

Censoring the Silk Screen: China's Precarious Balance Between State Regulation and a Global Film Market

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Time travel, ghosts, and smart-aleck superheroes may sow the seeds of rebellion—or so the Chinese Communist Party fears. Motion pictures from *Ghostbusters* to *Deadpool* to *Back to the Future* have been banned in the People's Republic for violating China's opaque permitting process. Still, the promise of profit keeps Hollywood producers attempting to crack the censor's code for a taste of box office lucre.

As China increasingly influences Hollywood's studio system, it is necessary to understand the largest Asian film market. From China's centralized distribution and exhibition structure to the state-influenced regulation of content, recognizing the unique characteristics and aggravating triggers is essential for content producers world wide.

China has long kept a tight reign on both traditional and new media to suppress potentially subversive messages that could challenge state authority. Since the beginning of the film industry, the Chinese government viewed imported motion pictures critically, concerned about the erosion of their national identity. Only a few years after the first public screenings in the West, filmmakers eagerly crisscrossed the globe, capturing exciting and exotic imagery and building bigger audiences. While European producers joined these film forces in the early days, the global reach of motion pictures has been associated with Americanism and the colonization of local cultures.

Once the Chinese Communist Party (CCP) took control of the mainland in 1949, a curtain fell on Hollywood productions in the region. The People's Republic of China (PRC) remained in self-imposed exile from the global

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marketplace until the 1970s. Suffering from decades of failed economic policy and severe social engineering, in the 1980s the door was cautiously opened to the import of foreign films, and later, to internationally held joint ventures and co-productions. With China's move to normalize trade relations, their system developed into a Post-Socialist structure, incorporating aspects of the free market economy into the ideological apparatus of the Communist government. Global capital began to flow into the PRC resulting in a financial windfall for the prevailing powers. Rather than bend towards capitalism, the CCP maintained central authority with protectionist policies that maximized domestic profits and forced foreign players to abide by a complex system of regulations.

As the Bamboo Curtain parted, America's entertainment-media conglomerates were eager to exploit the region but had to negotiate access across trade barriers. The PRC imposed various measures of market control, manipulation, and censorship to protect their domestic industry. A quota limited the amount of foreign product available in China. A state-sanctioned monopoly on imports eliminated competition and offered artificially low license fees. An ever-evolving bureaucratic structure had ultimate authority over content. It was challenging for foreign entities to maintain consistency with the alphabet soup of regulatory agencies that evolved from MRFT to SARFT to SAPPRFT. Furthermore, as certain films were turned away, the reasons for rejection remained obscure. There was little guidance on prohibited content and state agencies were notoriously vague with feedback, offering only circulars and advisory statements from party assemblies as touchstones. Foreign filmmakers were forced to navigate a process riddled with arbitrary and capricious decision-making—as well as outright corruption—to gain approval.

The story of Hollywood's quest for access to China's movie screens is one of false starts. After a decade of confidence-building, the Tiananmen Incident zeroed the clock. After another decade of development, the United States' accidental bombing of a Chinese embassy in Belgrade again chilled relations. But over time, the China film market expanded and American filmmakers found fissures in the system to gain a toehold in the complex environment.

Together, Hollywood's creative power and the PRC's multitude of movie audiences have elevated corporate players on both sides. But regulation and censorship still block the gateway to China for foreign filmmakers. Access to the potentially profitable markets requires knowledge of the PRC's intentionally complex, often-unpredictable, and ever-shifting structure.

MOTION PICTURES IN THE MIDDLE KINGDOM 1900-1979

The story of film regulation in China opens at the very beginning of film making itself. Only months after the public premiere of Thomas Edison's projecting motion picture device,¹ the first movies arrived in China. James Ricalton, an Edison consultant, was sent to the Far East where he exhibited a program of short films at the Tien Hua Tea Garden in Shanghai in August 1896. Ricalton was on location to film scenes of the Boxer Rebellion in 1900.² Edison's main competitor, American Mutoscope and Biograph Company, sent their own operative: C. Fred Ackerman. By 1901, Ackerman had recorded proto-newsreel footage of military activity in Formosa.³ European producers were only slightly behind their American counterparts. Dispatched by the Lumière brothers, Francis Doublier likely arrived in China around 1899.⁴ After fleeing defeat in the Philippines Theater of the Spanish-American War, Spanish-national Anthony Ramos established the first permanent Chinese motion picture theater before 1906.⁵ The Ramos Amusement Corporation pioneered film exhibition in China, but was likely shuttered with the onset of the civil unrest in the early 1920s.

Domestic motion picture production in China began in the early 1900s. Ren Qingtai produced the region's first film, *Dingjun Mountain* (1905).⁶ Ren followed *Dingjun* with *Battle at Changban* (1905) and *Mount Quinshi* (1906), but after a fire destroyed his studio in 1909, production ceased.⁷ Together Zhang Shichuan and Zheng Zhengqiu wrote and directed *Nanfu Nanqui (A Couple in Difficulty)*, 1913) and built the Mingxing Film Company in 1922.⁸ Despite these locally produced projects, motion pictures were

1. Edison's Vitascope Cheered. "Projecting Kinetoscope" Exhibited for the First Time at Koster & Bial's, N.Y. TIMES, April 24, 1896, at 5.

2. JAMES RICALTON, CHINA THROUGH THE STEREOSCOPE A JOURNEY THROUGH THE DRAGON EMPIRE AT THE TIME OF THE BOXER UPRISING (1901); George Hunt, *How We Know About James Ricalton*, LIFE, Vol. 61 No. 16, at 5 (Oct. 14, 1966); YINGJIN ZHANG, CHINESE NATIONAL CINEMA 14 (2004).

3. Roy L. McCardell, *Pictures That Show Motion*, EVERYBODY'S MAGAZINE 231 (1901); Thomas F. Millard, *Camera on the Firing-Line*, EVERYBODY'S MAGAZINE 463-470 (1904).

4. *Films "Dead" in 1900, Pioneer Believed*, N.Y. TIMES, Feb. 2, 1940, at 12; Glenn Myrent, *When Movies Began and No One Came*, N.Y. TIMES, Dec. 29, 1985, at H19, 22.

5. Matthew D. Johnson, *Regional Cultural Enterprises and Cultural Markets in Early Republican China*, 16 CROSS-CURRENTS: EAST-ASIAN HISTORY & CULTURE R. (Sept. 2015), <https://cross-currents.berkeley.edu/sites/default/files/e-journal/articles/johnson.pdf>; Xuelei Huang and Zhiwei Xiao, *Shadow Magic and the Early History of Film Exhibition in China*, in THE CHINESE CINEMA BOOK 51 (Song Hwee Lim & Justin Ward eds., 2011).

6. Liyan Qin, *The Intertwinement of Chinese Film and Literature: Choices and Strategies in Adaptation*, in A COMPANION TO CHINESE CINEMA 363 (Yingjin Zhang ed., 2012).

7. TAN YE & YUN ZHU, HISTORICAL DICTIONARY OF CHINESE CINEMA 129 (Scarecrow Press, 2012).

8. Liao Fangzhou, *Through the Lens*, GLOBAL TIMES (June 1, 2016), <http://www.globaltimes.cn/content/986399.shtml>; 1922: *The Mingxing Film Company*, CHINESE

primarily imported, introducing a global perspective and American values to Chinese audiences.

By November 3, 1930, following a period of civil strife, a motion picture censorship law was passed.⁹ The primary motive in passing this Censorship Act was to control the import of unregulated foreign films—specifically American motion pictures. From this point forward, the Chinese authorities would recognize the importance of motion pictures as an ideological tool for political propaganda.¹⁰

China remained an essentially closed market to American filmmakers for the next fifty years. Increasingly strict regulations on content devastated what remained of China's domestic film industry. During the Cultural Revolution period, 1966-1972, few films were produced and content was strictly regulated, required to adhere to party policy.¹¹ President Nixon's visit to China in 1972 began a process that led to improved Sino-US relations. By the mid-1970s, the stage was set for normalization of trade relations. When Vice Premier Deng Xiaoping arrived in the U.S. to meet with President Carter in 1979, the state powers signaled a mutual effort to cooperate on issues related to education, commerce, science, and technology¹²—distribution of media and motion pictures would take a central role in the US-China conversation.

That same year, 1979, the Ministry of Culture's Central Film Bureau mandated the incorporation of the China Film Group Corporation (CFG). CFGC was established as the state's monopoly solely authorized with administering affairs relating to imported films and later foreign co-productions.¹³ After decades of self-imposed exile, the PRC was taking steps to rejoin the global film market. Jack Valenti, president of the Motion Pictures Association of America (MPAA), took immediate notice of the underdeveloped Chinese market. Hollywood representatives met with China

MIRROR, <http://www.chinesemirror.com/index/2007/09/1922-the-mingxi.html> (last visited Sept. 28, 2016).

9. COPYRIGHT AND RELATED TOPICS: A CHOICE OF ARTICLES 116 n.320 (Univ. Cal. Press 1964).

10. *1930-1931: The Film Censorship Act and an Expert Interview*, CHINESE MIRROR, <http://www.chinesemirror.com/index/2011/09/1930-1931-the-film-censorship-act-and-an-expert-interview.html> (last visited Sept. 28, 2016).

11. *Film Industry in China*, CHINA.ORG.CN, <http://www.china.org.cn/english/features/film/84966.htm> (last visited Sept. 28, 2016). This is the authorized government portal site to China, published under the auspices of the State Council Information Office and the China International Publishing Group.

12. Ministry of Foreign Affairs of the People's Republic of China, *The Establishment of Sino-U.S. Diplomatic Relations and Vice Premier Deng Xiaoping's Visit to the United States*, http://www.fmprc.gov.cn/mfa_eng/ziliao_665539/3602_665543/3604_665547/t18007.shtml (last visited Sept. 28, 2016).

13. ZHANG, CHINESE NATIONAL CINEMA, *supra* note 2, at 190.

Film as early as 1980. However, negotiations faltered when Valenti, advocating a revenue-sharing distribution system, could not come to terms with the CFGC, which insisted on a flat fee for distribution rights.¹⁴ The flat-fee model was a non-starter because such a deal would require producers to sell their content for a fraction of the value, disproportionately limiting possible profits from the PRC.

RENAISSANCE IN CHINA'S FILM FACTORIES

While negotiations with Hollywood stalled, the 1980s saw resurgence in China's domestic film industry. Just years earlier, the Cultural Revolution and crackdown on censorship had severely affected the Beijing Film Academy (BFA). Established as the Performance Art Institution of the Film Bureau of the Ministry of Culture in 1950, the country's single cinema school trained legions of aspiring filmmakers. Despite its popularity, the BFA was closed during the Cultural Revolution and remained shuttered for over a decade, from 1966-1978.¹⁵

The BFA resumed accepting applicants in 1978. This matriculating class became known as "the Fifth Generation" and it teemed with talent. By the early 1980s, BFA graduates emerged as exciting new voices on the world stage. Zhang Yimou won the Golden Bear at the Berlin Film Festival for *Red Sorghum* (1987); Chen Kaige was nominated for the Palme d'Or at the Cannes Film Festival for *Hai zi wang (Children of the King)*, (1987); Wu Ziniu won a Silver at Berlin for *Wan Zhong (Evening Bell)*, (1988); Tian Zhuangzhuang was nominated for a Gold at Berlin for *Da Taijian Li Lianying (Li Lianying, the Imperial Eunuch)*, (1991); Li Shaohong was nominated for a Golden Leopard at the Locarno International Film Festival for *Sishi Puhuo* (1992); Ning Ying claimed a Gold at the Tokyo Film Festival for *Zhao le (For Fun)*, (1993); and Liu Miaomiao was recognized at the Venice Film Festival for *Za Zue Zi (Chatterbox)*, (1993). Fifth Generation filmmakers heralded a vibrant rebirth for Chinese cinema.

Fifth Generation filmmakers also demonstrated a generational rupture, eschewing the Socialist realism that characterized the cinema of their parents. Moving away from party propaganda, these new directors focused on personal subjects and individual struggles, even daring to voice criticism of the CCP. Set in 1939, Chen Kaige's *Huang tudi (Yellow Earth)*, (1984) looked at rural peasants living in extreme poverty, experiencing hardships that were

14. WENDY SU, CHINA'S ENCOUNTER WITH GLOBAL HOLLYWOOD, CULTURAL POLICY AND THE FILM INDUSTRY 1994-2013, at 16 (2016); *The Introduction of the First Blockbusters Accused "Foreign Comprador,"* SINA NEWS, <http://news.sina.com.cn/c/2008-12-19/091616880300.shtml> (last visited Sept. 28, 2016).

15. Patricia C. Bibby, *Chinese Sweeping Oedipal to be Released*, DEL RIO NEWS HERALD, March 21, 1991.

at odds with the party's heroic visions of the working class. Huang Jianxin's *Hei Pao Shijian* (*The Black Canon Incident*, 1985) satirized Chinese bureaucracy: a cryptic message about a missing chess piece sets off conspiratorial intrigue. The most extreme cultural critique came from Tian Zhuangzhuang. In *The Blue Kite* (1993), Zhuangzhuang's film followed a family torn apart by the political upheavals of the Hundred Flowers Campaign, the Great Leap Forward, and the Cultural Revolution. *Blue Kite* was banned in China and Zhuangzhuang was blacklisted from making films in his own country for nearly a decade.¹⁶ While members of the Fifth Generation reinvigorated Chinese cinema, state regulators responded by asserting strict control over controversial content with censorial tactics.

As artistic pictures produced by Fifth Generation filmmakers were gaining notice at film festivals across the world, they were not igniting box offices at home. Instead, the China film industry was mired in a downward spiral as movie attendance plummeted from 29.3 million in 1979 to 21.2 million in 1986.¹⁷ State administrators stepped in to reverse this troubling trend. In 1986, the Ministry of Culture, the Film Bureau, and the Department of Radio and Television were merged to form the Ministry of Radio, Film and Television (MRFT). MRFT was charged with regulating media and censoring content, reporting up to the Propaganda Department of the CCP. The department was reorganized again in 1998 to form SARFT, nominally under the Ministry of Information Industry (MII) but in practice MRFT/SARFT acted with little oversight.¹⁸

By 1989, MRFT's Film and Television Bureau announced a set of regulations entitled "The Circular on Implementing the Censorship and Rating System for Some Movies." These guidelines suggested a series of prohibitions on subject matter, which included "plots involving rape, robbery, prostitution, drug addiction, and trafficking; movies depicting violence, murder, and fighting; movies exhibiting sexual activities; and movies with 'ugly/abnormal social phenomena.'"¹⁹

16. Marcelle Clements, "The Blue Kite" Sails Beyond the Censors, N.Y. TIMES, April 3, 1994, at H13; Hugh Hart, *Springtime Again for Tian*, L.A. TIMES (May 28, 2004), <http://articles.latimes.com/2004/may/28/entertainment/et-hart28>.

17. See RUI ZHANG, THE CINEMA OF FENG XIAOGANG: COMMERCIALIZATION AND CENSORSHIP IN CHINESE CINEMA AFTER 1989, at 22 (Hong Kong Univ. Press 2008); Yingjin Zhang, *Directors, Aesthetics, Genres: Chinese Postsocialist Cinema 1979-2010*, in A COMPANION TO CHINESE CINEMA 70 (Blackwell Publ. 2012).

18. Zheng Li, *Media Control in China*, in THE HANDBOOK OF MEDIA AND MASS COMMUNICATION THEORY 693 (Robert S. Fortner, P. Mark Fackler, eds., 2014); XING FAN, COMMUNICATIONS AND INFORMATION IN CHINA: REGULATORY ISSUES, STRATEGIC IMPLICATIONS 115-16 (Univ. Press Am. 2001).

19. Ministry of Broadcasting, Film, and Television, *The Circular on Implementing the Censorship and Rating System for Some Movies*, in CHINA FILM YEAR-BOOK 1990, at 45 (1990).

Coinciding with increased regulation on domestic film content, China began to seek investment from international financiers. One of the earliest joint ventures partnered China's struggling state facilities with Hong Kong's mature motion picture industry.²⁰ Set in the distant past, *Shaolin Si* (*The Shaolin Temple*, 1982) was a martial arts action picture shot on location in Henan Province, China, at the historical birthplace of kung fu. The film followed a rebellious novice monk. After a warlord murders his father, the surviving son seeks refuge at a Buddhist monastery. While excelling at wushu, an acrobatic form of kung fu, the boy is not cut out for ascetic life: he falls in love and lusts for revenge. In the climatic scene, the boy defends his sensei, avenges his father, demonstrates his fighting prowess, and declines a woman's love to become the epitome of a chivalrous warrior hero. *Shaolin Si* starred Beijing-born Li Lianjie/Jet Li, already known as a national hero and five-time winner at the Chinese National Martial Arts Competition.²¹ Audiences accustomed to stultifying state propaganda and artistic film school fare relished the action-packed fight film.²² At a time when tickets cost 0.1 RMB, *Shaolin Si* attracted revenue over 100 million RMB on the China mainland alone, and was so influential that it triggered a genre of imitators as well as transformed the antiquated Shaolin monastery into a tourist attraction.²³

But not all co-productions went as smoothly or as successfully as *Shaolin Si*. In 1985, the De Laurentiis Entertainment Group committed \$25 million to produce *Tai-Pan*, a historical drama based on James Clavell's novel, on location in China. Even before shooting began, Raffaella de Laurentiis clashed with Chinese host organizations. She claimed that bribery, kickbacks, and administrative slowdowns hampered the production. De Laurentiis told *The New York Times* that she was required to pay \$630,000 to Central China Television and the China Foundation to lock location permissions. After English-language newspapers in Hong Kong ran a story in which she made comments critical of her experience in China, De Laurentiis discovered that Chinese production personnel were pulled off the set, bringing the \$100,000-a-day shoot to a halt.²⁴ In addition to logistic

20. Christopher Beam, *The Rise and Fall of Shaolin's CEO Monk*, BLOOMBERG BUSINESSWEEK (Dec. 28, 2015), <http://www.bloomberg.com/news/features/2015-12-28/the-rise-and-fall-of-shaolin-s-ceo-monk>; LISA ODHAM STOKES, HISTORICAL DICTIONARY OF HONG KONG CINEMA 374 (Scarecrow Press 2007).

21. *Jet Li: King of the Kung-Fu Stars*, CHINA.ORG.CN, <http://www.china.org.cn/english/features/film/159979.htm> (last visited Sept. 28, 2016).

22. *Martial Arts Fever Sweeps China Off Its Feet*, N.Y. TIMES, Sept. 12, 1982, at 10.

23. SABRINA QIONG YU, *JET LI: CHINESE MASCULINITY AND TRANSNATIONAL FILM STARDOM* 4 (Edinburgh Univ. Press 2012).

24. John F. Burns, "*Tai-Pan*" *Contrasts Old China and New*, N.Y. TIMES, April 27, 1986, at H17.

hurdles, Chinese regulators imposed creative challenges. One scene scheduled to be shot on the Hong Kong waterfront was vetoed because of the implication that Westerners “had accomplished great things.”²⁵ Action-packed sequences of Chinese characters looting and burning an opium warehouse were cut for offending cultural sensibilities despite the historical record. Production on the picture’s slightly risqué bedroom scenes had to be relocated to Macao because officials objected to the idea of a Chinese girl romantically entangled with an opium trader.²⁶ De Laurentiis publically declared that the changes amounted to censorship. Difficulties on production were met with apathy at the box office. *Tai-Pan* earned just over \$4 million.²⁷

By the late 1980s, the PRC’s changing policy on motion picture content began to take shape as international co-producers moved further into the largely untested environment. The Chinese film industry was restructured with the Circular of 1989, which provided a degree of guidance by proscribing certain topics. Historical dramas were favored because references to the contemporary regime could be avoided or at least concealed. Chen Kaige’s *Yellow Earth* demonstrated that some defiance would be tolerated, but Tian Zhuangzhuang’s *Blue Kite* served as a warning that overly controversial pictures—and their directors—would be silenced. Comparing the celebrated *Shaolin Si* to the troubled *Tai-Pan*, films that portrayed China in a negative light—even if historically accurate—would face bureaucratic inertia if not outright suppression. Still, within a single decade, 1978-1988, the Chinese film industry was rejuvenated, claiming attention on the international festival circuit as well as wooing foreign entities into investing in co-productions. In a moment of aggressive optimism, the Vice Minister of Radio, Film, and Television, Tien Congming, even dared to challenge Hollywood’s film industry by questioning which country was more market-accessible: “From 1985 to 1993, America exported 54 films to China but only imported two from China.”²⁸ The PRC film market was entering an era of dramatic revitalization.

Then in April 1989, the PRC experienced a dramatic upheaval: the Tiananmen Square Incident. Student protests had been brewing since mid-decade gathering momentum as their rhetoric increasingly challenged the regime.²⁹ As the throngs of young peaceful protesters grew more vocal the

25. *Id.*

26. *Id.*

27. *Chinese Red Tape Causes Problems*, DAILY NEWS L.A., January 17, 1986; *Tai-Pan*, BOX OFFICE MOJO, <http://www.boxofficemojo.com/movies/?id=taipan.htm> (last visited Sept. 29, 2016).

28. Maggie Farley, *COMPANY TOWN: Action! Hollywood Sees it in China*, L.A. TIMES (November 3, 1995), http://articles.latimes.com/1995-11-03/business/fi-64365_1_china-film.

29. See Calum MacLeod, *Chinese Dare Recall Tiananmen Square Massacre*, USA TODAY (June 2, 2014, 12:37 AM EDT), <http://www.usatoday.com/story/news/world/2014/06/01/tiananmen-square-25-anniversary/9774513>; Luo Siling, *Teaching Tiananmen to a New Generation*,

central government, still under the leadership of Deng Xiaoping, responded by declaring martial law.³⁰ Tension escalated until early June when the decision was made to mobilize the People's Army.³¹ The result was a still-undisclosed amount of arrests, injuries, and casualties.³² The promise of opening China-US relations evaporated instantly. In the wake of the PRC's actions against the pro-democratic movement, import of western films was drastically reduced from 1990-1992.³³

During this period of self-imposed exclusion, MRFT advocated a homegrown genre: the "main melody" or "central message" film. Teng Jinxian, director of the Film Bureau, had proposed main melody films (zhu xuan lü) in 1987 as a means to counter growing political turmoil and reinforce positive images of the CCP and its leaders. The bureau encouraged Chinese filmmakers to develop content embodying patriotic and socialist ideals while repudiating individualism, hedonism, and capitalistic greed.³⁴ Exemplars of this genre included historical and hagiographic pictures such as *Sun Zhongshan* (*Sun Yat-Sen*, 1987), *Kaiguo Daidan* (*The Founding of a Nation/The Birth of a New China*, 1989), *Da Jue Zhan* (*Decisive Battles*, 1990), and *Mao Zedong and his Son* (1991).³⁵ By the early 1990s, these propagandistic pictures accounted for 25% of domestic production.³⁶ Message films may have served as significant state ideological apparatuses indoctrinating audiences to CCP policy and party line but they did not deliver audiences to theaters. In a 1990 interview with *The New York Times*, Teng Jinxian confided that the Chinese film industry was facing a financial crisis: "Young people [are] largely bored by the new type of politically correct movies that were being ordered up by his ministry . . . I cannot give you a figure," he said of the losses being suffered, "but it is colossal."³⁷ With a release schedule packed with party approved message films that drove audiences away from theaters, the Chinese film industry would fail.

N.Y. TIMES (June 21, 2016), <http://www.nytimes.com/2016/06/22/world/asia/china-tiananmen-rowena-he.html>.

30. See *supra* note 29.

31. *Id.*

32. *Id.*

33. SU, *supra* note 14, at 1.

34. See RUI ZHANG, *supra* note 17, at 40; SU, *supra* note 14, at 20.

35. See Nicholas D. Kristof, *China's Films: More Propaganda, Less Art*, N.Y. TIMES, Aug. 1, 1991, at C15; Orville Schell, *Once Again, Long Live Chairman Mao*, ATLANTIC (Dec. 1992), <http://www.theatlantic.com/magazine/archive/1992/12/once-again-long-live-chairman-mao/306586>.

36. YING ZHU, CHINESE CINEMA DURING THE ERA OF REFORM: THE INGENUITY OF THE SYSTEM 81 (2003).

37. James Sterngold, *Toeing Party Line, Chinese Films Falter*, N.Y. TIMES, Aug. 25, 1990, at L11.

The CCP responded with an infusion of state subsidies. At the Central Committee Assembly of 1990, the party proposed a National Film Development Fund. This fund would channel 5% of national box office revenue towards films with “significant themes.” The amount of mainstream melody films increased from 11 in 1991 to 19 in 1992.³⁸ At the 14th National Congress in October 1992, Jiang Zemin, the General Secretary of the CCP, delivered a report entitled “Accelerating the Reform, the Opening to the Outside World and the Drive for Modernization, so as to Achieve Greater Successes in Building Socialism With Chinese Characteristics.” Jiang addressed China’s need to recalibrate the socialist economy and accelerate modernization. “We should open up more international markets, diversify our trading partners and develop an export-oriented economy,” said Jiang, “to open wider to the outside world and make more and better use of foreign funds, resources, technology and management expertise.”³⁹

Contrasting with Jiang’s directive to reach out and join the world economy was the CCP’s dictate to adhere to its orthodox message. Zhang Yimou’s *Ju Dou* (1990) was an artistic triumph by any measure, a visually stunning historical drama set in a dye factory in rural southern China. The picture was nominated for an Academy Award for Foreign Language Film.⁴⁰ At a moment when Chinese cinema teetered on the brink of recognition in Hollywood, potential triumph was squelched. Party censors disapproved of a scene of the film’s protagonist (Gong Li) bathing, her bare back to the camera.⁴¹ MRFT also condemned her character’s adulterous relationship, which was central to the plot.⁴² *Ju Dou* was banned in China; furthermore, the Chinese Government asked to have the film withdrawn from consideration for an Oscar—twice.⁴³ As controversy swirled around *Ju dou*, a Swiss movie claimed the award. For China’s film industry, defeat was snatched from the hands of victory. The Ministry of Film’s ban was lifted a year later in 1992.⁴⁴

38. Yingchi Chu, *The Consumption of Cinema in Contemporary China*, in *MEDIA IN CHINA: CONSUMPTION, CONTENT, AND CRISIS* 47 (Stephanie Hemelryk Donald, Michael Keane, & Yin Hong eds., 2003); SU, *supra* note 14, at 98.

39. *Full Text of Jiang Zemin’s Report at 14th Party Congress*, BEIJING REVIEW, http://www.bjreview.com.cn/document/txt/2011-03/29/content_363504.htm (last updated Mar. 29, 2011).

40. *The 63rd Academy Awards 1991*, OSCARS, <http://www.oscars.org/oscars/ceremonies/1991> (last visited Sept. 29, 2016).

41. Sheryl WuDunn, *China Fights an Academy Award Nomination*, N.Y. TIMES, Feb. 25, 1991, at C11.

42. *Id.*

43. *Id.*

44. SHEILA CORNELIUS & IAN HAYDEN SMITH, *NEW CHINESE CINEMA: CHALLENGING REPRESENTATIONS* 43 (Wallflower Press 2002).

In 1993, Wu Mengchen was elevated to general manager of the China Film Distribution and Export Company (CFEIC), the state's monopolized film entity. Setting out a policy that reflected Jiang's directive, Wu aligned with the CFEIC with MRFT and jointly announced "Suggestions on the Deepening of Institutional Reform of the Chinese Film Sector," commonly referred to as "MRFT Policy Document No. 3." Document 3 streamlined China's film industry, eliminating bureaucratic layers to make the system more compatible with a market economy.⁴⁵ In addition to mandated internal reforms, Document 3 permitted CFEIC to select and import ten foreign films a year under a revenue-sharing agreement.⁴⁶ This departure from the flat rate buy-out model made the PRC more attractive to Hollywood's content owners. Still, the PRC's vision of motion pictures as an ideological apparatus had not changed so the imported films would be subjected to strict censorship. The rule was buyer beware—the blue pencil of the Chinese censors could strike almost at random. *The New York Times* observed, "The censors won't say what the rules are, and once they have banned a film, they won't even tell directors how to cut it to satisfy their objections."⁴⁷

Implementing the import provisions of Document 3 in January 1994, Wu Mengchen announced an initiative to revitalize the domestic film market with foreign blockbusters that had achieved solid box office results overseas.⁴⁸ The PRC resumed the process of opening its doors to the international market but independently-produced foreign films were at a disadvantage as compared to MPAA members, major studios capable of producing and marketing tent pole products (i.e., big budget blockbuster motion pictures with analytically predictable box office potential). Under the revenue-sharing model, provided for in Document 3, CFEIC offered onerous terms keeping the lion's share of profit—generally 85%—still, even a 15% take⁴⁹ helped to sweeten the pot for foreign producers, giving them a taste of the potential Chinese box office. The first major Hollywood film studio to enter the Chinese market on a revenue-sharing basis with a big budget picture was Warner Bros. That historic picture, the first blockbuster to penetrate the Bamboo Curtain, was *The Fugitive* (1993). Based on a 1960s television series reimagined, *The Fugitive* was a cat-and-mouse thriller that followed a

45. *Id.* at 46; SU, *supra* note 14, at 86.

46. The number of imported motion pictures would be increased to twenty in 2001 after China joined the WTO; in 2012, an additional fourteen IMAX and 3D pictures were permitted.

47. Patrick E. Tyler, *Who Makes the Rules in Chinese Movies?*, N.Y. TIMES, Oct. 17, 1993, at H19.

48. SU, *supra* note 14, at 15 (citing Wu Mengchen, *Wu Mengchen's Speech on National Conference of General Managers*, in CHINA FILM MARKET 2, at 7 (1994)).

49. Patrick Brzeski, *MPAA Confirms New Hollywood-China Film Distribution Agreement*, HOLLYWOOD REP. (Nov. 5, 2015), <http://www.hollywoodreporter.com/news/mpaa-confirms-new-hollywood-china-837645>.

Hitchcockian theme: an innocent man framed by circumstances beyond his control. Suspected of murdering his wife, the film finds Harrison Ford on the run fleeing a granite-faced US Marshall played by Tommy Lee Jones. The picture was successful in its domestic release, grossing over \$176 million in its first two weeks against a \$44 million production budget.⁵⁰ In China, Warner Bros. took a significantly smaller cut of the box office, but the potentially massive audience promised dividends. In Shanghai alone, official state sources projected audiences over 700,000 people.⁵¹ Even with drastically reduced ticket prices, *The Fugitive* grossed \$3.8 million in China⁵² and was regarded by both the U.S. and China as an “event of historic significance.”⁵³

TINSEL TOWN IN RED

The Fugitive was Hollywood’s first profitable venture into the Chinese market and brought U.S. studios a step closer to realizing the goal of accessing the PRC’s untapped and potentially rewarding market. The following year, other major studios reached similar agreements with CFEIC that permitted their own pictures admission to PRC theaters. Universal International entered the arena with *True Lies* (1994), Fox with *Speed* (1994), Disney with *The Lion King* (1994), Paramount with *Forrest Gump* (1994), and Columbia TriStar with *Bad Boys* (1994). While *True Lies* was the standout, grossing approximately \$15 million in China, each of the pictures exceeded expectations except *Forrest Gump*, which was deemed an underperformer taking in \$2.9 million.⁵⁴ The infusion of imported content lifted the PRC’s industry was well, earning China Film 60% of its yearly income and sparking a 70% increase in movie attendance in 1994.⁵⁵

50. See *The Fugitive*, BOX OFFICE MOJO, <http://www.boxofficemojo.com/movies/?page=weekend&id=fugitive.htm> (last visited Sept. 29, 2016); *The Fugitive* (1993), NUMBERS, <http://www.the-numbers.com/movie/Fugitive-The> (last visited Sept. 29, 2016).

51. Rone Tempest, *How Do You Say “Boffo” in Chinese? “The Fugitive:” The First Recent Hollywood Blockbuster to be Shown in China in Years Has Given a Boost to the Country’s Faltering Movie Theaters*, L.A. Times (Nov. 29, 1994), http://articles.latimes.com/1994-11-29/entertainment/ca-2665_1_american-movie.

52. Zhang Rui, *Top Grossing Chinese Films All Through Years*, CHINA.ORG.CN (Feb. 19, 2016), http://www.china.org.cn/arts/2016-02/19/content_37827515.htm.

53. Sean O’Connor & Nicholas Armstrong, U.S.-China Economic and Security Review Commission Staff Research Report, *Directed by Hollywood, Edited by China: How China’s Censorship and Influence Affects Films Worldwide* (Oct. 28, 2015), <http://origin.www.uscc.gov/sites/default/files/Research/Directed%20by%20Hollywood%20Edited%20by%20China.pdf>; see also Stanley Rosen, *The Wolf at the Door: Hollywood and the Film Market in China from 1994-2000*, in SOUTHERN CALIFORNIA AND THE WORLD 52 (2002).

54. See Rosen, *supra* note 53, at Table 3.1 (*Box Office Receipts for American “Megafilms” in China*).

55. Farley, *supra* note 28.

As China Film, still the solely authorized entity to import foreign films, filled its coffers with royalties from revenue-sharing imported pictures, the state reinvested profits in infrastructure. In January 1996, Hengdian World Studios broke ground in the countryside five hours from Beijing. Hengdian Studios would become China's first major production facility, the vision of Xu Wenrong a farmer-turned electronics manufacturer. Moving into his role as media mogul, Xu partnered with director Xie Jin on a main melody film entitled *Yapian Zhanzheng* (*The Opium War*, 1997). Xie had locked backing from the government, but had no location to shoot the picture. Xu offered his support, channeling state funds into what would become the largest film studio in China. Hengdian expanded to 2,500 acres, becoming more immense than Universal and Paramount studios combined.⁵⁶ Once completed, Hengdian teemed with historical sets ranging from Ming dynasty palaces to Beijing back alley hutongs and earned the title Chinawood.⁵⁷

Over the course of the next fifteen years, state funds would subsidize a domestic studio system of epic proportions. The Chinese government invested over \$1.57 billion in Wuxi Studio, located south of Shanghai. Branding itself as Huallywood, Wuxi's stages were booked by domestic crews as well as foreign co-productions such as *Iron Man 3* (2013).⁵⁸ The Beijing Cultural and Creative Industry Development Special Fund contributed to build China Film Group's Huairou Film Base in the capital city.⁵⁹ Each of these state funded facilities offered their soundstages free of charge to domestic productions.⁶⁰ The playing field was not level for domestic and foreign producers but with eyes on box office prize, Hollywood's studios would not be deterred.

Simultaneous with building motion picture production infrastructure, the State Film and Television Bureau issued another new policy. Promulgated

56. Cathy Yan, *If You Build It, They Will Come: Chinese Town Gets Hollywood Makeover*, WALL ST. J., (May 21, 2011), <http://www.wsj.com/articles/SB10001424052748704322804576302901606181530>; Ian Johnson, *Studio City*, NEW YORKER (Apr. 22, 2013), <http://www.newyorker.com/magazine/2013/04/22/studio-city>.

57. Clarissa Sebag Montefiore, *Is "Chinawood" the New Hollywood?*, BBC: CULTURE (Oct. 10, 2014), <http://www.bbc.com/culture/story/20140207-is-chinawood-the-new-hollywood>; *Hengdian World Studios, Where History Meets Modernity*, CHINA.ORG.CN (June 11, 2008), http://www.china.org.cn/travel/where_to_go/2008-06/11/content_15741653.htm.

58. Richard Verrier, *Sid Ganis: Wuxi Studio Will Be a Major Production Hub in China*, L.A. TIMES (June 13, 2012), <http://articles.latimes.com/2012/jun/13/entertainment/la-et-ct-ganis-china-20120613>; Mandy Zuo, *Hello "Huallywood,"* S. CHINA MORNING POST (Feb. 10, 2016), <http://www.scmp.com/news/china/society/article/1909294/hello-huallywood-chinese-studio-hopes-monkey-king-fantasy-sequel>.

59. *Huairou: National Film and TV Industrial Model Zone*, CHINA.CN.ORG: THIS IS BEIJING! (Oct. 31, 2014), http://www.china.org.cn/bjzt/2014-10/31/content_33926886.htm; Clifford Coonan, *Huairou Film Base Hopes to Lure Westerners*, VARIETY (Mar. 24, 2012), <http://variety.com/2012/film/news/studio-complex-puts-china-in-the-picture-1118051848>.

60. Johnson, *Studio City*, *supra* note 56.

in June 1996 as “Regulations on Administration of Films,” the guidelines were referred to as “Document 200.”⁶¹ Document 200 set out procedural requirements for imports, obligations for co-productions, as well as explicitly prohibited content. Under Article 24,

Films are forbidden to have the following contents: (1) Those endangering the unity, sovereignty and territorial integrity of the state; (2) Those harming the security, honor and interests of the state; (3) Those inciting national splitism [*sic*] and disrupting the unity of nationalities; (4) Those divulging state secrets; (5) Those publicizing obscenity or superstitions or playing up violence; (6) Those libeling or insulting other people; or (7) Other contents prohibited by the state.⁶²

The seventh category would subsume all others providing a legal and regulatory foundation for arbitrary and unpredictable censorship. Violations were prohibitive: unapproved exhibitions were subject to confiscation of all earnings as well as fines calculated at five to ten times the illegal earnings.⁶³

In addition to addressing censorship issues, Document 200 provided a degree of clarity on imported revenue-sharing foreign films. While international films brought audiences back to theaters and delivered windfalls of profit to China Film, MRFT’s protectionist policy required two-thirds of the total screen time be reserved for domestic Chinese productions.⁶⁴ By protecting domestic producers and fleecing foreign filmmakers the CCP was able to reclaim legitimacy, badly damaged after the Tiananmen Incident, based on the economic achievements of the “socialist market economy.” The PRC’s overall strategy with regard to international marketplace had shifted from resistance to collaboration, directing China into a pole position on the geopolitical stage.⁶⁵

In 1998, MRFT was restructured to form the State Administration of Radio, Film, and Television (SARFT).⁶⁶ The new bureaucratic system encouraged international co-productions, but byzantine regulations and protectionist policies still left foreign partners at a disadvantage. Hollywood producers jockeying for a slice of the promising PRC box office found themselves bound by red tape and cumbersome administrative processes. American filmmakers were unaccustomed to working with state subsidized

61. Decree No. 200 of the State Council of the People’s Republic of China on June 19, 1996, ch. I, art. 24 §§ (1)-(7), *Regulations on the Administration of Film* (Asian Legal Information Institute trans.), <http://www.asianlii.org/cn/legis/cen/laws/roaof382>.

62. *Id.*

63. *Id.* at art. 60.

64. *Id.* at art. 45.

65. SU, *supra* note 14, at 5-6.

66. IRENE WU, *FROM IRON FIST TO INVISIBLE HAND: THE UNEVEN PATH OF TELECOMMUNICATIONS REFORM IN CHINA* 138 (Stanford Univ. Press 2009).

conglomerates that could include arrays of unrelated operations—one Shanghai Studio commented that it was not critical to make profits from films because the facility earned a steady income from a factory that it ran on the lot. The Chinese studios were also committed to social security obligations including kindergartens, health clinics, and apartment complexes for their staff.⁶⁷ Hollywood's capitalist content producers had to acclimate to the heavily regulated Chinese system.

Foreign filmmakers seeking to operate within the PRC were faced with two modes of entry: importing content and producing pictures on location as part of a joint venture agreement.

Since Western producers had not operated in China since the pioneering days of filmmaking, importing content was the first feasible approach. Cinematic imports could adhere to two different models: flat rate/buy outs and revenue sharing joint ventures. Under a buy-out agreement, which was the rule prior to Document 200 in 1996, film-owners could only license a picture's distribution rights at a flat rate. This was generally less advantageous to the foreign entity because for a single negotiated fee, all rights in the territory would be licensed. For instance, one of the first buy-outs occurred in the early 1980s when China Film Group acquired theatrical rights for *Superman* (1978) from Warner Bros. for a vastly below market rate of \$50,000.⁶⁸ With Document 200 came the ability for foreign filmmakers to move into the PRC market under revenue sharing schemes. Even if foreign rights holders could only claim a small slice of the box office and were on the hook for tax and tariffs, the income was better than a flat rate. By the end of the decade, SARFT began considering international participation in the domestic market through joint venture agreements.

Cooperative productions, pairing a foreign entity with a China-national production group, were permitted after the passage of "Measures for the Administration of Chinese-Foreign Cooperative Film Production" in 2004, referred to as Document 19.⁶⁹ In a joint venture, both Chinese and foreign parties invested in funding and labor, producing together, sharing interest and risk. Two systems of cooperative-production developed: Joint Productions and Assisted Productions. Joint Productions arose when Chinese parties and foreign entities invested in and produced a film together. These jointly owned works would share copyrights as well as potential profits. Unlike the

67. Seth Faison, *A Chinese Wall Shows Cracks*, N.Y. TIMES, November 21, 1995, at D1.

68. Firedeep & Robert Cain, *How China's Movie Distribution System Works, Part 1*, CHINA FILM BIZ (Nov. 7, 2012), <https://chinafilmbiz.com/tag/the-fugitive>.

69. Order of the State Administration of Radio, Film, and Television, December 1, 2003, *Measures for the Administration of Chinese-Foreign Cooperative Film Production* (Asian Legal Information Inst. trans.), <http://www.asianlii.org/cn/legis/cen/laws/mftaoccfp732> (last visited Sept. 30, 2016).

creative latitude offered producer in the free market system, foreign filmmakers working on a joint production were still subject to certain requirements, such as the Chinese actors comprising at least one third of main cast members in addition to the rigors of state censorship. Joint productions were regarded as domestic films so these pictures would avoid the import quota.⁷⁰ In October 2004, Warner Bros. became the first major studio to partner with PRC a production entity, joining with China Film Group and Hengdian Group to form Warner China Film HG Corp. The joint venture, Warner China Film, announced plans to develop, produce, and distribute predominantly Chinese-language feature films with modest budgets ranging from \$1.5 million to \$6 million.⁷¹

While Warner China Film catered to the domestic China audience with a slate of films, other joint ventures focused on a single picture: *The Karate Kid* (2010), a Sony-China Film Group co-production; *Looper* (2012), an Endgame-DMG co-production; *Cloud Atlas* (2012), a Warner Bros.-Dreams of Dragon Picture; *Pacific Rim* (2013), a Warner-Legendary-DDY co-production; and *Kung Fu Panda 3* (2016), a Dreamworks-Oriental Dreamworks production (Oriental Dreamworks was organized as a joint production house in 2012 intended for multiple projects similar to Warner China Film).⁷² A Legendary-China Film co-production distributed by Universal in the U.S., *Warcraft* (2016), earned a record \$45.7 million on its opening day and passed the \$100 million mark in the PRC before hitting that number in the U.S.⁷³ Despite its astronomical box office, *Warcraft*

70. See *Procedural Course for Chinese-Foreign Film Co-Production and Assisted Co-Production*, CHINA FILM CO-PRODUCTION CORP., <http://www.cfcc-film.com.cn/introeg/busine.html> (last visited Sept. 30, 2016); *About Co-Productions*, CHINA HOLLYWOOD SOC'Y, <http://www.chinahollywood.org/about-co-productions> (last visited Sept. 30, 2016).

71. See Press Release, Time Warner, China Film Group, Hengdian Group and Warner Bros. Pictures Partner to Create Warner China Film Hg Corporation (Oct. 14, 2004), <http://www.timewarner.com/newsroom/press-releases/2004/10/14/china-film-group-hengdian-group-and-warner-bros-pictures-partner>; Mike Goodridge, *Warner Bros. Makes History with First Ever Foreign Production Co. in China*, SCREEN DAILY (Oct. 14, 2004), <http://www.screen-daily.com/warner-bros-makes-history-with-first-ever-foreign-production-co-in-china/4020508.article>; Patrick Frater, *China Film Group at 15: Moving the Biz into the Future*, VARIETY (June 24, 2014), <http://variety.com/2014/film/spotlight/china-film-group-1201243320>.

72. See *supra* note 71.

73. See John Horn, "Karate Kid" Update Breaks Down Some Chinese Walls, L.A. TIMES (May 30, 2010), <http://articles.latimes.com/2010/may/30/entertainment/la-ca-karatekid-20100530>; Gregg Goldstein, *China Partner Helps "Looper" Win Big*, VARIETY (Oct. 6, 2012, 5:00 AM PT), <http://variety.com/2012/film/box-office/china-partner-helps-looper-win-big-1118060324>; Laurie Burkitt, *Warning from China Film Watchdog: Not Enough "Co" in Co-Productions*, WALL ST. J. (Aug. 27, 2012, 7:05 PM HKT), <http://blogs.wsj.com/chinarealtime/2012/08/27/warning-from-china-film-watchdog-not-enough-co-in-co-productions>; Laurie Burkitt, *Kung Fu Panda 3: A Litmus Test for China-Hollywood Joint Ventures*, WALL ST. J. (Jan. 26, 2016, 7:50 PM HKT), <http://blogs.wsj.com/chinarealtime/2016/01/26/kung-fu-panda-3-a-litmus-test-for-china-hollywood-joint-ventures>; Scott Mendelson, *Box Office: "Warcraft" Snags Jaw-Dropping \$46*

demonstrates one example of a significant challenge facing co-productions in China. In China's state-run exhibition system, foreign co-productions were entitled to only a percentage of the film's gross, ranging from 13-17% in the early 2000s up to 25% a decade later when China made concessions to join the World Trade Organization.⁷⁴ The price of doing business in China would require far greater margins before a picture could be considered financially successful. Still, the joint production model remains the favored method of co-production because the economic split provides foreign producers with a larger share than movies imported under the quota system and subject to the flat rate buy out.⁷⁵

Another method of structuring a Chinese-international joint venture is the Assisted Production or Coordinated Production. In an assisted production the foreign party provided all capital and the PRC entity was hired for production services, supplying equipment, location, and labor.⁷⁶ Here, the foreign party wholly owned the finished film, which although produced domestically was regarded as an imported work. As such, assisted productions were subject to the import quota⁷⁷ and were required to flow through the China Film Group prior to exploitation in China. An example of an assisted production was *Transformers: Age of Extinction* (2014).⁷⁸ Produced partially in China but wholly-owned by Paramount Pictures, *Extinction* complied with China Film's import formalities to open in the PRC with an astronomical box office debut of \$92 million.⁷⁹ If the studio was able to retain 15% of that gross, it would be entitled to \$13.8 million before tax

Million Opening Day in China, FORBES: MEDIA & ENT. (June 8, 2016, 11:00 AM), <http://www.forbes.com/sites/scottmendelson/2016/06/08/warcraft-china-box-office-a-jaw-dropping-46-million-opening-day>.

74. Claire Suddath, *Why China Is Hoarding Hollywood's Box Office Profits*, BLOOMBERG (July 30, 2013, 2:01 PM PDT), <http://www.bloomberg.com/news/articles/2013-07-30/why-china-is-hoarding-hollywood-s-box-office-profits>.

75. Joint U.S.-PRC ventures were not limited to production but also occurred with exhibiting entitles; in 1997, seven years before the passage of Document No. 19, the Hong Kong subsidiary of United Artists Cinema Circuit (itself a division of Regal Entertainment) extended into China by participating in the construction of China's first multiplex in Wuhan. By 1999, UACC opened a second venue in Shanghai. See Ross Melnick, *Hollywood Embassies, Labour and Investment Laws and Global Cinema Exhibition*, in *HOLLYWOOD AND THE LAW* 154 (Paul McDonald et al., eds., 2015).

76. Yu Yan, *Moving Pictures*, BEIJING REVIEW: ARTS & CULTURE (Sept. 24, 2012), http://www.bjreview.com.cn/culture/txt/2012-09/24/content_485853.htm.

77. See *The Stipulation of Administration on Chinese-Foreign Film Co-Production*, CHINA FILM CO-PRODUCTION CORP. (July 6, 2004), <http://www.cfcc-film.com.cn/policeg/content/id/1.html>.

78. Erich Schwartzel & Laurie Burkitt, *Lights! Camera! China! "Transformers" Knows Its Audience*, WALL ST. J (June 26, 2014, 11:32 AM HKT), <http://blogs.wsj.com/chinarealtime/2014/06/27/lights-camera-china-transformers-knows-its-audience>.

79. See *China All Time Openings*, BOX OFFICE MOJO, <http://www.boxofficemojo.com/intl/china/opening> (last visited Sept. 30, 2016).

and tariffs, which demonstrates SARFT's arduous fees and reductions levied on foreign filmmakers.

A third category of joint production was described in SARFT's "Administration of Sino-Foreign Cooperation in the Production of Films Provisions," released in 2004. Called "Production by Appointment," such ventures occurred when a foreign entity appointed the Chinese party to carry out production in China on its behalf.⁸⁰ Essentially the foreign party acted as financier, sponsoring and bankrolling a domestic production.

SIGNS OF TROUBLE

Following *The Fugitive*, the first Hollywood film to break through bureaucratic barriers and realize box office potential in China, American studios prepared to exploit the developing market. Instead, the U.S. industry suffered a major setback. Only three years after *The Fugitive*'s encouraging run, China slammed the door shut on three American exhibitors. Touchstone/Disney, Columbia/TriStar, and MGM/UA discovered that inattentiveness to China's strict but vague proscriptions would threaten each studio's ability to compete in the developing marketplace.⁸¹ In November 1997, MRFT issued a memorandum stating: "In order to protect Chinese national overall interests, it has been decided that all business cooperation with these three companies to be ceased temporarily without exception."⁸² Three films, *Kundun* (1997), *Seven Years in Tibet* (1997), and *Red Corner* (1997), sparked the first censorship crisis in U.S.-Sino film relations.⁸³

Kundun is an opulent biopic of the early years of Tenzin Gyatso, the Tibetan boy who would become the fourteenth Dalai Lama.⁸⁴ The film serves as both an extension as well as a departure from the previous work of director Martin Scorsese.⁸⁵ The contemplative tone and hallowed halls of Potala Palace in Lhasa is a far cry from the *Mean Streets* (1973) of Manhattan and the sweaty grit of the boxing rings in *Raging Bull* (1980). And yet *Kundun* shares much with Scorsese's *The Last Temptation of Christ* (1988); both pictures center on belief and persecution.⁸⁶ Jesus and Kundun are men

80. Yan, *supra* note 76.

81. See Sharon Waxman, *China Bans Work with Film Studios*, WASHINGTON POST (Nov. 1, 1997), <https://www.washingtonpost.com/archive/lifestyle/1997/11/01/china-bans-work-with-film-studios/9f3a23e3-4d83-4749-898c-bd1fef276f03>.

82. *Id.*

83. *Id.*

84. See generally *Kundun* (1997), IMDB, <http://www.imdb.com/title/tt0119485> (last visited Sept. 30, 2016).

85. See Roger Ebert, *Kundun*, ROGER EBERT: REVIEWS (Jan. 16, 1998), <http://www.rogerebert.com/reviews/kundun-1998>.

86. See *id.*

torn between personal feelings and spiritual obligations set before a backdrop that pits faith against violence. Self-knowledge and self-control raise Jesus and Kundun and condemn other Scorsese characters, from Jack LaMotta to Travis Bickel in *Taxi Driver* (1976) and Jordan Belfort in *The Wolf of Wall Street* (2013).

While *Kundun* was still in production, MRFT expressed its displeasure.⁸⁷ Over a year before the film's release, *The New York Times* reported the Chinese agency issued what amounted to a threat, insinuating that Disney's plans were at risk due to the Dalai Lama picture.⁸⁸ In a moment of creative strength but political recklessness, the mouse house stood by its provocative picture. This stance put the studio's other efforts, such as plans for a theme park and consumer products at risk.⁸⁹ Disney underestimated China's resolve in its determination to silence the film. After *Kundun* was released, the PRC's backlash was swift and severe. Beijing condemned the cinematic glorification of the spiritual icon they called a splittist and a slave master:

“We are resolutely opposed to the making of this movie,” said Kong Min, an official at the Film Bureau of the Ministry of Radio Film and Television. “It is intended to glorify the Dalai Lama, so it is an interference in China's internal affairs.”⁹⁰

Not only was *Kundun* banned, but the government also halted all business dealings with Disney.⁹¹ An official statement combined dogmatic outrage with bruised emotions: “Taking up Tibet and human rights issues, . . . [*Kundun*] viciously attack[s] China and hurt[s] Chinese people's feelings. . . . We must maintain sharp vigilance.”⁹²

Anxious to resolve the situation, which affected business ventures ancillary to their motion picture division, Disney called on the man who thawed U.S.-Chinese relations a quarter century earlier. Former Secretary of State Henry Kissinger previously helped orchestrate the opening of relations with the PRC under President Nixon. Once again Kissinger demonstrated diplomatic acumen, successfully calming China's rage over *Kundun* and

87. See Bernard Weintraub, *Disney Will Defy China On Its Dalai Lama Film*, N.Y. TIMES, Nov. 27, 1996, at C9.

88. *Id.*

89. Ray Zhang, *Government Bans Movies from Three US Film Makers*, CHINA NEWS DIGEST § 1(7) (Nov. 3, 1997), <http://www.cnd.org/CND-Global/CND-Global.97.4th/CND-Global.97-11-02.html>.

90. Seth Faison, *Dalai Lama Movie Imperils Disney's Future in China*, N.Y. TIMES, November 26, 1996, at A12.

91. Maggie Farley, *Hong Kong Bows to Beijing in Turning Away 3 U.S. Films*, L.A. TIMES (Nov. 4, 1997), <http://articles.latimes.com/1997/nov/04/business/fi-50007>.

92. *Id.*

paving the way for Disney's next production, *Mulan*,⁹³ to be released the following year.⁹⁴ China's ban on Disney was officially resolved two years later in 1999; discussions resumed on the construction of theme parks and Disney's greater involvement in the PRC film marketplace.⁹⁵ Still, the *Kundun* incident left a chill in Hollywood as political realities tarnished the promise of bountiful box office earnings.

Disney did not stand alone. *Seven Years in Tibet* (1997), distributed in the U.S. by Columbia/TriStar (Sony), was a variation on a similar theme. Directed by Jean-Jacques Annaud, *Seven Years* presented a biopic of Austrian mountaineer Heinrich Harrer, played by Brad Pitt. Even before China made its position known, *Seven Years* aroused controversy when *Stern* revealed that Harrer was a member of Hitler's SS. The German magazine also published a photograph of the outdoorsman being congratulated by the Fuhrer.⁹⁶ While an association with Hitler may have been bad for business in the Western world, the film's focus on the Dalai Lama created controversy in China. Since annexation in 1965, the PRC considered the Tibet Autonomous Region a district of China. Because of the film's geopolitical theme, representing Tibet as an independent nation invaded and occupied by Chinese forces, *Seven Years* was banned, along with its star and director. Interestingly, Sony did not face the same harsh penalty as Disney, possibly because the CCP viewed the Japanese parent company as a non-Western entity.⁹⁷ The PRC's relations with Pitt and Annaud remained tense until 2014.⁹⁸

93. Based upon a Chinese folktale, *Mulan* centers on a girl who disguises herself as a man to join the army and fend off invading tribes. Her character has been championed by the Chinese as the personification of duty to family and country; however, Disney's production was not merely a political concession. *Mulan* had been in production prior to Kissinger's visit. In the end, Disney's *Mulan* underperformed at the China box office, bringing in under US \$2 million. See Bernard Weinraub, *Disney Hires Kissinger*, N.Y. TIMES, Oct. 10, 1997, at E7; Rosen, *supra* note 53.

94. Weinraub, *Disney Hires Kissinger*, *supra* note 93.

95. *China Drops Ban on Disney Films*, ORLANDO SENTINEL (Feb. 8, 1999), http://articles.orlandosentinel.com/1999-02-08/news/9902070659_1_mulan-disney-films-chinese.

96. Bernard Weinraub, *Dalai Lama's Tudor, Portrayed by Brad Pitt, Wasn't Just Roving Through the Himalayas*, in N.Y. TIMES, June 21, 1997, at 13.

97. Hongmei Yu, *From Kundun to Mulan: A Political Economic Case Study of Disney and China*, 22 J. ASIAN STUDIES LIBERAL ARTS 12, 16 (2015), <http://www.asianetworkexchange.org/articles/abstract/10.16995/ane.100>.

98. *Brad Pitt Breaks the Ice with China Visit After Tibet Row*, INQUIRER.NET (June 3, 2014, 7:15 PM), <http://entertainment.inquirer.net/143831/brad-pitt-breaks-the-ice-with-china-visit-after-tibet-row>. Annaud's relationship with China thawed after *Wolf Totem* (2015), a French-China joint venture scored \$24.8 million in its PRC opening on its way to \$110.4 million, the seventeenth-highest grossing film of the year in China. See *Wolf Totem*, BOX OFFICE MOJO, <http://www.boxofficemojo.com/movies/?page=intl&id=wolftotem.htm> (last visited Sept. 30, 2016).

With *Kundun* and *Seven Years*, PRC authorities demonstrated sensitivity to Hollywood's representations of Tibet. MGM's *Red Corner* (1997), on the other hand, presented a far more explicit indictment of the Chinese system. *Red Corner* was a mystery-thriller starring Richard Gere, an outspoken Free Tibet supporter.⁹⁹ While visiting China on a business trip, Gere's character is wrongfully accused of murder.¹⁰⁰ The U.S. government is unable to provide help, afraid of jeopardizing an investment project. *Red Corner* exposes China's human rights violations, corrupt judicial system, and dehumanizing totalitarianism.¹⁰¹ While Scorsese and Annaud aimed for character driven dramas set against spectacular backdrops, Gere's picture intended to indict China itself. *The New York Times* pointed out that "the film's opening date, timed to President Jiang Zemin's visit, is apparently no accident."¹⁰² Unsurprisingly, *Red Corner* was banned in China, the picture's promotional tagline, ironically prophetic: "Leniency for those who confess . . . severity for those who resist."¹⁰³

The stakes were highest for Disney, which had other business ventures hinging on their relationship with the PRC; other studios were in a less vulnerable position. Even with the *Red Corner* fracas, executives at MGM and Columbia TriStar found that their business saw little effect. Box office expectations were higher than actual earnings, especially with revenue sharing capped at 15% and other assorted reductions such as tax, tariff, and manipulation. Jack Valenti was stymied, although "he believed the animosity from China would fade. 'Right now I think things are in a sour mood, but I'm urging people to be patient, to be calm, to avoid confrontation,' he said . . . 'Let's let time heal this, and it will.'"¹⁰⁴

A LICENSE TO PRINT YUAN

That healing process was well under way the following year when *Titanic* (1997) arrived in China. Directed by James Cameron, *Titanic* redefined box office expectations. On its opening day in April 1998, the disaster epic racked up a record-breaking ¥359,500,000 Yuan—U.S. \$44

99. See generally *Red Corner*, IMDB, <http://www.imdb.com/title/tt0119994> (last visited Sept. 30, 2016).

100. *Id.*

101. *Id.*

102. Janet Maslin, *Lady Killer? Beijing Is Not Charmed*, N.Y. TIMES, October 31, 1997, at E20.

103. *Red Corner*, Taglines, IMDB, <http://www.imdb.com/title/tt0119994/taglines> (last visited Sept. 27, 2016).

104. Waxman, *supra* note 81.

million.¹⁰⁵ The film more than tripled the take of the second most successful imported picture, *True Lies* (1994), also directed by Cameron. *Titanic* was not only a masterpiece of Hollywood star power, VFX rendering, and heart-rending sentimental cinema, it also came with an important endorsement: President Jiang Zemin publically praised the picture and urged China's politburo to see the blockbuster, which, in good Socialist tradition, portrayed the rich as villains and the poor as heroes.¹⁰⁶ "This movie shows fully how people deal with the relationship between love, poverty and wealth, in the middle of a difficult situation," said Jiang.¹⁰⁷

While official endorsement helped elevate *Titanic*, Jiang's notice was not always welcome. One of China's great Fifth Generation filmmakers, Chen Kaige reached the height of artistic refinement with *Farewell, My Concubine* (1993). *Concubine* is a historical epic seen through the eyes of Beijing opera performers. On first pass, the film breezed through censorship clearance in only two days.¹⁰⁸ But it was too successful for its own good, winning the Palm d'Or at Cannes; nominated for cinematography and Foreign Language Picture at the Academy Awards; and winning Best Foreign Language Picture at the British Academy of Film and Television Arts (BAFTA), the Golden Globes, and the New York Film Critics Circle.¹⁰⁹ Such accolades brought *Concubine* to the attention of Jiang. The PRC President arranged for a private screening and watched the picture with the Communist Party Central Committee's Propaganda Chief. Immediately following the screening, Kaige's film was denounced for its harsh depiction of the Cultural Revolution, its portrayal of homosexual love, and its climactic suicide, based on the plot of a famous Beijing opera.¹¹⁰ "Before Cannes, none of the leaders knew anything about this film," the director commented,

105. *Titanic*, BOX OFFICE MOJO, <http://www.boxofficemojo.com/movies/?id=titanic.htm> (last visited Sept. 30, 2016).

106. Emily Parker, "Titanic" Takes China by Storm Following Jiang's Endorsement, WALL ST. J. (Apr. 14, 1998), <http://www.wsj.com/articles/SB892495319302117000>.

107. "Titanic" Gets Thumbs Up in China, GAINESVILLE SUN, March 13, 1998, at 2A. When *Titanic 3D* was released in 2012 to commemorate the centennial of the ship's sinking, the enhanced picture did not sail quite as smoothly through the censorship process. Kate Winslet's nude torso was digitally cropped out. One official voiced the board's concern: "Considering the vivid 3D effects, we fear that viewers may reach out their hands for a touch and thus interrupt other people's viewing." See Aaron Crouch, *Cut, Censored, Changed: 10 Hollywood Films Tweaked for International Release*, HOLLYWOOD REP. (Jan. 23, 2013, 7:52 PM PST), <http://www.hollywoodreporter.com/gallery/cut-censored-changed-10-hollywood-414099>. The stereoscopic rerelease also captured a massive audience, bringing in \$58 million in its debut. *Titanic 3D*, BOX OFFICE MOJO, <http://www.boxofficemojo.com/movies/?id=titanic3d.htm> (last visited Sept. 30, 2016).

108. Tyler, *supra* note 47.

109. See *Farewell, My Concubine, Awards*, IMDB, <http://www.imdb.com/title/tt0106332/awards> (last visited Sept. 27, 2016).

110. Tyler, *supra* note 47.

“but then after they saw it, some of them got pretty angry.”¹¹¹ While statements of government officials may have played a role in the success of *Titanic*, the effects were decidedly detrimental to the exhibition of *Farewell, My Concubine*, despite the picture’s international praise.

When *Farewell, My Concubine* was released in the early 1990s, the PRC’s film industry’s domestic production was soft and audience attendance below expectations. This situation persuaded MRFT to pass a series of resolutions to bolster internal film and encourage imported content. In 1995, China Film President Wu Mengchen observed, “China’s film industry is in a time of transition . . . changing from a welfare-state mode to a moneymaking mode.”¹¹² The remainder of the decade saw the administrative bureau make efforts to find a compromise between socialist ideological policies and capitalistic economic interests. After a series of setbacks, ranging from bureaucratic complications to censorship obstructions, the unprecedented success of *Titanic* confirmed the potential of the PRC’s film market. China would now consider joining the World Trade Organization (WTO) and take its place in a global exchange.

In 1999, China prepared to mark the fiftieth anniversary of the founding of the PRC. State mandated patriotism was at a peak and the production of main melody films were increased to enhance the optimistic mood. The Socialist state began engaging in a series of talks with the U.S. on the subject of China’s accession to the WTO. The two nations reached a bilateral agreement intended to accelerate the process of China’s entry and promote the development, stabilization and expansion of China-U.S. trade and economic ties.¹¹³ But before a stronger alignment could take shape, another event intervened.

On May 8, 1999, all forward momentum was halted when U.S.-led NATO forces accidentally bombed China’s embassy in war-torn Yugoslavia.¹¹⁴ Relations were instantly chilled into a glacial cold war. The PRC’s propaganda machines churned into high mode with *The New York Times* reporting,

Ever since NATO bombs hit the Chinese Embassy in Belgrade last Friday, China’s state-run media have dished up a ceaseless stream of banner headlines and jarring photos of bereft parents crying over victims’ bodies, of President Jiang Zemin in tears as he greeted families of the dead. Newspapers and television programs have called the bombing an

111. *Id.*

112. Seth Faison, *A Chinese Wall Shows Cracks*, N.Y. TIMES, Nov. 21, 1995, at D4.

113. *Bilateral Agreement on China’s Entry into the WTO Between China and the United States*, MINISTRY OF FOREIGN AFFAIRS OF CHINA, http://www.fmprc.gov.cn/mfa_eng/ziliao_665539/3602_665543/3604_665547/t18051.shtml (last visited Sept. 11, 2016).

114. *See Chinese Evacuate a Bombed Embassy in Serbia*, N.Y. TIMES, May 9, 1999, at 12.

intentional “criminal act” . . . [The] dead Chinese have been anointed “martyrs.”¹¹⁵

Imported American films were summarily banished from China in 1999, commencing an embargo that would last from May to October.¹¹⁶ This five-month blackout of Hollywood films occurred simultaneously with the release of China’s intensive program of main melody pictures, an auspicious coincidence for the domestic industry.

Diplomatic ties and trade relations were resumed by the end of year. Preparing for China’s imminent participation in the WTO, SARFT circulated a flurry of new motion picture regulations. In June 2000, “Some Opinions about Carrying Out Further Reform in the Film Industry,” Document 320, later augmented by SARFT Documents 41 and 1519, transformed China’s film industry from state owned studios to large scale vertically integrated semi-privately held conglomerates,¹¹⁷ analogous to the “classical Hollywood system” that operated in the U.S. prior to the Paramount Consent Decree.¹¹⁸ The heavily negotiated reform saw results: by December 2001, China was acknowledged as a member of the international trading system.¹¹⁹ Asia’s greatest market was opening up to global commerce, but China now had the obligation of fair dealing. Part of the PRC’s commitment in joining the WTO was to employ less restrictive measures against foreign imports.¹²⁰

China responded to the WTO’s requirements by issuing “Regulations on the Administration of Movies,” Document 342, on December 25, 2001. Document 342 provided yet another restructuring of the film industry that included an examination administration (Article 24), an enumerated list of prohibited subjects (Article 25), an explanation of the administrative process (Article 29), and penalties (Article 58).

115. Elizabeth Rosenthal, *China’s Mood; Real Public Rage Stoked by Propaganda Machine*, N.Y. TIMES, May 14, 1999, at A13.

116. JENNY GEORGE DACCACHE & BRANDON VALERIO, HOLLYWOOD’S REPRESENTATIONS OF THE SINO-TIBETAN CONFLICT: POLITICS, CULTURE, AND GLOBALIZATION 155 (2012); James Bates & Maggie Farley, *Hollywood, China in a Chilly Embrace*, L.A. TIMES, June 13, 1999, at A1.

117. See SU, *supra* note 14, at 81-82, 87 citing SARFT and Ministry of Culture, *The Detailed Regulations to Implement Structural Reform of the Mechanism of Film Distribution and Exhibition*, in *China Film Yearbook 2002* 15-16 (2002); *id.* at 87, citing SARFT and Ministry of Culture, *Some Opinions About Carrying Out Further Reform of the Film Industry*, in *China Film Yearbook 2001* 1-3 (2001).

118. See, e.g., *United States v. Paramount Pictures*, 334 U.S. 131 (1948). This is the landmark antitrust case in which the U.S. Supreme Court ordered film studios to divest themselves of theater chains thus breaking up their monopoly on the industry and ending the “Golden Era” of Hollywood.

119. *China Joins the WTO - At Last*, BBC NEWS (Dec. 11, 2001), <http://news.bbc.co.uk/2/hi/business/1702241.stm>.

120. See World Trade Organization, *Accession of the People’s Republic of China*, Nov. 10, 2001, WT/L/432, 48 I.L.M. 941 (2009).

Article 24 addressed SARFT's revised motion picture administrative system, which required examination of all media intended to be distributed, projected, imported, or exported. The following provision, Article 25 specified ten types of prohibited content: (1) That which defies the basic principles determined by the Constitution; (2) That which endangers the unity of the nation, sovereignty or territorial integrity; (3) That which divulges secrets of the State, endangers national security or damages the honor or benefits of the State; (4) That which incites the national hatred or discrimination, undermines the solidarity of the nations, or infringes upon national customs and habits; (5) That which propagates evil cults or superstition; (6) That which disturbs the public order or destroys the public stability; (7) That which propagates obscenity, gambling, violence or instigates crimes; (8) That which insults or slanders others, or infringes upon the lawful rights and interests of others; (9) That which endangers public ethics or the fine folk cultural traditions; (10) Other contents prohibited by laws, regulations or provisions of the State. This listing provided slightly more clarity than the comparable Article 24 of Document 200 issued in 1996; however, the tenth proscription once again was a catchall and open door for unfettered censorship.¹²¹

Document 342 also clarified the review process as an effort to mitigate what might be considered unfair censorship. Under Article 29, if the examination committee's finding was contested, the rights holder would be permitted a reexamination, provided the issue was raised within 30 days of receipt of the examination decision.¹²² For those not adhering to the administrative procedure, penalties could be severe. In addition to a schedule of fines, the importer, distributor, and/or exhibitor of an unlicensed film could face confiscation of the media, as well as seizure of illegal proceeds.¹²³ "If the case is serious, he/it shall be ordered to cease his/its business for rectification or his/its license shall be revoked by the original organ issuing the license."¹²⁴

Document 342 increased the quota of foreign imports to 20 pictures per year in 2001.¹²⁵ The playing field was not quite leveled, but for a moment in time, China's protectionist regulations were loosened. Under previous state directives foreign investors were limited to a minority interest up to 49% in

121. Regulations on the Administration of Movies (promulgated by St. Council, Dec. 25, 2001, effective Feb. 1, 2002), World Intellectual Property Organization, at art. 25 (2001).

122. *Id.* at art. 29.

123. *Id.* at art. 58.

124. *Id.*

125. Gabrielle Jaffe, *Will the Great Film Quota Wall of China Come Down?*, GUARDIAN (Mar. 24, 2011), <https://www.theguardian.com/business/2011/mar/24/china-film-quota>.

joint ventures.¹²⁶ But in another spate of regulations announced in 2003, and referred to as Documents 18, 19, 20, and 21, SARFT permitted increased ownership of exhibition outlets in selected regions.¹²⁷ In Beijing, Shanghai, Guangzhou, Xi'an, Chengdu, Wuhan, and Nanjing, foreign shareholders were allowed to own up to 75% of theaters.¹²⁸ By 2005, the Hollywood majors, including Disney, Sony, Warner Bros., and the Weinstein Co., were establishing bases of operation in China.¹²⁹ Opening a Beijing office for *The Hollywood Reporter*, bureau chief Jonathan Landreth commented, "Why am I here? Because everyone else in Hollywood is."¹³⁰ The future looked bright for filmmakers seeking opportunities in the PRC.

SARFT's generous provisions turned out to be short lived. Document 21, which granted increased ownership of exhibition outlets, was nullified and revoked a year later by a circular entitled "Several Opinions on Foreign Investment in the Culture Industry."¹³¹ The revised regulation reinstated the mandate for Chinese mainland investors to hold at least 51% interest "or play a leading role in their joint ventures with foreign investors."¹³² Time Warner, which had begun investing in mainland cinemas pulled an about-face. Warner Bros. International Cinemas (WBIC) announced its withdrawal, transferring equity to its partner the Shanghai Film Group.¹³³ After an optimistic run from 2000-2006, Warner Bros. was out of the theatrical business in China, demonstrating a foreign entity's vulnerability to abrupt and unforeseen policy changes in the PRC.

Warner Bros. wasn't the only studio facing difficulties with China's film administration. Along with regulations aimed at diminishing foreign market share came a renewed scrutiny of film content. *The Da Vinci Code* (2006) opened with promise in China, earning over \$13 million in its first three weeks.¹³⁴ In June of that year, China Film acting under orders from SARFT demanded the removal of Sony's thriller from all theaters nationwide without prior notice.¹³⁵ Officials first claimed the ban was a concession to Chinese

126. SU, *supra* note 14, at 33.

127. *Id.*

128. *Id.*; see also JAMES M. ZIMMERMAN, CHINA LAW DESKBOOK: A LEGAL GUIDE FOR FOREIGN-INVESTED ENTERPRISES 175-76 (American Bar Assoc. 3d ed. 2010).

129. David Barboza, *Hollywood Movie Studios See the Chinese Film Market as Their Next Rising Star*, N.Y. TIMES, July 4, 2005, at C3.

130. *Id.*

131. SU, *supra* note 14, at 37.

132. Zhang Rui, *Warner Finishing Cinema Transfers in China*, BEIJING REVIEW (Apr. 12, 2007), http://www.bjreview.com/movies/txt/2007-04/12/content_61428.htm.

133. *Id.*

134. Stanley Rosen, *Hollywood and the Great Wall*, L.A. TIMES, June 18, 2006, at M1.

135. *Id.*

Catholic Groups.¹³⁶ Weng Li, deputy manager of film exhibition and distribution, offered a more practical reason: “The withdrawal is to make way for homemade movies released in the upcoming month . . . We made a purely commercial decision. No single film could monopolize the market for one or two months, not even in the United States. We’re making room for the next month when 10-plus homemade films will show across the country.”¹³⁷ This was the beginning a new strategy: the official implementation of blackout periods to evict foreign films from China screens in order to manipulate the market and increase the revenue of domestically produced films.

As foreign films saw more screen time, they also experienced greater censorship. Universal stood by as SARFT cut twenty minutes from *Miami Vice* (2006), including a sex scene between Colin Farrell and Chinese star Gong Li.¹³⁸ *Brokeback Mountain* (2005), produced by Focus Features, a subsidiary of Universal, was banned for scenes of homosexual relations between two cowboys played by Heath Ledger and Jake Gyllenhaal.¹³⁹ Scenes in Paramount’s *Mission: Impossible 3* (2006) were trimmed, including one sequence where Tom Cruise killed a Chinese security guard¹⁴⁰ and another in which unkempt laundry lines were seen along the streets of Shanghai.¹⁴¹ Disney’s *Pirates of the Caribbean: At World’s End* (2007) found disfavor due to a ruling that Chow Yun-fat’s character, pirate captain Sao Feng, was an insulting, racial caricature that “vilifie[d] and humiliate[d] the Chinese.”¹⁴² Sao Feng was ordered cut from the film.¹⁴³ Martin Scorsese was back in the hot seat with *The Departed* (2006), released by Warner Bros. The Academy Award winning picture—itsself based on a Hong Kong thriller entitled *Infernal Affairs* (2002)—was barred from playing the PRC.¹⁴⁴ After viewing the film and issuing a ban, a China Film rep commented, “[T]hey thought it wasn’t suited for the mainland Chinese market. . . . They didn’t

136. Joseph Kahn, *China Bans Code After Warning from Catholics*, N.Y. TIMES (June 9, 2006), <http://www.nytimes.com/2006/06/09/world/asia/09cnd-china.html>.

137. Xinhua News Agency, *China to Release M:13 with Scenes Cut*, CHINA.ORG.CN (June 10, 2006), <http://www.china.org.cn/english/features/film/170978.htm>.

138. Jonathan Landreth, *China Cuts 20 Minutes from “Vice,”* HOLLYWOOD REP. (Oct. 13, 2006), <http://www.hollywoodreporter.com/news/china-cuts-20-minutes-vice-139542>.

139. Clifford Coonan, *China, Taiwan Tussle Over Ang Lee*, VARIETY (Feb. 25, 2013), <http://variety.com/2013/film/awards/china-taiwan-tussle-over-ang-lee-818644>.

140. Landerath, *China Cuts 20 Minutes from “Vice,”* *supra* note 138.

141. Crouch, *supra* note 107.

142. *Chow’s Pirates Scenes Cut in China*, ABCNEWS (June 17, 2007), <http://www.abc.net.au/news/2007-06-18/chows-pirates-scenes-cut-in-china/71638>.

143. *Id.*

144. *Departed Banned from China Theaters*, USA TODAY (Jan. 1, 2007), http://usatoday30.usatoday.com/life/movies/news/2007-01-18-departed-china_x.htm.

give concrete reasons.”¹⁴⁵ One cause may have been a plot point in *Departed* where Boston crime lords attempt to sell high tech weapons to Chinese villains.¹⁴⁶ Whether it was unsightly dirty laundry in Shanghai or the suggestion of Chinese international aggression, images that upset SARFT were quickly wiped from the screen with little process, discussion, or opportunity for appeal.

Responding to these events the United States brought a complaint against China before the WTO in April 2007.¹⁴⁷ Speaking for Hollywood filmmakers, U.S. representatives complained, first, of barriers and restrictions on import of films and other audiovisual and entertainment products, and second, of the growing problem of piracy stemming from the deficiencies in China's protection and enforcement of intellectual property rights.¹⁴⁸ China's response was defiant. In a PRC Commerce Ministry statement, spokesman Wang Xinpei commented,

China expressed great regret and strong dissatisfaction at the decision of the United States to file WTO cases against China over intellectual property rights and access to the Chinese publication market . . . Such a move would seriously damage the cooperative relations established in the fields, and would have negative impact on bilateral trade . . . China strongly requires the US side to reconsider the decision and make prompt changes.¹⁴⁹

When the US did not back down, China blocked all imports.¹⁵⁰ SARFT did not announce a formal ban on U.S. media, but, by December 2007, PRC administrators reported that American films were no longer being approved for release in the coming year.¹⁵¹

The allegations were contentious. Media piracy had been flourishing in China since the early 1990s, riding on the boom of home video technology.¹⁵² China's official position was perplexing: a spokesman for China's National Copyright Administration “did not deny that intellectual property rights infringement and piracy occurred in the Chinese market,” but commented

145. *Id.*

146. *Id.*

147. Press Release, United States Files WTO Cases Against China Over Deficiencies in China's Intellectual Property Rights Laws and Market Access Barriers to Copyright-Based Industries (Apr. 9, 2007), <https://ustr.gov/about-us/policy-offices/press-office/press-releases/archives/2007/april/united-states-files-wto-cases-against-china>.

148. *Id.*

149. *US Move to File Trade Cases Against China “Not Wise,”* CHINA DAILY (Apr. 10, 2007), http://www.chinadaily.com.cn/china/2007-04/10/content_847045.htm.

150. David Barboza, *Suspicious in US That China Has Put Ban on Hollywood Films*, N.Y. TIMES (Dec. 12, 2007), <http://www.nytimes.com/2007/12/12/business/smallbusiness/12film.html>.

151. *Id.*

152. *See Pirated Video Discs Thrive in China*, DESERET NEWS (Dec. 14, 2000), <http://www.deseretnews.com/article/798508/Pirated-video-discs-thrive-in-China.html>.

“that doesn’t mean the United States is founded to file complaints against China in the WTO.”¹⁵³ With regard to the barriers on free trade, the PRC had increased their quota on imported film after joining the WTO, but that allowance still hovered at only 20 revenue-sharing foreign films a year.¹⁵⁴ Earning potential was also stifled by SARFT’s mandate that only allowed foreign studios take 11-15% of box office receipts or about half the norm for other parts of the world.¹⁵⁵ Furthermore, joint ventures were heavily regulated and restricted foreign investors to minority ownership while bearing the full freight on tax and tariffs.

CHINA’S CENSORS TAKE ACTION

While the WTO proceedings played out, the PRC’s ban on Hollywood films was loosened but now subject to heavy-handed regulation. The Jackie Chan action-comedy film *Rush Hour 3* (2007) was declined permission to screen in China.¹⁵⁶ Import officials cited “an ‘overabundance’ of imported films this year.”¹⁵⁷ This ruse was not consistent with the PRC’s comprehensive ban on all U.S. films only months earlier. Verging on the bizarre, *Garfield: A Tale of Two Kitties* (2006) was flagged by the newly installed “Great Firewall of China”; the orange tabby’s prints and advertisements somehow triggered the PRC’s overly sensitive porn filter.¹⁵⁸

Equally alarming was SARFT’s crackdown on domestic content that violated state-ordered etiquette. One of China’s promising female directors, Li Yu, had previously run afoul of the Ministry’s protocols.¹⁵⁹ Her picture *Jīn nián xià tiān* (*Fish and Elephant*, 2001) was the first film made in China on the subject of lesbianism.¹⁶⁰ It was quickly suppressed.¹⁶¹ Low-resolution video copies were snuck out of the PRC to play at international film festivals, where they were praised at Venice and Berlin.¹⁶² Li Yu’s *Pingguo* (*Lost in*

153. Barboza, *supra* note 150.

154. *Id.*

155. Michael Cieply, *In China Movie Pact, More 3-D, Less Reality*, N.Y. TIMES, Feb. 20, 2012, at B2.

156. Jonathan Landreth, *Rush 3 Hits Wall in China*, HOLLYWOOD REP. (Aug. 8, 2007), <http://www.hollywoodreporter.com/news/rush-3-hits-wall-china-146365>.

157. *Id.*

158. Emma Graham-Harrison, *China’s Internet Porn Filter—No Garfield Please*, REUTERS (June 30, 2009), <http://www.reuters.com/article/us-china-internet-filter-idUSTRE55T26Y20090630>.

159. PETER C. PUGSLEY, *EXPLORING MORALITY AND SEXUALITY IN ASIAN CINEMA: CINEMATIC BOUNDARIES* 56 (2015).

160. *Id.*

161. *Id.*

162. Jinnian Xiatian, *Fish and Elephant*, CHINESE CINEMAS (May 23, 2002), <http://www.chinesecinemas.org/fishandelephant.html>.

Beijing, 2007), with its depiction of gambling, rape, and the sale of unwanted children, was equally troubling to PRC authorities.¹⁶³ It too was banned and copies detained, which prevented Li Yu from participating in Berlinale.¹⁶⁴ In addition to motion pictures, China took the opportunity to assert greater control across all media. Broadcast censors were ordered to tighten restrictions on television dramas and unscripted reality TV shows.¹⁶⁵ PRC President Hu Jintao announced an initiative to “purify” the Internet with tougher rules and closer monitoring.¹⁶⁶ Once again, on the threshold of greater convergence with the global marketplace, the China-US relationship was complicated by regulation. Under investigation by the WTO, the PRC doubled down on the censorship of both imported and domestically-produced media.

In October 2008, the WTO ruled against China on the issue of piracy.¹⁶⁷ The International Intellectual Property Alliance prevailed on their claim that abuses in the PRC had cost content owners over \$3.7 billion in lost sales in 2007.¹⁶⁸ By August 2009 the decision came down on the issue of free trade.¹⁶⁹ In the WTO’s ruling, the panel concluded that China violated the commitments it made upon joining the organization in 2001 by forcing imported media products to be routed through state-owned companies.¹⁷⁰ While the panel ordered China to reduce impediments to trade, the ruling did not reject the cap on imported films at twenty revenue-sharing titles per year and furthermore accepted that PRC censors had the right to bar foreign films and publications that government censors found objectionable.¹⁷¹

China appealed the decisions but the WTO’s appellate body upheld the panel’s findings. Those conclusions called for China to provide equal access to foreign media content producers and distributors.¹⁷² A deadline was set

163. Jonathan Landreth, *China Bans Beijing from Berlin*, HOLLYWOOD REP., Feb. 2-4, 2007, at 1.

164. *Id.*

165. See Jonathan Landreth, *China Cracks Down on Reality TV*, HOLLYWOOD REP. (Jan. 12, 2007), <http://www.hollywoodreporter.com/news/china-cracks-down-reality-tv-127913>; Jonathan Landreth, *China Censors: Gotta Accentuate the Positive*, HOLLYWOOD REP. (Jan. 23, 2007), <http://www.hollywoodreporter.com/news/china-censors-gotta-accentuate-positive-128494>.

166. Jonathan Landreth, *China President Wants Gov't to Purify Internet*, HOLLYWOOD REP., Jan. 26-28, 2007, at 40.

167. See *US Claims Win in WTO Piracy Case*, HOLLYWOOD REP. (Oct. 19, 2008), <http://www.hollywoodreporter.com/news/us-claims-win-wto-piracy-120883>.

168. *Id.*

169. See Jonathan Landreth, *China to Appeal WTO Ruling*, HOLLYWOOD REP. (Aug. 17, 2009), <http://www.hollywoodreporter.com/news/china-appeal-wto-ruling-87733>.

170. *Id.*

171. *Id.*

172. US-China Economics and Securities Review Commission, *Directed by Hollywood, Edited by China: How China's Censorship and Influence Affect Films Worldwide*, ¶ 4 (Oct. 28, 2015),

for China to comply with the orders: March 2011.¹⁷³ Recalcitrant, China failed to modify its practices, instead maintaining state-authorized limitations on foreign access to its film market.

The distribution history of James Cameron's epic sci-fi blockbuster *Avatar* provides a case study. *Avatar* takes place in the distant future on a faraway planet where Earth's industrialists mine the precious mineral unobtainium. Unfortunately, the deposit of ore lies beneath the world tree of an alien species—extracting the valuable material endangers the peace loving Na'vi. Cameron's previous film *Titanic* was a sensation in China, with the CCP divining a Marxist message on the contentious relationship between labor and capital.¹⁷⁴ But the pro-environmental message of *Avatar* was impossible to avoid. The avarice of Earth's corporate colonizers could easily be associated with China's ecological disregard from the building of Three Gorges Dam, which flooded archaeological sites and villages along the Yangtze River, to rampant deforestation, costal land reclamation, and toxic air pollution. *Avatar* opened in China on January 4, 2010, less than five months after China challenged the adverse WTO ruling.¹⁷⁵

The film proved wildly popular pulling in \$76 million in ticket sales.¹⁷⁶ *Avatar* was China's biggest box office champ ever.¹⁷⁷ Two weeks later the picture was summarily yanked off many of the PRC's screens.¹⁷⁸ The official reason was to make way for a domestically produced 3D biography of *Confucius*.¹⁷⁹ *Kong Zi (Confucius, 2010)* was a main melody film directed by Hu Mei and featured Chow Yun-fat as the distinguished philosopher.¹⁸⁰ SARFT was manipulating the market, steering audiences to the domestically produced patriotic picture by eliminating its competition.¹⁸¹ But film audiences were not interested. The *Shanghai Daily* ran a headline: "Confucius says: flop."¹⁸²

Regardless of reviews, blackout dates became an effective method by which SARFT could control domestic box office and limit the dominance of

<http://origin.www.uscc.gov/sites/default/files/Research/Directed%20by%20Hollywood%20Edited%20by%20China.pdf>.

173. *Id.*

174. *Why China Loves "Titanic" So Much: A Theory*, WALL ST. J. (Apr. 25, 2012), <http://blogs.wsj.com/chinarealtime/2012/04/25/why-china-loves-titanic-so-much-a-theory>.

175. Sharon LaFraniere, *China Curtails Run of Avatar as It Fills Theaters*, N.Y. TIMES, Jan. 20, 2010, at A4.

176. *Id.*

177. *Id.*

178. *Id.*

179. *Id.*

180. David Pierson, *Confucius a Snooze for Chinese Audiences*, L.A. TIMES, Feb. 27, 2010, at B1.

181. *Id.* at B1, B5.

182. *Id.* at B1.

foreign films. In 2012 the PRC closed its screens to foreign films from June to August.¹⁸³ According to SARFT this summer period was allocated for “domestic film protection” to allow local pictures the opportunity to play without competition from major Hollywood blockbusters.¹⁸⁴ The strategy was successful in shifting the market share of domestically produced films vis-à-vis foreign films. For instance, in the month of June, China-produced pictures earned under \$10 million a week while revenue from U.S. films never dipped below \$25 million.¹⁸⁵ During the month of July, when Hollywood product was embargoed or limited, China-produced films averaged returns of approximately \$46 million a week while US-made pictures suffered with a take of approximately \$4 million a week.¹⁸⁶ The tactic was canny. Imposing the blackout SARFT did not break any international trade rules, as one MPAA representative commented, “Are [the Chinese] violating WTO obligations? Probably not.”¹⁸⁷

Aside from blackout periods, SARFT maintained tight control over screens in China with an ever-changing roster of restrictions. In 2010, Gordon Chan directed *The Mural*, a follow up to his action-romance hit *Hui Pi* (*Painted Skin*, 2008).¹⁸⁸ While *Skin* was adored in China, nominated for three Golden Rooster Awards and Three Hundred Flower Awards—the equivalent of America’s Academy Awards and Golden Globes, respectively—*Mural* found a very different reception.¹⁸⁹ *The Mural* underwent extensive revisions to please PRC censors; its plot was altered to comply with a directive that nightclubs were a forbidden subject.¹⁹⁰ In 2011 an even more curious restriction was set forth. Films such as *The Terminator* (1984), *Back to the Future* (1985), and *Bill and Ted’s Excellent Adventure* (1989) were stopped at the border.¹⁹¹ The reason: SARFT barred the topic

183. Robert Cain, *A Few Thoughts on China’s Foreign Film Blackouts*, CHINAFILMBIZ (Sept. 21, 2012), <https://chinafilmbiz.com/tag/china-box-office/page/4>.

184. *Id.*

185. Robert Cain, *6 Key Lessons from SARFT’s Foreign Film Blackout*, INAGLOBAL (Oct. 25, 2012), <http://www.inaglobal.fr/en/cinema/article/6-key-lessons-sarft-s-foreign-film-blackout>.

186. *Id.*

187. *Id.*

188. Jonathan Landreth, *The Mural Retouched to Pass Muster with Censors*, HOLLYWOOD REP. (Nov. 11, 2010), <http://www.hollywoodreporter.com/news/mural-retouched-pass-muster-censors-41391>.

189. *Id.* See also *Six Nominations to “Mulan” for Hundred Flowers Awards*, CHINESE.CN (June 7, 2010), http://kungfu.chinesecio.com/en/article/2010-06/07/content_139825.htm.

190. Landreth, *The Mural Retouched to Pass Muster with Censors*, *supra* note 188.

191. Richard Hartley-Parkinson, *Great Scott! China Ban Films and TV Shows Featuring Time Travel (Just In Case Anyone Wants to Rewrite History)*, DAILY MAIL (Apr. 15, 2011), <http://www.dailymail.co.uk/news/article-1376771/Great-Scott-China-bans-time-travel-cinema-TV.html>.

of time travel citing disrespect of history.¹⁹² The ban more broadly applied to films that contained elements of superstition, fantasy, and reincarnation—characters that could travel back in time and rewrite history had to be eradicated.¹⁹³ But certain historical truths could be altered if it pleased the CCP.¹⁹⁴ *Mao's Last Dancer* (2009) chronicled the uplifting story of a boy born in a rural village who rises to acclaim at the prestigious State Dance Academy. This Beijing-style *Billy Elliot* was banned in the PRC.¹⁹⁵ “The Chinese government doesn’t want anyone reminded that Chairman Mao was a lunatic,” commented director Bruce Beresford.¹⁹⁶ A documentary on the tragic collapse of a school building during the Sichuan earthquake entitled *China's Unnatural Disaster: The Tears of Sichuan Province* (2009) caused controversy when programmed by the Beijing Independent Film Festival.¹⁹⁷ The film was silenced and *Disaster's* American filmmakers were denied visas to enter China.¹⁹⁸

Zhao Liang’s documentary *Petition* (2009) was also squelched by SARFT; however this director demonstrated shrewd political skills to further his career. *Petition* delved into the issue of PRC authorities muzzling commoners who followed an age-old tradition of travelling to Beijing to seek redress for wrongdoings by local officials.¹⁹⁹ The central government was not presented in a positive light and the independently produced film could not find clearance to be exhibited in its native country.²⁰⁰ Zhao transformed his relationship with the CCP with his next documentary entitled *Zai yi qi (Together)*, (2010).²⁰¹ Commissioned by the Ministry of Health, *Together* focused on discrimination against Chinese with HIV and AIDS.²⁰² The film avoided mentioning the government’s extensive denial and cover-up of the diseases and was passed by state censors.²⁰³ Zhao commented, “When you’re

192. *Id.*

193. *Id.* See also Jonathan Landreth, *China Bans Time Travel Films and Shows, Citing Disrespect of History*, HOLLYWOOD REP. (Apr. 13, 2011), <http://www.hollywoodreporter.com/news/china-bans-time-travel-films-177801>.

194. Hartley-Parkinson, *supra* note 191.

195. Roger Moore, *Mao's Last Dancer Banned in China*, PHILLY.COM (Aug. 20, 2010), http://articles.philly.com/2010-08-20/entertainment/24974840_1_chinese-cinemas-china-cultural-revolution.

196. *Id.*

197. Sky Canaves, *Banned by Beijing: US Filmmakers Who Made Sichuan Earthquake Documentary*, WALL ST. J. (Sept. 2, 2009), <http://blogs.wsj.com/chinarealtime/2009/09/02/banned-by-beijing-us-filmmakers-who-made-sichuan-earthquake-documentary>.

198. *Id.*

199. Edward Wong, *Chinese Director's Path from Rebel to Insider*, N.Y. TIMES, Aug. 14, 2011, at 1.

200. *Id.*

201. *Id.*

202. *Id.*

203. *Id.*

working in China, there's a gray area that you have to navigate."²⁰⁴ While the director reestablished his position in the China film industry, it cost him credibility with colleagues. Ai Weiwei, an internationally recognized artist who was detained during China's crackdown on liberal intellectuals, repudiated his former friend Zhao. But Zhao's example raises a significant factor: the pressures of government can force filmmakers to compromise their positions in order to remain productive in the industry. Those pressures can take the form of censorship on one hand as well as of largess on the other. The rebellious director Zhang Yimou, once banned for *Ju Dou*, found praise and privilege within the Chinese system. Appreciating the adoration, his later work was transformed to fit the main melody template. Films such as *Hero* (2002) and *The Flowers of War* (2011) abide by the ideological constraints he once disdained. Rebellious no longer, Yimou has been embraced by China's motion picture politburo.

A PRECARIOUS BALANCE

The U.S. and China remained at loggerheads regarding the WTO ruling until February 2012, when a temporary settlement was reached. This *Memorandum of Understanding Between the People's Republic of China and the United States of America Regarding Films for Theatrical Release* (MOU) did not bring China into compliance with the WTO decision, but it did address several key points.²⁰⁵ The settlement increased the number of revenue-sharing foreign film imports each year to thirty-four, stipulating that fourteen of those films would be released in IMAX or 3D formats.²⁰⁶ This concession satisfied major studios at the expense of America's independent filmmakers who did not produce large format pictures. The settlement also raised the allocated percentage of box office receipts for foreign studios to 25%.²⁰⁷ These allowances increased market access and provided a greater share of revenue for foreign film producers and distributors.²⁰⁸ In exchange for these compromises, the U.S. agreed to refrain taking further action with the WTO.²⁰⁹

204. *Id.*

205. See *Memorandum of Understanding Between the People's Republic of China and the United States of America Regarding Films for Theatrical Release*, Ch.-U.S., Feb. 18, 2012, T.I.A.S. No. 12-0425 [hereinafter *Memorandum of Understanding*].

206. *Id.*

207. *Id.*

208. *Id.*

209. Ethan Smith & Bob Davis, *China Agrees to Increased Access for US Films*, WALL ST. J. (Feb. 18, 2012), <http://www.wsj.com/articles/SB10001424052970204880404577230172401449982>.

The MOU provided a pathway to the future, committing both sides to further discussion in 2017 on the issues of additional revenue and imported product. However, if subsequent talks stall, section 15 of the MOU allows the U.S. to resume its action against China in the WTO after January 1, 2018.²¹⁰ A stopgap was put in place, and the countries reached an uneasy equilibrium but the case remained unresolved for the long term.²¹¹ China's market is still largely closed with its quota system in place and a revenue ceiling for foreign investors.²¹² Still, Vice President Joe Biden, MPAA President Chris Dodd, and Disney CEO Robert Iger praised the 2012 MOU as "a significant opportunity to provide Chinese audiences increased access to our films."²¹³

The immediate result of the settlement was dynamic growth in the PRC's media sector. The increased import quota injected a shot of adrenalin into the industry. In 2012, China box office revenue hit \$2.7 billion, up 37% from the previous year, to become the second largest global market after North America.²¹⁴ Those numbers continued upward, hitting \$3.57 billion in 2013,²¹⁵ \$4.76 billion in 2014,²¹⁶ and surging over 48% in 2015 to hit \$6.78 billion.²¹⁷ First two quarters of 2016 showed slightly slower growth at 21% but the PRC box office still managed to cross the \$4 billion mark.²¹⁸ By 2017, China is expected to surpass North America and become the largest movie market in the world.²¹⁹ Construction of movie screens kept pace with box office: from 9,286 screens in 2011, the number shot up to over 13,000 screens in 2012—a number that doubled 2010's venue count.²²⁰ Screen

210. Memorandum of Understanding, *supra* note 205.

211. See *id.*

212. Smith, *supra* note 209.

213. *Id.*

214. Pamela McClintock, *China Box Office Revenue Hits \$2.7 Billion in 2012, Second Only to North America*, HOLLYWOOD REP. (Mar. 21, 2013), <http://www.hollywoodreporter.com/news/china-box-office-revenues-hit-430267>.

215. Patrick Frater, *China Surges 36% in Total Box Office Revenue*, VARIETY (Jan. 4, 2015), <http://variety.com/2015/film/asia/china-confirmed-as-global-number-two-after-36-box-office-surge-in-2014-1201392453>.

216. Clifford Coonan, *China's Box Office Surges 36% in 2014 to \$4.76 Billion*, HOLLYWOOD REP. (Jan. 1, 2015), <http://www.hollywoodreporter.com/news/chinas-box-office-surges-36-760889>.

217. Patrick Brzeski, *China Box Office Grows Astonishing 48.7 Percent in 2015, Hits \$6.78 Billion*, HOLLYWOOD REP. (Dec. 31, 2015), <http://www.hollywoodreporter.com/news/china-box-office-grows-astonishing-851629>.

218. Julie Makinen, *China Box Office: Growth Slows in First Half of 2016 but Still Up 21%*, L.A. TIMES (July 11, 2016), <http://www.latimes.com/entertainment/envelope/cotown/la-et-ct-china-box-office-half-20160711-snap-story.html>.

219. Patrick Brzeski, *China Box Office Grows Astonishing 48.7 Percent in 2015*, *supra* note 217.

220. *2013-2014 China Film Industry Report: Abstract IV*, ENTGROUP (Oct. 29, 2014, 11:52 AM), http://english.entgroup.cn/views_detail.aspx?id=2660.

construction would continue to skyrocket, hitting 18,000 in 2013, 22,000 in 2014²²¹ and nearly 29,000 in 2015. The number of movie screens is on target to hit 50,000 in China before 2020.²²² Ticket sales also increased, growing from 462 million in 2012 to 612 million in 2013,²²³ and 830 million in 2014, increases of over 30% year-on-year.²²⁴

Responding to the explosive market, in March 2013, the government merged SARFT with the General Administration of Press and Publication to form a new bureau: the State Administration of Press, Publication, Radio, Film and Television (SAPPRFT).²²⁵ Led by Cai Fuchao, who previously served as deputy director of Beijing's propaganda department from 1998-2008, SAPPRFT like its predecessor was tasked with approving all films shown in China, including co-productions and domestically produced content.²²⁶ SAPPRFT's authority was left intentionally broad.²²⁷ How and when the bureau chose to enforce its influence was undefined; furthermore, SAPPRFT habitually provided vague feedback forcing foreign filmmakers to navigate a byzantine process ripe for corruption in order to gain import approval.²²⁸ Like the Hollywood Production Administration under Will Hays in place from 1930s-1950s in the U.S., SAPPRFT is involved in pre-production, production, distribution and can refuse to pass a film that completed the process.²²⁹ Possibly in a move to legitimize his department's existence, Cai Fuchao's SAPPRFT introduced a new regime of rigorous censorship.

In addition to enforcing regulations that had been passed prior to the U.S.-PRC settlement, SAPPRFT brought new matters to the process. Because China lacked a rating system, all films had to be appropriate for general audiences of all ages.²³⁰ The practice was not consistently applied.²³¹ SAPPRFT demonstrated sensitivity toward disparaging presentations of the

221. *Id.*

222. Xu Fan, *Movie Screens in China Hit New Record*, CHINA DAILY.COM.CN (Sept. 1, 2015), http://www.chinadaily.com.cn/culture/2015-09/01/content_21770672.htm

223. Patrick Frater, *China Adds 5,000 Cinema Screens in 2013*, VARIETY (Jan. 17, 2014), <http://variety.com/2014/biz/asia/china-adds-5000-cinema-screens-in-2013-1201062132>.

224. *China Box Office Sales Rise 36 Percent in 2014: State Media*, DAILY MAIL (Jan. 1, 2015), <http://www.dailymail.co.uk/wires/afp/article-2893274/China-box-office-sales-rise-36-percent-2014-state-media.html>.

225. Nancy Tartaglione, *Global Showbiz Briefs: China's SARFT; Inocente Screen Australia; BBC Four*, DEADLINE HOLLYWOOD (Mar. 11, 2013), <http://deadline.com/2013/03/global-showbiz-briefs-chinas-sarft-inocente-screen-australia-bbc-four-450409>.

226. Sean O'Connor, *supra* note 53.

227. *Id.*

228. *Id.*

229. *Id.*

230. *Id.*

231. *Id.*

CCP and Chinese people.²³² When Nury Vittachi, a Sri Lankan author of detective-fiction, was contacted about writing a screenplay, he discovered parameters that limited his palette in China: “crime stories are crime free, ghost tales have no ghosts and crooked politicians can’t be crooked.”²³³ Vittachi also exposed a variety of non-SAPPRFT approvals that may be triggered:

If the hero is a monk or the setting is a temple or a church, the script will also require a permit from the State Administration for Religious Affairs. If it’s a spy movie, national security agents will have to vet it. For cop shows, you need approval from the police’s so-called art department.²³⁴

Censorship enforcement could be unpredictable. Columbia/Sony was required to make cuts to *Men in Black 3* (2012), a sci-fi comedy about secret agents charged with apprehending unruly extraterrestrials living on Earth.²³⁵ State regulators saw political resonance in one scene where Will Smith, playing an agent, erases the memories of a group of Chinese bystanders.²³⁶ China’s *Southern Daily* newspaper commented, “This could have been a hint on the use of Internet censorship to maintain social stability.”²³⁷ Sony again ran afoul of state censors in *Skyfall* (2013), the twenty-third entry of the James Bond franchise.²³⁸ To reach PRC audiences, the studio was required to delete a scene set where a hit man is shown shooting a Chinese security guard.²³⁹

Paramount Pictures ran up against SAPPRFT with the 3D retooling of *Top Gun* (1986).²⁴⁰ This chest-thumping Air Force actioner was rejected due to its display of American military dominance.²⁴¹ Academy Award nominated *Captain Phillips* (2013), which starred Tom Hanks in the biopic

232. Frank Langfitt, *How China’s Censors Influence Hollywood*, NAT’L PUB. RADIO (May 18, 2015), <http://www.npr.org/sections/parallels/2015/05/18/407619652/how-chinas-censors-influence-hollywood>.

233. Nury Vittachi, *China’s Crime-Free Crime Films*, N.Y. TIMES (Jan. 3, 2015), <http://www.nytimes.com/2015/01/04/opinion/sunday/chinas-crime-free-crime-films.html>.

234. *Id.*

235. Malcolm Moore, *Chinese Villains Censored from Men in Black 3*, TELEGRAPH (May 30, 2012), <http://www.telegraph.co.uk/news/worldnews/asia/china/9300092/Chinese-villains-censored-from-Men-in-Black-3.html>.

236. *Id.*

237. *Id.*

238. Pamela McClintock, *Box Office Report: Skyfall Scores \$5.1 Million Opening Day in China*, HOLLYWOOD REP. (Jan. 22, 2013), <http://www.hollywoodreporter.com/news/box-office-report-skyfall-scores-414319>.

239. *Id.*

240. Michael Cieply & Brooks Barnes, *To Get Movies into China, Hollywood Gives Censors a Preview*, N.Y. TIMES (Jan. 14, 2013), <http://www.nytimes.com/2013/01/15/business/media/in-hollywood-movies-for-china-bureaucrats-want-a-say.html>.

241. *Id.*

of a mariner taken hostage by Somali pirates, was denied on similar grounds: PRC censors were uncomfortable with scenes of “the big Military machine of the U.S. saving one U.S. citizen.”²⁴² Only two months after *Top Gun* was denied, Paramount tweaked its tent pole production of *World War Z* (2013).²⁴³ The studio removed an offending scene where the film’s star, Brad Pitt, discussed the geographic origin of an outbreak that triggered the zombie apocalypse and pointed to China.²⁴⁴ The revised submission did not placate authorities; official response was silence.²⁴⁵ *World War Z* skipped mainland China.²⁴⁶

SAPPRFT’s embargo on films that “promote cults or superstition” in Document 200, Article 24 §5, was invoked to exorcize several pictures from the Chinese market.²⁴⁷ Director Guillermo del Toro was riding high after his robot-alien monster thriller *Pacific Rim* (2013) grossed \$113 million in China.²⁴⁸ But the director with a yen for the supernatural suffered a misfire with his gothic romance, *Crimson Peak* (2015).²⁴⁹ Universal Pictures learned that the only exception to SAPPRFT’s no-ghost protocol was spirits based in Chinese mythology.²⁵⁰ Similarly, Sony’s all-female reboot of *Ghostbusters* (2016) was denied release in China even after changing its title to *Super Power Dare to Defy Team* to avoid any reference to prohibited poltergeists.²⁵¹ Disney/Marvel was vigilant to de-Tibet-ize its comic book movie adaptation of *Doctor Strange* (2016), which contained an ancient master of magic from the mountain kingdom, but the overarching theme of mysticism and enchantment might ward off approval from the state censors.²⁵²

242. Clare Baldwin & Kristina Cooke, *How Sony Sanitized the New Adam Sandler Movie to Please Chinese Censors*, REUTERS (July 24, 2015), <http://www.reuters.com/investigates/special-report/china-film>.

243. Lucas Shaw, *Zombie Film World War Z Changes Scene After Fearing Chinese Censors*, BUS. INSIDER (Apr. 1, 2013), <http://www.businessinsider.com/world-war-z-changes-scene-fearing-chinese-censors-2013-4>.

244. Lucas Shaw & Sharon Waxman, *China Censors Rejected Brad Pitt’s World War Z*, WRAP (June 3, 2013), <http://www.thewrap.com/movies/article/brad-pitt-world-war-z-china-rejecting-zombie-apocalypse-95051>.

245. *Id.*

246. *Id.*

247. Patrick Brzeski, *China’s No-Ghost Rule Could Haunt Crimson Peak*, HOLLYWOOD REP. (Oct. 21, 2015), <http://www.hollywoodreporter.com/news/chinas-no-ghost-rule-could-833473>.

248. *Id.*

249. *Id.*

250. *Id.*

251. Patrick Brzeski, *Ghostbusters Denied Release in China*, HOLLYWOOD REP. (July 13, 2016), <http://www.hollywoodreporter.com/news/ghostbusters-denied-release-china-910563>; Henry Barnes, *Ghostbusters in Line for China Ban Due to Supernatural Theme*, GUARDIAN (July 14, 2016), <https://www.theguardian.com/film/2016/jul/14/ghostbusters-china-ban-supernatural-theme>.

252. See Hannah Shaw-Williams, *Doctor Strange’s Erasure of Tibet is a Political Statement*, SCREEN RANT (Mar. 30, 2016), <http://screenrant.com/doctor-strange-china-tibet-ancient-one>.

Violence, religion, and sexuality are also censored by SAPPRFT. The raunchy antihero superhero action pics *Deadpool* (2016) and *Suicide Squad* (2016) were runaway box office successes in the U.S. But in China, both films were denied release due to excessive violence, graphic language, and nudity.²⁵³ *Ben-Hur*, the epic biblical tale of childhood chums separated by their cultures has a long history of being censored in China.²⁵⁴ MGM produced the first blockbuster version of *Ben-Hur* in 1925.²⁵⁵ Cantonese authorities turned the picture away commenting it was “Christian propaganda decoying the people to superstition which must not be tolerated in the present age of revolutionary enlightenment.”²⁵⁶ This historical precedent did not deter Paramount from producing an updated version in 2016. Whether SAPPRFT will break precedent and permit the picture has yet to be determined but Paramount should have been on notice that religious subjects were to be treated sensitively since the studio’s biblical tent pole *Noah* (2014) was banned two years earlier.²⁵⁷

The issue of depicting same sex couples is still in flux. Fan Popo produced *Mama Rainbow* (2012), a sympathetic documentary on six Chinese mothers and their gay and lesbian children.²⁵⁸ Popo claimed SAPPRFT ordered the picture taken down from streaming platforms and brought suit in the Beijing No. 1 Intermediate People’s Court.²⁵⁹ In December 2015, Popo prevailed on a technicality: SAPPRFT hadn’t *officially* released any take-down notice.²⁶⁰ This was a momentary victory for LGBTQ rights activists: three months later in March 2016, SAPPRFT authorized a take-down notice for a popular online series *Addiction* (2016), which centered on two gay

253. Benjamin Lee, *Deadpool Denied Release in China Due to Extreme Content*, GUARDIAN (Jan. 16, 2016), <https://www.theguardian.com/film/2016/jan/18/ryan-reynolds-tim-miller-deadpool-denied-china-release-extreme-content>; Rebecca Hawkes, *Violence, Nudity, Possession: Why Suicide Squad—and Other Films—Aren’t Released in China*, TELEGRAPH (Aug. 5, 2016), <http://www.telegraph.co.uk/films/2016/08/05/violence-nudity-possession-why-suicide-squad—and-other-films>.

254. See “*Ben Hur*” *Film Put Under China Ban*, READING TIMES (Reading, Pa.), Jan. 8, 1929, at 4.

255. Mike Fleming, Jr, *Sweet Chariot! MGM is Rebooting “Ben Hur,”* DEADLINE (Jan. 14, 2013), <http://deadline.com/2013/01/new-ben-hur-movie-remake-reboot-mgm-lew-wallace-novel-404155>.

256. READING TIMES, *supra* note 254.

257. Julie Makinen and John Horn, *China’s Cinematic Censors Say “No” to Noah*, L.A. TIMES (May 9, 2014), <http://www.latimes.com/entertainment/envelope/cotown/la-et-ct-china-noah-20140509-story.html>.

258. Lilian Lin, *Chinese Gay Activist Claims Victory in Online Film Censorship Lawsuit*, WALL ST. J. (Dec. 28, 2015), <http://blogs.wsj.com/chinarealtime/2015/12/28/chinese-gay-activist-claims-victory-in-online-film-censorship-lawsuit>.

259. *Id.*

260. *Id.*

men.²⁶¹ This time the official comment banned all depictions of gay people as part of a cultural crackdown on “vulgar, immoral, and unhealthy content.”²⁶²

Knowing the subjects that prompt censors to take notice is one element of getting a film passed by SAPPRFT, another method is anticipating ways to cajole administrators. Several studios have made proactive and strategic changes, altering the version to be screened in China and showcasing Chinese expertise. In *Iron Man 3* (2013), Disney/Marvel extended a scene showing Chinese doctors helping the hero in need.²⁶³ The calculation was spot-on; *Iron Man 3* smashed box office records, earning a record \$21.1 million on its opening day.²⁶⁴ In Fox's *The Martian* (2015), China's National Space Administration was positioned in a pivotal role, stepping in to save NASA's reputation and Matt Damon's life.²⁶⁵ The film rocketed to a \$50 million first weekend.²⁶⁶ Hollywood studios have adopted the casting of Chinese actors as de rigueur. *X-Men Days of Future Past* (2014) introduced Fan Bingbing as a teleporting mutant in the first of four films featuring the Chinese star.²⁶⁷ *Independence Day: Resurgence* (2016) included Chinese model/star Angelababy in a brief appearance as a fighter pilot as well as a product placement for Chinese company Tencent.²⁶⁸ Disney/Lucasfilm signed Wen Jiang for *Rogue One: A Star Wars Story* (2016).²⁶⁹ Paramount recruited

261. Hannah Ellis-Petersen, *China Bans Depictions of Gay People on Television*, GUARDIAN (Mar. 4, 2016), <https://www.theguardian.com/tv-and-radio/2016/mar/04/china-bans-gay-people-television-clampdown-xi-jinping-censorship>.

262. *Id.*

263. See Shaw, *supra* note 244.

264. Clarence Tsui, *Iron Man 3 Smashes China's Opening-Day Box Office Record*, HOLLYWOOD REP. (May 1, 2013), <http://www.hollywoodreporter.com/news/iron-man-3-smashes-chinas-450413>. See also Baldwin & Cooke, *supra* note 242.

265. Brett Lang, “*The Martian*” Soars to \$50.1 Million Opening in China, VARIETY (Nov. 29, 2015), <http://variety.com/2015/film/box-office/the-martian-china-opening-1201649698>.

266. Patrick Brzeski, *China Box Office: The Martian Rockets to \$50 Million, Mockingjay 2 Disappoints*, HOLLYWOOD REP. (Nov. 30, 2015), <http://www.hollywoodreporter.com/news/china-box-office-martian-rockets-844746>.

267. Alice Yan, *China's X-Men Star Fan Bingbing Joins Forbes' List of Hollywood's Biggest-Earning Actresses*, S. CHINA MORNING POST (Aug. 21, 2015), <http://www.scmp.com/news/china/money-wealth/article/1851363/chinas-x-men-star-fan-bingbing-joins-forbes-list-hollywoods>.

268. Jonathan Papish, *China Box Office: Summer Heist Pic Tops Fox Sci-Fi Flick*, CHINA FILM INSIDER (June 28, 2016), <http://chinafilminsider.com/china-box-office-summer-heist-pic-tops-fox-sci-fi-flick>.

269. Scott Timberg, *Hollywood's New China Syndrome: the Country's Enormous Audience Means Money for Movie Studios and Some Restrictions*, SALON (Sept. 25, 2016), <http://www.salon.com/2016/09/25/hollywoods-new-china-syndrome-the-countrys-enormous-audience-means-money-for-movie-studios-and-some-restrictions/>.

Zhang Ziyi for its own sci-fi thriller, *God Particle* (2017).²⁷⁰ Actress Jing Tian is set to appear in three major upcoming pictures with enormous U.S.-PRC crossover potential: *The Great Wall* (Universal-China Film, 2017), *Kong: Skull Island* (Warner Bros., 2017), and *Pacific Rim: Maelstrom* (Universal-Legendary, 2018).²⁷¹

But strategic pandering doesn't always work. MGM's remake of 1980s Cold War drama *Red Dawn* (2012) tweaked the nationality of America's invaders first to China, then, wary of offending the lucrative market, used digital effects in post-production to change the villain to North Korea.²⁷² The film fizzled; it is unclear whether it ever gained access to China.²⁷³ Sony eliminated a scene from an Adam Sandler VFX-comedy in which aliens blast a hole in the Great Wall.²⁷⁴ Such imagery ran contrary to the directive barring scenes in which Chinese sites or monuments suffer damage.²⁷⁵ But even this could not lift *Pixels* (2015) from a dismal theatrical run.²⁷⁶ Eliminating negative imagery may not erase the taint; however, portraying China heroically plays to CCP conceits and has proven to be an effective tactic.

Despite onerous regulations and arbitrary censorship, China remains an important market to Hollywood. During the past decade as home video sales, once an important revenue engine, steadily declined, studios looked to the untapped audiences of the PRC to fill the home video vacuum. But solidifying relationships with China and navigating the bureaucracy of SAPPFT has proven to be a challenge.

Regulation of imported films created a bottleneck with only thirty-four foreign films permitted entry to PRC screens as of 2016. Manipulation of the market favors domestic productions with blackout dates and selective ticketing to boost the box office of homegrown pictures. Even a highly successful foreign film is subject to shearing—non-Chinese entities are eligible for only a small slice of revenue, but are liable for taxes and tariffs. In 2013, a year that saw the release of successful blockbusters including *Iron*

270. Borys Kit, *Zhang Ziyi Joins J.J. Abrams' Sci-Fi Thriller "God Particle,"* HOLLYWOOD REP. (May 26, 2016), <http://www.hollywoodreporter.com/heat-vision/zhang-ziyi-joins-jj-abrams-897736>.

271. Erich Schwartzel, *Hollywood Under Pressure to Put More Chinese Actors in the Spotlight,* WALL ST. J. (Sept. 19, 2016), <http://www.wsj.com/articles/hollywood-under-pressure-to-put-more-chinese-actors-in-the-spotlight-1474304341>

272. Ben Fritz & John Horn, *Reel China: Hollywood Tries to Stay on China's Good Side,* L.A. TIMES (March 6, 2011), <http://articles.latimes.com/2011/mar/16/entertainment/la-et-china-red-dawn-20110316>.

273. *Id.*

274. Baldwin & Cooke, *supra* note 242.

275. *See id.*

276. Patrick Brzeski, *China Box Office: Mission Impossible Narrowly Tops Minions, Pixels Fizzles,* HOLLYWOOD REP. (Sept. 21, 2015), <http://www.hollywoodreporter.com/news/china-box-office-mission-impossible-826066>.

Man 3 (Disney), *Pacific Rim* (Warner Bros.), and *Fast and Furious 6* (Universal), American studios walked away empty handed.²⁷⁷ The China Film Group withheld all royalties because of a dispute over who should bear the cost of a new 2% luxury levy.²⁷⁸ The MPAA argued that the tax violated the terms of the MOU, which stipulated that studios receive 25% of Chinese box-office revenue free and clear of any taxes.²⁷⁹ In the end SAPPRT accepted payment and the state tax bureau promptly waived the assessment.²⁸⁰

State censorship of content remains an impediment. Imports that make it through the thirty-four-film quota are subject to the rigors of the censor bureau's often arbitrary and capricious cuts based on vague and unpredictable criteria.²⁸¹ Domestic films must also navigate a difficult passage. Sex, violence, ghosts, time travel, religious themes, sexuality, and disparaging China's culture and history—even when accurate—are red flags.²⁸² But forbidden subject matter may also be less evident. Shen Yongping's documentary *A Hundred Years of Constitutionalism* reviewed China's constitutional governance from 1911 to the present day.²⁸³ The film was banned before release in 2015 and its director was sentenced to one year in prison for "illegal business activities."²⁸⁴

CONCLUSION

Even with rigid regulation, strict censorship, and an unbalanced playing field that limits competition, the PRC market remains an attractive business opportunity as it grows, expands, and further develops year after year in leaps and bounds. As the PRC is poised to overtake North America as the most lucrative film market, major studios are calibrating blockbusters for success in China. In 2017, Universal will release *The Great Wall*, a sci-fi epic starring Matt Damon and directed by Zhang Yimou; Disney has *Born in China*, a sprawling documentary celebrating the nature and wildlife of the diverse landscape; and EuropaCorp prepares a French co-production of

277. Pamela McClintock, *MPAA Chief Christopher Dodd Announces End to China Standoff*, HOLLYWOOD REP. (Aug. 13, 2013), <http://www.hollywoodreporter.com/news/mpaa-chief-christopher-dodd-announces-605084>.

278. *Id.*

279. *Id.*

280. *Id.*

281. See Hawkes, *supra* note 253.

282. See *id.*

283. Clifford Coonan, *Chinese Filmmaker Jailed After Documentary About Constitution*, HOLLYWOOD REP. (Jan. 1, 2015), <http://www.hollywoodreporter.com/news/chinese-filmmaker-jailed-documentary-constitution-760901>.

284. *Id.*

Warrior's Way, a martial arts fantasy-action flick.²⁸⁵ Warner Bros. has resumed its strategy of producing Chinese language movies announcing a 12-film slate that includes original titles such as *Chinese Wall Street* as well as remakes of *Miss Congeniality* and the Adam Sandler comedy *Blended* with an Eastern edge.²⁸⁶

The integration of Hollywood's film industry with China's market remains in flux. The bilateral agreement of 2012, which tolled the U.S.'s claim before the WTO is set to expire in February 2017.²⁸⁷ At that point either a new agreement will be reached or the U.S. may resume their action for unfair trade practices. It is likely that Hollywood studios will push for a larger share of theatrical revenue, expanded import quota, and reduced state intervention. It is predictable the SAPPRT will counter these with their concern for eroding the domestic market and diluting Chinese culture with foreign media. That much has not changed.

What has changed is China's position with regard to leverage. Since the MOU was signed, Chinese media entities have expanded while American studios have endured limited growth. The tables are turned. Ten years ago, U.S. filmmakers struggled for a toehold in the PRC; now, Chinese players are firmly entrenched in the Hollywood system. Chinese mega-corporation Wanda acquired AMC in 2012 and Carmike Cinema in 2016 to create the world's largest theatrical chain.²⁸⁸ In 2016, Wanda purchased Legendary Entertainment; Beijing-based Perfect World Pictures invested \$500 million in Universal; and Bona Film Group put \$235 million into Fox's forthcoming tent poles.²⁸⁹ After kicking the tires at Paramount Pictures, internal discord at the storied film studio prevented Wanda from acquiring a stake in the company. Instead, the China conglomerate announced a significant co-

285. Dave McNary, *Matt Damon's "The Great Wall" Pushed Back to 2017*, VARIETY (Feb. 18, 2016), <http://variety.com/2016/film/news/the-great-wall-moved-back-matt-damon-1201709873>; Patrick Frater, *Disney's "Born in China" Heads for Release*, VARIETY (Aug. 11, 2016), <http://variety.com/2016/film/asia/disneys-born-in-china-heads-for-release-1201836067>; Patrick Frater, *Cannes: Dave Bautista Stars in Martial Arts Epic "Warrior's Gate"*, VARIETY (May 13, 2015), <http://variety.com/2015/film/global/dave-bautista-stars-in-warriors-gate-exclusive-1201493451>.

286. Borys Kit, *Zhang Ziyi Joins J.J. Abrams' Sci-Fi Thriller "God Particle"*, HOLLYWOOD REP. (May 26, 2016), <http://www.hollywoodreporter.com/heat-vision/zhang-ziyi-joins-jj-abrams-897736>; Patrick Frater and Shirley Lau, *Warner's Flagship Entertainment Unveils 12 China Movies*, VARIETY (Mar. 15, 2016), <http://variety.com/2016/film/asia/flagship-unveils-13-china-movie-projects-1201731176>.

287. Memorandum of Understanding, *supra* note 205.

288. Ed Hammond, *AMC's \$1.1 Billion Carmike Deal Makes China Movie Powerhouse*, BLOOMBERG (Mar. 3, 2016), <http://www.bloomberg.com/news/articles/2016-03-04/amc-entertainment-said-in-talks-to-acquire-carmike-cinemas>.

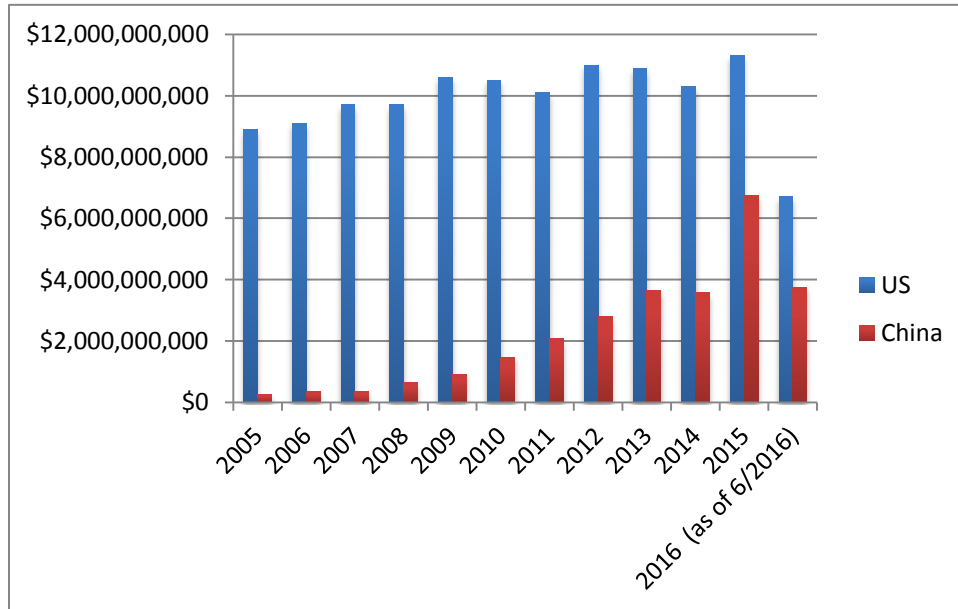
289. Patrick Brzeski, *Ratpac, Warner Bros. to Launch Chinese Film Fund with China Media Capital*, HOLLYWOOD REP. (Apr. 27, 2016), <http://www.hollywoodreporter.com/news/ratpac-warner-bros-launch-chinese-888078>.

financing deal with Sony Pictures in September 2016.²⁹⁰ With influence in production, distribution, and exhibition sectors, China-based companies have embedded themselves in Hollywood's film factory.

As Chinese influence increases and the PRC market grows ever more central to revenue streams, it is likely that big budget Hollywood movies will bend toward SAPPRT's needs. Censorship will move to the pre-production phase: big budget films that offend Chinese sensibilities can simply no longer be green lit by risk adverse studios tied to Chinese investors. To succeed in Hollywood a film must be suitable in Shanghai and bankable in Beijing. The film industry has achieved a global reach, but the marketplace is far different than what Hollywood's movie pioneers initially envisioned.

290. Mike Fleming Jr., *China's Wanda Forming Major Alliance with Sony Pictures*, DEADLINE HOLLYWOOD (Sept. 21, 2016, 11:05 AM), <http://deadline.com/2016/09/dalian-wanda-sony-pictures-slate-deal-1201823837>.

Appendix
U.S.-PRC Box Office Comparison 2005-2016²⁹¹



291. Patrick Brzeski and Pamela McClintock, *How Hollywood Can Break Through China's Box Office*, HOLLYWOOD REP. (Mar. 9, 2012), <http://www.hollywoodreporter.com/news/china-trade-deal-hollywood-box-office-revenue-297719>; *Chinese Box Office Grow 43% to Hit \$908m in 2009*, CHINA DAILY (Sept. 1, 2010), http://www.chinadaily.com.cn/bizchina/2010-01/09/content_9293353.htm; Jonathan Landreth, *China's Box Office Jumps 61 Percent to Hit \$1.47 Billion in 2010*, HOLLYWOOD REP. (Jan. 3, 2011), <http://www.hollywoodreporter.com/news/chinas-box-office-hits-147-67601>; Clifford Coonan, *China's 2011 Box Office Take Tops \$2 Billion*, VARIETY (Jan. 10, 2012), <http://variety.com/2012/film/box-office/china-s-2011-box-office-take-tops-2-billion-1118048424>; Clifford Coonan, *China 2013 Box Office Surges 27 Percent to \$3.6 Billion*, HOLLYWOOD REP. (Jan. 2, 2014), <http://www.hollywoodreporter.com/news/china-2013-box-office-surges-668181>; Frater, *China Surges 36% in Total Box Office*, *supra* note 215; BOX OFFICE MOJO, <http://www.BoxOfficeMojo.com> (last visited Sept. 16, 2016); THE NUMBERS, <http://www.the-numbers.com> (last visited Sept. 16, 2016); MTIME, <http://www.mtime.com> (last visited Sept. 16, 2016); ENT GROUP, <http://www.english.entgroup.cn> (last visited Sept. 15, 2016).

Year	United States	China
2005	\$8,900,000,000	\$256,000,000
2006	\$9,100,000,000	\$335,000,000
2007	\$9,700,000,000	\$336,000,000
2008	\$9,700,000,000	\$630,000,000
2009	\$10,600,000,000	\$908,000,000
2010	\$10,500,000,000	\$1,470,000,000
2011	\$10,100,000,000	\$2,070,000,000
2012	\$11,000,000,000	\$2,800,000,000
2013	\$10,900,000,000	\$3,640,000,000
2014	\$10,300,000,000	\$3,570,000,000
2015	\$11,300,000,000	\$6,780,000,000
2016 (as of 6/2016)	\$6,700,000,000	\$3,747,567,000