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# Introduction

There are only two types of people today, those who are talking about China and those who are not.

*Former WTO Director-General Mike Moore, 2004<sup>1</sup>*

The rise of China has thrown open many important and interesting questions: Will a strong China behave responsibly in world affairs, complying with the rules and norms of the “international community”? Or will it defy “universal standards”, and fight instead for its own interests and those of the developing world, thereby posing a serious challenge to the global order dominated by the West?

This book takes a look at China’s responsibility in world affairs by scrutinising its compliance with international rules and norms, embodied in the treaties that it has signed or ratified, especially in the areas of trade, arms control and disarmament, the protection of the environment, and human rights. The book examines China’s compliance within the context of Sino-United States relations, as the US is heavily involved in monitoring China’s compliance behaviour in world affairs.

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<sup>1</sup> Mike Moore, former Prime Minister of New Zealand and former Director-General of the World Trade Organisation, *South China Morning Post*, 9 December 2004, p. A19.

Compliance is central to the long-term sustainability of a state's international obligations. Yet not much research has been done on the concept of compliance in international studies, much less on its impact on state behaviour, in view of the growing volume of international relations literature. There is close to nothing written on China's compliance in a comprehensive manner, despite China's growing importance in the global political economy. Two slight exceptions to this phenomenon are the works of Ann Kent and Wendy Frieman. Kent published in 1999 a judicious account of the limits of compliance in China's participation in United Nations human rights regimes in a book entitled *China, the United Nations, and human rights*.<sup>2</sup> It has remained the standard in this specific area of study, although new developments may warrant a thorough update. Similarly, Frieman published in 2004 a book entitled *China, arms control, and non-proliferation*,<sup>3</sup> giving a fairly up-to-date and pleasantly candid and balanced account of China's compliance behaviour, among other things. I draw some useful insights from this book to form the basis of some of my own analyses in Chapter 5 on arms control. Apart from these two books, there are other book-length treatments and journal articles which discuss one or more of the four issue areas covered in this book. However, they do not dwell specifically on the issue of compliance. For example, Elizabeth Economy's many writings on China's environment, including her book entitled *The river runs black*,<sup>4</sup> published in 2004, provide some stimulating thoughts. Also, books with chapters covering some of the issue areas discussed in this book include those written by Andrew Nathan and Robert Ross,<sup>5</sup> Iain Johnston and

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<sup>2</sup> Ann Kent, *China, the United Nations, and human rights: the limits of compliance* (Philadelphia: University of Pennsylvania Press, 1999).

<sup>3</sup> Wendy Frieman, *China, arms control, and non-proliferation* (London and New York: RoutledgeCurzon, 2004).

<sup>4</sup> Elizabeth Economy, *The river runs black: the environmental challenge to China's future* (Ithaca and London: Cornell University Press, 2004).

<sup>5</sup> Andrew Nathan and Robert Ross, *The Great Wall and the empty fortress* (New York and London: W.W. Norton & Co., 1997).

Robert Ross,<sup>6</sup> Elizabeth Economy and Michel Oksenberg,<sup>7</sup> David Lampton,<sup>8</sup> and others.

This book is likely to be the first of its kind to take on as its central theme China's rule compliance in international relations covering the four crucial areas of trade, arms control, environmental protection, and human rights by a single author. It will be of interest to graduate students and specialists in contemporary Chinese affairs, international relations and law, world trade, security and strategic studies, environmental studies, and the studies of human rights.

How can we assess China's responsibility in global affairs? This question begs a close examination of China itself: it is the largest developing country in the world, currently undergoing a difficult transition from a socialist party-state to embrace a market-orientated economy. It is a country with a long history and civilisation, in an arduous process of integrating itself with the established global political-economic order largely designed, nurtured, and controlled by the liberal-democratic West. The stark contrast between China's worldview as an underdog in this global order and that of the West as the top dog can hardly be underestimated when assessing China's responsibility and compliance in world affairs.

In this book, I first of all define the terms "responsibility" and "compliance" in global affairs. I then assess China's global compliance by looking at its treaty accession, followed by an assessment of its compliance behaviour in the four specific areas of international affairs: arms control and non-proliferation, trade and economics, human rights, and environmental protection. These four areas represent important issues of security, trade, humanity, and ecology that form the core of international relations today. They also represent important areas of global activities in which China is increasingly

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<sup>6</sup> Alastair Iain Johnston and Robert S. Ross (eds), *Engaging China: the management of an emerging power* (London and New York: Routledge, 1999), chapters 9 and 10.

<sup>7</sup> Elizabeth Economy and Michel Oksenberg (eds), *China joins the world: progress and prospects* (New York: Council on Foreign Relations, 1999).

<sup>8</sup> David M. Lampton (ed), *The making of Chinese foreign and security policy in the era of reform* (Stanford: Stanford University Press, 2001).

involved and in which other major countries in the world, the United States in particular, have a great stake in trying to maintain the status quo. The book concludes by suggesting that China's compliance behaviour in world affairs has shown some marked improvements, but much more work remains to be done if such behaviour is to meet the standards demanded by the West in general and the United States in particular.

In thinking through some of the issues discussed in the book, I have been agonising for some time over whether I should use the phrase "China's international relations" or "Chinese international relations". The former phrase gives the impression that China is a single political entity — the Chinese state in this case — whereas the use of the word "Chinese" in "Chinese international relations" opens up an array of entities to include not only the People's Republic of China (PRC) as a single political unit, but also Chinese thinking, Chinese style, Chinese political philosophy, and much more, apart from other Chinese political actors such as individuals, groups, and local governments. In my usage in the following analysis, the word "China" sometimes carries the wider connotation as to mean things "Chinese".

The book is organised in two parts. Part I, a theoretical part in the main, consists of three chapters. The first, Chapter 1, discusses the idea of responsibility from a Chinese perspective: how China perceives as its responsibility in global affairs. It explores China's understanding of its responsibility based on its national conditions: a huge population; a nuclear power; a permanent member of the UN Security Council; a participant in many international organisations; and a contributor as well as a recipient of foreign aids. Inevitably its recent history leaves an indelible mark on its perception. Chapter 2 defines the concept of responsibility, both from a Chinese perspective and from a Western perspective. It looks into China's participation in international organisations in some details, as a way to show that China's responsibility in global affairs can be seen from, among other things, its participation in the activities of international organisations. Chapter 3 moves from responsibility to compliance, a concept which has its origins in international law, but has now attracted



the attention of an increasing number of political scientists. The chapter explains what is meant by compliance and assesses China's compliance in global affairs by scrutinising its accession to international treaties. This chapter provides an overview of China's involvement in the international treaty system, paving the way for a more detailed analysis of China's compliance in the four issue areas, discussed individually in the four chapters forming Part II.

Chapter 4 in Part II discusses the first case, China's WTO compliance. Potentially the world's largest trading nation, China has become a member of the World Trade Organisation since December 2001, pledging to abide by its rules. The extent to which it is willing to comply, and is capable of complying, with WTO rules has important implications for world trade. The chapter reveals the difficulties faced by China, as a professed responsible rising power, in trying to adjust itself to adhere to the global trading norm. It examines the theory of compliance in international relations from the perspectives of neo-realism, liberal institutionalism, and social constructivism, and tests these theoretical perspectives by examining the mechanisms used to gauge China's compliance, both bilaterally by the United States and multilaterally through the Dispute Settlement Mechanism and the Transition Review Mechanism of the WTO. The result of such an examination is mixed: different opinions exist as to how compliant China has been. On the whole, most monitors agree that China has made a lot of efforts in trying to comply with WTO requirements in various areas, but much more work remains to be done. The most severe tests will come in a few years' time when China's financial and service sectors will have to face fundamental changes to the way they operate.

As a nuclear power, how China behaves in arms control and disarmament will have a significant impact on the global strategic balance of power. Since the 1980s, the US has accused some Chinese entities, many of them state-owned enterprises, of selling weapons of mass destruction or their technologies to "rogue" states such as North Korea, Iran, Libya, and others, including dual-use technologies which have both commercial and military applications. Chapter 5 looks into China's compliance in arms control, disarmament,

and non-proliferation, especially in the areas of weapons of mass destruction: biological, chemical, and nuclear weapons, together with their delivery systems. It gives a historical background to China's nuclear weapon development and its participation in international arms control regimes. China's compliance behaviour in this area is complicated by the apparent move by the US away from multilateralism to unilateralism in arms control and other areas.

As the most populous country on earth with ten per cent of its rare species of flora and fauna, China's environmental practice is of global concern. Already the country is one of the most polluted places on earth. At least seven out of the ten most polluted cities in the world are located in China. It is the second largest producer of greenhouse gases after the United States, inflicting heavy, long-term casualties on its own public health and economic development as well as those of its close neighbours in the Asia-Pacific region. How to strike a right balance between environmental protection and fast economic growth will have an important impact on its modernisation outcome and its international standing. The country began to pay serious attention to environmental problems in the 1970s. Since the adoption of the reform and opening-up policy in the late 1970s, it has signed or ratified many international treaties dealing with environmental issues. By now, it has entered into many major international environmental regimes. Chapter 6 addresses these questions: How compliant is China with respect to commitments it has made, if any, to these regimes? How willing and capable is it in complying with international environmental norms and rules? What does sustainable development mean to China? How do red tape, fear, inexperience, and ignorance affect China's efforts to protect its environment? And how do inter-ministerial wrangling and the growth of green non-governmental organisations in China affect its compliance in environmental affairs?

The issue of China's human rights remains a bone of contention between China and the West. It has a negative spill-over effect on other issues and other aspects of China's bilateral relations with Western countries. China's views on human rights are at odds with those of the West. It stresses the importance of relativism, economic

rights and developmental rights, in contrast to the West's emphasis on universal, civil, and political rights. It argues that the observance of human rights should take into account different stages of development of individual societies. Despite these and other differences, China none the less moves closer to embrace the universality of rights and has started to engage in numerous human rights dialogues with other countries. After a brief introduction to the growth of human rights awareness in the contemporary world and in China, Chapter 7 gives a background to the divergent views on human rights between China and the West. This introduction and background pave the way for a discussion of China's engagement with international human rights regimes, focusing on China's compliance or otherwise with the rules and norms embodied in those regimes. The chapter analyses China's bilateral human rights relations with the outside world, particularly with the US and the EU. It also takes stock of what China has done so far to further its human rights discourse.

The concluding chapter brings together the findings of previous ones and compares China's compliance behaviour across the four issue areas. China's overall compliance behaviour seems to be satisfactory, although a lot of work needs to be done in order to improve its compliance record and to meet the standards demanded by the West, especially by the United States. China's ability to make improvements depends on, among other things, its ability to tackle its many domestic problems.

The overall thrust of this book is to examine what China has done so far to comply with the treaties it has entered into in the four issue areas, including the submission of progress reports to relevant multilateral institutions, cooperation with outside inspection and scrutiny, the passing of domestic legislation to fall in line with international standards, and the setting up of institutions and procedures to cope with the required changes under its treaty obligations. Given the different nature of these four issues and the different priorities attached to them by different countries and organisations, the treatment of China's compliance behaviour in these areas will be somewhat uneven.



Central to any analysis of the compliance behaviour of a state are several basic questions: Who sets the rules and standards of global compliance? What are the mechanisms available to states and multilateral institutions to ensure state compliance? Who controls those mechanisms? And how fair and just are the rules and standards?

This book does not pretend to hold all the answers to the questions posed in this Introduction, but by offering a wholesome analysis of an area of growing importance and interest, I hope to be able to chart some of the main features in the field and to indicate some directions for future research. In the final analysis, this study aims to find out if China's compliance behaviour has anything to inform us or help us to improve our understanding of international relations in a globalised world.

Throughout the book, Chinese and Japanese personal names are presented with their surnames first, followed by their given names. The currencies cited are in US dollars unless otherwise stated.



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Chapter

1

# The Idea of Responsibility: China Looking Inside Out

China could well be the second-largest, if not the largest, trading nation in the world, with greater weight and voice in international affairs. This is one vision of China in 50 years — modern, confident, and *responsible*.

*Minister Mentor Lee Kuan Yew of Singapore<sup>1</sup>*

Is China a responsible state in international society? This is an increasingly interesting and useful question, as China grows strong and as it plays an increasingly greater role in world affairs. To answer the question, it would be appropriate to consider first the following basic questions:

- What is meant by responsibility?
- How to assess the responsibility of a state?
- What is China's responsibility?
- To whom is China responsible?

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<sup>1</sup> Quoted in Laurence J. Brahm, *China's century: the awakening of the next economic powerhouse* (Singapore: John Wiley & Sons (Asia) Pte Ltd., 2001), back jacket. Emphasis mine.

- What international society are we talking about?
- Why raise the issue of China's responsibility now?

## WHAT IS MEANT BY RESPONSIBILITY?

According to *The concise Oxford dictionary*, the word "responsible" means:

1. liable to be called to account (to a person or for a thing);
2. morally accountable for one's actions; capable of rational conduct; and
3. of good credit, position, or repute; respectable; evidently trustworthy.

Seemingly the word "responsible" or "responsibility" carries legal, moral, as well as social connotations, and since legal, moral, and social standards vary across cultures, to a greater or lesser extent, the concept of responsibility would inevitably be laden with value judgements: responsibility refers to something ethical or desirable.

The word "responsibility" comes from the Latin word *respondeo*, meaning "I answer".<sup>2</sup> It is synonymous to answerability and accountability.<sup>3</sup> Its equivalent in Chinese is *zeren*. The first character, *ze*, carries a sense of burden, and the second character, *ren*, carries that of duty. In traditional China, duties and burdens are handed down or assigned by superiors and elders to their juniors and the young in a hierarchically-structured society. Duties and burdens also come with certain social and occupational positions within a family or in the wider community. There are certain duties that one is expected to perform and burdens that one has to shoulder. In other words, there are things that an individual, as a member of a family or community, *ought* to do. This word *ought* carries a

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<sup>2</sup> L.R. Lucas, *Responsibility* (Oxford: Clarendon Press, 1993), p. 5, cited in Toni Erskine (ed), *Can institutions have responsibility? Collective moral agency and international relations* (Basingstoke: Palgrave Macmillan, 2003).

<sup>3</sup> Andrew Heywood, *Key concepts in politics* (New York: St. Martin's Press, 2000), p. 145.

moral conviction rather than a legal obligation. It has a strong ethical underpinning nurtured by centuries of culture and tradition.

Indeed morality plays an important part in Chinese foreign-policy behaviour, depending on the time and the circumstances in which events take place. As Shih Chih-yu has skilfully argued, Chinese leaders often "present themselves as the supreme moral rectifiers of the world order".<sup>4</sup> He gives the following examples in international politics during the Cold War to support his argument:<sup>5</sup>

- China's policy towards the Soviet Union was aimed primarily at shaming the Soviets for their betrayal of socialism;
- Its United States policy demonstrates China's anti-imperialist integrity;
- Its Japan policy blames the Japanese for a failed Asiatic brotherhood; and
- Its Third World policy is intended to be a model for emulation.

To the traditional Chinese mind, responsibility flows from something that one owes to others. The Chinese leaders today probably think that they owe little or nothing to the outside world or, for that matter, countries in the West. Rather, it is the West that owes them a huge "debt", because Western imperialists exploited China and humiliated the Chinese people for over a hundred years before 1949. Why then should China be responsible to the outside world, or to the West, since it does not owe them anything? On the contrary, it is the West which should be held responsible to China, for what Western powers had done to the country in the past. As a first step, Western countries should refrain from interfering in China's domestic affairs.

Some Western analysts have pointed out that Chinese leaders are using this kind of "victimhood" to drum up domestic support for their policies and to shore up their bargaining position with Western

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<sup>4</sup> Shih Chih-yu, *China's just world: the morality of Chinese foreign policy* (Boulder, CO: Lynne Rienner Publishers, 1993), p. 243.

<sup>5</sup> *Ibid.*

powers by shaming them.<sup>6</sup> Some even suggest that the “culture of shame and humiliation” is a “nationalist myth”.<sup>7</sup> However, to the many Chinese who have suffered enormously, physically or mentally, directly or indirectly, it was and is very real. The fact that the story of Western exploitation of China and the lessons to be learnt from it have been passed on from one generation to another as a painful reminder to the Chinese nation and people does suggest that it is a factor to be taken into account when dealing with China and in assessing its global responsibility.<sup>8</sup>

## HOW TO ASSESS THE RESPONSIBILITY OF A STATE?

One common way to assess the responsibility of a state and hence its credibility is to scrutinise what it does rather than what it says. In other words, a state could be judged by its deeds and its actions. But who is in a position to pass judgement? Is the United Nations' Security Council, or its General Assembly, or its International Court of Justice in a good position to do so? Are countries in the West or those in the East in a better position to do so? Those in the North or in the South? Some powerful states? Or some form of international regimes? How valid are their judgements if they do pass them? We know that there is no complete consensus on these issues among states, not even among a group of like-minded states. We live in a world in which there are little completely accepted principles of international common law, except perhaps the UN Charter. But even some of the fundamental principles of the UN Charter are under

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<sup>6</sup> Steven Goldstein, quoted in CNN news at <http://cnn.com/SPECIALS/1999/china.50/asian.superpower/neighbors/>

<sup>7</sup> Michael Yahuda, “China's foreign relations: the Long March, future uncertain,” *The China Quarterly*, No. 159 (September 1999), p. 652. Ishihara Shintaro, a former right-wing Liberal Democratic Party member of the Diet (Parliament) and currently the Governor of Tokyo, once rejected outright the existence of the Nanjing Incident in 1937 as a fabrication. Ishihara is but one among many extreme right-wing nationalists in Japan.

<sup>8</sup> Chen Jie, “China's Spratly policy,” *Asian Survey*, Vol. 34, No. 10 (October 1994), p. 894.



dispute. For example, member states of the UN are divided as to whether humanitarian intervention should override national sovereignty.<sup>9</sup> Some states choose to follow some rules while breaking others, whether they relate to human rights, trade, or political sovereignty. What is responsible to some may appear to be irresponsible to others. International responsibility is by and large a product of international civic awareness, but is very much grounded in and defined by local cultures and ideologies and is therefore severely contested.<sup>10</sup> If absolute or complete consensus is so difficult to achieve, then perhaps relative or near consensus may be achievable. Very often it is based on some sort of relative or near consensus that a group of like-minded states take collective action to tackle world problems. Sometimes it requires a strong power to take the lead to galvanise or forge a collective action.

To the Chinese mind, the linkage between power and responsibility depends on one's position in a scheme of things. It is utterly important to position oneself properly: only when one's position is properly established and "named" can one behave in a "correct" or righteous way.<sup>11</sup> The idea of *dingwei* or positioning therefore becomes significant in determining one's behaviour. Apart from positioning, the term *dingwei* can also mean the search for a place, the seeking of a proper role, or the going through of a process of negotiation to firm up one's position, thereby enabling one to avoid potential conflicts in the future. Because of the Chinese sense of history and collective memory, it is not inconceivable to assume that the idea of *dingwei* can be extended from China's domestic situation to its view of the world.

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<sup>9</sup> Frank Ching, "UN: sovereignty or rights?" *Far Eastern Economic Review*, 21 October 1999, p. 40.

<sup>10</sup> Personal communication with Dr Ray Goldstein, School of Political Science and International Relations, Victoria University of Wellington, New Zealand, 8 October 1999.

<sup>11</sup> A traditional Confucian thought, deriving from the popular saying that *mingzibeng, yanshun*, meaning roughly that "if one's name (meaning title) is properly given, then one's words can become righteous".

The Chinese sense of responsibility is very much tied to one's position of power, as indicated by the saying that *quanli yu yiwu jundeng*, which can be roughly translated as and represented by the following approximation:

$$\text{Duty} + \text{Burden} \approx \text{Power} + \text{Privileges}$$

where *yiwu* should be understood as "appropriate" work (i.e. duty + burden) in the traditional meaning of the term, rather than "voluntary" work.

It is useful to make a distinction between two forms of power: power as of right, which is derived from one's proper positioning in a social setting; and power as of might, which is an empirical substance. The wielding of power can therefore be righteous when exercised from a proper position, but can be hegemonic and imperialistic and therefore morally corrupt when exercised for the purpose of selfish gains without rightful entitlement according to some sets of moral principles. In this way, the conflict between China and the West may not be purely over material interests or relative power gains, but may also be over ideologies and moral principles, more so than most people would readily give credit to.

What is China's international position will therefore affect how it is going to behave, to exercise its power, and to fulfil its "responsibilities". To the Chinese thinking, China's position in the world is buttressed by its power relative to others, and hence there is a need to understand and to determine accurately its comprehensive national power and those of other countries so that China can know where it stands in relation to others and how it should relate to or behave towards them.<sup>12</sup>

Although the concept of comprehensive national power is difficult to define and its measurement lacks precision,<sup>13</sup> its utility, to

<sup>12</sup> Apart from Confucian influence, this line of Chinese thinking can also be attributed to the teachings of the famous Chinese strategist Sun Tze, author of *The art of war*: "Knowing well one's own situation and the situation of others, fight a hundred battles and be able to win them all."

<sup>13</sup> For a discussion of China's comprehensive national power, see Gerald Chan, *Chinese perspectives on international relations: a framework for analysis* (Basingstoke: Macmillan, 1999), pp. 30–33.

some Chinese analysts, lies in its ability to serve as a rough guide to assess one's position of strength in the world. One of the reasons why this concept has become so popular among Chinese analysts these days is that, since China is growing strongly, there is a need to take stock of its powers and evaluate its power base. Here of course we are dealing with something fuzzy rather than with something clear and precise, as the power of a state is difficult to measure and as the situation of the world constantly changes. Hard power, such as military hardware, is relatively more static and is easier to measure, while soft power, such as culture or morality, is more fluid and hence more difficult to measure.

## **WHAT IS CHINA'S RESPONSIBILITY?**

If we follow the Chinese line of thinking about *dingwei di wenti* (the issue of positioning), then we need, first of all, to ask what China's global position is, before we attempt to make an assessment of its global responsibility. The mention of China conjures different images to different people, depending on their different standpoints. Some of the salient features of China's position may include the following:

- China has a huge population;
- It is a nuclear power;
- It is a permanent member of the Security Council of the United Nations;
- It is a member of many important international organisations; and
- It is a contributor as well as a recipient of aids.

Any assessment of China itself, let alone its responsibilities, must start with an understanding of China in the recent past, a China that had suffered for 100 years under Western imperialism,<sup>14</sup> followed by periods of internal strife, civil wars, and Japanese invasion, and then

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<sup>14</sup> Michael Yahuda, "China's search for a global role," *Current History*, Vol. 98, No. 629 (September 1999), p. 266.



30 years of excesses under revolutionary, communist rule. It has only begun to open up to the outside world, more “voluntarily” than before, since the late 1970s, and has by now attained some degree of normality and stability. However, China faces many difficulties in its development path: apart from its huge population, on the whole it is still a relatively backward developing country in the midst of drastic and fundamental socioeconomic changes.<sup>15</sup> It is still a country suffering from, among other things, some sort of domestic political insecurity, arising out of crises of identity and legitimacy.<sup>16</sup> What can one expect of China’s international behaviour?

**A huge population.** The task of feeding and sheltering the country’s 1.3 billion people has not been easy. The government is determined to eradicate poverty, limit population growth, and raise the living standard of its people, to the extent that it argues that the rights to subsistence is more important than individual freedoms. Deng Xiaoping once reminded us that if the Chinese were starving and forced to flee their home country in search for food elsewhere, would it not cause problems for the neighbouring region and the world at large? The world therefore has an interest to see that China can lift its people out of abject poverty and that the country can remain stable. In a speech made at Cambridge University in October 1999, President Jiang Zemin said that “to ensure [the rights to subsistence and development] for our people is in itself a major contribution to the progress of the world’s human rights cause”.<sup>17</sup> To achieve the goals of modernisation and to raise the living standard of its people, China has opened its doors and adopted new economic measures since the late 1970s, including the establishment

<sup>15</sup> Jia Qingguo, “Economic development, political stability and international respect,” *Journal of International Affairs*, Vol. 49, No. 2 (Winter 1996), pp. 573–576.

<sup>16</sup> Wang Fei-Ling, “Self-image and strategic intentions: national confidence and political insecurity,” in Deng Yong and Wang Fei-Ling (eds), *In the eyes of the dragon: China views the world* (Lanham: Rowman & Littlefield Publishers, Inc., 1999), chapter 2. Some of Wang’s ideas are further developed in Deng Yong and Wang Fei-Ling (eds), *China rising: power and motivation in Chinese foreign policy* (Lanham: Rowman & Littlefield Publishers, Inc., 2005).

<sup>17</sup> *Evening Post*, Wellington, 23 October 1999, p. 8.



of Special Economic Zones and the opening up of coastal and regional cities to foreign trade and investment. The joining of the World Trade Organisation in 2001 is another major step in this direction.

**A nuclear power.** China's successful testing of its first atomic bomb in 1964 boosted the morale of a people who had suffered and sacrificed so much. The depth of pride felt by its people, including those living overseas, that it could join the rank of nuclear powers, was hard to fathom. China prides itself not only as a nuclear power, but also as a country which has signed the Comprehensive Test Ban Treaty, in September 1996.<sup>18</sup> In the wake of the Pakistani and Indian missile and nuclear tests in April and May 1998, there were rumours that China might reconsider its treaty obligations and resume nuclear testing. China faces great strategic and military challenges, as it shares long borders with 14 countries on land and seven maritime neighbours. Of these, three are nuclear (Russia, India, and Pakistan), one declares it possesses nuclear weapons (North Korea), and three with potentials to develop them (Japan, South Korea, and Taiwan). On 3 June 1998, President Jiang Zemin pledged, in his first public reaction to the tests in South Asia, that "China has no intention of restarting its nuclear tests".<sup>19</sup> Either as a strategic move or as a responsible gesture to maintain world peace, China has also pledged not to use nuclear weapons first and has asked or even challenged other nuclear powers to do likewise. So far, it has not stationed a single soldier or held military exercises outside its

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<sup>18</sup> China has yet to ratify it. The Treaty needs to be ratified by the 44 nuclear-capable states. Twenty-six have ratified, 15 have signed but not ratified, including the US, and three (India, North Korea, and Pakistan) have not even signed. See *Times* magazine, 25 October 1999, p. 20. As of May 2005, neither China nor the US has ratified, and India, North Korea, and Pakistan have not yet signed. See the website of the Comprehensive Test Ban Treaty Organisation, <http://www.ctbto.org/> (accessed 14 June 2005).

<sup>19</sup> *South China Morning Post*, 4 June 1998. Earlier, an anonymous senior official of the Foreign Ministry in Beijing was quoted as saying that China would consider resuming tests if the nuclear arms tension between India and Pakistan worsened (*ibid.*, 2 June 1998).

claimed territorial boundaries,<sup>20</sup> apart from peacekeeping activities under UN auspices or limited drills with members of the Shanghai Cooperation Organisation.

As a regional power, China has initiated the Six-Party talks to find ways to end the conflict in the Korean Peninsula, especially North Korea's nuclear ambitions. It has joined and actively participated in regional security dialogues, such as the Asean Regional Forum and the Council for Security Cooperation in the Asia-Pacific, and in regional economic groupings, such as the Asia-Pacific Economic Cooperation forum and the Pacific Economic Cooperative Council. In the Asian economic crisis of 1997–98, it resisted temptations to devalue its currency, as devaluation might trigger off another round of crisis. Consequently, China had to endure temporarily a diminished share of its export market and a loss in economic competitiveness. It made financial contributions to help some neighbouring countries affected by the crisis.<sup>21</sup> In April 2005, it hosted the Boao Forum on Hainan Island to discuss economic issues and joined the Asia-African summit held in Jakarta. The summit resolved to enhance economic cooperation between countries across the two continents, to alleviate poverty, and to form a united front to tackle world trade negotiations.<sup>22</sup> One exception to this apparently responsible image of China is its policy towards Taiwan. It has steadfastly refused to give up the use of arms to reunify Taiwan. In March 2005, its Parliament, the National People's Congress, passed an anti-secession law to authorise the government to use force if Taiwan declares formal independence. Neighbouring countries are very worried that a war across the Taiwan Strait would seriously destabilise the Asia-Pacific region and disrupt its economic growth.

***A permanent member of the UN Security Council.*** As one of the five permanent members with veto power, China can influence

<sup>20</sup> It was reported in May 2005 that China and Kirgystan held talks to set up a military base in Kirgystan, <http://www.akipress.org>.

<sup>21</sup> For example, China contributed one billion US dollars as part of an IMF effort to bail out Thailand's financial woe.

<sup>22</sup> Radio Hong Kong Channel 4 news, 24 April 2005.

## China's Compliance in Global Affairs

China needs to follow "the rule of law and to be exposed to the powerful forces of free enterprise systems and democracy".

*US Secretary of State Colin Powell, 2001*<sup>1</sup>

The United States wants to become both rule maker and arbitrator of the game.

*China Daily, 2001*<sup>2</sup>

Closely related to the idea of responsibility is the idea of compliance, a concept lying at the very heart of international relations and international law. Originally coming from legal studies, it has now attracted the attention of many political scientists,<sup>3</sup> as the role played by international institutions in world affairs gains in importance after the Cold War. This chapter starts by defining first of all the concept of compliance and then examines China's accession to international treaties, thus providing a prelude to an analysis of China's compliance with the rules and norms embodied in those treaties covering the four issue areas in the following chapters in Part II.

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<sup>1</sup> Quoted in *Asiaweek*, 30 March–6 April 2001, p. 38.

<sup>2</sup> Quoted in the *People's Daily*, Internet ed., 22 February 2001.

<sup>3</sup> See the growing number of articles on compliance in such academic journals as *International Organization* and the *American Political Science Review*.

## WHAT IS GLOBAL COMPLIANCE?

Compliance is an act of implementing and enforcing agreements made. It is a correspondence between behaviour and agreed rules.<sup>4</sup> As a result of globalisation and interdependence of one kind or another among states and non-state actors, a growing body of rules and norms is made to govern international behaviour. Some of these rules and norms are set in formal ways. Others, in increasing numbers, are informal or "soft" in nature, like declarations, communiqués, and memoranda of understanding. In comparison, these rules are more fluid and less well-defined than "hard" laws such as treaties. Abraham Chayes and Antonia Handler-Chayes are among the earlier groups of scholars who argue that absolute state sovereignty has been checked by the growth of regimes in that states increasingly find it necessary to comply with the rules of these regimes, rules that set limits to their independence and freedom of action.<sup>5</sup> Other scholars, like George Downs and his associates, probe the idea of compliance further and find that there is a correspondence between deeper compliance and greater enforcement.<sup>6</sup> That is to say, greater

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<sup>4</sup> Individual compliance in social life can be traced to classical philosophy in the West. Friedrich Kratochwil puts classical theories into three groups: the first group is the Hobbesian or realist position which derives compliance with norms from force or the threat of force. A second group explains compliance in terms of the long-term utilitarian calculations of actors, a perspective perhaps best identifies with Hume's argument about the nature of conventions. The third group is the idealist position of Durkheim, who conceptualises norms and rules as "social facts" existing objectively and constraining individual choices. Cited by Isao Miyaoka, 'State compliance with international legitimate norms: wildlife preservationist pressures on Japanese fishing,' paper presented at the 41st Annual Convention of the International Studies Association, Los Angeles, 14–18 March 2000, in Columbia International Affairs Online, <http://www.ciaonet.org/isa> (assessed 3 March 2003).

<sup>5</sup> Many of the early writings by Chayes and Chayes on international regimes that appear in *International Organization* have been collected and published in Abraham Chayes and Antonia Handler-Chayes, *The new sovereignty: compliance with international regulatory agreements* (Cambridge, MA: Harvard University Press, 1995).

<sup>6</sup> George W. Downs, 'Enforcement and the evolution of cooperation,' *Michigan Journal of International Law*, Vol. 19, No. 2 (1998), pp. 319–344; George W. Downs, David Roake, and Peter Barsoom, 'Is the good news about compliance good news about cooperation?' *International Organization*, Vol. 50, No. 3 (1996), pp. 379–406.



enforcement by regimes is necessary to exact state compliance in areas of deep integration and cooperation, because there is always a tendency for domestic actors to foul compliance rules, for example, in setting up trade barriers against free trade. Assessing compliance is difficult, as states dispute over what really makes compliance, especially when the rules are not very clear-cut due to the vagueness of the meanings of the terms used, as in many "soft" rules. In addition, concepts such as "political will", "trust", and "negotiation posture", upon which compliance decisions are made and based, are very difficult to measure.<sup>7</sup> Hence the degree of state compliance is often open to different interpretations.

Furthermore, most international treaties and organisations have little or no teeth with which to enforce their rules, and so rule compliance in many instances becomes a gentlemen's agreement.<sup>8</sup> Even in the case of the rulings of the World Court (the International Court of Justice), states can choose to ignore its rulings as they are non-binding. In general, some states choose to comply with some rules in some issues at some times, while others do not. As a result, state behaviour varies across time and space. Inevitably scholars have disputed over the extent of state compliance. Some, like Louis Henkin, argue that probably "*almost all nations observe almost all principles of international law and almost all of their obligations almost all of the time* [emphasis in original]".<sup>9</sup> Other scholars, like Marc Busch and Eric Reinhardt, found evidence to the contrary. They found, for example, that the total non-compliance with GATT (General Agreement on Tariffs and Trade) panel rulings approached

<sup>7</sup> Jana von Stein, 'Do treaties constrain or screen? Selection bias and treaty compliance,' *American Political Science Review*, forthcoming, quoting the works of James Vreeland.

<sup>8</sup> Peter Brookes, Senior Fellow, The Heritage Foundation, speaking at the "China 2020 Vision" conference held at the Royal Institute of International Affairs, The Chatham House, London, 30 March 2004.

<sup>9</sup> Louis Henkin, *How nations behave: law and foreign policy*, 2nd ed (New York: Columbia University Press, 1979), p. 47, cited in Kal Raustiala and Anne-Marie Slaughter, 'International law, international relations and compliance,' in Walter Carlsnaes, Thomas Risse, and Beth A. Simmons (eds), *Handbook of international relations* (London; Thousand Oaks; New Delhi: Sage Publications, 2002), p. 540.

30 per cent, and almost 60 per cent of rulings failed to elicit full compliance.<sup>10</sup>

The picture of global compliance is uneven and rather complex, since the nature of international politics is largely anarchical, meaning the absence of a central government at the global level comparable to governments at the national level. There is no one in an authoritative position to make a definitive judgement that would be acceptable to, let alone binding on, all states or even the majority of states. Consequently, what is compliance to some may not be regarded as such by others. Seen in this light, the nature of compliance and the standards for measuring compliance are by and large relative rather than absolute.

Why do states sometimes choose to comply then? In general, states are induced to do so because, in their overall strategic assessment, positive outcomes resulting from compliance outweigh negative ones. It is on the whole a rational calculation, rational in the sense that states would weigh the pros and cons carefully, based on information available to decision-makers. It is, however, a limited rationality. The fundamentals upon which calculations are made can change over time and over different issues when perceptions change or when new information is made available to decision-makers. In addition, decisions to comply or not to comply are in the main based on a combination of domestic and international factors.<sup>11</sup> The domestic factors may include the democratic form of government, leaders' commitment to certain course of action that favours compliance, and administrative and economic capacity. It is generally assumed that the more democratic a country is, the more compliant it will be with international rules and norms. This correlation is based on the observation that the general public and NGOs

<sup>10</sup> Cited in Raustiala and Slaughter, 'International law, international relations and compliance,' p. 549.

<sup>11</sup> Peter M. Haas, 'Choosing to comply: theorizing from international relations and comparative politics,' in Dinah Shelton (ed), *Commitment and compliance: the role of non-binding norms in the international legal system* (Oxford: Oxford University Press, 2000), pp. 43–64.

are able to put pressure on governments to comply. However, exceptions to this observation exist, as instances can be found in which authoritative governments can marshal enough resources in order to adhere to specific rules and norms that they see as beneficial to their countries. The administrative and economic capacity relates to the resources and technological know-how that a country can muster in order to comply. The administrative capacity is closely related to the level of education and training of bureaucrats. The international factors, on the other hand, may include the number of states involved in any compliance issue, the distribution of power among those states, and the influence of regimes on states,<sup>12</sup> such as the strength of the regimes' monitoring and verification process.<sup>13</sup>

How to deal with a country if it does not comply with international agreements? Two major ways have been suggested: one, called the "legalistic" school, stresses the importance of legal compliance of states. If states do not comply, then legal pressure should be brought to bear on their non-compliance, including the use of sanctions of various kinds available to complaining states to get redress. The other is liberal in nature and can be named the "liberal" school,<sup>14</sup> which calls for a flexible, diplomatic solution to resolve complaints arising out of non-compliance. These two schools represent two opposite ways of dispute settlement. They spring from two different philosophical approaches to dealing with the issue of compliance: enforcement and managerialism. Managerialism is

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<sup>12</sup> Michael Faure and Jürgen Lefevere, 'Compliance with international environmental agreements,' in Norman J. Vig and Regina S. Axelrod (eds), *The global environment: institutions, law, and policy* (Washington, DC: Congressional Quarterly, 1999), pp. 141–144. For a study of international courts as regimes affecting state compliance, see Karen J. Alter, 'Do international courts enhance compliance with international law?' *Review of Asian and Pacific Studies*, Seikei University Center for Asian and Pacific Studies, Japan, No. 25 (July 2003), pp. 51–78.

<sup>13</sup> See also Edith Brown Weiss, 'Conclusions: understanding compliance with soft law,' in Shelton (ed), *Commitment and compliance*, pp. 535–553.

<sup>14</sup> Supachai Panitchpakdi calls these two schools the "litigation route" and the "policy route" respectively, in his public lecture at the University of Hong Kong, 21 May 2002.



based on "the premise that states have a propensity to comply with their international commitments."<sup>15</sup> When left alone, states are inclined to comply and can manage well their compliance behaviour. However, enforcement theorists think otherwise:<sup>16</sup> external pressure is required to bring about state compliance.

Teall Crossen, a law researcher at the University of Calgary in Canada, has compiled a useful bibliography on the compliance literature.<sup>17</sup> Apart from the two major schools of thought mentioned above — managerialism and enforcement, there are other theories which help to explain compliance behaviour of states. These include fairness theory, transnational legal process, reputational theory, and international relations theory, among others. According to Thomas Franck,<sup>18</sup> fairness in law, based on legitimacy and equity, encourages compliance. On the contrary, unfair laws are likely to complicate the issue of compliance. Although international relations theory, especially the neo-liberal school and constructivism,<sup>19</sup> also pays attention to the legitimate concerns of compliance issues, the mainstream neo-realist school, however, puts much greater emphasis on interests, reputations, and institutions, especially when power, wealth, and position (position in the international system with regard to states, and offices for individuals) are at stake.<sup>20</sup> From the perspective of foreign office officials, the promotion of state interests and the preservation of state integrity are far more

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<sup>15</sup> Raustiala and Slaughter, 'International law, international relations and compliance,' in Carlsnaes, Risse, and Simmons (eds), *Handbook of international relations*, p. 542.

<sup>16</sup> Raustiala and Slaughter, pp. 542–544.

<sup>17</sup> Teall Crossen, 'Responding to global warming: a critique of the Kyoto Protocol compliance regime: an annotated bibliography,' a paper accessed through the Internet, April 2005.

<sup>18</sup> Thomas Franck, *Fairness in international law and institutions* (Oxford: Oxford University Press, 1995).

<sup>19</sup> Haas, 'Choosing to comply: theorizing from international relations and comparative politics,' in Shelton (ed), *Commitment and compliance*, pp. 43–64.

<sup>20</sup> Robert O. Keohane, 'International relations and international law: two optics,' *Harvard International Law Journal*, Vol. 38 (1997), pp. 487 ff.



important than a strict adherence to legal norms.<sup>21</sup> Reputational theory, proposed by Andrew Guzman,<sup>22</sup> suggests that states do care about potential damage to their reputation as a result of treaty violation, as well as the possibility of being censured. States, however, have multiple reputations, meaning that defection under one agreement may not affect their observance of and their reputation under another.<sup>23</sup> Transnational legal process, however, is a process through which an international law or rule, being deliberated at international forums, is subsequently internalised into domestic law through the actions of transnational actors.<sup>24</sup> There is, therefore, a need to study the social, political, and legal processes through which this process of internalisation works and the various actors involved, be they diplomats, academics, NGO advocates, or political leaders.<sup>25</sup>

Most, if not all, of these theories are subject to how states or their representative actors interpret compliance. A study of compliance has reviewed that different states may rely on different standards of evidence, types of information, and varying definitions of what constitutes "significant" non-compliance.<sup>26</sup> Examples of different standards of evidence may include such hard evidence as a "smoking gun", or sufficient information so that the non-compliance situation is "beyond reasonable doubt", or soft evidence such as "a preponderance of evidence". Types of information may

<sup>21</sup> Richard B. Bilder, 'Beyond compliance: helping nations cooperate,' in Shelton (ed), *Commitment and compliance*, pp. 67–73.

<sup>22</sup> Andrew T. Guzman, 'A compliance-based theory of international law,' *California Law Review*, Vol. 90, No. 6 (December 2002), pp. 1,823 ff.

<sup>23</sup> George W. Downs and Michael A. Jones, 'Reputation, compliance, and international law,' *The Journal of Legal Studies*, Vol. 31 (2002), pp. 95 ff.

<sup>24</sup> Harold Hongju Koh, 'Why do nations obey international law?' *Yale Law Journal*, Vol. 106, No. 8 (June 1997), p. 2,599.

<sup>25</sup> Harold Hongju Koh, 'Bringing international law home,' *Houston Law Review*, Vol. 35 (1998), p. 623.

<sup>26</sup> Michael Moodel and Amy Sands, 'Introduction: new approaches to compliance with arms control and non-proliferation agreements,' *The Nonproliferation Review*, Vol. 8, No. 1 (Spring 2001), Internet printout, p. 6.

range from nationally collected intelligence, which is a source of information gathering preferred by the United States, to open resources. And “significant” non-compliance can mean any of the following five categories of violations:<sup>27</sup>

1. Minor technical or inadvertent problem;
2. Different interpretations or gaps in treaty language;
3. Significant, detected, overt violations;
4. Significant, detected, but covert violations; and
5. Suspected covert violations of possible significance.

The application of different standards, on the other hand, can be attributed to imprecise language, divergent texts or honest differences of interpretation. The prejudice and ignorance of state actors also contribute towards differences in opinion about compliance.<sup>28</sup>

How to test these divergent theories against China’s compliance behaviour? Detailed case studies are in order. As a first step towards answering this question, it is necessary to examine China’s treaty accession in order to realise the extent to which China is involved in rule compliance, rule interpretation, rule adjudication, and rule making.

## CHINA’S TREATY ENGAGEMENT

Although China’s entry into international agreements is a primary measure of its global responsibility, there is a difference between signing a treaty *per se* and adhering to the spirit of the treaty.<sup>29</sup>

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<sup>27</sup> *Ibid.*

<sup>28</sup> Luke T. Lee, *China and international agreements: a study of compliance* (Leyden: A.W. Sijthoff; Durham, NC: Rule of Law Press, 1969), p. 9.

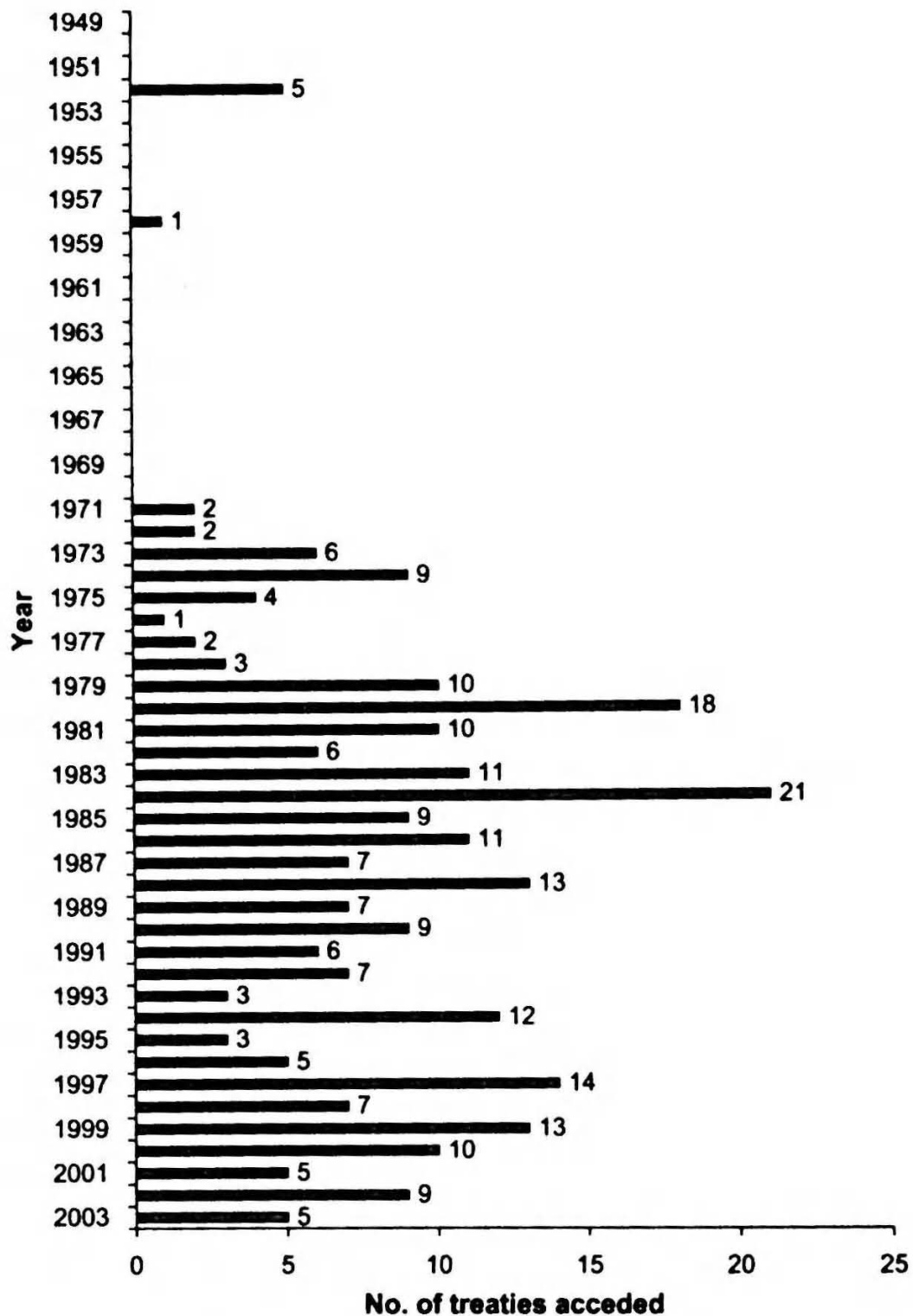
<sup>29</sup> Ann Kent has provided a useful list of ways to measure China’s compliance in human rights issue. See her *China, the United Nations, and human rights* (Philadelphia, PA: University of Pennsylvania Press, 1999), p. 7. Another recent publication has also provided a general framework for assessing compliance. See Shelton (ed), *Commitment and compliance*, especially the chapter by Haas, ‘Choosing to comply.’

(The latter is, of course, an interesting and complex issue, but lies beyond the immediate concern of this study.)<sup>30</sup> Nevertheless, the signing of a treaty (and its subsequent ratification) represents an elementary yet fundamental step towards treaty compliance. As of 2003, China is party to 266 international treaties, covering a wide range of issues, from politics to economics, social to cultural, and science to sports. An examination of the timing of China's accession to these agreements reveals several interesting features (see Figure 3.1).

Firstly, the People's Republic of China (PRC) only started to engage substantially with the multilateral treaty system since 1971, the year in which it gained its seat in the United Nations. Before that, from its establishment in 1949, China had only acceded to six treaties, five in 1952 and one in 1958. The five treaties acceded to in 1952 were the Protocol for the Prohibition of the Use in War of Asphyxiating Poisonous or Other Gases, and the four Geneva Conventions relating to certain humanitarian conducts during military conflicts.<sup>31</sup> The single treaty acceded to in 1958 was the Convention for the Unification of Certain Rules Relating to International Carriage

<sup>30</sup> There are, however, quite a lot of useful studies of China's legal system and legal culture. See, for example, Randall Peerenboom, *China's long march toward rule of law* (Cambridge: Cambridge University Press, 2002); Pitman B. Potter, *The Chinese legal system: globalization and local legal culture* (London; New York: Routledge, 2001); Karen Turner, James V. Feinerman, and R. Kent Guy (eds), *The limits of the rule of law in China* (Seattle: University of Washington Press, 2000); and Stanley B. Lubman, *Bird in a cage: legal reform in China* (Stanford: Stanford University Press, 1999).

<sup>31</sup> These are the Geneva Convention Relative to the Treatment of Prisoners of War, the Geneva Convention for the Amelioration of the Condition of the Wounded Sick and Shipwrecked Members of Armed Forces at Sea, the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, and the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. The People's Republic of China declared in 1952 their recognition of those Conventions, but only ratified them in 1956 by the Standing Committee of the National People's Congress. The document signifying the ratification of these Conventions was deposited with the Red Cross authorities in Switzerland later that year. For a detailed analysis of China's relations with the International Red Cross, see Gerald Chan, *China and international organisations* (Hong Kong: Oxford University Press, 1989), chapter 5.



**Figure 3.1** China's Accession to International Treaties, 1949–2003

Source: Compiled from the website of the Ministry of Foreign Affairs of the PRC ('China's participation in multilateral treaties', in Chinese) <http://www.fmprc.gov.cn/chn/wjb/zzjg/tyfls/tfscckzlk/zgcjddbty/t85211.htm> (accessed 30 April 2005).

Note 1: The word "accession" is used here to refer to the signing of the treaty, its recognition, ratification, or its becoming effective in and applicable to China. The year indicates, in most cases, the year in which China signed the treaty or the treaty became effective in China.

Note 2: The total number of treaties acceded = 266.



by Air. Hence, for two decades from 1949 to 1970, China was more or less outside the international treaty system.

Secondly, the year 1971 marks a watershed in China's engagement with the multilateral treaty system. Subsequent to its admission to the UN, the country steadily gained entry into other specialised agencies of the UN system. The treaties signed between 1971 and 1979 largely reflected China's increased participation in that system. For example, the United Nations Educational, Scientific and Cultural Organisation was the first specialised agency to recognise the PRC, on 29 October 1971, four days after it was admitted into the UN. In 1972, the Constitution of the World Health Organisation became effective in and applicable to China. This was followed by others, including the Food and Agriculture Organisation, the Universal Postal Union, the World Meteorological Organisation, and the International Maritime Organisation, all in 1973; and the Convention on International Civil Aviation and various subsequent Protocols relating to the Amendments to the Convention in 1974.<sup>32</sup>

Thirdly, the surge in engagement with the multilateral treaty system happened only after China adopted its reform and opening-up policy. The year 1979 marked the first year in which China became heavily involved in accession to international treaties, signing ten of them that year followed by 18 a year later, reaching a peak of 21 in 1984. Many of the treaties recognised by the PRC in 1984 related to workers' rights of various kinds under the purview of the International Labour Organisation.<sup>33</sup> In fact, the 1980s witnessed a golden decade in China's accession to international treaties. The Tiananmen Incident of 1989 did not seem to have dampened China's enthusiasm in gaining entry into the multilateral treaty

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<sup>32</sup> For the dates on which most of the UN specialised agencies recognised the PRC subsequent to its admission to the UN, see Samuel S. Kim, *China, the United Nations, and world order* (Princeton, NJ: Princeton University Press, 1979), p. 347.

<sup>33</sup> The government of the Republic of China (the Nationalist government) signed these treaties in 1936. And the PRC recognised them in 1984 and they became effective in mainland China since then. See the website of the Ministry of Foreign Affairs of the PRC (under "Multilateral Treaties", in "Treaties and Law") <http://www.fmprc.gov.cn/chn/premade/24475/dabian.htm> (accessed 11 March 2003).

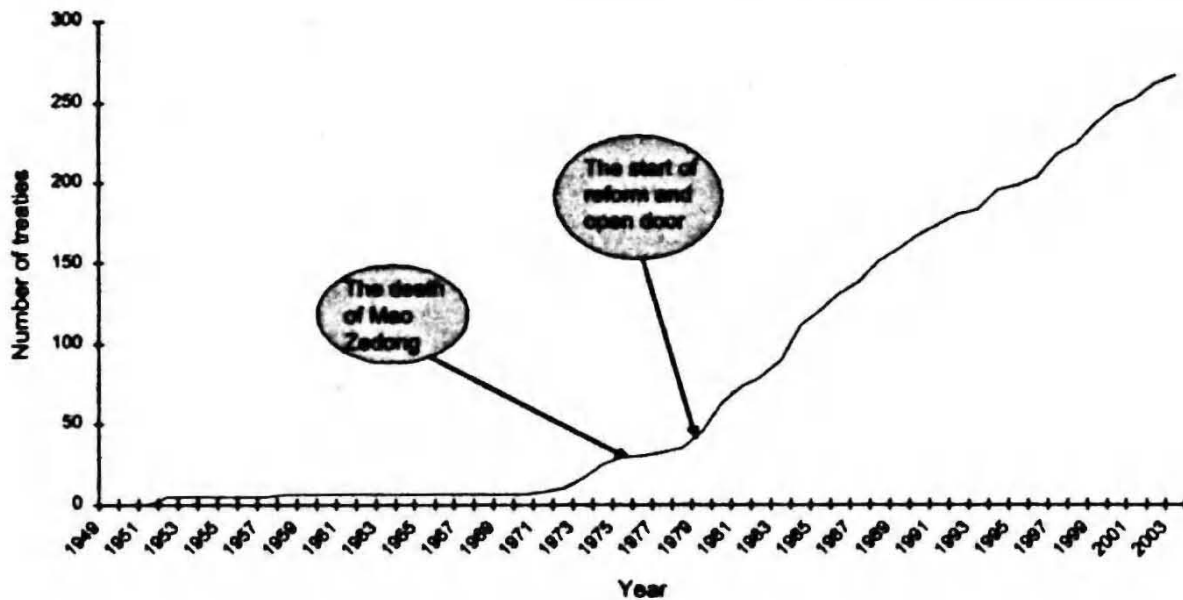
system, although the tempo since then seems to have slowed down somewhat. This slowdown is due probably to the fact that there are fewer treaties to be concluded at the global level, since the “easy” topics on which there is widespread consensus among nation-states have been largely completed.<sup>34</sup> All in all, the bulk of China’s multilateral treaties has been signed since 1979, some 231 out of 266, representing about 87 per cent of all treaties that it has acceded to since its establishment in 1949.<sup>35</sup>

Figure 3.2 indicates that China has increased substantially its accession to international treaties and hence its participation in international organisations since the 1970s, although there was a small plateau between 1975 and 1979, coinciding with the death of Mao Zedong and the political turmoil surrounding the rise and fall of the so-called Gang of Four.<sup>36</sup> From the point of view of rational decision-making, it would be safe to assume that Chinese leaders could have estimated that the benefits derived from an increase in accession and participation must have outweighed the costs involved. The costs obviously vary according to the terms of the treaties concerned and the commitments that China has to make as a treaty member. Nonetheless China’s behaviour in this respect indicates the progress made in its national development, its readiness

<sup>34</sup> See Shelton (ed), *Commitment and compliance*, p. 555.

<sup>35</sup> The calculation is based on Figure 3.1. A full list of the treaties can be found in the Ministry of Foreign Affairs website. According to the UN, about 40,000 multilateral treaties and international agreements have been deposited with the UN Secretary-General. Some 520 of them are major ones. See the UN Treaty Collection, <http://untreaty.un.org> (accessed 11 May 2005). The Fletcher School of Law and Diplomacy at Tufts University in Maryland, USA, maintains a project on multilateral treaties in the Internet called Tufts Multilaterals Project (<http://fletcher.tufts.edu/multilaterals.html>). Its chronological index collects the major treaties since 1899 together with some historical documents. It would be interesting, as a separate project, to compare China’s involvement in the multilateral treaty system with similar involvements of other countries. Such a comparative assessment could take into consideration a country’s political, economic, social and legal developments.

<sup>36</sup> They were Jiang Qing (Mao’s wife), Wang Hongwen, Zhang Chunqiao, and Yao Wenyuan.



**Figure 3.2** China's Accession to International Treaties, 1949–2003 (Cumulative Sum)

to open up itself to international scrutiny, and its willingness to shoulder some global responsibilities and to subject itself to certain compliance tests.

In reviewing the study of international law in China, Zou Keyuan, a Chinese legal expert based in Singapore, has identified three periods of development: the socialist approach (1949–1965); the three-world approach (1966–1977); and the international approach (1978 to the present).<sup>37</sup> In the current period of international approach, the study of international law has become “normalised”, although traces of influence from the two earlier periods can still be found. This current period coincides with the reform and opening-up period in which China has acceded to or ratified a large number of international treaties. The period represents a significant break from the earlier revolutionary periods. One major problem that China faces today is how to reconcile its international obligations with its domestic law, especially in the areas of human rights, trade, environmental protection, and arms control. How to turn

<sup>37</sup> Zou Keyuan, ‘Chinese approach to international law,’ in Hu Weixing, Gerald Chan, and Zha Daojiong (eds), *China's international relations in the 21st century* (Lanham: University Press of America, 2000), p. 188.

international law into domestic legislation has become a long-term ongoing process of legal modernisation.

Two scholars at the Georgetown University Law Center in Washington DC, James Feinerman and Daniel Chang, have compiled a record of China's compliance with some international obligations and treaties, which shows that China's compliance behaviour is rather mixed but has made improvements. At least it is not worse than those of many other developing countries at a similar stage of development.<sup>38</sup>

## SUMMARY

This chapter has discussed the concept of compliance in some details and has indicated the difficulties involved in assessing the compliance of states based on a host of domestic and international factors, as well as different understandings of what constitutes compliance among the states and international regimes involved. China's accession to international treaties, as analysed here, serves as a good entry point to an assessment of China's global compliance behaviour, which needs to be examined in greater details using in-depth case analyses, to be discussed in the following chapters.

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<sup>38</sup> James V Feinerman and Daniel Chang's project on Chinese practice of international law in the post-Mao era, cited by, among others, A.S. Bhalla and Qiu Shufang, *The employment impact of China's WTO accession* (London and New York: RoutledgeCurzon, 2004), p. 163.



## Conclusion

China changes the world by changing itself.

*Professor Yuan Ming, 2004<sup>1</sup>*

The rise of China has highlighted, among other things, the issue of its responsibility in world affairs. Whether or not China is a responsible member of the international community can best be judged not only by the Chinese government alone, but also, and more importantly, by ordinary Chinese and outside observers. This study has focused on China at the state level: How does the outside world perceive China's responsibility and its compliance with international norms and rules? And what is China's own view on such perceptions? From the analyses done in the previous chapters, we can see that the Chinese government would like very much to be seen as a responsible power, and it does care a lot about its international image in the global community.

This book has demonstrated that a good way to begin to look at China's international responsibility is to examine the extent of its

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<sup>1</sup> A remark made by Professor Yuan Ming, Deputy Dean, School of International Studies, Peking University, in her public lecture on Chinese foreign policy, delivered at the Chinese University of Hong Kong, 18 October 2004.

involvement in world affairs. China's participation in international organisations and its membership of international regimes and treaties serve as useful measures to gauge its global responsibility. Membership of international organisations and regimes is a rather simple but a basic measure, while compliance with the international norms and rules that are embodied in these organisations and regimes is a more refined measure. In this regard, the book has tried to gauge China's compliance in four crucial areas of international relations: world trade, arms control and non-proliferation, environmental protection, and human rights. China's compliance in human rights regimes and, to a certain extent, in environmental protection regimes, is an additional, direct indicator of its domestic responsibility towards its own citizens, in comparison to its compliance behaviour in world trade and arms control.

China has made substantial progress in the four areas discussed, since its opening up to the outside world in the late 1970s. However, the degree of compliance varies across these areas (summarised in Table 8.1), and much more work remains to be done across the board if China were to improve its compliance image and to meet the expectations of its major trade and strategic partners. While the country is relatively more open in world trade practices, it is less so in the area of arms control and non-proliferation, as military and defence matters are highly sensitive. The issues of human rights and environmental protection are somewhere in between the issue of trade on the one hand and arms control on the other in terms of China's degree of openness and its depth of compliance. China has to strike a right balance between the need to engage openly with the outside world and, at the same time, the need to prevent other countries from exploiting these issues to intrude in its internal affairs, thereby challenging its authority to govern as well as limiting its potential for growth, in economic as well as political terms. Although its compliance record (or score, for that matter) varies, ranging from good to satisfactory in the areas of global trade and arms control, and from fair to poor in the fields of human rights and environmental protection, it can be concluded that China's overall compliance record in global affairs is satisfactory to good,

**Table 8.1** Summary Findings of China's Global Compliance, 2005

	Arms Control	Global Trade	Human Rights	Environmental Protection
No. of treaties signed or ratified	29+ NPT CTBT	WTO + a few regional free-trade agreements	21+ ICESCR ICCPR	40+ Kyoto Protocol
Treaty compliance	Controversial	Satisfactory; more to be done	Progress made; more to be done	Fighting an uphill battle
Problem areas	"Illegal" sales of arms; dual-use products	Agriculture; IPR; transparency	Various abuses and violations	Three Gorges; SARS
Nature of non-compliance	Politically sensitive	Transitional problems from socialist to market orientation	Non-interference; assertive engagement	Poor understanding of "public goods"
Compliance response	Slow	Quick	Intermediate	Quick
Sources of capacity-building	IAEA, USA	WTO, USA EU	UNCHR USA, EU	UNEP UNDP
US role	Sole superpower	Economic supremacy	American values	Domestic interests
China's goal	Minimal deterrence	Economic growth	Authority preservation	Slow progress
China's grade*	B Satisfactory	B+ Good	B- Fair to poor	C Poor

\* These grades are arbitrary but indicative. At least they serve as a basis for comparison. Most analysts give China a healthy "B plus" for its work under the WTO after two years of membership, according to Andrew K. Collier, 'Mainland settles in with global trade principles,' *South China Morning Post*, Internet ed., 20 September 2003.

Abbreviations:

CTBT	Comprehensive Test Ban Treaty
IAEA	International Atomic Energy Agency
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IPR	Intellectual Property Rights
NPT	Nuclear Nonproliferation Treaty
SARS	Severe Acute Respiratory Syndrome (atypical pneumonia)
UNCHR	United Nations Commission on Human Rights
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme

given the difficulties that it faces in its economic, social and political transitions, and given the fact that compliance measurement is difficult to make. In any case, it seems that China's record is no worse than many developing countries in a comparable stage of development.

The difficulties in making a fair and accurate assessment of the responsibility and compliance of a country in global affairs lie in different national conditions and developmental experiences, resulting in diverse interpretations of rule compliance, in the absence of a universally-accepted standard of measurement. However, by acceding to a large number of international treaties and participating actively in the activities of an increasing number of international organisations, especially in the areas of trade, arms control, environmental protection, and human rights, China has deepened its integration with the rest of the world. It has agreed to comply with the relevant international norms and rules embodied in these treaties and organisations without much stiff resistance or resentment in the past three decades.

This book has studied at some length China's responsibility and compliance in global affairs in general and in the four areas in particular. Further analyses can be made by focusing on some specific issues in the four areas and beyond, such as China's export control of weapons, especially dual-use equipment; its control over certain sectors of trade; its policies towards labour rights; its balancing between economic growth and environmental protection; legal, political, and economic reforms; the linkage between domestic responsibility and global responsibility; and so on. In complying with international rules, China is in a process of redefining its national interests (becoming less self-centred) and renegotiating its state sovereignty (becoming less absolute in its understanding).<sup>2</sup> In

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<sup>2</sup> The Chinese hold on state sovereignty has undergone some changes in the sense that it is less tenacious now than before, considering the adoption of the "one country, two systems" formula to take back Hong Kong in 1997, the signing of the Treaty of Amity and Cooperation with the ASEAN countries in October 2003, and the calling on the United States, Australia and some Asian countries to help to settle its conflict with Taiwan, especially in preventing Taiwan from declaring formal independence.



comparative terms, China is still very defensive of its sovereignty. In contrast, liberal democratic states feel relatively more secure and comfortable in the existing world order, because of their enormous power and strength, and because their vested interests are well protected and promoted. At least, the US as the sole superpower vows openly to protect and promote those interests, against any unwelcome encroachment from non-liberal democracies. While accepting the costs involved in participating in a wide range of international activities, China has also reaped handsome benefits.<sup>3</sup>

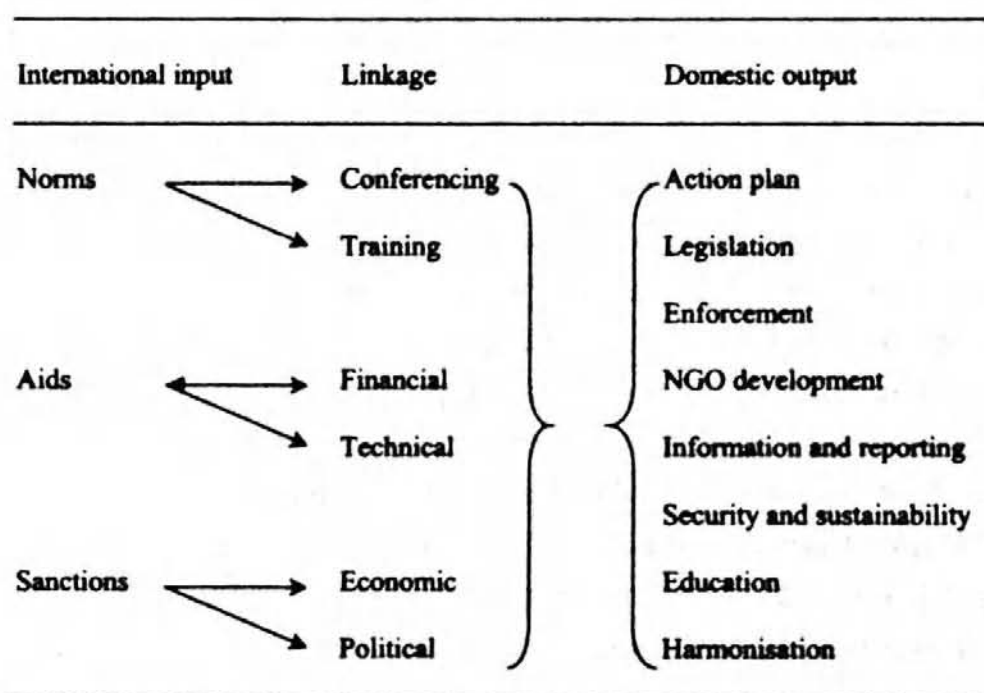
Although China's compliance record looks satisfactory, disagreements between China and the West, especially between China and the United States,<sup>4</sup> over Chinese compliance will persist, driven by competing national interests and different perceptions and values. Apparently, China needs outside help to build up its capacity to comply, especially in strengthening its legal system and in streamlining its management practices. The outside world should welcome China's compliance, as its compliance is beneficial to all parties concerned, because of the resulting global stability and common prosperity. In the process of global interaction, China learns to acquaint itself with the rules of engagement with other states and organisations. Will China internalised the relevant ideas and practices from the outside, or will it adapt tactically just to advance its national interests? Different scholars seem to see things differently. Alastair Iain Johnston of Harvard University suggests that China adapts rather than internalises the values and norms of international society.<sup>5</sup> David Lampton of Johns Hopkins University and some of his colleagues, however, argue that the distinction between adaptation and internalisation is not clear, and therefore some sort of

<sup>3</sup> Ann Kent, *China, the United Nations, and human rights: limits of compliance* (Philadelphia: University of Pennsylvania Press, 1999), pp. 350–357.

<sup>4</sup> For a critical review of America's record of international legal compliance, see Nicole Deller et al (eds), *Rule of power or rule of law* (New York: The Apex Press, 2003).

<sup>5</sup> Alastair I. Johnston, 'Learning versus adaptation: explaining change in Chinese arms control policy,' *The China Journal*, No. 35 (1996), pp. 27–61.

combination of adaptation and learning may best describe China's integration with the world.<sup>6</sup> Because the process of transition to a situation of full international compliance is so complex, fluid, and long drawn-out, there will always be room for debates as to whether or not China genuinely harmonises itself with global norms and practices. Interestingly, it is not only countries spearheaded by the US that have to find a right balance between containing China and engaging China, INGO people working in China in the human rights field find that the Chinese people working in a similar field also "want both cooperation and continuing pressure on the [Chinese] government, and the two have an essential synergy".<sup>7</sup> (See Figure 8.1 for a model of China's global learning.)



**Figure 8.1** A Model of China's Global Learning

Source: Ideas from Dr Yu Hongyuan, Lingnan University, Hong Kong, with modifications.

<sup>6</sup> David M. Lampton (ed), *The making of Chinese foreign and security policy in the era of reform* (Stanford: Stanford University Press, 2001), pp. 34–35 and 225–228.

<sup>7</sup> Sophia Woodman, 'Bilateral aid to improve human rights,' *China Perspectives*, No. 51 (January–February 2004), p. 45.

Clearly the US plays a leading role in monitoring China's compliance in the fields of trade, arms control, and human rights. However, whether or not the US would play a similar role in environmental protection is not certain, as it does not seem to comply well with international environmental standards, in the area of climate change for example.<sup>8</sup> Nevertheless, in the newly-instituted ministerial-level bilateral forum between the two countries, the issue of environmental protection is included as an agenda item for discussion. (This forum started in 2005, held in the US and the next 2006 forum is scheduled to be held in China.) Since January 2002, the US government has been stalling the requests and efforts of UN human rights monitors to inspect the conditions of prisoners detained in the US detention centre at Guantanamo Bay, Cuba.<sup>9</sup> The US record in arms control is not inspiring either, as it pulled out of the Anti-Ballistic Missile Treaty with Russia and failed to ratify the Comprehensive Test Ban Treaty. Its attitude and policies towards the International Criminal Court and the UN Security Council are not encouraging. As pointed out by scholars such as Margaret Pearson in the field of international financial institutions and Wendy Frieman in the field of arms control and non-proliferation, there is a difference between China's compliance with global rules and norms on the one hand and with the standard, agenda and national interest of the US on the other. While the US is the only powerhouse able to implement both controls and sanctions, the progress in the control mechanisms are undermined by its own more general attitude of unilateralism.<sup>10</sup> At the very least, US behaviour sometimes does not inspire the confidence of other nations in the multilateral rule system.

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<sup>8</sup> However, some American states such as California take actions to address the problem of global warming and climate change, citing the validity of scientific evidence. ITN TV Channel 4 news, London, 22 June 2005.

<sup>9</sup> BBC World News, 23 June 2005.

<sup>10</sup> Thanks to Professor Richard Balme of the Department of Government and International Studies at the Hong Kong Baptist University for alerting me to this, in his e-mail correspondence on 5 May 2005.

China's global responsibility will always be challenged as long as its human rights record remains flawed. Also, its worsening environmental situation across the country only exposes the ugly side of uncoordinated development which pays little or no regards to environmental impact.

Trading one issue for another, such as human rights for trade, is not uncommon, although the exact linkage between the two issues is difficult to establish. For example, the US government, under the Clinton administration, decoupled the issue of human rights from trade with respect to China in 1994. Another example is the French and German approaches towards such a linkage. In witnessing the contract signing ceremony in Beijing in April 2005 to sell Airbus passenger jets to China, French Prime Minister Jean-Pierre Raffarin said that the arms ban imposed on China because of the Tiananmen Incident was outdated and discriminatory.<sup>11</sup> Trade between China and France exceeded US\$13 billion in 2003, a 61 per cent increase over a year earlier.<sup>12</sup>

Given the fact that nation-states are still the main actors in international affairs, each trying to maximise its national interests in a largely anarchical world, what constitutes compliance in global affairs and what sort of standards should be used to gauge compliance remain contested. It seems to be a truism that throughout human history, victors of conflicts set rules to manage others in a post-war inter-state system and interpret those rules to their advantage. This situation ensures that winners are rewarded and their interests enhanced, while the defeated or vanquished are left with little choice but to adhere to those rules, albeit grudgingly at first in most cases.<sup>13</sup> The international system that we inherit today is one that the West, in particular the United States, dominates, in terms of

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<sup>11</sup> Sun Shangwu, 'China, France ink deals worth US\$4b,' *China Daily*, Internet ed., 22 April 2005.

<sup>12</sup> 'France backs China over Taiwan,' The Associated Press, Internet ed., 2004 (accessed 27 January 2004).

<sup>13</sup> For a vigorous and substantive analysis along this line, see John G. Ikenberry, *After victory: institutions, strategic restraint, and the rebuilding of order after major wars* (Princeton: Princeton University Press, 2001).



rule making and rule adjudication. For instance, in the WTO, all the trade negotiation rounds have been conducted according to the timetable of the US and a small number of advanced industrialised countries, reflecting the interests of the West.<sup>14</sup> In nuclear non-proliferation, the US dominates the game. Its war against Iraq and its policies towards North Korea and Iran are good indicators. In the field of human rights, it is the West, and again the US in particular, that sets the norms and rules for others to follow, and that chastises those who do not. The primacy of states over other entities as actors in international society means that international regimes and organisations are often starved with resources to carry out their chartered mandates.

Although China was not exactly a defeated country in the Second World War, it had been humiliated by Western imperialism for a century before the end of the war and emerged thereafter as an impoverished nation, largely ignorant of international rules and practice. Domestic upheavals like the Great Leap Forward in the 1950s and the Cultural Revolution in the 1960s and early 1970s mean that China entered or re-entered the world stage in their aftermath as a novice, despite the reportedly brilliant performances of individual diplomats such as Zhou Enlai in the Third World in the 1950s and Qiao Guanhua in the UN in the 1970s. International and domestic conditions dictate that it plays the role of a follower of international rules. For example, in the WTO, China has been much more a follower than a leader, as its delegation to the Geneva trade talks has been small and understaffed, and as it is busy trying to catch up with the rules and norms of the organisation as well as its Transition Review Mechanism process.<sup>15</sup> The same can be said of China's participation in many IOs. Certainly, many domestic and international conditions have changed dramatically in the last two to three decades. To Andrew Nathan and Robert Ross, "China is a big

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<sup>14</sup> *21st-Century Economic Herald*, Internet ed., 15 March 2004.

<sup>15</sup> Written testimony of Margaret M. Pearson in a hearing on 'Is China playing by the rules? Free trade, fair trade, and WTO compliance,' before the Congressional-Executive Commission on China, 24 September 2003, <http://www.cecc.gov> (accessed 20 October 2004).

enough power that its choice is not merely between obeying the world's rules or flouting them. It may join the international regimes ... as much in order to change them as to obey them...."<sup>16</sup>

What China can do to change the rules that it does not like is speculative at this stage. However, China is expected to exert greater influence over the multilateral trading system: "It will likely press for reform of WTO anti-dumping rules, guard against attempts to use labour and environmental issues as disguises for protectionism, and possibly push for reduction of agricultural subsidies."<sup>17</sup> To what extent will China exert its new-found strength? Most Chinese scholars caution the display of excessive assertiveness. Fan Xiaojun of Shenzhen University near Guangzhou suggests that China should neither act as a challenger nor follower. Instead, it should aim at maximising its national interests by devoting its energy to the setting up of regional security mechanisms and the strengthening of regional economic interdependence.<sup>18</sup> Fan, of course, looks at the situation in a very broad way. In the multitude of engagements with the international system, it would be inevitable that China will follow most of the existing rules, avoid major conflicts with the big powers wherever possible, and try to master the intricacies of the rules as soon as possible in order to protect its interests first before attempting to change or revise those rules to its liking. In this way, China is most likely to be a follower cum small challenger. Much depends on how fast China builds up its capacity to act according to the interest-maximisation principle.<sup>19</sup> It has moved away from

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<sup>16</sup> Andrew Nathan and Robert Ross, *The Great Wall and the empty fortress* (New York and London: W.W. Norton & Co., 1997), p. xiv.

<sup>17</sup> Ramesh Adhikari and Yang Yongzheng, 'What will WTO membership mean for China and its trading partners?' *Finance & Development*, a quarterly magazine of the IMF, Vol. 39, No. 3 (September 2002).

<sup>18</sup> Fan Xiaojun, 'Canyu he peiyu guoji guanxi de jidu jianshe [China: to engage and form the international order],' *Guoji Guanxi Xueyuan xuebao [Journal of the University of International Relations]*, Beijing, No. 2 (2002), pp. 16–20 and 26.

<sup>19</sup> *Guoji guize jidingquan yu Zhongguo de weizhi* [The struggle over international rules and China's position], *Shijie zhisbi [World Knowledge]*, Beijing, No. 6 (2002), p. 40.

fighting against unfair norms and unjust rules to join the status quo of hegemonic governance. Unwittingly, it uses constructivism to further its realism goals. Chinese scholars also recognize the role played by big powers in developing and sustaining a rule-based system: according to a Marxist perspective, rules exist to service the rulers; and from a sociological point of view, rules are also made to protect the weak and the minority so that a stable society can be maintained to work for the benefits of the ruling class.<sup>20</sup>

The US takes on as its responsibility the leadership of the world, China the attainment of modernity. The latter wants to see the development of a fairer, more democratic order of international relations based on sovereign equality. Such an international order would be beneficial to China, as the country, being the largest developing country in the world, still struggles as an underdog in the current system. The US, on the other hand, works hard to promote a free world, although it is often left unsaid what exactly this free world is or should be. A free world can be one in which the poor and the oppressed can aspire to achieve a higher standard of living free of oppression; it can mean a situation in which the rich and the powerful, because of the resources available to them, can exercise its freedom to further "exploit" the poor and lock the developing world firmly in an unequal system of exchange; or it can be both. For their respective ideological reasons, the Chinese government would not say that it will promote a freer world, nor would the US government say that it will promote a fairer and more democratic order of international relations (to be distinguished from the development of individual democracies in accordance with American instructions and allied to the US). Both countries, however, would say that they have a (domestic) democratic system, although one is socialist, and the other liberal.

For the rich and the poor countries of the world to work together cooperatively, there must be some kind of *modus operandi* that is acceptable to both sides. In the WTO, the poor member

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<sup>20</sup> *Ibid.*, p. 43.



states are accorded with developing country status, called "special and differential treatment", under which they are allowed to have some leeway to bring themselves in line with the rules of the organisation. They are given less stringent terms of membership or a longer time to reach full compliance. China is accorded with such a status, but because of its economic size and its potential for growth, many rich member states of the WTO were worried, and they negotiated with China to lay down stricter conditions for its membership. They are cautious not to give away too much.<sup>21</sup>

In the climate change regime, under the concept of "common but differentiated responsibility", countries such as China and India are exempted from reducing their emission of greenhouse gases because of their development-country status, whereas all members of the industrialised world have to apply various measures to cut down their emission of such gases. The US says that the generous treatment of China and India is unfair and is one of the reasons why the US pulled out of Kyoto Protocol. In the field of human rights, there is the well-known debate between liberal democracies and authoritarian states about universal rights versus relative rights and about the linkage between different stages of development and the observance of human rights standards. In the area of non-proliferation, the US acts as if it is the final arbiter as to who has the right to develop nuclear energy, not to mention the development of nuclear weapons. According to Randall Peerenboom, in international law, "the doctrine of 'margin of appreciation' allows states a certain latitude in determining what restrictions are necessary based

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<sup>21</sup> For example, under the so-called transitional product-specific safeguard mechanism, which will be effective for 12 years after China's entry into the WTO, China's trade partners may impose restrictions on Chinese imports based on "market disruption or the threat of market disruption". This is much stringent than the normal WTO standard, which allows the imposition of import restrictions only if there is "serious injury" or a "threat of serious injury". A special safeguard mechanism is in place until 2008 to restrict Chinese export of textile products after the phasing out of a global quota on 1 January 2005. See Adhikari and Yang, "What will WTO membership mean for China and its trading partners?" See footnote 77 of Chapter 4.



on the particular circumstances of that state. The latitude varies according to the area of concern, with states tending to have more leeway regarding determinations of what is necessary to ensure national security and stability....<sup>22</sup> The precise latitude of this "margin of appreciation" becomes the bone of contention between the world's rich countries and their poor cousins in international regimes. A vivid example is China's copyrights record. In a media interview, Jin Xu, the deputy head of the American affairs division of China's Ministry of Commerce, said that "China's intellectual property protection doesn't have as long a history as the United States, but we've been making the fastest progress in the world."<sup>23</sup> A similar situation can be found in China's participation in many international organisations and its establishment of rule of law in the country. Should the world, especially those countries in economic and political competition with China, give it some leeway? How much should the leeway be? These questions will no doubt persist, as China further integrates with the rest of the world.

Given the fact that China enters the world of international regimes and rules which have been shaped by the West, its participation in these regimes and rules is, by necessity and like most other countries in a similar situation, guided by choice and selection. This is so despite observations made by analysts like Ann Kent that "China's selective adaptation to globalisation, and its unwillingness to accept its concomitant responsibilities of transparency, openness and accountability, had created a heavy burden, not only for the government, but [also] for its people and for its relations with the rest of the world."<sup>24</sup> To Chinese leaders, national interest is paramount. For those regimes and rules which are in the main

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<sup>22</sup> Randall Peerenboom, *China's Long March toward rule of law* (Cambridge: Cambridge University Press, 2002), p. 97.

<sup>23</sup> Chris Buckley, 'US official gives China a last nudge on piracy,' *International Herald Tribune*, Internet ed., 14 January 2005.

<sup>24</sup> Ann Kent, 'China's growth treadmill: globalization, human rights and international relations,' *The Review of International Affairs*, Vol. 3, No. 4 (Summer 2004), p. 538.

technical in nature, like science and sports, China can make a quick decision to engage with them. For those which are largely institutional in nature, dealing with important issues of politics like the UN and the WTO, China usually takes a longer time to consider carefully the pros and cons of membership, and negotiation for entry can take a long time. For those which are mainly cultural and social in nature, like the issue of human rights, China can resist some of the norms and rules, and take measures to protect its own interests and defend its own views. Learning to play by the rules of the international game is a long process, as China adjusts and adapts wherever possible, taking into consideration its domestic conditions and external pressures. Flexibility and pragmatism is the order of the day, a far cry from the days of Mao more than a quarter of a century ago.<sup>25</sup> China's selective and conditional engagement with the world is not particularly Chinese. Other developing countries as well as developed countries also base their foreign policy behaviour on their respective calculations of national interests.

Ultimately, whether or not China can carry out its duties as a responsible member of the international community, as seen by itself and others, depends very much on how well it can tackle its domestic problems in the foreseeable future. According to the *People's Daily*, a group of 98 Chinese experts, many of whom are drawn from top think tanks such as the Chinese Academy of Sciences and the Chinese Academy of Social Sciences, predicts that China faces huge challenges posed by ten problems before 2010:<sup>26</sup>

1. The problem of unemployment;
2. Problems associated with rural development, agriculture, and the plight of farmers;
3. The problem of finance;
4. The gap between the rich and the poor;

<sup>25</sup> The idea of this paragraph comes from Wang Yizhou, *Zhongguo jueqi yu guoji kuize* [The rise of China and international rules], *Guoji jingji pinglun* [International Economic Review], Nos 3–4 (1998).

<sup>26</sup> *People's Daily*, Internet ed., 2 September 2004.

5. The question of ecology and resources;
6. The Taiwan issue;
7. The question of globalisation;
8. Structural problems in its political, economic, and social systems;
9. The problem of confidence and creditability; and
10. The problem of AIDS and public hygiene.

Other scholars also identify problems such as reform of the state-owned enterprises, the development of a social safety net, education investments and reform, the management of NGOs, and so on.<sup>27</sup> Under the rubric of political and social problems, lots of issues deserve attention, including the issue of corruption, the establishment of a legal system, the reform of the political system, relations between the Party and the people, and others.<sup>28</sup> Considering the myriad of factors involved, predicting China's future is a hazardous task, a fact readily acknowledged by many China watchers.

The Chinese government puts its faith on economic growth as a way to consolidate its rule. However, as pointed out in Chapter 6, environmental degradation has already started to eat substantially into this growth. Besides, China's economic structure is potentially unstable. Despite its phenomenal economic growth in the past two decades, many people still live in abject poverty. In the countryside, 800 million people or some 60 per cent of the country's population have an average income of less than one US dollar a day.<sup>29</sup> Worse

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<sup>27</sup> The view of Ding Yuanzu, a research fellow of the National Development and Reform Commission under the State Council, cited in the Friends of Nature website, <http://www.fon.org.cn/forum/showthread.php?threadid=3874> (assessed 22 July 2003).

<sup>28</sup> Charles Wolf, a fellow at Rand and the Hoover Institution in the US cites eight problems that China faces in its development: unemployment, corruption, HIV/AIDS and epidemic disease, water resources and pollution, energy consumption and prices, fragility of the financial system and state-owned enterprises, possible shrinkage of foreign direct investment, and Taiwan and other potential conflicts. See Charles Wolf, 'Eight threats to China's economic miracle,' *South China Morning Post*, Internet ed., 7 August 2003.

<sup>29</sup> *The Economist*, Internet ed., 7 April 2005.



than that, China's rich-poor gap is the worst in the world. A survey conducted by the Chinese Academy of Social Sciences shows that in 2002, half the wealth gap in China was accounted for by urban-rural divide. Moreover, there was a growing gap within urban areas, between the ordinary working class and the new middle and super-rich classes. The top five and ten per cent of earners in China accounted for 19.8 per cent and 31.9 per cent respectively of the country's revenue in that year.<sup>30</sup> Considering the fact that China is ruled by a strong authoritative government, and given the submissive nature of its ordinary folks to authority, a feature nurtured through centuries of culture, China's fragile economic structure may still be kept under control and may move forward without a total collapse.<sup>31</sup>

Although China's increasing compliance with the rules of the existing international treaty system has helped to move the world as a whole towards greater convergence in values and identities, divergences will no doubt continue to exist in the foreseeable future. The "end of history" à la Francis Fukuyama is not yet in sight in any clear-cut way.

China has been described as negatively or passively responsible in world affairs rather than positively or actively responsible.<sup>32</sup> The same can be said of the nature of its compliance. The country has a culture of authoritativeness and submission, and of rule by law rather than rule of law. Because of this cultural background and its generally low level of modernisation, China can hardly be expected to take a lead in changing the global order on its own or on behalf of the Third World. It could join collective Third World efforts initiated by others. The Group of 21, which China supports, is led by Brazil, South Africa, India, Argentina, and others. But the sheer size of its economy makes its presence a major force to be reckoned with.

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<sup>30</sup> *The Daily Telegraph*, 27 February 2004, p. 18.

<sup>31</sup> I borrow this idea from a conversation with Joseph Chan, an independent researcher in Hong Kong, 15 May 2005.

<sup>32</sup> Harry Harding, book review on Elizabeth Economy and Michael Oksenberg (eds), *China joins the world: progress and prospects* (New York: Council on Foreign Relations, 1999), *The China Quarterly*, No. 161 (March 2000), pp. 304–305.



The call for a united front to conduct world trade negotiations, adopted by the Asia-African Summit in Jakarta in April 2005, was a collective effort rather than a particularly strong Chinese initiative. The only notable exceptions to this phenomenon are the Boao Forum and the Shanghai Cooperation Organisation, where China has been actively involved in a leadership role, in setting up the institutional structures as well as in shepherding their development. China's multi-lateral diplomacy is constrained by a number of systemic factors, including its domestic developmental problems, its weak legal culture, its low level of general education,<sup>33</sup> its fragile comprehensive national power, its limited resources to train enough qualified diplomats to adequately manage its expanding scope of foreign affairs, and the language difficulties in international diplomacy (English being the lingua franca). China has a long way to go, and a lot more to learn in the process in order to become a world-class, normal power. The growth of a nascent civil society and the increasing use of the Internet may lead to more openness and transparency, and slightly greater degree of freedom and democracy, but the existence of civil society is only a necessary condition, not a sufficient one.<sup>34</sup> NGOs can serve as agents for change, but other factors are needed to help to generate a democratic system. In any case, the influence of NGOs in the country still lags very much behind that of the state and the market, and their activities are checked and controlled by the state, so much so Michael Frolic calls it "state-led civil society" with Chinese characteristics,<sup>35</sup> although NGOs may sow "seeds of democracy".<sup>36</sup>

<sup>33</sup> China spends 2.5 per cent of its annual budget on compulsory free education, compared with 4 per cent on the average for developing countries. See Committee on Economic, Social and Cultural Rights Review Initial Report of China, 29 April 2005.

<sup>34</sup> Yang Guobin cautions against an overly optimistic view of the role of the Internet in the development of civil society in China. See his 'The Internet and civil society in China: a preliminary assessment,' *Journal of Contemporary China*, Vol. 12, No. 36 (August 2003), pp. 453–475.

<sup>35</sup> B. Michael Frolic, 'State-led civil society,' in Timothy Brook and B. Michael Frolic (eds), *Civil society in China* (Armonk, NY: M.E. Sharpe, 1997), pp. 46–67.

<sup>36</sup> Merle Goldman, *Sowing the seed of democracy in China: political reform in the Deng Xiaoping era* (Cambridge, MA: Harvard University Press, 1997). Suzanne

In the process of moving itself out of isolation, China faces some fundamental structural problems in the international community, as the core values, institutional designs, behavioural norms, and decision-making processes as well as the style of international regimes are Western-orientated.<sup>37</sup> China may choose to remain in the margin of global development, but if it wants to continue to open up and engage with the outside world, it has to choose either to participate selectively in international regimes, or merge with them completely, or together with other frustrated participants change those values and norms.<sup>38</sup> It is a hard, if not a cruel, choice!

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Ogden uses the term "inklings of democracy" in her book entitled *Inking of democracy in China* (Cambridge, MA: Harvard University Asia Center, 2002).

<sup>37</sup> Liu Jie, *Jifubua shengcun: Zhongguo beiping jueqi de zhanlue jueze* [Regimenization [sic]: the strategic choice in the course of China's peaceful rise] (Beijing: Shishi chubanshe, 2004), p. 6.

<sup>38</sup> *Ibid.*, pp. 296–297.