want to embarrass the President by forcing him to choose between a veto of their bill and a snub of China.

In a major China policy speech in early April, Rep. Lee Hamilton (D-Indiana), chairman of the House Foreign Relations Committee and a leading Democratic foreign policy thinker, may have provided a clue to Clinton's emerging MFN policy. Hamilton noted that putting conditions on MFN or withdrawing it would be counterproductive. He underscored the significant ties between China and the United States, saying that "losing access to the Chinese market for any reason obviously would hurt the U.S. economic recovery now underway."[1] He also listed how "China's pursuit of its geopolitical goals have converged with our own" since the normalization of relations between the two countries in 1972. For example, he pointed out that China limited Soviet influence in East Asia and Afghanistan; ended support for the Khmer Rouge in the Cambodian peace accord; played "good cop to our bad cop in pressuring North Korea to open up about its nuclear program"; and voted for sanctions on Iraq in the United Nations Security Council.[2] Hamilton, who preferred "flexible" diplomatic pressure on China instead of the blunt weapon of a congressional MFN bill, warned that embittering U.S.-China relations could lead to insecurity in Southeast Asia; the spread of nuclear weapons; gridlock in the U.N.; and an end to profitable U.S. sales and investment in "the world's fastest-growing market."[3]

In the same speech, Hamilton also addressed the need for the U.S. government to take a "fresh look at China policy."[4] He acknowledged that in the Bush era attaching conditions to MFN wasn't just a means of influencing China. It also served as "the only available tool for influencing Bush administration policy."[5] But once the Democrats were in office, Hamilton argued, conditionality was no longer essential. Warning that "China is too important for us to adopt a policy of benign neglect," Hamilton urged the Clinton Administration to work with Congress to develop a new strategy for dealing with China. He called for the White House to show "deftness and flexibility" and to pursue its goals in China through diplomatic pressure (including pressures on IPR protection), rather than through the MFN renewal process.[6]

Rep. Hamilton and a number of more moderate congressional leaders such as Sen. Max Baucus, who under President Bush were among the Democratic minority voting for unconditional extension of China's MFN, were positively calling for a non-legislative approach. They argued that, even under Bush who was accused of being soft on China, China's MFN status was in a sense conditioned -- not by statute but by presidential policy. As an example, they cited Bush's 1991 letter to Baucus which sought the senator's support in defeating an MFN-conditioning bill but pledged in exchange to deal with China's infractions using existing laws and agreements. Even Clinton conceded that the policies enunciated in Bush's letter to Baucus worked.

Meanwhile, leading congressional opponents of MFN also appeared to be softening their position. In a speech in March, Congresswoman Nancy Pelosi (D-Calif.) -- who had each year sponsored MFN-conditioning bills in the House that won overwhelming support -- argued that Clinton should be given a chance to restore a bipartisan consensus between the legislative and executive branches of government. She said that the conditions did not need to be legislated by Congress if Clinton proposed to renew MFN "with reasonable conditions that are achievable by the Chinese government and are true to the principles of our country".[7] At the same time, however, she was once again working on a conditional bill so that in the event that the President did not take the initiative, Congress would be ready to move with it.

Responding to congressional magnanimity, the new Clinton team appeared ready to work with the legislature in the first few months of its office. Warren Christopher, in his first congressional appearance as Secretary of State, already began to edge away from Bush Administration's policies on MFN. Testifying before the House Appropriations

Subcommittee on March 10, Christopher said he hoped the Administration could renew MFN for China in 1993 "but conditioned on their making very substantial progress" in several areas. The Secretary cited issues on which he said Beijing's performance had been "unsatisfactory," including human rights and "abusive trade practices".[8] While Christopher indicated that the administration's position was still evolving, he promised to work closely with the leading congressional advocates of imposing sanctions on China -- Senate Majority Leader George J. Mitchell and Rep. Nancy Pelosi -- to seek a "balanced" approach to the issue.

Similarly, Winston Lord, Assistant Secretary of State-designate for East Asian and Pacific Affairs, stated at his confirmation hearing in late March that "the theme of our approach on MFN is solidarity with the Congress.... conditional MFN is the position of the president and we will go forward on that basis, depending on the events."[9] Lord, who had long been a leading advocate of attaching conditions to MFN status, later proved to be the key person in the Clinton Administration crafting the policy on MFN. Lord had argued in the past that China's trade status should be linked to "realistic" improvements in its domestic performance. His position on MFN was basically one of keeping up the pressure on Beijing while being cautious about disrupting U.S.-China commercial ties. In the early months of Clinton's term, it looked likely that the President would follow the advice of Lord, a China hand since the days of Henry Kissinger.

Business Lobby

The sheer economic interests of the United States in doing business with and in China constantly increased. While the Clinton Administration was still debating China's trade status, U.S. companies were already cutting deals fast and furiously with the Chinese on the ground. These companies were urging the Clinton administration to be softer on China as they suddenly seemed to have the inside trade.

For example, after years of being locked out, AT&T concluded a landmark deal in February to help upgrade China's overburdened communications system. For AT&T, this agreement was "worth billions," for China planned to expand its phone system more than tenfold by the year 2000. In the early 1990s, only three out of every 100 households in China had telephones. In 1993, the company was expecting to export $100 million of goods and services to China. It was estimated that AT&T, which already had investments of $30 million to $40 million in China, could supply about half the 15 million telephone lines that

China planned to install each year for the several years after 1992. One company executive commented that China offered the largest opportunity AT&T had ever had outside the U.S. and that the company simply couldn't make it if MFN treatment were revoked.[10]

U.S. aerospace companies, which had 76% of the huge Chinese market, shared the same concerns. China, having ordered $9 billion worth of jetliners from Boeing Co., already was Boeing's biggest overseas market next to Japan. In December 1992, China ordered six Boeing Co.'s jetliners worth $800 million. In 1993, Boeing Co. would ship 47 jetliners, or 14% of its production to China, while McDonnell Douglas Corp. would complete a 35-plane order from its Shanghai joint venture plant. But the future excited the companies even more. China was expected to buy 800 airliners worth $40 billion within 15 years, and Boeing expected to win at least 60 percent of the orders. Like AT&T, these companies were concerned that European aerospace companies might gain at their expense if MFN were withdrawn. Boeing's managers contended that a failure to renew MFN status for China would give Airbus an edge on $41 billion in deliveries that Boeing predicted would occur there by the year 2010.[11] Another company, General Electric Co. had also made China its top international goal. In early 1993, GE announced that it had sold $150 million in jet engines to a Chinese airline.[12] In addition to aircraft engines, GE was also looking for sales in power-generation equipment, locomotives, medical equipment, plastics, and electric lighting.

Motorola Inc.'s business in China was also expanding. China's surprisingly strong market was forcing Motorola to push its plans as fast as it could. China was Motorola's biggest market for cellular phones outside the U.S., doubling to $400 million in sales in 1992. The company expected to have installed cellular systems in 100 Chinese cities by the end of 1993. It also hoped that its phone sales would grow at a 20% to 30% annual rate for the next decade.[13]

China had enormous demands in the energy sector as well. It was estimated that the country needed to build the equivalent of 5 to 10 large power plants each year in order to keep its economy growing at 9% annually. American companies were becoming deeply involved in this sensitive sector of the Chinese economy. For example, in early 1993, Wing-Merrill International Inc. won a contract to build one of the largest power plant in China. At an estimated investment of $2 billion, the project would take ten years to complete. Arco Oil & Gas Co. had also begun a huge project off China's southern coast to develop a natural-gas field and construct a 475-mile pipeline to Hong Kong.[14]

Even those wild-eyed predictions of 1 billion consumers were not sounding so far-fetched anymore. Procter & Gamble, Johnson & Johnson, and H.J. Heinz, for example, were

all opening additional plants in northern cities. Coca-Cola, one of the first U.S. companies to invest in China, was probing even deeper. After two years of 30% growth, the company had a sale of 73 million cases to China, and its rate of growth in unit sales was 10 times higher than in the rest of Asia combined.[15]

In short, a lot was at stake for the 2,000 U.S. companies who had a total of $6 billion investment in China. With more than 1.2 billion people and the world's fastest-growing economy -- 12.8% in 1992 and an annualized rate of 14.1% up until May 1993,[16] the country stood to be the world's single largest buyer of consumer and industrial products -- and perhaps a most important stand for American industries striving to hold or regain world dominance. Feeling that they had little choice but to continue to trade with China, a broad spectrum of American businesses, farm associations, bankers, consumer groups and industry organizations became more outspoken in opposing the threat to attach conditions to China's trade status. They argued that if the U.S. placed conditions on the extension of MFN status, China would retaliate and begin purchasing more from other foreign suppliers just as the country entered a period of unprecedented economic growth and trade. These businesses generally backed the "targeted" approach to China that Baucus and others forced on the reluctant Bush Administration in the previous years.

For example, the National Association of Manufacturers, an organization representing 1,250 American manufacturers that account for roughly 80 percent of U.S. industrial output, said Clinton's decision would have a "profound impact " on U.S. firms, workers, and industrial competitiveness. Leaders of the organization urged the president "to articulate a policy toward China that is based upon a stable and predictable commercial relationship, not a conditional one."[17] Similarly, U.S.-China Business Council president Donald Anderson, whose association represents about 200 American businesses in China, said in a May testimony before a panel of the House Foreign Affairs Committee that withdrawing or conditioning MFN status "would be a recipe for disaster for U.S. workers, consumers, and employers."[18]

The culmination of the pro-MFN lobby came on May 12 when more than 340 firms and groups wrote a letter to Clinton, urging him to unconditionally renew China's MFN status. The firms ranged from AT&T, Coca-Cola, General Motors, Kellogg and the First National Bank of Chicago to IBM, Boeing, McDonnell Douglas, Caterpillar and the National Wheat Growers Association. In the letter, the groups said that "the persistent threat of MFN withdrawal does little more than create an unstable and excessively risky environment for U.S. companies considering trade and investment in China, and leaves China's booming

economy to our competitors".[19] Arguing that U.S. investment in China had "strengthened the pro-democratic forces" and helped spur positive change there, the groups warned that withdrawing or putting conditions on MFN status could spark retaliatory trade action by China. What was at stake, they said, was the business of their companies that exported products to China worth nearly $7.5 billion in 1992 and employed about 157,000 Americans producing those goods.[20]

To head off congressional efforts to put restrictions on China's MFN status and to influence Clinton's impending decision, the Chinese government had stepped up purchases of U.S. goods. In April, China purchased cars, planes, and oil equipment worth nearly $1 billion, including orders for 14,800 autos and minivans from the Big Three automakers. The auto deal marked an increase of about $30 million over sales made in 1992 by the Big Three to the Chinese government. China's purchase of U.S. goods was clearly intended for political purposes. By importing U.S. goods, the Chinese were trying to convey a message to the U.S. that all these big business deals would die overnight if their favorable status were revoked since they could always make the purchases elsewhere.

Also lobbying on behalf of China was Hong Kong Governor Christopher Patten. In early May, Patten visited Washington and met with Clinton and other Administration officials to press the case for continuing China's trade privileges. According to Patten, MFN sanctions could cost Hong Kong more than 70,000 jobs.[21] It could also lead to the loss of more than $20 billion of trade that passed through the territory on its way between China and the United States.[22]

In short, the aim of the pro-MFN lobby was threefold: to reiterate to the Administration the importance of maintaining a strong U.S. commercial relationship with China; to convince members of Congress to support an executive-branch led China policy that would not pivot on the MFN issue; and to urge the Chinese government to continue talks with the U.S. on the key issue areas.

The IPR Lobby in 1993

Since the signing of the January 1992 Sino-U.S. Memorandum of Understanding (MOU) on intellectual property rights, certain progress had been made in China's protection system of trademarks, patents and copyrights. In January 1993, the revised version of the Chinese patent law went into effect. The revision greatly benefited overseas pharmaceutical and agrochemical manufactures. The reforms extended protection beyond processes to

pharmaceutical and agricultural chemical products. This change enabled U.S. chemical and pharmaceutical companies to export and manufacture in China without fear that their products would be reverse-engineered and marketed illicitly there.

In addition, China adopted the Geneva Phonograms Convention in 1993, raising the level of protection for sound recording in the country. China had also conducted a major crackdown on makers of illegal recordings.

Although China seemed to be on the way toward establishing a world-class legal structure for copyrighted works and patented products, the Chinese government was far from being able to halt the rampant piracy of intellectual property in the country. According to the estimate by the International Intellectual Property Alliance (IIPA), U.S. industries lost more than $415 million from copyright piracy in China in 1992.[23]

Software piracy was perhaps of primary concern to U.S. intellectual property industries. For example, the Chinese government, the largest consumer of PC technology in China, had been using pirated software in the past. Although it had signaled its commitment to purchase original software, the delegation of authority to provincial governments made it increasingly difficult for the central government to achieve this objective. U.S. computer software giant Microsoft was particularly concerned with piracy in China. In 1993, some 450,000 phony stickers were traced to a Chinese-government owned research institute that had orders for three million more. Microsoft estimated that the ring responsible for the counterfeiting might have copied up to $150 million worth of MS-DOS.[24]

Moreover, the enforcement of IPR laws and regulations was a major -- and growing -- problem. Although China had used its media and bureaucratic channels to publicize the need to protect intellectual property, the majority of the Chinese population still viewed intellectual property as belonging to the public, contrary to international principles of IPR protection. China's court system was rudimentary and many of China's judges were untrained in the intricacies of IPR laws. The absence of effective mechanisms to protect IPR therefore stood as a serious obstacle to U.S. companies trading or manufacturing in the computer, publishing, motion picture, and other sectors.

U.S. intellectual property industries were trying their best to curb piracy in China. For example, in conjunction with the Software Publishers Association (SPA) and the Business Software Alliance (BSA), an international trade organization established to promote IPR and software copyright protection awareness worldwide, Microsoft was embarking on an effort to educate computer users. A Chinese branch of BSA was also formed in 1993.

Although the intellectual property industries did not insist on using IPR as a condition

on MFN in the previous year, continued piracy in China again prompted them to speak in favor of using MFN tariff sanctions to force the Chinese to make substantive progress in IPR protection. The IPR lobby urged Congress and Administration officials to take more resolute measures toward China, arguing that failure to do so would seriously hamper the further expansion of U.S. businesses in the world's largest market.

Clinton's May Executive Order

While Clinton had indicated he would take a harder line on China than President Bush did during his presidential campaign, the conflicting pressures had become intense once he came into office. On the one hand, under the lead of George Mitchell and Nancy Pelosi, some congressional members had indicated that should the Administration's policy failed to satisfy them, they would insist on using the annual renewal of China's MFN status to moderate China's behavior in intellectual property protection and in the trade area in general. On the other hand, however, many in the American business community and the Administration were emphasizing China's economic and strategic significance and were positively calling for unconditional MFN. Clinton then appeared determined to tread a middle course between these two extremes.

By the spring of 1993, President Clinton and a number of congressional representatives had come to see administratively imposed conditions on future MFN renewal as a suitable compromise between the rhetoric of the campaign and the realities of growing U.S. economic interests in China. The policy option that the White House was considering was thus for Clinton to extend MFN for one year in mid-1993, while conditioning further extension in 1994 on "significant progress" by China in problem areas. But there was no agreement on what would be sufficiently tough. On the one hand, there was a sense that extending the list of unrealistic conditions would be futile. Moderates argued that Clinton should focus on human rights and try to deal with IPR and other trade issues using trade rules. On the other hand, various groups, particularly human rights groups, were still wedded to their respective causes and were trying to use MFN as a lever to curtail unfair Chinese practices in problem areas. Clinton's task was then to word the order carefully so that he looked tough to the domestic groups concerned, but could also retain enough flexibility to maneuver in the future.

In order to persuade Congress to accept the new Clinton approach, Administration officials tried to convince Congress that China was making progress in the key issue areas. In

mid-May, assistant secretary for East Asia and the Pacific Winston Lord traveled to Beijing in the hope of returning with news of progress by China on the three issues to justify Clinton's softened view. Lord, however, was largely snubbed by the Chinese. In a congressional testimony on June 8, Lord had to tell Congress that China's progress to date on the three main issues "had not been dramatic, but it was not inconsequential."[25]

Complicating Clinton's decision, as USTR Micky Kantor conceded in a meeting with several reporters, was a new IMF report which ranked China's economy the third largest in the world next only to those of the U.S. and Japan. The Chinese economy, which was growing at a rate of 12 percent a year, was also the fastest of any large nation. Stressing the importance of China's position in the international economy, Kantor said, "You're dealing with the world's third-largest economy. ... You can't ignore the economic impact China is making in the world. So there is an economic and trade reality, but there are also very serious concerns both in the trade area and the political area in regard to China, and they've got to be addressed in some way."[26]

On May 28, Clinton officially informed Congress that he planned to renew China's MFN status. However, in response to congressional insistence on some form of MFN conditions, he signed an executive order tying the next renewal to China's performance on human rights. Specifically, the order directed the Secretary of State to recommend whether China's MFN status should be renewed in July 1994. However, the executive order did not explicitly link the renewal of MFN to evidence of improvements in the areas of trade and weapons proliferation, only saying that the U.S. would "pursue resolutely all legislative and executive actions" to ensure that China would abide by its commitments in the latter two cases.[27] This separation could be attributed to the intense pressure from U.S. businesses and the increasingly compelling reality of the bilateral economic and political relations. It also reflected the growing feeling, even among some China critics, that the MFN-conditioning bills in Congress were loaded with so many diverse and onerous requirements that they were tantamount to MFN-revocation bills.

Clinton's approach to MFN was a notch higher than that of the Bush Administration, which repeatedly resisted all efforts by a Democratic Congress to attach any conditions to the annual renewal of China's trade benefits. But Clinton's policy toward the MFN benefits was also weaker in three respects than the one advocated by Congress over the past three years. First, during the Bush Administration, the Democratic Congress wanted to impose a series of conditions on China's MFN renewal through legislation -- which was considered

much more lasting and difficult to change than a presidential executive order. Second, the conditions Clinton wanted to impose on China's MFN benefits involved only human rights, leaving out the language on trade (including intellectual property rights) and arms exports that Congress had approved under Bush. Third, the wording of the human rights conditions Clinton set for China was less detailed than those in the legislation that Congress passed and Bush vetoed.

Congressional Reaction To the Executive Order

Because of the emerging consensus on China policy between the two branches, Clinton's executive order had received some favorable response from Congress. While some congressional leaders had indicated that they would seek to toughen the new executive approach before Clinton announced his plans, they gave up their legislative efforts once the President formally introduced his MFN policy. Congress' endorsement of the executive policy came about because of the relaxation of tension between the two branches as well as further executive pledge to seriously deal with the issues of trade and arms sale.

For instance, before Clinton's announcement, Sen. George Mitchell and Rep. Nancy Pelosi, who had led the charge on Capitol Hill to restrict the annual MFN renewal for China during the Bush administration each year, had introduced a new bill in April that would have linked extension of China's MFN status the following year to improvements in the three issue areas. Like the second measure vetoed by Bush in 1992, the restrictions were limited to goods produced by Chinese state-owned companies.

But once the executive order was made public, the two lawmakers said that Clinton's policy would achieve the same aims as the bill they introduced in April and that congressional action would be unnecessary. A pleased Mitchell called Clinton's order "fair, reasonable, responsible", saying that "you (now) have a President who is considering strong and meaningful executive action."[28] Pelosi, while acknowledging that other congressional members "would like much, much tougher conditions on trade with China", said that the conditions in the executive order were "calibrated to be met" and that "what we want more than anything is a unified message from the President and Congress."[29] Because of the ease in the tension between the executive and legislative branches, both lawmakers were apparently more prepared to accept presidential conditions.

Clinton's action might have satisfied Mitchell and Pelosi, but Representative Gerald Solomon, R.-N.Y., who had sponsored the previous efforts to revoke China's MFN status,

vowed to force a floor vote in the House once again. Most members of the Ways and Means Committee, which had jurisdiction over trade in the House, opposed such a move. But under U.S. trade law, Solomon could have forced a floor vote on revoking MFN within 90 days of Clinton's announcement, whether or not Ways and Means acted. On June 30, the committee voted to report Solomon's legislation but recommended that it be voted down by the full House. Ways and Means Committee Chairman Dan Rostenkowski maintained that the legislature should give the president's policy a chance to work before the U.S. lost the leverage provided by MFN.[30]

In an about-face for many members who had backed Solomon's bill in prior years, the House rejected the bill by a wide margin on July 20. The House vote effectively gave a nod to Clinton's decision to renew China's MFN status.

Therefore, even though many congressional members would still have liked to see far tougher conditions on intellectual property protection and on trade in general, Clinton nevertheless succeeded in enlisting the support necessary for his executive order. This could be attributed to the fact that once a policy consensus was reached between the legislative and executive branches, Congress was willing to defer to the President in those areas in which it had some disagreement so long as the President was perceived to share congressional concerns and was addressing the issue effectively. It also reflected a growing realization within Congress that attaching a long list of conditions to MFN renewal was both unrealistic and futile.

Chinese Action On IPR Protection and the Seattle Summit Meeting

The fact that the lack of any IPR conditions in Clinton's executive order did not provoke further legislative action was also due to the substantial measure the Administration was taking on IPR and its promise to deal with the issue more resolutely. Throughout the year, Clinton Administration officials carefully monitored Chinese compliance with the 1992 MOU on the protection of intellectual property rights. In late 1992, China issued copyright regulations that raised the minimum level of protection for software and other works to international standards and revised its patent legislation in late 1992. In February 1993, China also approved amendments to several clauses of the 1982 Trademark Law and issued the Supplemental Regulations on Punishment for Counterfeiting of Registered Trademarks (the Counterfeiting Regulations). The amendments bolstered provisions in China's 1978 Criminal Code that imposed criminal responsibility for trademark infringements. This new

legislation entered into effect on July 1. On July 9, the Chinese government approved corresponding changes to the Trademark Law's Implementing Rules, which became effective on July 28. In September 1993, China adopted yet another legislation -- the Anti-Unfair Competition Law, which provided legal protection for unregistered trademarks, trade names, product packaging, and trade dress. This law also provided new protection for trade secrets and outlawed other unfair trading practices.

Meanwhile, U.S. intellectual property industries, deeply concerned with China's enforcement of its new and existing laws, continued to press the Clinton Administration to deal more resolutely with the issue of intellectual property rights using U.S. trade laws and other administrative measures, as it had promised in the executive order. In particular, the intellectual property industries used the Asia-Pacific Economic Cooperation (APEC) forum to express their concerns to both Administration officials and Chinese leaders.

At the November Seattle meeting of APEC leaders, America's intellectual property-sensitive industries, particularly software makers, urged the leaders of both countries to find ways to stop the piracy from which they had incurred substantial costs each year. Microsoft Corp. and the Business Software Association (BSA) were the major leaders of this effort. U.S. software makers pointed out that in China, nine out of ten software programs were illegal. The problem included both the use of fraudulently copied programs, and actual counterfeiting, in which the software was duplicated along with its packaging and documentation for sale locally and abroad.[31] These companies expressed the hope that China would work to bring its intellectual property laws and the enforcement of those laws into line with international standards.

Responding to the concerns of intellectual property industries, the Clinton Administration began to move ahead with its promises to seriously address the issue. Secretary of State Warren Christopher said upon his arrival at the Seattle summit that protection of intellectual property rights, including copyrights on software, was one of the areas in which China would have to improve to maintain its MFN status. President Clinton also broached the subject when he met with Chinese leader Jiang Zemin at the conclusion of the APEC meeting, the first bilateral meeting at the presidential level since 1988. Meanwhile, the USTR continued to negotiate aggressively with China on full implementation of the previously signed bilateral agreements on intellectual property protection.

An Analysis

To understand U.S. policy with regard to China's MFN status in 1993 required an understanding of the dynamics that shaped U.S. policy toward China and the attitudes that fueled those forces: the President, professional policymakers and implementators, activists in Congress, and special interest groups all interacted to influence the form and the content of the MFN policy. The important factors influencing these players' thinking were: Did China appear to be pursuing a foreign policy beneficial to the interest of the United States? What was China's role in the key foreign policy challenges facing the United States? In the rivalry between the Democrats and Republicans, could one party gain political capital by exploiting China-related issues? What group interests could be cultivated by exploiting China-related issues? As perceptions of these issues and the interaction of the players involved shifted with the arrival of the Clinton Administration, U.S. China policy as well as the policy on MFN had undergone significant changes.

The Clinton Approach to MFN -- A Rational Actor Explanation

As a presidential candidate and as President-elect, Clinton had attacked Bush's China policy. Since he took office, however, President Clinton faced both economic and geopolitical imperatives in making the MFN decision. In deciding not to cut off low-tariff trade with China immediately, Clinton echoed the refrain repeatedly heard from President Bush, saying that "I don't want to isolate China. I want to do what's good for the Chinese people."[32] Implicit was an acknowledgment that trade with China was important to many U.S. business interests and, to some extent, to U.S. geopolitical interests as well.

First of all, Clinton was certainly aware of the fact that China -- with a growth rate of 9 percent to 11 percent per year and a population of 1.2 billion -- was quickly becoming a global economic power. The United States had a substantial stake in trading with the Chinese. In 1992, China exported $25.7 billion of goods to the U.S. and Americans sent $7.5 billion worth there. Orders from China in 1992 were up 19 percent from 1991.[33] Since 1990 China had been the fastest growing export market for U.S. firms. The increase in China's imports over the coming years was also likely to make it one of the largest sources in the world of increased demand for imports, particularly for the capital goods in which the U.S. had a strong market position. Moreover, a stable trade relationship with China was an absolute precondition for strengthening U.S. regional trading ties in Asia and promoting

broader economic cooperation within the region. The discontinuation of MFN status for China would mark a decisive setback in the Clinton Administration's policy of developing the APEC forum as a key component of this regional strategy.

Second, key strategic issues informed America's relationship with China. They made it essential for the U.S. to remain engaged with Beijing and to bring pressure on the Chinese -- as the Bush Administration did -- behind closed doors. For example, the U.S. needed to involve China in cooperation to address global issues such as international peace-keeping, the environment and weapons sales (not just Chinese). Sino-American dialogue and cooperation were necessary in managing regional issues such as Cambodia, Korea and Indian-Pakistan enmity. Bilateral dialogue was also necessary on the issue of Hong Kong.

The case of North Korea provided an illustration of how a friendly China could be of immediate help to the United States and its allies. Before Clinton made the MFN decision, North Korea opted out of the Nuclear Nonproliferation Treaty, removing itself from the scrutiny of the International Atomic Energy Agency. As North Korea was on its way to becoming a nuclear power, the United States would have to look to China for assistance in containing North Korean power. As the leading congressional opponent of conditional MFN in 1993 Lee Hamilton put it:" If there is a single issue on which Chinese cooperation has been and can be significant for U.S. security, it is on the North Korean nuclear program."[34]

Moreover, a reasonably amicable U.S.-China relationship could influence the Chinese to use their growing strength responsibly. For example, two territorial disputes deemed significant by China, one involving China's claim to the Senkaku Islands and the other concerning China's insistence on its claim to the Spratly Islands, could provoke future regional conflicts. It was also impossible to ignore China's growing military might. All these factors meant that China, far from becoming less important to American security after the end of the Cold War, remained of vital importance to American interests. This importance was no longer derived from the politics of the superpower rivalry. Rather, it stemmed from China's ability to affect the achievement of U.S. foreign policy objectives because of its location, size, and population. It argued for the U.S. to maintain a friendly relationship with China.

Recognizing the economic and geopolitical importance of China, Clinton had gradually backed away from his get-tough campaign stance. The Clinton Administration was thus actively in search of a MFN policy that was both "soft" enough to maintain and broaden the framework for U.S.-China relations and "tough" enough to prevent Congress from pursuing legislated conditions. On the one hand, to reach agreement with Capitol Hill on a

unified approach to China, Clinton needed to appear to be putting the necessary pressure on the Chinese government through the use of MFN. On the other hand, U.S. economic and political interests were calling for the U.S. to remain engaged in China. Under the constraint imposed by what was the "rational interest" of the U.S., Clinton could not have completely given in to congressional demands. He needed to effectively channel congressional pressure to ensure that U.S. foreign policy objectives with regard to China would not be jeopardized because of MFN. In other words, he had to juggle these competing sets of influences to produce an acceptable policy.

Assistant Secretary for East Asian and Pacific Affairs Winston Lord's statement before the House Ways and Means Committee revealed the logic of Clinton's new approach:

> The Clinton Administration's China policy looks beyond the annual debate on MFN and seeks to broaden the framework for bilateral ties. It defines an effective course which will advance U.S. goals and balance U.S. interests. Mindful of the need to maintain unity with the Congress on China, the President has now established a basis for using our influence most effectively to encourage improved Chinese policies. With a collaborative approach governing our actions, we will strive to resolve our serious differences with Beijing while building on areas of agreement.[35]

Toward this end, Administration officials adopted a strategy which sought to reach policy consensus with the legislature, in which congressional leaders would hold off from pushing their legislation and join with the Administration in supporting a new executive order imposing conditions on the renewal of MFN benefits. Here the foreign policy interests of the United States played an important role determining how far the White House could go in pushing for MFN conditions. As an executive order containing overly sweeping conditions would risk pushing China into the corner and cause a further deterioration in the bilateral relationship, the White House chose to drop intellectual property rights and other conditions that were not considered as essential as human rights from the linkage. It retained human rights conditions mainly to address some congressional members' insistence on MFN conditionality. A rational calculation of long-term U.S. foreign policy interest therefore significantly contributed to the content of the executive order.

Societal Interests

Since he assumed office, President Clinton had come under intense pressure from business and farm groups not to impose any conditions on China's MFN status. U.S. businesses had always been a powerful proponent of unconditional MFN. The strength and

scope of their lobby efforts had risen steadily since 1991 with the increase of their stakes in China. In 1993, U.S. businesses had worked the MFN issue more aggressively than before as various U.S. industries came to perceive tremendous potential in trading with China. Business groups particularly affected by the China trade, including the telecommunications, aerospace, electronic and chemical industries and farm groups, argued that the huge China market and the rapidly growing Chinese economy would be a key for the U.S. to maintain its leadership position in the world economy. Removing China's trading status at a time when the country was experiencing unprecedented economic growth and expansion would mean to give up one of the world's most promising markets to the European and Japanese competitors of the United States. To preserve their interests in China, these groups repeatedly told the Administration and Congress that a healthy commercial relationship with the Chinese would be vital to the competitiveness of U.S. industries worldwide and that the U.S. simply could not afford to lose the China market. The culmination of the lobbying effort of these groups came when more than 340 large corporations and business associations wrote a letter to Clinton urging him to unconditionally renew China's MFN status.

Indeed, there had been concern in some quarters about the role business interests played in the MFN decision. Congressman Tom Lantos, for example, was incensed by the business community's active lobbying for an unconditional MFN renewal. Even Assistant Secretary of State Winston Lord, who was a key player in the MFN drama, said, "It would be very helpful if the business community lobbied the Chinese government to make progress ... as effectively as they are lobbying the Congress and the President."[36]

Meanwhile, U.S. intellectual property industries, concerned with China's inadequate enforcement of its intellectual property laws, were also telling the two governmental institutions to exert more pressure on China in the area of intellectual property protection. Arguing that they would also like to see more trade with China, the IPR industries nevertheless maintained that Chinese piracy was intolerable and that it was necessary to use MFN to try to correct this deficit. The IPR industries, together with human rights groups and labor organizations, lobbied to make the renewal of China's MFN status conditional on improvements in these areas. However, the IPR lobby was gradually losing its power to the pro-MFN coalition for several reasons: first, U.S. businesses had worked the MFN issue more aggressively than ever before as the stakes were so much higher in 1993; second, because of a growing sentiment in Congress that recognizes China's economic and political significance, the pro-MFN coalition had found more sympathy on the Capitol Hill; third, the Clinton

Administration was determined to use U.S. trade laws and other administrative measures to deal with the IPR issue, leaving the IPR lobby's demand on MFN more or less unheeded. In light of the increasingly overwhelming and vocal opposition of the business community to conditional MFN, the Clinton Administration drastically modified its position to cease to use IPR as a condition on MFN.

The modification in Clinton's views thus represented a victory for business interests. The pro-MFN coalition had exerted an enormous amount of pressure on the Clinton team, leading the executive to cut off the linkage between MFN and IPR, a condition which was not the primary focus of congressional concern. It also helped to convince congressional members to come to terms with the executive policy. The overwhelming influence of the pro-MFN coalition over the IPR lobby was clearly present in the formulation of the 1993 MFN policy. This seems to lend some support to the interest group assumption about the relationship between group power and policy outcome.

The Congress-White House Entente

What made the 1993 MFN debate different from those in previous years was that the executive and legislative branches of government had gradually reached a consensus on the MFN policy and were able to reconcile different institutional interests into a coherent policy through more consultation and cooperation. This executive-legislative convergence on China policy, which was so sorely needed during the Bush Administration, came about for two important reasons.

First, as China's economic and political significance in the post-Cold War international environment became increasingly clear, many congressional members started to change their attitude and concur with the executive's perception of U.S. China policy goals and priorities. The nuclear threat from North Korea and the new IMF report which ranked China's economy the third-largest in the world, for instance, all made some difference in Congress' perception of the importance of U.S.-China ties. This helped to reduce the gap between the two branches in their China policy prerogatives and hence executive-legislative frictions in the conduct of the MFN policy.

Second, in 1993, the tug of war between the two institutions in the realm of foreign policymaking was again affected by the dynamic of competition between the two political parties. The election of a Democratic president to the White House in effect ended the era of government divided along partisan lines. With the executive and legislative branches

controlled by the same party, Congress was more ready to suspend hostilities and to allow the president to show what he can do relying on executive leverage to bring about improvement in China's domestic policies. As China specialist Alfred Wilhelm pointed out, "The president naturally wants to maintain maximum flexibility in foreign policy and a Democratic Congress is more inclined to give it to a Democratic president."[37] The dynamic of party competition therefore introduced some significant differences in the nature and the pattern of executive-legislative interaction.

For these reasons, for the first time since Tiananmen, there was no strong push from Congress to legislate an American response. Suddenly, Congress was willing to let Clinton take the initiative in deciding whether to extend China's MFN trade status and on what conditions. Even China critics such as Nancy Pelosi and George Mitchell were willing to give up legislative attempt if Clinton proposed to renew MFN with "reasonable conditions". Eventually, Clinton was able to take the power of MFN decisionmaking into presidential hand and craft an "American response" through extensive executive-legislative consultation. In President Clinton's own words, "The United States will speak with one voice on China policy. ...We no longer have an executive branch policy and a congressional policy. We have an American policy."[38]

In order to retain the most flexibility in his conduct of China policy, Clinton naturally preferred unlegislated conditionality for MFN. The main task he faced was to decide what would go into his executive order and try to win congressional support for administratively-imposed conditions. To achieve this objective, the Administration was engaged in extensive consultations with the Congress.

First of all, the Clinton Administration worked closely with more moderate congressional leaders such as Sen. Max Baucus and Congressman Lee Hamilton when designing the MFN response. These lawmakers, who preferred using the appropriate policy instruments targeted on specific areas of concern, urged the President to take the lead on China policy and to deal with the MFN issue through a non-legislative approach.

Second, before the executive order was made public, the Administration was engaged in extensive and quiet dialogue with the Chinese on issues of major concern in order to obtain the maximum possible progress to justify its softened view. The assistant secretary of state Winston Lord, for instance, traveled to Beijing in mid-May, hoping to return with news of progress by China on the three key issues to persuade Congress to come to terms with the Administration's new approach. In particular, the Administration sought to convince leading China critics such as Mitchell and Pelosi, who had again introduced conditional MFN bills

(including IPR conditions) that the executive shared the same concerns with Congress and would use the appropriate measures to resolutely address those issues.

Third, after the executive order was announced, the White House tried to consolidate congressional support for the softened approach by indicating a determination to deal with China's alleged infractions in the areas of trade and arms sale through existing laws and agreement. The White House further pledged to pursue a strategy of quiet diplomacy and public exhortations to ensure China's compliance with bilateral agreements on IPR protection. This helped to prevent Congress from taking any further legislative action on IPR and other issues.

To sum up, in 1993, executive-legislative convergence on China policy goals and priorities had significantly affected the relationship between the two branches. The fact that the two branches had come to be controlled by the same political party also helped to mollify the institutional rivalry between the executive and legislative branches in the area of China policymaking. On the whole, Congress became less hostile to the executive dominance on China affairs. Instead, it was willing to cooperate with the executive and ready to accept an executive policy that properly incorporated congressional demand. Because of the change in congressional attitude, the executive-legislative interactive process became one characterized by consultation and collaboration rather than confrontation and conflict. The White House heeded to congressional concerns and adopted congressional suggestions where appropriate. Congress, while deferring to the President in large measures, acted in such a way as to ensure that their demands would be properly taken care of by the executive policy. The Administration managed to secure congressional endorsement of its policy by means of consultation, negotiation, persuasion, and inclusion. During this process, the executive responded to congressional concerns, different institutional objectives and interests were weighted and balanced, and finally the policy was made. This final policy outcome reconciled different institutional preferences. It was acceptable to both the executive, who needed to pay closer attention to U.S. economic and political interest, and the Congress, who was rather responsive to the more narrowly-focused and issue-specific public opinion.

Conclusion

While Clinton had promised to stand tough on the MFN issue, he gradually tempered his rhetoric and adopted administratively-imposed conditions to accommodate the various interests involved in the MFN decision. From the above analysis, it is not hard to see that

U.S. economic and strategic interests in China, societal interests, and the congressional-legislative interactive process all influenced the new U.S. approach to MFN.

In 1993, there was a growing feeling both in the Administration and in Congress that China was well on the way to becoming not just a regional but a global economic power, and a political power as well. Public statements by Administration officials and congressional leaders revealed a widespread recognition of China's increasing importance in the global economic and political system. With the world's third-largest economy and as the fastest-growing export market for U.S. products, China could have a significant impact on the international competitiveness of many U.S. industries and on the economic strategy of the Clinton Administration. With its seat in the U.N. Security Council, its influence in the Asia-Pacific region, and its growing military might, China also had an important say in many of the post-Cold War foreign policy actions of the United States. All these factors figured into Clinton's MFN decision, contributing to the softening of his original stance to a considerable extent. In other words, what was the "rational interests" of the U.S. placed certain limits and constraints on the behavior of key China policymakers and defined the space within which they were able to maneuver. In this sense, the rational actor model helped us answer the questions of why Clinton had gradually backed away from his campaign rhetoric to extend MFN status to China and why he had modified his views even further to delink intellectual property protection from MFN renewal.

Another factor that contributed to Clinton's rather moderate approach to MFN is that he had come under enormous pressure from U.S. business groups to unconditionally renew China's trade status. As Harry Harding of Brookings Institution explained, Americans had realized that, despite Tiananmen, economic reform and growth had surged ahead in China. Because of this, "the U.S. business community has found its voice, beginning more actively and articulately to express the view that China's MFN should be kept unconditional."[39] Also, since many U.S. companies faced a far higher stake in China in 1993, they had lobbied the Congress and the White House more aggressively than before. U.S. intellectual property industries, worried about the inadequate enforcement of IPR laws and regulations in China, were also actively trying to have their concerns addressed through MFN renewal. However, their influence was far less decisive and overwhelming than that of the business community. The pro-MFN coalition, whose views on MFN coincided with those of the executive, had not only gained the support of Administration officials, but had also found increasing sympathy among congressional members. While urging Administration officials to unconditionally renew China's MFN status, the coalition also tried to persuade congressional

members that attaching too many unrealistic conditions to MFN renewal was counterproductive. The intense pro-MFN lobby contributed to the Administration's decision to sever the linkage between MFN and intellectual property protection, a condition not as crucial as human rights to congressional concern. It further persuaded many congressional members to support the Administration's new approach. The overwhelming influence of the pro-MFN groups was thus manifested in the formulation of the MFN policy. The interest group assumption that the relative ability of societal groups to penetrate the policy arena could have a strong bearing on the policy that was to emerge seems to be confirmed by the 1993 case.

The pattern of interaction between the executive and legislative branches was yet another important factor affecting the policy outcome. In 1993, a Congress-White House entente gradually emerged for two importance reasons. First, because of the increasing recognition of China's economic and political significance among congressional members, the gap between the executive and legislative branches in terms of China policy goals and objectives also narrowed somewhat. This emerging executive-legislative convergence on China policy priorities helped to reduce the interbranch frictions in the conduct of the MFN policy, bringing about a more consensual and cooperative interbranch policy process. Second, because of one party's control of both the executive and legislative branches, Congress, and congressional Democrats in particular, was more willing to hand back the decisionmaking power to the President. Consequently, Congress did not demonstrate a combative stance as it did in prior years, nor did it engage itself in any serious efforts to legislate conditional MFN bills. The dramatic change in congressional attitude enabled the President to seek a unified approach to MFN with Congress through a process of consultation and collaboration.

In response to Congress' insistence on MFN conditionality and also to retain the maximum flexibility in managing China affairs, Clinton chose to link MFN to human rights through administratively imposed conditions. Before formally announcing the MFN decision, administration officials worked closely with more moderate congressional leaders to design an MFN response. They also tried to obtain evidence of Chinese progress to convince leading China critics that the new executive approach was feasible. Although some congressional members remained discontent with the lack of intellectual property and trade conditions in the executive order, the almost overwhelming congressional deference to the President's authority in handling China-related issues helped to allay those dissatisfactions. Administration officials then worked actively to ensure that the bilateral agreements the U.S.

had reached with China on intellectual property rights would be properly enforced and implemented. Serious administrative action thus prevented Congress from legislating additional bills conditioning China's MFN status to its intellectual property protection.

As the two branches responded to each other through consultation and persuasion, different institutional priorities and interests were balanced and compromised. In response to congressional insistence on MFN conditionality, Clinton retained the linkage between MFN and human rights. In other words, the executive came up with a policy response that was acceptable to both Congress and the requirement of long-term U.S. foreign policy objectives. Congress similarly achieved its objectives by securing executive pledge to deal with intellectual property protection with the appropriate policy instruments. The emerging congressional-executive consensus on China policy introduced more trust and responsiveness into the interaction between the executive and legislative branches. This greatly facilitated the interactive policy process, aiding in the reconciliation of different institutional objectives, and helping to produce a compromise policy that incorporated different institutional interests.

In the 1993 case, the three conceptual models interacted to influence U.S. policy. The interbranch politics model was particularly useful for explaining why Congress did not push for IPR conditions and why Clinton had chosen to sever the MFN-IPR linkage via an executive order.

However, as we can see from both the 1992 and the 1993 MFN debates, the executive-legislative interactive policy process could be heavily influenced by the party competition going on between the two institutions. In 1992, the institutional turf struggle between Congress and the executive was further exacerbated by the issue of electoral competition, resulting in an interbranch process that was highly confrontational. In 1993, although Congress still had an interest in challenging the executive authority in the realm of foreign policymaking, one party's control of both branches significantly reduced the tension and facilitated the reconciliation and compromise between the two branches. Therefore, the configuration of party power across institutions could impact on the behavior and structure of Congress, and hence the executive-legislative interactive process. The interbranch politics model, by focusing on the struggle for power between two institutions with substantially different policy objectives and approaches, thus had some difficulty sorting out the confounding influence of the party competition going on between Congress and the executive.

The rational actor model and the interest group model further helped us to understand

why intellectual property protection was no longer used as a condition on MFN. They told us how China's emergence as an economic and global power and the rapidly growing U.S. commercial stakes in China had helped to moderate Clinton's tough campaign stance, leading him to further modify his views to drop intellectual property protection and other trade and non-proliferation conditions from the MFN linkage. Therefore, Clinton's 1993 executive order severing the MFN-IPR linkage stemmed from the complex interaction among the three models. To understand the shape and substance of Clinton's 1993 MFN decision, one must look at the ways in which these models have worked together to shape the policy outcome. Each model provides a useful perspective to understand Clinton's decision, but the explanatory power of each of them would be severely limited if it is not viewed in conjunction with the other two models.

Notes

1. "Congressman Hamilton Shines on MFN Issue," *China Business Review*, May-June 1993, p.9.

2. Ben Barber, "Clinton Faces China Trade Status," *Christian Science Monitor*, April 30, 1993, p.3.

3. Ibid.

4. "Congressman Lee Hamilton Shines on MFN Issue," *China Business Review*, May-June 1993, p.9.

5. Ibid.

6. Lally Weymouth, "Thinking Out a China Policy," *Washington Post*, April 12, 1993, p.A19.

7. Susumu Awanohara, "China Consensus: Clinton and Congress Converge on MFN Issue," *Far Eastern Economic Review*, April 2, 1993, p.13.

8. "Christopher Weighs In on China, Empty Embassy in Moscow," *Congressional Quarterly Weekly Report* 51, no. 11, March 13, 1993, p.622.

9. Susumu Awanohara, "China Consensus: Clinton and Congress Converge on MFN Issue," *Far Eastern Economic Review*, April 2, 1993, p. 43.

10. Robert Keatley, "U.S. Firms, Anticipating Huge Market, Worry China May Lose Its MFN Status," *Wall Street Journal*, May 7, 1993, p.B8B.

11. Ibid.

12. "China Fever Strikes Again," *Business Week*, March 29, 1993, p.46.

13. Ibid.

14. Ibid., p.47.

15. Ibid.

16. Robert Keatley, "U.S. Firms, Anticipating Huge Market, Worry China May Lose Its MFN Status," *Wall Street Journal*, May 7, 1993, p.B8B.

17. Amy Kaslow, "President Urges Renewal of China's Top Trade Status," *Christian Science Monitor,* May 28, 1993, p.4.

18. Mitchell Locin, "Trade Chief Hints China's Status with U.S. May Not Change in '93", *Chicago Tribune*, May 21, 1993, Sec. 1, p. 6.

19. Storer, H. Rowley, "China Woos Western Business, Snubs Clinton," *Chicago Tribune,* May 20, 1993, Sec. 1, p.1.

20. Ibid.

21. Ben Barber, "Clinton Faces China Trade Issue," *Christian Science Monitor*, April 30, 1993, p.3.

22. Seth Faison, "In U.S., Hong Kong Governor Backs China, His Tormentor," *New York Times*, May 9, 1993, Sec. L., p. 12.

23. Lee M. Sands and Deborah M. Lehr, "Expanding Trade and Opening Markets in China," *China Business Review*, July-August 1993, p.11.

24. Ibid.

25. "China's Most-Favored-Nation Status," *U.S. Department of State Dispatch* 4, no. 24, June 14, 1993, p.427.

26. Mitchell Locin, "Trade Chief Hints China's Status with U.S. May Not Change in '93", *Chicago Tribune*, May 21, 1993, Sec. 1, p.6.

27. Ibid., p.426.

28. Susumu Awanohara, "Breathing Space," *Far Eastern Economic Review*, June 1993, p.13.

29. "Clinton Aides Propose Renewal of China's Favored Trade Status," *New York Times*, May 25, 1993, p. A2.

30. "China's Trade Status Tied To Human Rights Record," *Congressional Quarterly Almanac*

49, p. 184.

31. "Summit in Seattle: Firms Urge Stronger Piracy Laws," *San Francisco Chronicle*, November 9, 1993, pB.1.

32. Ibid.

33. Robert Keatley, "U.S. Firms, Anticipating Huge Market, Worry China May Lose Its MFN Status," *Wall Street Journal*, May 7, 1993, p.B8B.

34. Lally Weymouth, "Thinking Out a China Policy," *Washington Post*, April 12, 1993, p. A19.

35. Ibid.

36. Susumu Awanohara, "Breathing Space," *Far Eastern Economic Review*, June 1993, p.13.

37. Susumu Awanohara, "China Consensus: Clinton and Congress Converge on MFN Issue," *Far Eastern Economic Review*, April 2, 1993, p.13.

38. "China: Most-Favored-Nation Status," *U.S. Department of State Dispatch* 4, no. 24, June 14, 1993, p.425.

39. Susumu Awanohara, "China Consensus: Clinton and Congress Converge on MFN Issue," *Far Eastern Economic Review*, April 2, 1993, p.13.

Conclusion

The Making of The U.S. MFN Policy

This study on U.S. policy of conditioning China's MFN status on intellectual property protection supports the theory that foreign policy outcomes are a function not only of the players' positions vis-a-vis one another in the international system but also of the domestic political processes of these players which transform systemic constraints into foreign policy. U.S. strategic and economic interests define the boundary of China policy and set the limits within which U.S. foreign policymakers are able to maneuver on the MFN issue. Although perceptions of U.S.-China strategic relations may have changed since the end of the Cold War, U.S. strategic goals with regard to China, namely the stabilization of Asian affairs and the promotion of strategic cooperation, have remained more or less the same. However, U.S. policy with regard to China is not simply a function of strategic concerns. Because of the diversification of China policy objectives and the pluralization of the policymaking process, it has also been a function of U.S. domestic political processes. In the bargaining process among domestic constituencies and governmental agencies, U.S. strategic interests are frequently weighted and balanced by concerned governmental and societal institutions in the process, and are eventually reconciled with various political preferences to shape foreign policy outcomes.

Several changes since 1989 have had a profound impact on the making of U.S. China policy. First and foremost, because of the growing feeling within the United States that China's strategic and economic importance to the United States in the post-Soviet era has been in decline (at least temporarily), domestic concerns with China's behavior in various areas have sidestepped strategic considerations to motivate the U.S. in much of its conduct toward China and have resulted in the reordering of China policy priorities. This made it more difficult for U.S. policymakers to define and justify China policy goals in a global strategic context or to build a bipartisan consensus on the means to achieve those objectives. As a result, U.S. China policymaking has become more pluralized and decentralized, and more vulnerable to the influence of divergent societal interests.

Second, the diversification of U.S. China policy objectives calls for a reevaluation of the existing understanding of the President's role in China policymaking. Since policy objectives are diversified, it becomes more difficult for U.S. policymakers to agree on a goal in the process and formulate a consensual China policy. As Qingshan Tan pointed

out, what is important now depends on "who sees it and who is able to define the goal."[1] As China policymaking goes from the small circle of decisionmakers to affect a broader range of interests, it needs to "incorporate different policy goals, to reconcile priorities, to compromise in approaches and to encompass governmental processes".[2] The conventional view that the President sets the direction of China policy is therefore no longer adequate.

This diversification of U.S.-China policy objectives has also accorded the U.S. Congress a new role in the making of China policy. As an institution representing societal interests, Congress has increasingly been drawn into China policymaking arenas by the rapid accession of economic issues in U.S.-China ties. Congress has attempted to provide a legal framework for China policy and thereby share China policymaking power with the executive. Through its authority in U.S. trade policy, Congress has been able to link many bilateral economic issues with Chinese political and social issues. Since these linkages of issues often reflect objectives different from those of the executive, which aim more at strategic and bilateral relations than at Chinese domestic behavior, they have complicated U.S. China policymaking. As a result, the executive finds itself with less discretion on China-related issues. It has to engage Congress in a new decisionmaking process that highlights conflicts over China policy goals, bargains in approaches, and compromises on decisions. Through this interactive governmental process, Congress has been able to address its concerns in areas such as trade, arms sales, human rights, technological transfers, and the issue of Taiwan. As Congress has become assertive in making many China-related decisions, the executive-legislative interactive process becomes more important in transforming U.S. China policy goals, including strategic goals, into final policies.

The Evolvement of U.S. Policy on MFN-IPR:1991-1993

U.S. policy of conditioning China's MFN status on its protection of intellectual property rights has undergone three distinct phases since 1991. In 1991, intellectual property rights entered the MFN debate for the first time since China's trade status became subject to annual renewal. What triggered the establishment of the MFN-IPR linkage was mainly the emergence of the IPR lobby. Rampant piracy in China prompted U.S. computer software, motion pictures, music, chemicals and pharmaceuticals, and book publishing industries to start to urge the Congress and the Administration to take actions

against China. In response to the pressure from IPR groups, both houses of Congress introduced legislation attaching IPR conditions to MFN renewal. However, for the proposed legislation to become effective, it must be able to override a potential veto from the President. The Bush Administration, in order to preserve U.S. economic and strategic interests in China, strongly opposed such a move by Congress. To deflect Congress' legislative attempt, the White House adopted a three-pronged strategy: first, it stressed Republican loyalty to the President and signified a strong support for unconditional MFN from the beginning of the debate; second, it mobilized the pro-MFN coalition (comprised mainly of U.S. aircraft manufacturers, farmers, toy and apparel manufacturers, consumers, importers and exporters, as well as businesses in Hong Kong) to lobby in the Senate. Third, the executive worked with moderate Senators to defeat the tough approach advocated by Sen. George Mitchell. Although the Senate failed to attach legislated IPR conditions to MFN renewal in the end, by pledging to take more resolute measures on IPR protection, the executive has in effect established a political linkage between MFN and IPR protection through presidential policy.

The 1992 battle over MFN and IPR featured intense confrontation between Congress and the Administration over the MFN policy. The balance of power among societal forces generally favored unconditional MFN during this phase of the debate. In the face of mounting U.S. commercial stakes in China, the pro-MFN coalition, consisting mainly of U.S. businesses, actively lobbied both the Administration and Congress to unconditionally renew China's MFN status. The IPR lobby, however, was more or less appeased by an agreement on intellectual property protection the Administration had reached with the Chinese early in the year and was far less aggressive in pushing for MFN conditions. Although societal pressure for IPR conditions had decreased significantly, Congress nevertheless twice passed legislation trying to link IPR to MFN renewal. This insistence on IPR conditions was due mainly to a desire to turn MFN into an issue in the presidential campaign so as to embarrass the President in an election year. The Bush Administration, in order to defend its firmly-held views on U.S.-China relations and to fend off Democratic attack, worked harder on China's preferential trading status and twice sustained a congressional override of the President's veto. To strengthen the Administration's position vis-a-vis the Congress, the White House adopted a strategy similar to the one it had used the previous year. What was different in 1992, however, was that the moderate element in the Senate was distinctively uninvolved on the MFN issue. Because of all these factors, a highly confrontational and conflictual pattern of

interaction between the executive and legislative branches had come to characterize this phase of the MFN debate. In the end, the Administration twice defeated Congress' legislative attempt. But by reaching the separate IPR agreement, the Bush administration had incorporated some of the congressional concerns into the executive agenda.

The coming to power of a Democratic president brought about some significant changes in the MFN wrangle. Suddenly, Congress, also controlled by the Democratic party, ceased its combativeness and assertiveness on the MFN-IPR linkage and was even ready to hand the authority for China policymaking back to the executive. The maneuvering room that Clinton now enjoyed on China affairs led him to choose to impose administrative conditions on MFN. In deciding on the terms of the administrative MFN conditions, Clinton faced the compelling reality of Sino-American economic and political relations which called for a friendly relationship with China. He was also under intense pressure from business and farm groups not to attach any conditions to MFN renewal. Consequently, although U.S. intellectual property industries, deeply concerned about the inadequate enforcement of IPR legislation in China, were again asking both the Administration and the Congress to curb piracy in China through the leverage provided by MFN, Clinton had sharply modified his earlier position and dropped the conditions on intellectual property rights from the MFN linkage.

In conclusion, the principle guiding the U.S. policy on MFN-IPR from 1991 to 1993 was one of improving and strengthening bilateral relations while avoiding abrupt and severe disruptions in those relations. The MFN policy was built upon the belief that maintaining a good relationship with China serves U.S. foreign policy interests. Despite the ups and downs in the MFN picture, U.S. policy on MFN during this period has been consistent with U.S. foreign policy goals and priorities with regard to China.

U.S. policymaking on MFN, however, has also been a function of domestic political processes. Several factors in the U.S. domestic political arena compounded the decisionmaking on MFN: concerns over China's intellectual property protection, unfair trading practices, weapons proliferation, and differences in traditional values and cultural ethnics. These factors frequently intrude into the policymaking process to cause variations in the MFN policy.

U.S. Policymaking on MFN: What Do the Models Tell Us?

Efforts to explain U.S. China policy have been mostly rooted in the realist tradition. This perspective sought to explain U.S. policy toward China in terms of strategic calculations or balance of power. These theories conceive of the United States as a rational actor and regard the China policymaking process as one in which the rational actor defines U.S. national interests in strategic terms, sets China policy goals, develops policy options, and selects appropriate means to maximize the goals. With the demise of the Soviet Union, there may no longer be an overriding national consensus in dealing with China, promoting the achivement of U.S. global strategic objectives remained a potent rationale for the U.S. to engage the Chinese in the new strategic context. In this sense, the rational actor approach has some validity in identifying China policy goals.

However, as mentioned earlier, the rapid accession of issues with strong domestic implications in U.S.-China relations has also brought about some important changes in U.S. China policymaking. Most importantly, the content of U.S. decisionmaking has broadened considerably. As a result, the resolution of many bilateral issues have to increasingly rely on the reconciliation of China policy goals, policy preferences, and approaches among different governmental institutions and agencies and societal groups. China policymaking cannot escape an open, democratic policymaking process in which societal actors and governmental officials bargain on policy interests, compromise on policy goals, and build a coalition for certain policies. In this respect, the rational actor model seems inadequate for explaining U.S. China policies, including the MFN policy, in the post-Cold War era; this reality warrents examining the "black box" of domestic political institutions and policy processes.

The Rational Actor Model

The rational actor model explains U.S. policy with regard to China's MFN status through a cost-benefit analysis of international affairs and domestic situation. Based on this analysis, the state actor defines what national interests are at stake and what the goal of U.S.-China policy should be. This approach, to a certain extent, explains why in all three rounds of the debate, the United States has decided to continue to grant MFN status to China. It is also helpful for explaining why Clinton, despite his tough campaign

rhetoric, has drastically modified his views in light of the compelling reality of U.S.-China economic and political relations.

In spite of the breakdown of a consensus on China policy objectives, there remained a recognition of China's long-term strategic and economic importance to U.S. interests. In the new international system, China is not seen as important as a lever against Soviet power, but it is regarded as being able to affect peace and stability in the Asia-Pacific region as well as U.S. interests in the emerging world order because of its size, location, and potential impact on world developments in a host of areas. Maintaining a relationship with China that would serve U.S. economic and strategic interests therefore remains a primary objective of U.S. foreign policy. Since conditional MFN would severely handicap the achievement of this objective, the U.S. has consistently opted against such a policy. In this sense, the rational actor model is able to predict the contour of U.S. MFN policy according to the identified China policy goals.

However, the rational actor model does not sufficiently explain U.S. policy on MFN for two reasons. First, although the model provides a justification of why the U.S. would extend MFN status to China, it fails to fully explain the policy outcome. For instance, the model cannot satisfactorily answer such questions as why the U.S. has implicitly linked MFN renewal to IPR protection through presidential policy in 1991; why, even in the face of strong congressional assertiveness, there were no legislated IPR conditions attached to MFN renewal in 1992; and why Clinton has opted to link MFN renewal only with human rights conditions through administratively-imposed conditions.

This limitation in the explanatory power of the model may be attributed to the erosion of an overriding national consensus on China policy goals. Because U.S. China policy interests and goals have diversified, more and more players with different political orientations and interests on China-related issues have been involved in the policymaking process. This makes it increasingly difficult to talk of the state as a unitary actor making foreign policy decisions without being constrained by domestic political forces.

Consequently, the foreign policy executive, in the pursuit of U.S.foreign policy objectives, had to modify its approach to accomodate various domestic political interests and opinions. It cannot just make the policy without the policy being seriously challenged and amended in the process. This may explain why in all three phases of the debate, the executive could not grant MFN status to China without incorporating a wide array of policy interests.

Second, the rational actor model does not take into account the policymaking process. According to the model, policy outcomes reflect goals; the process does not matter. By overlooking the process, the model effectively severs the linkage between the goal and the outcome. It excludes factors that may influence policy initiation and formulation in the process. However, when there are no agreed-upon goals in foreign policymaking, the process is crucial for explaining and predicting policy outcomes. For instance, the model fails to explain why intellectual property rights entered the 1991 MFN debate because it ignores how Congress, in response to the IPR lobby, has taken the policy initiative on the issue. The model also cannot explain why the policy outcome during all three stages bears a strong congressional imprint.

Therefore, in light of the diversification of China policy goals and the pluralization of the policymaking process, the rational actor model may have oversimplified reality because of its assumption of the state as a unitary actor. However, to the extent that there existed a vaguely shared consensus in developing strategic and economic cooperation with China, the rational actor model helps to explain why the United States would continue to grant MFN status to China.

The Interest Group Model

The interest group model seeks to explain U.S. policy on China's MFN status and intellectual property rights in terms of the interests and capacities of groups or coalitions competing within the policy arena. Within this perspective, societal interests are the key to understanding U.S. policy. Private, societal interests dominate the decisionmaking while the government is essentially passive.

Recent studies on foreign economic policy have found, however, that interest-group pressures, while important, do not alone account for observed policies and that state actors and institutions can play a critical role in shaping the manner and extent to which social forces can exert influence on policy outcomes.[3] This study generally support this latter view. Clearly policy does respond, at least in part, to societal demands. Both Congress and the administration were heavily influenced by societal forces in determining their position on the MFN issue.

Societal groups involved in the MFN debate certainly affected the way in which

Congress acted on the issue. In the 1991 case, the rise of the IPR lobby proved to be a critical factor in explaining why Congress has taken the policy initiative and why the linkage between MFN and intellectual property rights has come into existence. In the first two cases, the lobby efforts of the pro-MFN coalition and particularly those of farm groups also influenced the way in which Senators voted on conditional MFN bills. In particular, the pro-MFN coalition found some success accessing a number of Democratic senators and gaining their support for unconditional MFN.

In addition, both the Bush and Clinton administrations had to take societal interests into consideration in making the MFN decision. This is most clearly seen in the 1993 case in which the overwhelming influence of the pro-MFN lobby was one of the key factors explaining why Clinton diverged from his original stance to retain only human rights conditions in the MFN linkage.

Societal interests were therefore largely responsible for initiating as well as formulating the MFN policy. The 1992 case, however, may have posed some interesting questions for the interest group model. At a time when the IPR lobby was virtually silent on the issue and the pro-MFN coalition was actively calling for unconditional MFN, Congress nevertheless went ahead and insisted on setting IPR protection as part of the condition for China to retain its MFN status. Here societal influence was not directly and unilaterally translated into policy outcome.

Two factors could perhaps help to explain this phenomenon. First, the demands of the IPR groups were adopted by congressional representatives in the previous year in response to their intense activity. Therefore, the IPR groups were able to continue to wield some influence in a new stage of the policymaking process, since their demands had already been incorporated. As legislating IPR conditions has in a sense been institutionalized, many congressional members insisted on IPR conditions even in the absence of any visible societal pressure.

Second, the phenomenon also has to do with the fact that interest-group pressures alone do not explain the policy outcome and that the influence of societal forces is also subject to congressional attention. As the representative link between state and society, Congress is more likely than the executive to reflect the interests of society and is more responsive to societal demands. But there are also instances in which Congress may act independently of group interests to pursue its own agenda. In particular, Congress may seize on new or existing issues to challenge executive authority in the arena of foreign policy making, regardless of societal demands.

In 1991, Congress acted on the IPR issue partly in response to the pressure from intellectual property industries, and partly in an attempt to wrest control of China policy from the executive. In 1992, in order to challenge the predominant executive control over the MFN policy, Congress insisted on linking MFN renewal with intellectual property protection even though the IPR lobby was appeased by a separate agreement the administration had reached with the Chinese. Similarly, once a consensus on China policy was restored between the two branches and the White House and Congress began to be controlled by the same political party in 1993, congressional Democrats were largely ready to let the President decide on whether to grant MFN status to China and on what conditions. Consequently, Congress hardly insisted on attaching IPR conditions to MFN renewal even when the IPR industries were appealing for congressional action. In short, interest group politics may not be entirely responsible for legislative assertiveness on the issue at stake. In its contest for power with the executive, Congress may either exploit or ignore a given issue. In other words, congressional initiative and aggressiveness may not be directly related to societal pressure; Congress is not entirely inept in the face of societal pressure. The interest group assumption about the relationship between interest groups and Congress therefore may not have accurately reflected the reality.

Indeed, by focusing on the demand for policy, the interest group model also ignores how state officials (particularly the foreign policy executive), whose preferences are at least partially distinct from the parochial concerns of societal groups and are tied to conceptions of the "national interest", can make choices that are central to understanding policy.

Unlike the representative element of the state who is more responsive to societal demands, the executive is more likely to take the interest of the nation-state into consideration when making foreign policy decisions. Given the existence of competing interests within the domestic arena, the foreign policy executive is rarely able to translate U.S. foreign policy preferences directly and unilaterally into policy. It is dependent upon the support, or at least the acquiescence, of society and the representative element of the state through which societal pressures are brought to bear on the policymaking process. To achieve its policy objectives, the foreign policy executive must take effective measures to resolve the conflict between these different sets of interests.

In this study on the MFN policy, for instance, the Bush Administration had an interest in maintaining and promoting U.S. economic ties with China. It also had an interest in protecting U.S. intellectual property industries from Chinese piracy. But the

risks involved in conditional MFN seemed to far outweigh the benefits that could potentially be derived from attaching IPR conditions to MFN renewal. In such a situation, the Administration sought to mobilize business groups, particularly farm groups, into the political process to gain access to the representative element of the state on the one hand, and tried to take forceful administrative measures to deal with the issue of intellectual property protection on the other. The administrative measures on IPR was particularly successful in appeasing the IPR lobby, significantly reducing the societal pressure on IPR conditions. In this sense, the foreign policy executive has identifiable interests and can also act in the expected manner to influence societal groups' interests in the issue and their access to the policymaking process, thereby affecting the policy outcome.

To sum up, U.S. policy on China's MFN status does not simply result from interest group pressures. The decisionmaking arena is not an empty shell in which social forces compete. Rather, an independent congressional agenda and executive leadership are all important intervening variables that may strengthen or weaken the effectiveness of societal groups in shaping the MFN policy. The interest group model provides a useful tool for understanding the motivations of the MFN policy. But the influence of societal forces in decisionmaking is also subject to congressional and presidential attention. In this perspective, analyzing the demand for and supply of policy is necessary to provide a complete explanation of the policy outcome.

Also, in this study, it is important to note that a contradictory set of interests possessed by the intellectual property industries has influenced the extent of their involvement. While deeply concerned with inadequate protection of intellectual property rights, the IPR lobby also had an interest in trading with China. MFN was one of the means they used to urge for more governmental action on intellectual property protection. But once their concerns were perceived to have been properly addressed, they ceased to push for MFN conditionality since a major downgrading in the bilateral trade ties would also adversely affect their own interest. For them, MFN was more of a threat than a real club. With their needs taken care of, MFN was no longer a top priority on their agenda. The IPR lobby became more willing to give in on MFN conditionality in order to preserve their interest in trading with China. Because of this contradictory impluse of the intellectual property industries, the IPR lobby tends to be rather fluid and amenable. The level of the IPR groups' involvement in the MFN debate fluctuates accordingly, leading in particular to their silence in 1992.

The Interbranch Politics Model

The interbranch politics model appears to have considerable effectiveness in explaining U.S. policy with regard to China's MFN status. Unlike the other two models, it stresses the importance of an interactive process in which the executive and Congress approach the MFN and IPR issues with different institutional preferences and dispositions. Each branch of government acts as a coherent, unitary institution in the process, trying to influence each other on the MFN policy. The model is particularly helpful to understanding how Congress affects the executive in the process, and to what an extent and in what ways the executive balances congressional preferences and demands in formulating the MFN policy. Whereas the rational actor model establishes a framework for explaining why the United States would continue to extend MFN status to China, the interbranch politics model contributes to an understanding of the form and content of IPR conditions.

The utility of the interbranch politics model lies in its inclusion of Congress as a foreign policymaking institution in the policy process. It takes into account the assertive role that Congress plays in reaction to societal pressure and executive dominance on China policy. Contrary to the conventional wisdom that "the President proposes and the Congress disposes," this study finds that Congress, as an equal player in the model, did more than oversee and approve the executives policy. Rather, it asserted itself by initiating the veto fight on China's MFN each year, playing what is normally considered the executive role. Congress also strongly challenged the executive's position in the process of formulating U.S. policy on MFN-IPR. By emphasizing the policy process by which the two branches of government interact to make foreign policy, the model probes into how the policy on MFN has evolved after it comes out of the decision-making process in one branch and moves to the other. It therefore provides insights into the fissures of the two government branches concerning respective institutional interests and roles in foreign policymaking.

The interbranch politics model also helps explain in what direction Congress pulls the executive in the MFN policymaking process. This study lends support to the conventional view that the executive is more concerned with rather broad and long-term aspects of U.S. China policy, whereas Congress tends to engage in short-term, issue-specific, and narrow-focused policymaking. In all three phases of the MFN debate, Congress was inclined to respond to the demands of domestic constituencies in the areas

of intellectual property rights, unfair trading practices, weapons proliferation, and human rights, while the executive has consistently stressed long-term U.S. policy goals related to strategic, regional, and other international interests. These institutionally-specific differences in the two branches' predispositions spring from their different institutional mandates. Since legislators represent and are accountable to their constituencies, they tend to balance the executive prerogative toward stressing domestic priorities. However, as the government body that actually formulates and conducts foreign policy, the executive is usually motivated by pragmatism and the pursuit of broad U.S. interests in its foreign policy dealings. These different institutional mandates of the two institutions have led to their different institutional predispositions or biases, which in turn determine each branch's foreign policy priorities and its behavior in foreign policy.

This study also finds that the reconciliation of different institutional prerogatives can be obtained in a variety of ways: confrontation, consultation, cooperation, and co-opting. In the 1991 MFN-IPR case, Congress raised the issue, the executive responded to it, an interbranch policy process reconciled differences, and finally both branches made adjustments in their proposed policy in order to reach a policy solution. In the policymaking process, the executive resorted to several strategies to help maintain institutional balance of power over the MFN policy: it mobilized societal group to lobby senators; sought to enlist the support of senators whose states were involved in China trade to gain more congressional support for the executive policy; adopted administrative measures to dilute societal pressure on Congress; and stressed the importance of loyalty to the President on foreign affairs. These strategies addressed congressional concerns on IPR protection on the one hand, and stressed to Congress the importance of unconditional MFN on the other. They convinced many congressional members to come to terms with the executive policy. Similarly, the moderate element in Congress, by urging the executive to more resolutely deal with the issue of intellectual property rights, helped to reconcile different institutional preferences and interests into a compromise policy. A certain degree of trust and responsiveness existed between the two branches in this round of the MFN debate. Different institutional prerogatives were reconciled through an interbranch policy process characterized by bargaining, persuasion, and co-opting.

The 1992 debate reflected less trust and responsiveness between the two branches over MFN. As a result, both branches focused on the veto process to try to achieve their respective policy objectives. Congress twice introduced conditional MFN bills that were

later vetoed by the President. In order to work out its differences with the legislature, the administration also had to adopt more substantive measures to deal with the issue of IPR. Consequently, the policy process became highly confrontational and conflictual.

By contrast, an emerging executive-legislative policy consensus and the change in the dynamic of party competition have introduced a considerable amount of trust and responsiveness between the branches in 1993. As the executive became more responsive to congressional demands, the Congress also started to delegate more discretion to the executive. This has given the executive a considerable amount of leeway in making the MFN policy. The executive then sought to craft a policy that properly incorporated congressional demands. The Clinton administration cooperated with moderate senators when designing the MFN response; it was engaged in extensive dialogue with the Chinese in order to obtain maximum progress in IPR to justify its softened approach; it then tried to consolidate congressional support for the executive order by indicating a determination to ensure strict compliance with the IPR agreement. Through substantial consultation, bargaining, persuasion, and inclusion, the two institutions were able to better integrate their different institutional interests into a single coherent policy.

Institutional cohesiveness is an important factor that helps to determine the pattern of the executive-legislative interactive process. How strongly Congress holds its preferences and what resources the executive has committed to dealing with Congress for the issue at stake can affect the bargaining process and thus the outcome. In the 1991 case, some congressional members were heavily influenced by their pro-MFN lobby and did not completely agree with Mitchell's tough approach. Meanwhile, the White House had committed its resources to defend China's MFN status. The heavy executive lobbying and the facilitative role played by the more moderate senators therefore helped to produce a policy that conditioned China's MFN policy on its intellectual property protection through presidential policy. In 1992, congressional members, especially congressional Democrats, were more deeply committed to placing legislated conditions on China's MFN renewal. The executive, equally dedicated to ensuring the continuity in U.S. China policy, had to overcome strong congressional opposition for its preferences to prevail. The debate over MFN and IPR thus gained in rancor and intensity. When it came to 1993, the majority of Congress was ready to let the President decide whether to attach conditions to MFN status and on what conditions partly because of the emerging consensus on China policy, and partly because of the control of the two branches by the same political party. This gave the President a considerable amount of maneuvering

room on MFN, enabling him to craft the executive order after obtaining congressional acquiescence through a process of consultation.

Presidential or executive leadership is similarly important in affecting the bargaining process between the two branches. For example, because of his association with China, President Bush tended to have a firm belief in the correctness of his China policy. At a time when various domestic constituencies and Congress were intent on punishing China through the leverage provided by MFN, Bush was determined to move U.S. foreign policy away from these myopic views to one aimed at preserving long-term U.S. political and economic interests in China. Due to his strong views of U.S. China policy, Bush committed his resources and worked in a variety of ways to defeat Congress' legislative attempt. Presidential readiness to defend his China policy contributed to the confrontational interactive process during the Bush administration, particularly in 1992. It also explains why Bush largely attained his goals in the face of strong legislative opposition. Indeed, through the use of administrative measures, both Bush and Clinton have incorporated and partly satisfied some of the congressional demands, thereby avoiding legislated IPR conditions and retaining the executive control over MFN-IPR in the 1991-1993 period.

The party competition going on between the executive and the legislative branches can also significantly influence the interbranch policy process. The party-competition dynamic fueled the institutional struggle in 1992, leading to an interbranch process that was highly confrontational and conflictual. In 1993, however, it helped to lessen the tension between the two institutions, enabling the executive to restore a policy consensus and mould different institutional interests into a compromise policy through a process of consultation and negotiation. The pattern of interbranch process could therefore be influenced by the issue of electoral competition. At times, these two sets of influence became so intermingled that it is difficult to distinguish one from the other. The interbranch politics model, based on the rivalry between two institutions of policymaking, therefore has some major analytical difficulty sorting out the compounding influence of party and electoral competition.

As mentioned earlier, the main purpose of this study is to identify the factors that could best explain U.S. policy of conditioning China's MFN status on its intellectual property protection from 1991 to 1993. The above analysis reveals that that it is most useful to combine the strategic approach with an approach stressing domestic political

processes in studying U.S. policy of conditioning China's MFN status on its intellectual property rights protection from 1991 to 1993. (See Figure I) The strategic approach provides a global context in identifying U.S. policy goals with regard to China. The domestic political process leads us to see how foreign policy goals and other political interests are translated into final policies.

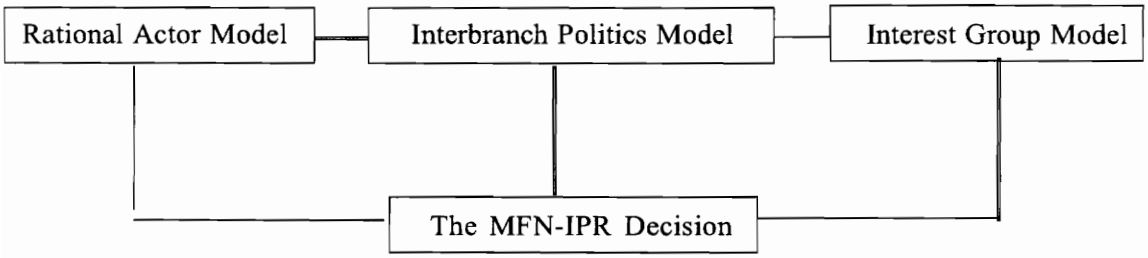

Figure I: Decisionmaking on MFN-IPR

The three models provide three different analytical tools in studying U.S. foreign economic policymaking. They focus on different aspects of decisionmaking, such as China policy goals, institutional preferences and priorities, the roles of individual decisionmakers, societal interests, and policy process. However, these models are not mutually exclusive; rather, they complement each other in explaining U.S. decisionmaking during this period. In other words, the three models explain the MFN policy both independently of one another and jointly with one another. First, national interests may not be differently defined by each model. In other words, there are some shared views as to what U.S. national interests are involved in China policymaking. The three models do not necessarily reject the notion that U.S. national interests were served by developing U.S.-China relations. Second, the three models embrace policy processes in which interest groups, Congress, and the foreign policy executive may influence one another on the MFN decision.

In addition, the three models also overlap with one another in a number of ways. First, governments as rational actors may influence Congress on the MFN decision. This is demonstrated by the Hong Kong authority and the Chinese government's attempt to lobby Senators to vote in favor of unconditional MFN. In this sense, the rational actor model overlaps with the interest group model. Second, to the extent that congressional action was at least partly influenced by interest groups, the interest group model overlaps

with the interbranch politics model. Third, since the interests of the majority of the business community increasingly converge with the rational calculations of the administration in the economic sphere, the interest group model again overlaps with the rational actor model. This congruence of interests also influenced the ways in which the executive reacted to congressional initiatives and hence the interbranch policy process. Finally, in this study, the executive branch is used as the embodiment of the rational actor. This part of the explanation overlaps with the interbranch politics explanation.

In examining the process of the MFN decisionmaking, some ad hoc factors are found to be important in explaining U.S. policy, apart from the three models. Above all, the strength of the President's party in the legislature can be extremely important in affecting policy outcomes. Whether the executive and legislative branches of the government are controlled by the same political party significantly influences the nature of the relationship between the two branches, and hence the policy process and the outcome. With the two governmental branches at odds, the legislature had some fundamental disagreement with the executive over U.S. approaches to MFN. Such an interbranch fissure could be further complicated by U.S. domestic politics of congressional and presidential elections. This requires the executive to be more firm and determined in engaging the legislature to reach a policy solution. The interbranch politics process can also become more confrontational and conflictual because of this. With the arrival of a Democratic President, a policy consensus was gradually restored on U.S. China policy. This Congress-White House entente significantly influenced congressional behavior, resulting in a more consensual form of policymaking.

Second, U.S. policymakers' perceptions of China factors are also important in the making of the MFN policy. Policymakers' perceptions of China's possible reactions to U.S. MFN policy affect their policy positions, especially in the bargaining process between the executive and Congress. The executive usually is more sensitive in perceiving China's reaction to certain U.S. policy moves, therefore making it more likely for the executive to effectively engage Congress in bargaining out differences in the interbranch politics process. In all three cases, the executive opposed legislated MFN because it perceived that China would regard legislated MFN conditions as unacceptable and was also likely to adopt retaliatory measures to oppose such a policy. This would significantly downgrade Sino-American relations and damage the bilateral ties the executive had tried to cultivate with the Chinese over the past years.

Third, important international events can affect policymakers' perceptions and

positions in the decisionmaking process, thereby influencing the policy outcome. For instance, the role the Chinese played in the Gulf War and the fact that North Korea had opted out of the NPT in 1993 enhanced the executive's perception that the U.S. needs to continually engage the Chinese in the post-Cold War international security arrangement, prompting Bush to more vehemently defend China's MFN status and Clinton to reverse his campaign positions more dramatically.

Two points perhaps can be drawn from this exercise of U.S. MFN policymaking. First, U.S. policy of conditioning China's MFN status on intellectual property protection reflects the importance of U.S. political institutions, public opinion, political and cultural values, and strategic interests. It is inadequate to assume that the making of U.S. policy toward China is always guided by strategic considerations and that Congress and societal groups have no important impact on the policy outcome. Strategy is a significant but not exclusive factor in the conduct of U.S. China policy. Any attempt to reduce the complexity of U.S. China policymaking to the mere assertion of balance of power would only result in miscalculation of policy intentions and misunderstanding of policy outcomes.

Second, to the extent that the scope of U.S. China policymaking has expanded to incorporate a wide variety of interests and objectives, we would expect that the major political cleavage on many China-related issues in the future will be between the foreign policy element of the state and the representative element of the state -- the Congress. Moreover, rising congressional foreign policy activism against the backdrop of a radically changed international environment also promises a new tug of war between the executive and legislative branches in the realm of foreign policymaking. It is highly likely that many future China policies will evolve out of this interactive policy process between the two branches and come to bear a strong congressional imprint. Two recent U.S. moves could perhaps testify to this point. One is that the U.S. has recently reversed its prior position on Taiwan to allow President Lee Tung-hui to visit the U.S. in a private capacity. The other concerns the fact that Congress is working on a bill that would force the Clinton Administration to acknowledge Tibet as an "occupied sovereign country". This would increasingly require us to look into the interbranch policy process in which two governmental institutions with substantially different interests, predispositions, and priorities interact and influence each other to shape China policy outcomes.

Notes

1.Qingshan Tan, *The Making of U.S. China Policy*, p.145.

2.Ibid.

3 . For example, Real P. Lavergne in *The Political Economy of U.S. Tariffs* (New York: Academic Press, 1983) and Robert E. Baldwin in *The Political Economy of U.S. Import Policy* (Cambridge, MIT Press, 1985) both argued that we must also examine the "principled behavior" of the state to provide a more complete explanation. David A. Lake in "The State and American Trade Strategy in the Pre-hegemonic Era" made a similar argument.

BIBLIOGRAPHY

Books

Allison, Graham T. *Essence of Decision: Explaining the Cuban Missile Crisis.* Boston: Little, Brown and Company, 1971.

Baldwin, Robert E. *The Political Economy of U.S. Import Policy.* Cambridge: MIT Press, 1985.

Bauer, Raymond, Ithiel De Sola Pool, and Lewis Anthony Dexter. *American Business and Public Policy.* Chicago: Aldine-Atherton, 1972.

Dahl, Robert. *Congress and Foreign Policy.* New York: Norton, 1950.

_____. *Who Governs?* New Haven: Yale University Press, 1963.

Destler, I.M. *American Trade Politics: System Under Stress.* Washington, D.C.: Institute for International Economics, 1986.

Domes, Jurgen, Chen Qimao et al. *After Tiananmen Square: Challenges for the Chinese-American Relationship.* Washington, D.C.: Brassey's (US), Inc., 1990.

Evans, Peter B., Harold K. Jacobson, and Robert D. Putnam, eds. *Double-Edged Diplomacy: International Bargaining and Domestic Politics.* Berkeley: University of California Press, 1993.

Gourevitch, Peter. *Politics in Hard Times: Comparative Responses to International Economic Crises.* Ithaca: Cornell University Press, 1986.

Harding, Harry. *A Fragile Relationship: The United States and China Since 1972.* Washington, D.C.: The Brookings Institution, 1992.

Ikenberry, John G., David A. Lake, and Michael Mastanduno. *The State and American Foreign Economic Policy.* Ithaca: Cornell University Press, 1988.

Katzenstein, Peter J., ed. *Between Power and Plenty: Foreign Economic Policies of Advanced Industrial States.* Madison: The University of Wisconsin Press, 1978.

Keohane, Robert and Joseph Nye. *Power and Interdependence: World Politics in Transition.* Boston: Little, Brown, and Company, 1977.

Krasner, Stephen D. *Defending the National Interest: Raw Materials Investments and U.S. Foreign Policy.* Princeton, N.J: Princeton University Press, 1978.

Lawson, Eugene K., ed. *U.S.-China Trade: Problems and Prospects.* New York: Praeger Publishers, 1988.

Maass, Arthur. *Congress and the Common Good.* New York: Basic Books, 1983. Muskie S. Edmund, Kenneth Rush, and Kenneth W. Thompson, eds. *The President, the Congress and Foreign Policy.* Lanham: University Press of America, 1986.

Oye, Kenneth A., Robert J. Lieber, and Ronald Rothchild, eds. *Eagle in a New World American Grand Strategy in the Post-Cold War Era.* New York: Harper Collins Publishers, 1992.

Pastor, Robert A. *Congress and the Politics of U.S. Foreign Economic Policy 1929-1976.* Berkeley: University of California Press, 1980.

Ripley, Randall B., and James M. Lindsay, eds. *Congress Resurgent: Foreign and Defense Policy on Capitol Hill.* Ann Arbor: University of Michigan Press, 1993.

Robinson, James A. *Congress and Foreign Policy Making: A Study in Legislative Influence and Initiative, rev. ed.* Homewood, Ill.: Dorsey Press, 1967.

Schattschneider, E. E. *Politics, Pressures, and the Tariff.*

Tan, Qingshan. *The Making of U.S. China Policy: From Normalization to the Post-Cold War Era.* Boulder & London: Lynne Riennder Publishers, 1992.

Tow, William T. *Building Sino-American Relations: An Analysis for the 1990s.* New York: Paragon House, 1991.

Truman, David. *The Governmental Process: Political Interests and Public Opinion.* New York: Knopf, 1951.

Waltz, Kenneth N. *Theory of International Politics.* Reading, Mass.: Addison-Wesley, 1979.

Articles in Journals, Magazines and Books

Awanohara, Susumu. "Breathing Space: Clinton Delays on Conditions to China's MFN Renewal." *Far Eastern Economic Review* (June 1993): 13.

_____. "China Consensus: Clinton and Congress Converge on MFN Issue." *Far Eastern Economic Review* (April 2, 1993): 13.

_____. "Falling from Favour: U.S. At Odds With China Over Trade, Human Rights." *Far Eastern Economic Review* 152, no. 18 (May 8, 1991): 10-11.

"The Battle of Beijing Is About To Begin: In Congress." *Business Week* no. 3160 (May 21, 1990): 56-57.

Baucus, Max. "Commentary: Developing a China Policy." *China Business Review* (March-April 1992): 12-13.

Brecher, Richard. "Comprehensive Engagement: Clinton's New China Policy." *China Business Review* (January-February 1994): 6-8.

"The Case for China's MFN Status." *China Business Review* (July-August 1992): 12-13.

Chen, Jinwu, and Guohua Lang. "China Attaches Great Importance to Protecting Intellectual Property Rights." *Beijing Review* (Februaray 17-13, 1992): 31-32.

Cheung, Tai Ming, and Susumu Awanohara. "Having It Both Ways." *Far Eastern Economic Review* 153, no. 32 (August 8, 1991): 32-34.

"China Fever Strikes Again." *Business Week* (March 29, 1993): 46-47.

"China's MFN Renewal: U.S. Domestic Politics Are Determining Factor." *Business China* 17, no. 10 (May 27, 1991): 78-79.

"China Protects Intellectual Property." *Beijing Review* (April 29-May 5, 1991): 43.

"Commentary: The Case for China's MFN Status." *China Business Review* (July-August 1992): 14-17.

Cooper, Richard N. "China and MFN." *NBR Analysis* 5, no. 1 (July 1994): 17-29.

"Copyright Concerns," *Far Eastern Economic Review* 19, no. 4 (July-August, 1992): p.7.

Dumbaugh, Kerry. "The Making of China Policy Since Tiananmen: Can Congress and the Bush Administration Reach A New Consensus?" *China Business Review* (January-February 1992): 16-19.

Fairclough, Gordon. "The Next Salvo." *Far Eastern Economic Review* 154, no. 49 (December 5, 1991): 64.

"Foreign Firms Optimistic About China's Progress on Intellectual Property Rights." *Business China* 17, no. 19 (October 14, 1991): 150-151.

Geng, Yuxin. "Protection of Intellectual Property Rights." *Beijing Review* (August 29-September 4, 1991): 4.

Goldberg, Morton D., and Jesse M. Feder. "China's Intellectual Property Legislation: New Copyright Regulations Leaves Much To Be Desired." *China Business Review* (September-October 1991): 8-11.

Goldstein, Carl, and Susuma Awanohara. "Warning Shot: U.S. Publishes Hit List of Chinese Goods." *Far Eatern Economic Review* 155, no. 35 (September 3, 1992): 61.

Gourevitch, Peter. "International Trade, Domestic Coalitions, and Liberty: Comparative Responses to the Crisis of 1873-1896." *Journal of Interdisciplinary History* 8 (Autumn 1977).

Hendry, Sandy. "Limited Protection: Peking's Moves On Copyright Fail To Satisfy U.S." *Far Eastern Economic Review* 153, no. 29 (July 18, 1991): 61-62.

Huang, Wei. "Burgeoning Patent Industry in China." *Beijing Review* (December 3-9, 1990): 19-23.

Kamm, John. "Why the U.S. Needs China Trade." *Far Eastern Economic Review* 148, no. 21 (May 24, 1990): 66.

Kan, Shirley. "Clinton's China Syndrome." *Far Eastern Economic Review* 156, no. 26 (July 1, 1993): 23.

Kaye, Lincoln, and Susumu Awanohara. "U.S. and China Narrowly Avert Trade War." *Far Eastern Economic Review* 155, no. 4 (January 30, 1992): 37-38.

_____. "Punches Pulled: China, U.S. forgo a 301 Knockdown." *Far Eastern Economic Review* 155, no. 42 (October 22, 1992): 56-57.

_____ , and Gordon Fairclough. "Peking Concedes Little in Talks with Baker." *Far Eastern Economic Review* 154, no. 48 (November 28, 1991): 11-13.

Lardy, Nicholas R. "MFN Denial: The Economic Consequences." *NBR Analysis* 5, no. 1 (July 1994): 25-29.

"Limited Protection," *Far Eastern Economic Review* 153, no. 29 (July 18, 1991): 61-62.

MacFaquhar, Emily. "On the Defensive: As Washington Debates Whether to Get Tought, China Braces Itself." *U.S. New & World Report* 110, no. 20 (May 27, 1991): 37-42.

"The MFN Issue: Who Stands to Lose if the U.S. Rescinds?" *Business China* 16, no. 10 (May 28, 1990): 73-75.

"MFN: Sorting Out the Issues." *China Business Review* (July-August, 1991): 12-13.

"Patent Reforms Benefit Drug Firms." *Business China* (June 28, 1993): 5-6.

"President Clinton's Announcement." *NBR Analysis* 15, no. 1 (July 1994): 35-36.

"PRC Copyright Rules Leave Many Questions Without Answers." *Business China* 17, no. 15 (August 12, 1991): 116-117.

"PRC Software Rules Offer Dubious Relief From Piracy's Bite." *Business China* 17, no. 13 (July 15, 1991): 97-99.

"PRC-US Trade Update: Intensity of MFN Battle Tied To Gulf Outcome." *Business China* 17, no. 2 (January 28, 1991): 9-11.

"Protecting Intellectual Property Rights." *Beijing Review* (May 27-June 2, 1991): 30-32.

Qiao, Dexi. "A Survey of Intellectual Property Issues in China-U.S. Trade Negotiations Under the Special 301 Provisions." *Pacific Rim Law and Policy Journal* 2, no. 2 (Summer 1993): 259-288.

"Remarkable Progress Made in China's Intellectual Property Rights Protection." *Beijing Review* (June 24-30, 1991): 32-33.

Ross, Robert S. "American China Policy and the Security of Asia." *NBR Analysis* 1, no. 3 (December 1990): 24-32.

Schloss, Peter A. "China's Long-Awaited Copyright Law: Numerous Problems May Undermine the Effectiveness of this Landmark Legislation." *China Business Review* (September-October 1990): 24-28.

Simone, Joseph T. "Improving Intellectual Property: The Recent Sino-U.S. Accord Should Boost Commerce in Certain Sectors." *China Business Review* (March-April 1992): 9-11.

"Status Quo, No!" *Far Eastern Economic Review* 152, no. 22 (May 30, 1991): 18-19.

"Steps to Protect Intellectual Property." *Beijing Review* (May 9-15, 1992): 10.

Sullivan, Roger W. "Letter from the President." *China Business Review* (May-June 1990): 24-28.

Sutter, Robert G. "American Policy Toward Beijing, 1989-1990: The Role of President Bush and the White House Staff," *Journal of Northeast Asian Studies* (Winter 1990): 3-14.

_____. "The Crisis in U.S.-China Policy, 1991: The Role of Congress." *Journal of Northeast Asian* Studies (Winter 1991): 3-23.

Tan, Qingshan. "The Politics of U.S. Most-Favored-Nation Treatment to China: The Cases of 1979 and 1990." *Journal of Northeast Asian Studies* 9 (Spring 1990): 41-59.

"US Hits at Alleged Protectionism in Asia." *Far Eastern Economic Review* 152, no. 19 (May 9, 1991): 54.

"US-PRC Update: USTR Takes Tough Stand on China's IPR Abuses." *Business China* 17, no. 9, (May 13, 1991): 30-32.

"Will China Remain a Most-Favored Dictatorship?" *Business Week* (July 29, 1991): 38.

"Will China Scuttle Its Pirates?" *Business Week* (August 15, 1994): 40-41.

"Will Congress Shanghai China Policy?" *Business Week* (February 22, 1993): 59.

"Yankee Traders Breathe A Sigh of Relief." *Business Week* (February 3, 1992): 39-42.

Zoellick, Robert B. "Clinton's China Card." *NBR Analysis* 15, no. 1 (July 1994): 33-34.

Zhou, Xiaolin. "U.S.-China Trade Dispute and China's Intellectual Property Rights Protection." *New York University Journal of International Law and Politics* 24, no.3, 1992: 1115-1129.

Articles in Newspapers

Auerbach, Stuart. "China, U.S. Reach Trade Accord." *Washington Post*, January 17, 1992, p.A24.

Bangsberg, P.T. "US Software Group Reports Raids On China's Sellers of Pirate Programs." *Journal of Commerce and Commercial*, June 29, 1994, p.7A.

Behr, Peter. "U.S. Businesses Waged Year-Long Lobbying Effort on China Trade." *Washington Post*, May 27, 1994, p.A28.

"China Lifts Spending to Retain U.S. Trade Status." *New York Times*, May 7, 1993, p. D2.

Cole, Jeff. "Boeing Officials Fear U.S. Trade Actions May Hurt Jet Sales." *Wall Street Journal,* March 4, 1993, p. A3.

Faison, Seth. "In U.S., Hong Kong Governor Backs China, His Tormentor." *New York Times,* May 9, 1993, Sec. L, p.12.

Kaslow, Amy. "President Urges Renewal of China's Top Trade Status." *Christian Science Monitor*, May 28, 1993, p.4.

Keatley, Robert. "U.S. Firms, Anticipating Huge Market, Worry China May Lose Its MFN Status." *Wall Street Journal*, may 7, 1993, p.B8B.

Locin, Mitchell. "Trade Chief Hints China's Trade Status with U.S. May not Change in '93." *Chicago Tribune*, May 21, 1993, Sec. 1, p.6.

Mann, Jim. "U.S. Firms Lobby for China Trade Benefits." *Los Angeles Times*, July 15, 1991, p.A3.

McGregor, James. "Talks on China's Trade Status Begin, Made Tricker by Human-Rights Issues." *Wall Street Journal*, May 12, 1993, p. A11.

"The New China Debate." *Washington Post*, May 30, 1993, p.C6.

Oberdorfer, Don, and Ann Devroy. "Bush Seeks to Renew China Trade Status." *Washington Post*, May 16, 1991, p.A1.

Oberdorfer, Don. "President Plans Major Push on Renewal of Trade Status for China." *Washington Post*, May 29, 1991, A. 23.

Southerland, Daniel. "China Purchases Nearly $1 Billion in U.S. Goods." *Washington Post*, April 14, 1993, p. A 23.

Sun, Lena H. "China Warns U.S. Against Ending MFN." *Washington Post*, June 26, 1991, p.A9.

Walters, Donna K.H. "Firms Unshaken by U.S. Terms for China." *Los Angeles Times*, June 7, 1993, p. D3.

Weymouth, Lally. "Thinking Out a China Policy." *Washington Post,* April 12, 1993, p.A19.

Government Documents

"Bill Links China's MFN Status To Human Rights Progress." *Congressional Quarterly Weekly Report* 48, no. 28 (July 14, 1990): 2200-2201.

"Bill To Limit China Trade Not Completed. " *Congressional Quarterly Almanac* 47, 1991: 121-125.

"Bush, Democrats Renew Battle Over MFN Status for China." *Congressional Quarterly Weekly Report* 50, no. 23 (June 6, 1992): 1594-1595.

Bush, George. "Message to the House of Representatives Returning Without Approval the United-States-China Act of 1991." *Weekly Compilation of Presidential Documents* 28 (March 2, 1992): 386.

_____. "Message to the House of Representatives Returning Without Approval the United States-China Act of 1992." *Weekly Compilation of Presidential Documents* 28 (September 28): 1794-1795.

"Bush Says China MFN Status Will Be Catalyst for Change." *Congressional Quarterly Weekly Report* 49, no. 22 (June 1, 1991): 1459-1460.

"China MFN Bill Going Nowhere As Adjournment Approaches." *Congressional Quarterly Weekly Report* 49, no. 46 (November 16, 1991): 3366.

"China MFN Bill Stalls in House." *Congressional Quarterly Weekly Report* 48, no. 40 (October 6, 1990): 3203.

"China MFN Vote Falls Short of Veto-Proof Margin." *Congressional Quarterly Weekly Report* 49, no. 30 (July 27, 1991): 2053-2056.

"China: Most-Favored-Nation Status." *U.S. Department of State Dispatch* 4, no. 24 (June 14, 1993):425-428.

"China Trade Status Tied To Human Rights Record." *Congressional Quarterly Almanac* 49, 1993: 184.

"Christopher Weighs In on China, Empty Embassy in Moscow." *Congressional Quarterly Weekly Report* 51, no. 11 (March 13, 1993): 622.

"Efforts at Hard Line on China Thwarted." *Congressional Quarterly Almanac 46*, 1990: 764-768.

"House Attaches Conditions To MFN Status for China." *Congressional Quarterly Weekly Report* 49, no. 28 (July 13, 1991): 1880.

"House OKs Override of China MFN." *Congressional Quarterly Weekly Report* 50, no. 11 (March 14, 1992): 608.

"House Tries Again to Restrict MFN Status for China." *Congressional Quarterly Weekly Report* 50, no. 30 (July 25, 1992): 2160.

Kantor, Arnold. "U.S. Policy Objectives and MFN Status for China: Statement before the Subcommittee on Trade of the House Ways and Means Committee, Washington, D.C., June 29, 1992." *U.S. Department of State Dispatch* 3, no. 27 (July 6, 1992): 551-554.

Kantor, Mickey. "U.S. Trade Policy and the Post-Cold War World: Statement before the Senate Finance Committee, Washington, D.C., March 9, 1993." *U.S. Department of State Disptach* 4, no. 9 (March 15, 1993): 143-148.

"Mitchell Struggling for Votes To Restrict MFN for China." *Congressional Quarterly Weekly Report* 49, no. 29 (July 20, 1991): 1971-1972.

"President Extends Most-Favored-Nation Trade Status for China: Excerpts from President Bush's press conference, May 24, 1990." *Foreign Policy Bulletin* 1, no. 1 (July-August, 1990): 60-61.

"Senate Clears China MFN Bill; Bush Has Promised Veto." *Congressional Quarterly Weekly Report* 50, no. 9 (February 29, 1992): 460.

"Senate Rejects MFN Override." Congressional Quarterly Weekly Report 50, no. 39 (October 3, 1992): 3027.

"Sentiment Grows in Congress To Reject MFN for China." *Congressional Quarterly Weekly Report* 49, no. 17 (April 27, 1991): 1044-1046.

Solomon, Richard H. "U.S. Relations with East Asia and the Pacific: A New Era." *U.S. Department of State Dispatch* 2, no. 21 (May 27, 1991).

"Trade and Foreign Policy: The Ties That Bind." *Congressional Quarterly Weekly Report* 48, no. 23 (June 9, 1990): 1773-1775.

"Two Bills Limiting Trade with China Vetoed." *Congressional Quarterly Almanac* 48, 1992: 157-161.

U.S. Congress. House. Committee on Foreign Affairs. *Future of United States-China Policy: Joint Hearings Before the Subcommittees on Economic Policy, Trade and Environment; International Security, International Organizations and Human Rights; and Asia and the Pacific*. 103rd Cong., 2nd sess., May 20, 1993.

U.S. Congress. House. Committee on Foreign Affairs. *Most Favored Nation Status for the People's Republic of China: Joint Hearing Before the Subcommittee on Human Rights and Internaitonal Organization; Asian and Pacific Affairs; and International Economic Policy and Trade*. 102nd Cong., 1st sess., May 29, 1991.

U.S. Congress. House. Committee on Foreign Affairs. *Renewal of MFN Trading Status for the People's Republic of China: Hearing and Markup Before the Committee on Foreign Affairs*. 102nd Cong., 1st sess., on H. Con. Res. 174, June 26, 1991.

U.S. Congress. House. Committee on Foreign Affairs. *United States Policy Toward China:Hearing Before the Committee on Foreign Affairs*. 101st Cong., 2nd Sess., February 8, 1990.

U.S. Congress. House. *Disapproval of Extension of Most-Favored-Nation Treatment to the Products of the People's Republic of China, House Report 102-632* (Washington, D.C.: Government Printing Office, 1991).

U.S. Congress. House. Subcommittee on Trade of the Committee on Ways and Means. *Additional Requirements on the extension of China's Most-Favored-Nation Trade Status in 1993: Hearing Before the Subcommittee on Trade of the Committee on Ways and Means*. 102nd Cong., 2nd Sess., on HR 5318, June 29, 1992.

U.S. Congress. House. Subcommittee on Trade of the Committee on Ways and Means. *United States-People's Republic of China (PRC) Trade Relations, Including Most-Favored-Nation Trade*

Status for the PRC: Hearing Before the Subcommittee on Trade of the Committee on Ways and Means. 102nd Cong., 1st Sess., June 19 and 21, 1991.

U.S. Congress. Senate. Committee on Finance. *China's Most-Favored-Nation Status: Hearing Before the Committee on Finance*. 102nd Cong., 1st Sess., June 19 and 20, 1991.

U.S. Congress. Senate. Committee on Finance. *Extending China's MFN Status: Hearing Before the Committee on Finance*. 102nd Cong., 2nd sess., on S. 2808 and HR 5318, July 3, 1992.

U.S. Congress. Senate. Committee on Finance. *Extending Most-Favored-nation Status for China: Hearing Before the Committee on Finance*, 101st Cong., 2nd Sess., June 20 1990.

U.S. Department of State. "US Extends Most-Favored-Nation Status to China: White House Statement, Letter to Congress, Report to Congress." *U.S. Department of State Dispatch* (June 8, 1992): 452-454.

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