

**The implementation issue in norm diffusion – the cases
of WTO anti-dumping duty and countervailing duty in
China**

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Abstract

China increasingly integrates into the international system, but has the social capitalist China been effectively contained by the Western-led liberal order? Most current literatures assume China's ratification of international treaties as the signal to its full adoption of international norms, and scholars such as John Ikenberry thus argue that China is getting contained by the Western liberal order. However, a new wave of norm diffusion scholars suggests that even the ratified norms may not have the expected domestic impacts; the implementation process is decisive to the real changes 'on the ground'. Following this vein, this thesis studies China's implementation of international liberal norms in order to understand how the liberal world contains China in its order.

This thesis compares the implementation of two WTO trading norms namely anti-dumping duty and countervailing duty in China as the representative case studies. The analysis suggests that these two norms have made important changes to China's legal system, institution-building, field-level practices and its domestic discourse. By employing political comparative methods, it proves the WTO implementing instruments as effective in promoting the progresses of this implementation process. However, the analysis further suggests that the cultural match of these two international liberal norms with China's social capitalist traditions also contributes to strong domestic resistances to the implementation process. The consequences of this dis-match are largely reflected in China's field-level practices of and its domestic discourses over these two norms.

This thesis provides a complex answer to the question raised at the beginning. As the case studies illustrate, although anti-dumping duty and countervailing duty conflict with China's social capitalist traditions, China chooses to play by the rules because of its 'problem-solving' concerns and because of the pressure from the WTO and its members. China, both the state sectors and non-state actors, values its identity as a

member of the international society, and is willing to act as the defender of the current international order. Even though, China is not a passive receiver of the liberal normative structure. The dis-match between the liberal norms and China's social capitalist tradition inevitably results in the internal resistance to the tendency of China being fully contained by the international liberal order. This resistance will not be eliminated by any external pressure.

Abbreviation

Bureau of Fair Trade for Import and Export (BOFT)

China's Communist Party (CCP)

Dispute Settlement Body (DSB)

European Union (EU)

Ministry of Commerce (MOFCOM)

Minister of Foreign Trade and Economic Cooperation (MOFTEC)

People's Republic of China (PRC)

State owned enterprises (SOE)

Subsidies and Countervailing Measure Agreement (SCM Agreement)

Transitional Review Mechanism (TRM)

World Trade Organization (WTO)

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Chapter one: State capitalist China in a liberal world

1. Introduction: the rising China

As one of the world's largest trading countries, China has become an increasingly important part of a multilateral world. A 2009 report from the OECD shows that its members' share of world exports has generally shrunk and there is little likelihood of that trend being reversed¹. Meanwhile, over the last 20 years, large, emerging economies, e.g., Brazil, Russia, Indonesia, India, China, and South Africa, have been expanding their exports at a much faster rate than other countries, including the leading developed countries. The share of Newly Emerging Economies (NEEs) in world exports of goods and services has consistently increased since 1988, with China maintaining the highest growth rate. China, as a single country, exceeded the OECD countries in 2003. China's international trading activities largely contribute to China's economic growth. In 2008, China contributed 17.5% of world GDP in purchasing power parity compared to Europe's 19.3%, and the United State's 18.6%; in 2010, China's GDP exceeded Japan's and became the second largest economy in the world².

Along with this rapid economic growth, China's relationship with the international system experienced a transition from isolation to integration. As a socialist state, China was largely excluded from the capitalist world in the 1950s-70s, but the situation changed after 1978. Under the 'opening-up'

¹ OECD (2009), 'Globalization and Emerging Economies', Policy Brief (OECD)

² Wei Xia and Liming Wang, 'Rising China and Its Interaction with the Changing World Economy', in Liming Wang (ed.), *Rising China in the Changing World Economy* (Oxon and New York: Routledge 2012). P4

policy, China has sought to re-engage in international affairs and become a part of international society. The most visible sign of China's re-engagement is its membership in international organisations³. China obtained its seat as a Permanent Member State in the Security Council of the United Nations in 1971. Since then, its memberships in international governmental organisations (IGOs) have increased significantly. By 2000, China was an official member in 50 IGOs⁴; by 2015, this number had grown to over 100⁵. At the same time, China's influence in IGOs has also increased significantly. Between 2003 and 2015, there were 12 Chinese citizens holding senior executive positions in IGOs, including: Zhu Min, vice president of the IMF; Yi Xiaozhun, vice director-general of the WTO; and Chen Feng Fuzhen, director-general of WHO. Most are appointed by the Chinese government, and thus can be considered to be the voice of China in these IGOs⁶.

The increasing involvement of China in the global economy and in international affairs has prompted much debate on the relationship between state capitalist China and the Western-centred liberal system. On one side of this debate, scholars, represented by John Ikenberry, argue that by integrating into the international system and seeking to be a part of international society, China becomes contained by the Western liberal order⁷. McNally further explains Ikenberry's argument, "while the United States cannot forestall China's international re-emergence, it can strengthen the liberal international order and thereby tie China to the rules and institutions it has created and

³ Alastair Iain Johnston, *Social States: China in International Institutions, 1980-2000* (Princeton: Princeton University Press, 2008). P30-35

⁴ Ibid 34

⁵ Deng, Yuan, Xiong, Zhengyan and Han Jie, in 'China re-targets on international organisations 中国再瞄准国际组织', *International Herald Leader 国际先驱导报*, (Xinhua News, 2015), accessed January 12, 2016, http://news.xinhuanet.com/herald/2015-04/20/c_134167266.htm

⁶ Han Jie, 'the Chinese directors in international organisations 国际组织中的中国掌门人' in 'China re-targets on international organisations 中国再瞄准国际组织', *International Herald Leader 国际先驱导报*, (Xinhua News, 2015), accessed January 12, 2016, http://news.xinhuanet.com/herald/2015-04/20/c_134167266.htm

⁷ John G. Ikenberry, 'The Rise of China and the Future of the West: Can the Liberal System Survive?', *Foreign Affairs*, 81/1 (2008), 23-37.

continues to lead”⁸. Other scholars such as Edward Steinfeld similarly argue that while the rising power of China challenges the hegemonic position of the U.S. in international political economy, China also becomes a ‘stake-holder’ of global normative structure⁹.

On the opposite side of the debate, scholars, such as Christopher McNally, argue that contemporary China is generating a form of state capitalism “in which the state controls the commanding heights of the economy in the form of state-owned, state-sponsored, or private yet state-loyal corporation and wealth funds”¹⁰. This form of state, i.e., with a socialist ideology, is largely different from, and incompatible with, the U.S.-led liberal capitalist system that currently dominates the world¹¹. Moreover, China, as a rising power, is “by definition not satisfied with its status/rank and will seek to improve this in line with its rising wealth and power”¹². Therefore, China, with the increasing weight of its economy and its global influence, is believed to be a ‘threat’ to the global market system¹³, capitalist values and normative structure¹⁴, and, more importantly, the current status-quo in the world¹⁵.

This thesis aims to understand the nature of the changing relationship between state capitalist China and the liberal world. It answers a fundamental

⁸ Christopher A. McNally, 'Sino-Capitalism: China's Reemergence and the International Political Economy', *World Politics*, 64/4 (2012), 741-76.p742)

⁹ See Edward S. Steinfeld, *Playing Our Game: Why China's Economic Rise Doesn't Threaten the West*. (Oxford: Oxford University Press, 2010).

¹⁰ McNally, Christopher A. (2012), 'Sino-Capitalism: China's Reemergence and the International Political Economy', *World Politics*, 64 (4), 741-76.p742.

¹¹ John Mearshimei, *The Tragedy of Great Power Politics* (New York, N.Y.: W.W.Norton, 2001). See also Ian Bremmer, *The End of the Free Market: Who Wins the War between States and Corporations* (New York: Protfolio, 2010).

¹² Barry Buzan, 'China in International Society: Is 'Peaceful Rise' Possible?', *The Chinese Journal of International Politics*, 3/1 (March 20, 2010 2010), 5-36. P17.

¹³ Bremmer, *The End of the Free Market: Who Wins the War between States and Corporations*.

¹⁴ Xiaoming Zhang, 'A Rising China and the Normative Changes in International Society', *East Asia*, 28/3 (2011/09/01 2011), 235-46.

¹⁵ Buzan , 'China in International Society: Is 'Peaceful Rise' Possible?'; and for an overview of 'China threat' theories, see Yong Deng, 'Reputation and the Security Dilemma: China Reacts to the China Threat Theory', in Robert S. Ross and Alastair Iain Johnston (eds.), *New Directions in the Study of China's Foreign Policy* (Stanford, Calif: Stanford Univeristy Press, 2006), 186-214.

question. How, and to what extent, do international liberal norms affect state capitalist China?

To answer this question, this chapter reviews norm diffusion theories that are rooted in different International Relations (IR) traditions in order to understand how international norms affect a state's behaviour in general. It firstly clarifies the notion of norms used by IR scholars, and distinguishes it from other similar notions, including ideas, rules, and institutions. It then examines three major approaches of norm diffusion theories, including the realist hegemonic approach, the neo-liberal regime approach, and the constructivist approach. These approaches provide comprehensive explanations for the questions of 'why states ratify international norms' and 'how they are constrained by them'.

These approaches, however, share a common assumption that when a norm is ratified by the state, it can affect behaviour, or even change the normative structure of the latter. This assumption is criticised by the work of a new wave of norm diffusion scholars who focus their research on the domestic process of norm diffusion.

This new wave of scholars indicate that a ratified norm does not necessarily lead to a domestic impact 'on the ground'. They look carefully into the domestic process of norm diffusion and argue that the ratified norm may be selectively adopted¹⁶, re-shaped or re-interpreted¹⁷, or 'localised'¹⁸ in the domestic process. The results of this domestic process could be different from

¹⁶ Biukovic, Ljiljana (2008), 'Selective Adaptation of WTO Transparency Norms and Local Practices in China and Japan', *Journal of International Economic Law*, 11 (4), 803-25.

¹⁷ Alexander Betts and Phil Orchard, 'Introduction - the Normative Institutionalization-Implementation Gap', in Alexander Betts and Phil Orchard (eds.), *Implementation & World Politics - How International Norms Change Practice* (Oxford: Oxford University Press, 2014b).

¹⁸ Amitav Acharya, 'How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism', *International Organization*, 58/02 (2004), 239-75.p244).

expectations. An 'institutionalisation-implementation gap' may exist empirically¹⁹.

This thesis applies this theoretical understanding of norm diffusion to the context of a capital socialist China rising in the Western-led liberal world. China is now a member of over 100 inter-governmental organisations and has ratified over 500 international treaties. In order to answer the question of whether the international liberal order has effectively contained China, one needs to explore how these ratified international norms are implemented. The final part of this chapter further explains the research objectives and research questions of the thesis, and introduces its structure.

2. Review of norm diffusion theories

2.1 Definition of norm

What makes norms different from ideas, rules, and institutions? Normally, ideas do not regulate or constrain individuals' behaviours as norms do. Yet, the notion of 'idea' is occasionally used with no clear distinction from the notion of 'norm'. For instance, Thomas Risse-Kappen studies how Western liberal ideas, such as 'common security', reached the top leaders of the Soviet Union and consequently affected its military reform in the late 1980s²⁰. The exact idea of 'common security' is studied as a norm in the work of Amitav Acharya²¹. Similar examples also include John Campbell's work of institutionalist theories²², Michael Williams' study of the moral construction of

¹⁹ Betts and Orchard, 'Introduction - the Normative Institutionalization-Implementation Gap'.

²⁰ Thomas Risse-Kappen, 'Ideas Do Not Float Freely: Transnational Coalitions, Domestic Structures, and the End of the Cold War', *International Organization*, 48/02 (1994), 185-214.

²¹ Amitav Acharya, 'How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism', *ibid.* 58 (2004), 239-75.

²² John L. Campbell, 'Institutional Analysis and the Role of Ideas in Political Economy', *Theory and Society*, 27/3 (1998), 377-409.

power politics²³, and Mikko Niemela and Arttu Saarinen's study of Finnish public sector reform²⁴.

The question is: what factors distinguish a norm from an idea? Many scholars suggest the difference between them is the property of 'rightness'. This 'rightness' could be a moral attachment. James Fearon argues that "we typically do not consider [an idea] to be a social norm unless a shared moral assessment is attached to its observance or non-observance"²⁵. Jeffrey Legro suggests that the norms in war time took a form of moral consideration. A question needs to be asked "whether it was 'right' to use such a weapon"²⁶. Sarah Percy similarly argues that the failure of 'anti-mercenary' as a norm contributes to the weak moral concerns it attracts²⁷. However, morality is not the only form of 'rightness'. Acharya suggests ideas that combine "moral principles with considerations of efficiency and utility" can be called 'norms' as well²⁸. In other words, an idea can be transformed into a norm as long as people believe the idea is right in moral or practical ways²⁹.

Constructivists understand the property of 'rightness' as a socially constructive reality. Audie Klotz claims that norms are "shared (social) understandings of standards of behaviour"³⁰. Finnemore and Sikkink point out that people behave according to norms because these behaviours are

²³ Michael C. Williams, 'Why Ideas Matter in International Relations: Hans Morgenthau, Classical Realism, and the Moral Construction of Power Politics', *International Organization*, 58/04 (2004), 633-65.

²⁴ Mikko Niemela and Arttu Saarinen, 'The Role of Ideas and Institutional Change in Finnish Public Sector Reform', *Annual Meeting of RC19* (Montreal: The Social Insurance Institution of Finland, 2009).

²⁵ James Fearon, 'What Is Identity (as We Now Use the Word)?', (Chicago: University of Chicago, 1997). P25.

²⁶ Jeffrey W. Legro, 'Which Norms Matter? Revisiting the "Failure" of Internationalism', *International Organization*, 51/01 (1997), 31-63.

²⁷ Sarah V. Percy, 'Mercenaries: Strong Norm, Weak Law', *ibid.* 61/02 (2007), 367-97. p369.

²⁸ Amitav Acharya, 'How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism', *ibid.* 58 (2004), 239-75. 243.

²⁹ For similar argument see also Campbell, 'Institutional Analysis and the Role of Ideas in Political Economy', (p381).

³⁰ Audie Klotz, 'Norms Reconstituting Interests: Global Racial Equality and U.S. Sanctions against South Africa', *International Organization*, 49/3 (1995), 451-78. P451.

appropriate by reference to the judgements of a community³¹. From this perspective, social communities and individuals' identities are essential to the property of 'rightness'. In other words, whether an idea is 'right' depends on whether it is socially accepted by a community; and whether an idea is 'right' to a particular person depends on whether this person considers himself/herself as a member of this community. Finnemore and Sikkink further argue that there is no 'wrong' norm from the view of norm holders and norm promoters. An objectively 'wrong' idea can be a norm for a community as long as the community accepts the 'logic of appropriateness' of this idea; the 'logic of appropriateness'³² can be created or shaped by norm entrepreneurs³³.

Another notion that can easily be confused with 'norm' is 'rule'. Both norms and rules constrain and regulate human behaviours. However, rules are usually more detailed than norms. Norms are ideas (although attached with the property of 'rightness'), but rules regulate the exact ways to realise such ideas. Rules are structural and rational, and are associated with legal meanings. Stephen Krasner describes them as "specific prescriptions or proscriptions for action"³⁴. Rules are valid for all people, and their application and efficiency is guaranteed by enforcements of the system. If a man leaves rubbish in his neighbour's backyard, he will be fined by the neighbourhood association. 'Do not leave rubbish in your neighbours' backyard' is a rule written in a handbook (in this example), valid for everyone in the neighbourhood, and the neighbourhood association guarantees the rule is applied through enforcements. Norms, on the other hand, are rooted in a

³¹ Martha Finnemore and Kathryn Sikkink, 'International Norm Dynamics and Political Change', *ibid.* 52/04 (1998), 887-917.p892).

³² See James G. March and Johan Olsen, *Rediscovering Institutions: The Organizational Basis of Politics* (New York: Free Press, 1989).

³³ Finnemore and Sikkink, 'International Norm Dynamics and Political Change', (p904-5).

³⁴ Stephen D. Krasner, 'Structural Causes and Regime Consequences: Regimes as Intervening Variables', in Stephen D. Krasner (ed.), *International Regime* (Ithaca and London: Cornell University Press, 1983). P2.

cognitive base, and are guaranteed by social or moral forces, rather than a specific systematic body. Someone who violates a norm may not receive material punishment, such as being fined by the neighbourhood association in the example above, but he or she will encounter social sanctions, such as shame or isolation³⁵.

However, this is not always the case as there is an essential difference between these two notions. One group of people behave according to a norm because they believe in its rightness. The same idea may be obeyed, but not principally approved of, by other groups of people. The latter thus consider this idea as a rule rather than a norm. In other words, the rule of one group of people can be the norm of another group at the same time. For constructivists, rules can be transferred into norms as well. Finnemore and Sikkink's study of the diffusion of women's suffrage as a norm provides a good illustration of this point. When the state actors accepted private norm entrepreneurs' ideas of women suffrage rights, they legitimised them and applied them in practice nationally. Not everyone in those countries believed in the rightness of this idea, but they had to obey it because it became a rule for them. Interestingly, no one is still debating whether women should have suffrage rights in those countries nowadays, because this idea has become a norm and it is so internalised that people take it for granted. In other words, those people who saw women's right as a rule became the norm holders who believed in women's suffrage rights later³⁶.

'Institution', in sociological tradition, is another notion that has similar, but not exactly the same, meaning as norms. Finnemore indicates that the term 'institution' refers to very different concepts than when it is used by

³⁵ Jeffrey Checkel, 'Why Comply? Social Learning and European Identity Change', *International Organization*, 55/3 (2001), 553-88.

³⁶ Martha Finnemore and Kathryn Sikkink, 'International Norm Dynamics and Political Change', *ibid.* 52/04 (1998), 887-917.

rational-choice scholars or historical institutionalists. The latter focus on the structural and constraining features of an organisation, while the former emphasise those features embedded in social and cognitive factors³⁷. In other words, sociologists' institutions are rooted in people's minds rather than in certain organisational bodies. In this tradition, institutions are regarded as sets of norms. The original words of Finnemore and Sikkink give the best description to distinguish norms from sociological institutions – “the norm definition isolates single standards of behaviour, whereas institutions emphasize the way in which behavioural rules are structured”³⁸.

2.2 Three major approaches of norm diffusion

Scholars of political science have been discussing the impact of international norms on international politics since the 1980s. They provide comprehensive theories to explain why states adopt international norms and how they are constrained or empowered by these norms. This section briefly reviews three major approaches, namely the hegemonic approach, the neo-liberal regime approach, and the constructivist approach.

2.2.1 Hegemonic approach

Scholars, such as John Ikenberry, argue from hegemonic perspectives that norms are usually transferred from hegemonic states to secondary states. Arthur Stein points out that the distribution of power between states determines the preference ordering of the interacting states. “Great powers can often structure the choices and preferences of minor powers and thus shape regional outcomes”.³⁹ For the secondary states, in order to pursue policies

³⁷ Martha Finnemore, 'Norms, Culture, and World Politics: Insights from Sociology's Institutionalism', *ibid.*50/2 (1996), 325-47. P326.

³⁸ Martha Finnemore and Kathryn Sikkink, 'International Norm Dynamics and Political Change', *ibid.*52/04 (1998), 887-917. P891.

³⁹ Arthur A. Stein, 'Coordination and Collaboration: Regimes in an Anarchic World', *ibid.*36/2 (1982), 299-324. P319.

consistent with the hegemon's notion of international order, elites tend to buy into norms that are articulated by the hegemonic state⁴⁰.

From the hegemonic perspective, there are two factors determining the effects of norm diffusion. One is the effort of the hegemonic state in promoting its norms, and the other is the susceptibility of the secondary state⁴¹. U.S. Marshal Aid is mentioned as one of the most typical examples of the socialisation of hegemonic norms⁴². In this case, European countries were highly susceptible as a result of damage from the Second World War, and the U.S. used Marshal Aid to promote its norms. "It did mark a new period of international intervention and regulation including, most importantly, the Bretton Woods System of exchange convertibility as well as other US-dominated bodies and mechanisms like the UN, IMF, World Bank and GATT".⁴³ Jonathan Joseph claims that the U.S. pursues 'Americanisation' through not only the spread of new technology and methods of organising production, but more importantly through its dominance in political and military spheres⁴⁴. Another susceptible country following the Second World War is Japan. For similar reasons, Japan was also heavily 'Americanised' in both political and social dimensions⁴⁵.

2.2.2 Neo-liberal regime approach

Neo-liberal regime theory does not deny the role of hegemonic leadership in developing common norms, but it also argues that international norms are

⁴⁰ See G. John Ikenberry and Charles A. Kupchan, 'Socialization and Hegemonic Power', *ibid.* 44/03 (1990), 283-315.

⁴¹ *Ibid.*

⁴² Jonathan Joseph, *Hegemony: A Realist Analysis* (London and New York: Routledge, 2002).

⁴³ *Ibid.* p195.

⁴⁴ *Ibid.*

⁴⁵ For norm transitions in Japan see Akitoshi Miyashita, 'Where Do Norms Come From? Foundations of Japan's Postwar Pacifism', *International Relations of the Asia-Pacific* 7/1 (2007), 99-120. See also Jonathan Zeitlin and Gary Herrigel, *Americanization and Its Limits: Reworking Us Technology and Management in Post-War Europe and Japan* (New York: Oxford University Press, 2000).

shared by states because these norms optimise their long-term interests⁴⁶. In an anarchic international environment, states tend to maximise their interests by autonomously calculating self-interest within current international regimes⁴⁷. States might join in international regimes, and thus share the norms, in order to reduce uncertainty, risks of cooperation, and the transaction cost of problem-solving⁴⁸. Lisa Martin argues that the decisions that states choose as compromise to certain international norms might not involve normative judgment but merely “a statement about the likely form of cooperation”⁴⁹. Audie Klotz further argues that once a state joins in an international regime, the ‘cost-benefit’ impact is enhanced⁵⁰. The regimes increase the cost of violating norms and thus guarantee the impacts of the shared norms on state behaviours⁵¹. Robert Keohane also points out that a state can be a member of several international regimes simultaneously. They might be a member of an international monetary regime, and at the same time be a member of an international trading regime, or a security regime. These international regimes can interrelate, and their members might also overlap. Therefore, violating the norms of one international regime might increase a state’s cost in other regimes⁵².

2.2.3 Constructivist approach

While the neo-liberal approach emphasizes how interests determine the global norm diffusion process, the constructivist (or sociologist) approach of norm diffusion, represented by the work of Finnemore, claims that states

⁴⁶ Krasner, 'Structural Causes and Regime Consequences: Regimes as Intervening Variables'.

⁴⁷ Stein, Arthur A., 'Coordination and Collaboration: Regimes in an Anarchic World'.

⁴⁸ See Robert Keohane, 'The Demand for International Regimes', *International Organization*, 36/2 (1982), 325-55. And Robert Keohane, *After Hegemony: Cooperation and Discord In the World Political Economy* (Princeton: Princeton University Press, 1984, 2005).

⁴⁹ Lisa L. Martin, 'Interests, Power, and Multilateralism', *International Organization*, 46/4 (1992), 765-92. P766

⁵⁰ See Audie Klotz, 'Norms Reconstituting Interests: Global Racial Equality and U.S. Sanctions against South Africa', *ibid.* 49/3 (1995), 451-78.

⁵¹ Keohane, *After Hegemony: Cooperation and Discord In the World Political Economy*. Chapters 4 and 5.

⁵² *Ibid.*

became norm-takers mainly because of their identities, and socialisation is the major mechanism of norm diffusion⁵³. Socialisation could be seen as a type of persuasion from norm-holding states, and the core of socialisation is to build a social reality⁵⁴. "In situations where the objective reality is ambiguous, individuals are even more likely to turn to "social reality" to form and evaluate their beliefs"⁵⁵. In other words, even if the norm is 'objectively' wrong, it could still be accepted as long as it is 'socially' right.

From the constructivist perspective, norms are ideas attached with the 'logic of appropriateness'⁵⁶, and such logic can be created and shaped. At the stage of 'norm emergence'⁵⁷, norm entrepreneurs, the norm creators and promoters, may call attention to the issues, or even create issues, by using the tool of 'framing' that reinterprets, renames, or dramatizes those issues. They then associate the new ideas with these issues and thus attach the ideas with the 'logic of appropriateness'⁵⁸. With the creation of the new norms, norm entrepreneurs need an organizational platform to further promote their norms. "[N]orm entrepreneurs and the organizations they inhabit usually need to secure the support of state actors to endorse their norms and make norm socialization a part of their agenda"⁵⁹. If a norm can be supported by powerful international organisations, and be accepted by enough member states, this norm becomes an international norm and tends to cascade globally.

⁵³ See Martha Finnemore, 'International Organizations as Teachers of Norms: The United Nations Educational, Scientific, and Cultural Organization and Science Policy', *International Organization*, 47/4 (1993), 565-97.

⁵⁴ Martha Finnemore and Kathryn Sikkink, 'International Norm Dynamics and Political Change', *ibid.* 52/04 (1998), 887-917.

⁵⁵ *Ibid.* p904.

⁵⁶ March and Olsen, *Rediscovering Institutions: The Organizational Basis of Politics*.

⁵⁷ The 'life-cycle' of norms involves three stages, namely 'norm emergence', 'norm cascade', and 'internalisation'. See Finnemore and Sikkink, 'International Norm Dynamics and Political Change', (896-905).

⁵⁸ *Ibid.* p897.

⁵⁹ *Ibid.* p900.

States adopt the international norm because they are under 'peer pressure'. Finnemore and Sikkink indicate three types of 'peer pressure', including legitimization, conformity, and esteem⁶⁰. Legitimation is a powerful tool of socialisation. Once a norm is legitimized into international law, its influence over states' domestic politics grow significantly and are thereby enhanced. "[States] also care about international legitimization because it has become an essential contributor to perceptions of domestic legitimacy held by a state's own citizens"⁶¹. The other two types of pressure, namely conformity and esteem, both involve the evaluative relationships between states. Finnemore and Sikkink explain conformity and esteem from psychological perspectives. Conformity refers to the psychological need of belonging to a community. It is a form of 'social proof'⁶². Adopting the norms shared by the community is the price to pay for being socially accepted. The pressure of esteem, on the other hand, refers to states' need to be thought of by others in a good way; specifically they need to maintain their reputations and pride⁶³. Because of the existence of such 'peer pressure', states that identify themselves as a part of international society thus tend to accept the social reality, either with or without consciousness, and adopt the international norms⁶⁴.

2.3 The implementation issue of norm diffusion

The three approaches above explain why the state ratifies international norms from different perspectives. However, do states' ratifications of international norms necessarily mean these norms can have real impact 'on the ground'? A new wave of norm diffusion scholars suggests that it is not always the case that the ratified norms are implemented at domestic level as expected. They

⁶⁰ Ibid. p903-4).

⁶¹ Ibid.p903.

⁶² Robert Axelrod, 'An Evolutionary Approach to Norms', *American Political Science Review*, 80/04 (1986), 1095-111. P1105.

⁶³ Finnemore and Sikkink, 'International Norm Dynamics and Political Change', p904; see also Fearon, 'What Is Identity (as We Now Use the Word)?'.

⁶⁴ Finnemore, 'Norms, Culture, and World Politics: Insights from Sociology's Institutionalism' p330.

look into the domestic process of norm diffusion and examine the barriers of implementation. They also develop different theories to explain the variation between norms' implementation 'in theory' and that 'in practice'. This section examines two major approaches advanced by the new wave of norm diffusion scholars, namely 'localisation' and 'implementation'. These two approaches are mainly built upon the constructive understanding of norms. Constructivists understand norms as ideas attached with the 'logic of appropriateness' and such logic can be created or shaped through the discursive power of the norm entrepreneurs⁶⁵. This section also discusses the role of international organisations in the domestic process of norm diffusion.

2.3.1 'Localisation'

The idea of localisation is developed by Amitav Acharya in his study of norm diffusion in Southeast Asian countries. "I define localization as the active construction (through discourse, framing, grafting, and cultural selection) of foreign ideas by local actors, which results in the former developing significant congruence with local beliefs and practices"⁶⁶. The agency role of local actors is stressed in this process. Cortell and Davis argue that local agents may borrow international norms for their economic or political interests at domestic level⁶⁷. Acharya further argues that when local agents borrow international norms, the new norms may not displace prior norms because of the strength of the latter. The prior norm could be strongly embedded in local institutions and cannot be easily displaced. Therefore, in order to push for the adoption of new norms, the local agents need to use their discursive influence to translate the new norms and match them in the cultural situation⁶⁸.

⁶⁵ For detailed discussion, see Finnemore and Sikkink, 'International Norm Dynamics and Political Change' p898

⁶⁶ Acharya, Amitav (2004), 'How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism', p245.

⁶⁷ Andrew P. Cortell and James W. Davis, 'Understanding the Domestic Impact of International Norms: A Research Agenda.', *International Studies Review*, 2/1 (2000), 65-87.p77-85.

⁶⁸ Acharya, Amitav (2004), 'How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism', p247-248.

Acharya illustrates the process of 'localisation' by examining the adoption of two security norms, namely common security and flexible engagement in Southeast Asian countries. In the first case, the norm of common security was in conflict with three prior norms of the Association of South-East Asian Nations (ASEAN), including the avoidance of military-security cooperation, the Zone of Peace, Freedom and Neutrality (ZOPFAN) framework, and the 'ASEAN Way'⁶⁹. In order to push for the adoption of this norm, the ASEAN Institutes of Strategic and International Studies (ASEAN-ISIS), a local agent, reframed it as 'cooperative security' and linked it to ASEAN's existing traditions, such as 'not organizing itself into a regional collective defence system', and the doctrine of 'regional resilience'. In this way, a global norm that was originally in conflict with the prior norms, was localised into the traditional cultural situation, and it thus eventually caused institutional changes in Southeast Asian Countries⁷⁰.

In contrast, localisation was not successful in the second case. The norm of 'flexible engagement' had three ideational underpinnings, including humanitarian intervention, the advocacy of human rights, and democratization by the international community. Yet, these underpinnings, especially the humanitarian intervention, attract no support, only rejections and suspicion among ASEAN countries. In order to push for the adoption, the norm of 'flexible engagement' was reframed into 'constructive engagement' that stressed no humanitarian intervention but only security issues. However, this reframed norm still could not make any meaningful institutional change because, significantly, it challenges ASEAN's 'non-interference' norm⁷¹. Non-interference was considered as the foundation of the stable security situation in the ASEAN countries, and thus enjoyed robust legitimacy⁷².

⁶⁹ For a detailed introduction to these three norms see Acharya, 'How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism', (p256).

⁷⁰ Ibid.

⁷¹ Ibid. p262.

⁷² See Singapore's Foreign Minister S. Jayakumar's interview, *The Straits Times*, 23 July 1998, p30, in ibid. p263.

Although ‘constructive engagement’ caused some political debate in ASEAN and several ‘insignificant’ policy instruments were developed based on it, this norm failed to have important domestic impacts in South-east Asian Countries through localisation⁷³.

Comparing these two cases of common security and flexible engagement, three important conclusions considering ‘localisation’ can be addressed. (1) International norms may challenge prior local norms, or even replace them. In the first case, ‘cooperative security’ replaced the ZOPFAN and caused significant institutional change in the regional security regime. (2) In order to make meaningful institutional changes, international norms should seek to associate with local traditions and avoid conflict with strong prior norms. In the first case, the success of ‘cooperative security’ greatly contributes to the existence of two norms in the ASEAN countries, namely ‘not organizing itself into a regional collective defence system’, and the doctrine of ‘regional resilience’. In the second case, one of the major reasons for the failure of ‘constructive engagement’ was the existence of the powerful norm of ‘non-interference’. (3) The discursive power of the local agents is also crucial to the success of localisation. In the first case, ASEAN-ISIS was recognised as the reliable insider proponent with strong discursive power, while in the second case, the insider proponents are two individuals. Acharya argues that this variation could be an important reason for the different results in the two cases.⁷⁴

2.3.2 ‘Implementation’

‘Implementation’ is the other major approach of the third wave of norm diffusion theories. The term ‘implementation’ has long been used in the literature on public policy. It refers to the actions taken on behalf of the policy,

⁷³ Ibid. p264.

⁷⁴ Ibid. p265

rather than the ultimate impact of the policy⁷⁵. It is the process through which a policy idea translates into real practices⁷⁶. The European Commission also defines it as an “operational process needed to produce expected outputs”⁷⁷.

Betts and his associates use this term to describe a broader concept. ‘Implementation’ is defined as the domestic process of norm diffusion parallel to ‘institutionalisation’, the international process of norm diffusion⁷⁸. To be specific, institutionalisation is the process where “norms emerge at international level and become reflected in international law and organizations, and are signed, ratified, and adopted by particular states”⁷⁹. Implementation, on the contrary, is the process “introducing the new international norm’s precepts into formal legal and policy mechanism within the state or organization in order to routinize compliance”⁸⁰. Implementation is the necessary process that leads to the ‘compliance’ of the norms at domestic level⁸¹.

Betts and Orchard argue that domestically implemented norms do not always properly reflect the intention of their international promoters, and the results of norms’ implementation at domestic level could be different from the results of its institutionalisation at international level⁸². They name this

⁷⁵ O’Toole, Laurence J. (2000), ‘Research on Policy Implementation: Assessment and Prospects’, *Journal of Public Administration Research and Theory*, 10 (2), 263-88. P266.

⁷⁶ Dianne Dredge and John M. Jenkins, *Tourism Planning and Policy* (Milton: John Wiley&Sons, 2007). P170.

⁷⁷ Commission of the European Communities (CEC), 1999, ‘Evaluating Socio-economic Programmes’, MEANS Collection, Office for Official Publications of the European Communities, Luxembourg.

⁷⁸ The term ‘institutionalisation’ is used by many norm diffusion scholars to describe the process through which international norms embed in the domestic system. Finnemore and Sikkink, for example, consider institutionalization as an important mechanism that transfers an international norm into domestic law, rules, procedures, and policies, and thus internalizes international norms. See Finnemore and Sikkink, ‘International Norm Dynamics and Political Change’, (p900). Betts and Orchard redefine this term. see Betts and Orchard, ‘Introduction - the Normative Institutionalization-Implementation Gap’. p 11.

⁷⁹ Betts and Orchard, ‘Introduction - the Normative Institutionalization-Implementation Gap’. p5.

⁸⁰ Phil Orchard, ‘Implementing a Global Internally Displaced Persons Protection Regime’, in Alexander Betts and Phil Orchard (eds.), *Implementation and World Politics - How International Norms Change Practice* (Oxford: Oxford University Press, 2014). P 105.

⁸¹ Betts and Orchard, ‘Introduction - the Normative Institutionalization-Implementation Gap’. p6.

⁸² Ibid. p 6-7.

variation between norms' international institutionalisation and their domestic implementation as the '*institutionalisation-implementation gap*', the 'gap' for short.

The empirical studies of norms' implementation prove the existence of this 'gap' and identify varied domestic factors that contribute to it. Compared to Acharya who stresses the differences between international norms and local traditions, Betts and his colleagues argue that the process of implementation is conditioned by varied domestic factors including domestic political contestations⁸³, state capacity and expertise, the conflicts of interests⁸⁴.

Alexander Betts studies the implementation of refugee norms by examining the response of South Africa and Botswana to the influx of refugees from Zimbabwe between 2000 and 2012. His research shows that South Africa and Botswana vary in their policy-making and acts in response to this crisis. Betts argues that this variation cannot be explained by institutionalisation of non-refoulement at international level. Rather, it is shaped by political contestation at the domestic implementation phase⁸⁵.

Urvashi Aneja studies the implementation of needs-based humanitarian assistance in Sri Lanka. He indicates that gaps exist in multiple aspects of implementation including field-level accounts, academic and policy literature, and "the manner and extent to which this norm is upheld"⁸⁶. Aneja recognises the crucial roles of local actors and their agency in the process of

⁸³ Alexander Betts, 'From Persecution to Deprivation - How Refugee Norms Adapt at Implementation', in Alexander Betts and Phil Orchard (eds.), *Implementation and World Politics - How International Norms Change Practice* (Oxford: Oxford University Press, 2014). see 48

⁸⁴ Michael Bluman Schroeder and Alana Tiemessen, 'Transnational Advocacy and Accountability - from Declarations of Anti-Impunity to Implementing the Rome Statute', *ibid.*(Oxford University Press). See p 51

⁸⁵ Alexander Betts, 'From Persecution to Deprivation - How Refugee Norms Adapt at Implementation', *ibid.*(Oxford University Press). see 48

⁸⁶ Urvashi Aneja, 'International Ngos and the Implementation of the Norm for Need-Based Humanitarian Assistance in Sri Lanka', *ibid.*(Oxford: Oxford University Press). P86

implementation, and argues that “implementation is shaped by the interests of [domestic] actors, where conflicting interests are reconciled through differences in power and capacity”⁸⁷.

Emily Paddon investigates the implementation of the protection of civilians (POC) in the UN peacekeeping mission in the Congo. She compares the acts of peacekeeping in four crises in the Congo. The results suggest there is a disconnection between normative commitments and actual practice. She further points out that the risk of missions (conflicts with the interests of soldiers) is the major factor that conditions whether the normative commitments can be fulfilled in actual practices⁸⁸.

The study of European integration shares some of the arguments of Betts and his colleagues. The problem of ‘non-compliance’, or ‘deficits in theory and practice’, is seen as a threat to the effectiveness and legitimacy of the EU⁸⁹, and the implementation of EU norms and EU policies is considered a growing concern for the EU⁹⁰. Varied domestic factors are identified as domestic constraints of implementation, including the States’ willingness⁹¹, the States’ capacity⁹² or administrative capacity⁹³, the State’s constitutional structure⁹⁴, and the domestic interest groups⁹⁵. The study of non-compliance in the EU

⁸⁷ Ibid. p100

⁸⁸ Emily Paddon, 'Peacekeeping in the Congo: Implementation of the Protection of Civilians Norm', *ibid.*(Oxford).

⁸⁹ Tanja A. Borzel, 'Non-Compliance in the Eu: Pathology or Statistical Artifact?', *Journal of European Public Policy*, 8/5 (2001), 803-24.

⁹⁰ For examples see Simona Milio, *From Policy to Implementation in the European Union - the Challenge of a Multi-Level Governance System* (London: I.B. Tauris Publishers, 2010). See also Christoph Knill and Duncan Liefferink, *Environmental Politics in the European Union* (Manchester: Manchester University Press, 2007).

⁹¹ For example see Gerda Falkner et al., *Complying With Europe: Eu Harmonisation and Soft Law in the Member States* (Cambridge: Cambridge University Press, 2005).p227.

⁹² For example see Jonas Tallberg, 'Paths to Compliance: Enforcement, Management, and the Eu', *International Organization*, 56/3 (2002), 609-43.

⁹³ Milio, *From Policy to Implementation in the European Union - the Challenge of a Multi-Level Governance System*. P164-6.

⁹⁴ Maria G. Cowles, James Caporaso, and Thomas Risse (eds.), *Transforming Europe: Europeanization and Domestic Change* (Ithaca, NY: Cornell University Press, 2001). See Chapter One.

⁹⁵ Tanja Borzel, *Environmental Leaders and Laggards in Europe: Why There Is (Not) a 'Southern Problem* (Aldershot: Ashgate, 2003).

involves more norms in different areas, such as regional trading, security, monetary system, environment, and development. These studies suggest that the 'institutionalisation–implementation gap' may exist in the implementation of a wide range of norms.

2.3.3 Role of international organisations in implementation

The new wave of norm diffusion scholars reach a general consensus on the role of local agents in the domestic process of norm diffusion, but their debates over the role of international organisations in implementation remain inconclusive. Some of them claim international organizations are important sources of the external pressure that helps the states to overcome obstacles in implementation, which thus promotes the domestic process of norm diffusion.

Phil Orchard compares the implementation of Internal Displaced Persons (IDPs) in Uganda and Nepal. His findings suggest the existences of 'gaps' between international norms and domestic laws and policies⁹⁶. He argues that "variations from the international norms embodied within the IDP protection regime are widespread ... while new or existing bureaucracies are assigned roles, their operations are frequently circumscribed"⁹⁷. Phil Orchard thus views international pressure as the decisive element to the success of the implementation of international norms. He argues that this norm was better implemented in Uganda than in Nepal because the Ugandan government received more international pressure than the Nepalese government. He further argues that the pressure from international players may alter a government's position when there is not enough political will, which explains the variation in these two cases⁹⁸.

⁹⁶ Orchard, 'Implementing a Global Internally Displaced Persons Protection Regime'. see p 123

⁹⁷ Ibid. 123

⁹⁸ Ibid.

Similarly, Michael Bluman Schroeder and Alana Tiemessen's study illustrates that international organizations can greatly influence the implementation of international norms, but they have to exert their influence through their cooperation with local agents. In their study of the Rome Statute, they argue that international NGOs can assist to shame and persuade the States Parties in the process of norms' implementation⁹⁹. They "bring key domestic regulations and laws into conformity with the Statute", which reduces both the cost of ratification and its implementation¹⁰⁰.

Other scholars are less optimistic about the role of international organizations as independent actors in norms' implementation. They believe that international organisations have to exert their influences through local agents, which largely limits their roles as independent players in this process. In his study of the implementation of refugee norms, Betts examines the role of the United Nations High Commissioner for Refugees (UNHCR) in the implementation of refugee norms. He argues that although the UNHCR was expected to have independent causal effects, it largely followed the position of the host state. "Overall, then, at implementation, UNHCR and the role of international treaties have mattered far less for practice than domestic politics"¹⁰¹. Similarly, Urvashi Aneja studied the implementation of the Norm for Needs-based Humanitarian Assistance in Sri Lanka, and the role of International NGOs (such as Oxfam, World Vision, Save the Children, CARE, and Médecins Sans Frontières) in this process. Although INGOs are usually considered as the key players in international humanitarian regimes, Aneja's findings suggest that INGOs may alter their policies in exchange for the right

⁹⁹ Michael Bluman Schroeder and Alana Tiemessen, 'Transnational Advocacy and Accountability - from Declarations of Anti-Impunity to Implementing the Rome Statute', *ibid.*

¹⁰⁰ *ibid.* P51.

¹⁰¹ Alexander Betts, 'From Persecution to Deprivation - How Refugee Norms Adapt at Implementation', *ibid.* (Oxford University Press). P48.

of access in these countries, which causes the deviation of implemented norms from the original ones¹⁰².

The scholars of European integration also hold a pessimistic view of the role of the EU in the implementation of EU norms and policies. Knill and Lieferink argue that “implementation performance of EU policies is not affected by the choice of instruments *per se*, but by the degree of institutional adjustment pressure resulting from EU policies for national arrangements”¹⁰³. In other words, the efficiency of the implementation of the EU norms and policies largely depends on the domestic conditions of the Members, rather than on the implementation efforts made by the EU.

However, the lack of efficiency of implementation does not mean the role of the EU can be ignored in the phase of implementation. Milio points out that the EU provides “an ‘opportunity structure’ which domestic actors may be able to exploit to further their own interests, depending on national interests and resources”¹⁰⁴. The EU norms and policies are still important sources of the domestic institutional changes of its Member States. Although the efficiency of the EU in implementation badly needs to be enhanced, its role cannot be denied¹⁰⁵.

3. Implementation of liberal norms in China

3.1 Research objectives and research questions

This thesis aims to understand how the liberal norms of the Western-centred world affect state capitalist China. The review of norm diffusion literature

¹⁰² Urvashi Aneja, 'International Ngos and the Implementation of the Norm for Need-Based Humanitarian Assistance in Sri Lanka', *ibid.*(Oxford: Oxford University Press). P101.

¹⁰³ Knill and Lieferink, *Environmental Politics in the European Union*. P172.

¹⁰⁴ Milio, *From Policy to Implementation in the European Union - the Challenge of a Multi-Level Governance System*. P11. See similar arguments in Kohler-Koch, Beate and Rittberger, Berthold (2006), 'The governance turn in EU studies', *Journal of Common Market Studies*, 44 (1), 27-49.P38.

¹⁰⁵ *Ibid.* P178.

suggests that both the ratification and implementation of international norms are crucial to the effectiveness of norm diffusion. To the questions of 'how international liberal norms enter China', and 'why China joins in international governmental organisations and ratifies international treaties', the rich literature of China's foreign policy and China's reform in the post-Mao era has provided comprehensive theories¹⁰⁶. Therefore, this thesis does not go into details to answer these questions.

This thesis is concerned with how the ratified norms have been implemented in China. Hegemonic theorists, as well as many norm diffusion scholars, assume that once the norm is ratified by the states, especially authoritarian states¹⁰⁷, it can have domestic impacts through the process of domestic institutionalisation, professional training, and iterated behaviour and habit¹⁰⁸. The states are more like the transmission belts of norms from international level to domestic level. Following this line of thinking, China should be largely contained by the liberal world because it is constrained by the hundreds of international treaties it ratified, and because its behaviour is monitored and supervised by dozens of inter-governmental organisations. This kind of argument can be found in the literature that describes and explains how

¹⁰⁶ For instance, Samuel Kim discusses China's relationship with international organisations before 1990s. Samuel S. Kim, 'International Organizations in Chinese Foreign Policy', *The Annals of the American Academy of Political and Social Science*, 519 (1992), 140-57. Hui Feng provides detailed analysis of the economic, political and diplomatic reasons that China joins in the World Trade Organisation. Hui Feng, *The Politics of China's Accession to the World Trade Organization: The Dragon Goes Global* (New York: Routledge, 2006). Karns and Mingst argues that China is mainly interested in the legitimacy that international organisations conferred rather than the involved norms, principles or even rules. See Margaret P. Karns and Karen A. Mingst, *International Organizations: The Politics and Processes of Global Governance* (second edn.; Coulter & London: Lynne Rienner Publishers, Inc., 2010). James Seymour and Patrick Wong review and discuss China's ratification of the International Human Rights Covenants. James D. Seymour and Patrick Yuk-Tung Wong, 'China and the International Human Rights Covenants', *Critical Asian Studies*, 47/4 (2015/10/02 2015), 514-36.

¹⁰⁷ Risse-Kappen explains how important the role of states of authoritarian regimes is in adopting international norms. See Risse-Kappen, 'Ideas do not float freely: transnational coalitions, domestic structures, and the end of the cold war'.

¹⁰⁸ Finnemore, and Sikkink, 'International Norm Dynamics and Political Change', p905.

Western ideas affect China's economic performance¹⁰⁹, legal system¹¹⁰, human rights¹¹¹, environmental policies¹¹², and foreign policy making¹¹³.

The new wave of norm diffusion scholars, on the contrary, argue that even the ratified norms may not have real domestic impacts. In particular, the convergence between the ratified norms and the existing domestic normative structure can result in 'institutionalisation-implementation gaps'. This is "a situation where the prescriptions embodied in an international norm are convergent with domestic norms, as reflected in discourse, the legal system (constitutions, judicial codes, laws), and bureaucratic agencies (organizational ethos and administrative procedures)"¹¹⁴. An international norm is more likely to have domestic impact if it largely matches the domestic normative traditions and interests, and the possibility of this norm being adopted in the domestic arena will be much lower if the mismatch is significant¹¹⁵. Even in a state where elite learning is the major force of international norm adoption,

¹⁰⁹ For examples see Eric Harwit, 'The Impact of Wto Membership on the Automobile Industry in China', *The China Quarterly*, 167 (2001), 655-70, Victor Nee and Su Sijin, 'Institutional Change and Economic Growth in China: The View from the Villages', *The Journal of Asian Studies*, 49/1 (1990), 3-25. Qin, Julia Ya (2004), 'WTO Regulation of Subsidies to State-Owned Enterprises (SOEs) – A Critical Appraisal of the China Accession Protocol', *Journal of International Economic Law*, 7 (4), 863-919. Yukyung Yeo and Martin Painter, 'Diffusion, Transmutation, and Regulatory Regime in Socialist Market Economies: Telecoms Reform in China and Vietnam', *The Pacific Review*, 24/4 (2011/09/01 2011), 375-95.

¹¹⁰ For examples see Huang, Veron Mei-Ying (2004), 'China's WTO Commitment on Independent Judicial Review: Impact on Legal and Political Reform', *The American Journal of Comparative Law*, 52 (1), 77-132. Qin, Julia Ya (2007), 'Trade, Investment and Beyond: The Impact of WTO Accession on China's Legal System', *The China Quarterly*, 191, 720-41.

¹¹¹ Rosemary Foot, 'Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China', (Oxford Scholarship Online, 2000).

¹¹² For examples see Lester Ross, 'China: Environmental Protection, Domestic Policy Trends, Patterns of Participation in Regimes and Compliance with International Norms', *The China Quarterly*, 156 (1998), 809-35.

¹¹³ For examples see Zhimin Chen, 'Soft Balancing and Reciprocal Engagement: International Structures and China's Foreign Policy Choice', in David Zweig and Zhimin Chen (eds.), *China and Globalization: An Ipe Approach* (Routledge, 2005). David Shambaugh, 'Containment or Engagement of China? Calculating Beijing's Responses', *International Security*, 21/2 (1996), 180-209.

¹¹⁴ Jeffrey Checkel, 'Norms, Institutions and National Identity in Contemporary Europe', *International Studies Quarterly*, 43/1 (1999), 83-114. P87. A similar argument was also made by Jeffrey Legro who believes organizational culture could mediate the adoption of external norms. He defines culture as "a set of collectively held prescriptions about the right way to think and act". See Legro, 'Which Norms Matter? Revisiting the "Failure" of Internationalism', (p35-6).

¹¹⁵ For examples, see Acharya's comparison of the implementation of 'cooperative security' and 'flexible engagement' in ASEANs, Acharya, 'How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism', (256-264).

there still can be resistance from the domestic populace if the norm conflicts with their old beliefs, values, or traditions¹¹⁶.

China's state capitalist system is largely different from the Western-led liberal system. This systemic mismatch can work as an important factor that conditions China's implementation of the liberal norms. Institutionalisation-implementation gaps' may exist when China implements international liberal norms because the new norms do not match China's state capitalist traditions. However, this problem has not been systematically analysed in the current literature.

Furthermore, organizational platforms are believed to be important factors in global norm diffusion. "[N]orm entrepreneurs and the organizations they inhabit usually need to secure the support of state actors to endorse their norms and make norm socialization a part of their agenda"¹¹⁷. In spite of this, the role of international organisations in implementation is still in inconclusive debate. Some scholars believe that international organisations may provide external assistance and exert pressure on states to ensure the implementation of international norms, while others argue that international organisations largely follow the position of the host countries and their domestic interest groups in this process, so that their influence is limited¹¹⁸. There is also little literature that studies the influences of international organisations in promoting the domestic implementation of international liberal norms in China.

¹¹⁶ Cortell and Davis, 'Understanding the Domestic Impact of International Norms: A Research Agenda.', (p74-5).

¹¹⁷ Finnemore and Sikkink, 'International Norm Dynamics and Political Change', (p900).

¹¹⁸ For detailed discussion see previous section 2.3.3 'Roles of International Organisations'.

In order to fill these two gaps in the literature, and to understand the normative impacts of the liberal world on state capitalist China, this thesis answers three research questions.

1. How are international liberal norms implemented in state capitalist China?
2. How do international organisations promote the implementation of international liberal norms in state capitalist China?
3. How does the systemic mismatch of international liberal norms with China's state capitalist tradition condition the efforts of international organisations in this process?

3.2 Research design

In order to answer the three research questions, this thesis chooses the implementation of the WTO norms in China as a case study. The General Agreement on Tariff and Trade (GATT), the former body and the institutional basis of the WTO, is at the centre of the US-led liberal world¹¹⁹. Even with the deadlock of its Doha Negotiation Round and with the increasing number of regional and free trade agreements, the WTO/GATT is still the largest and most dominant institution in current international trading regimes¹²⁰. The WTO norms are thus representative examples of international liberal norms. Furthermore, the WTO claims to be the key actor to urge the 'progressive

¹¹⁹ The Bretton Woods Conference was held in July, 1944. The Bretton Wood System was built, and the International Bank for Reconstruction and Development (the World Bank) and the International Monetary Fund (IMF), two important international organizations of the Western-centred liberal world, were established. This conference also proposed to establish an International Trade Organisation, but this proposal failed to be accepted. The complementary documents of this conference proposed the General Agreement on Tariffs and Trade that was later achieved in 1947. The Bretton Wood System collapsed in 1971, but the GATT retains its strong influence on international trading regimes. In 1995, the World Trade Organisation was established, and its core institutional basis is the GATT 1947. For detailed discussion see Anderson, Kym (1996), 'Why the world needs the GATT/WTO', in Kym Anderson (ed.), *Strengthening the global trading system: from GATT to WTO* (Adelaide: Centre for International Economic Studies).

¹²⁰ Narlikar Amrita and Tussie Diana, 'The G20 at the Cancun Ministerial: Developing Countries and Their Evolving Coalitions in the Wto', *The World Economy*, 27/7 (2004), 947-66.

liberalization' of its Members¹²¹, so one may expect the WTO to be a crucial player in the implementation of its trading norms.

This thesis answers the research questions by examining three aspects of norms implementation, including the changes in the state system, the field-level acts of norms, and the relevant domestic discourse. It also identifies and measures the 'institutionalisation-implementation gaps' from a dynamic perspective. Chapter Two discusses the analytical framework of this research in detail.

In order to understand the impact of a systemic mismatch of the new norms with China's traditions on the implementation of international liberal norms, this research tends to control other variables that may affect the process of implementation. Previous studies show that the domestic impacts may also be conditioned by norms' institutionalisation at international level, the domestic political structure, state's capacity, and expertise.

To fulfil the requirements of the research design, this thesis chooses China's implementation of two WTO trade remedy norms as the case studies. One is reflected in Article VI of the GATT 1994 (the Anti-Dumping Agreement), the other is reflected in the WTO Subsidies and Countervailing Measure Agreement of GATT 1994 (the SCM Agreement). These two agreements protect the domestic industries of WTO Members from 'unfair' activities in international trading¹²². Here, both dumping goods and exporting subsidized goods in foreign countries are considered as 'unfair activities'¹²³. The norm reflected in the Anti-dumping Agreement is the rightness to restrict international trading by imposing duties on dumping goods under certain

¹²¹ See the WTO secretariat, 'Principles of the trading system', the WTO website, https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm accessed on March 30, 2016.

¹²² WTO secretariat, 'Understanding the WTO: Principles of the trading system', WTO website, https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm accessed on February 14, 2016.

¹²³ Ibid.

conditions ('anti-dumping duty' in short). Similarly, the norm reflected in the SCM Agreement is the rightness to restrict international trading by imposing duties on subsidized goods under certain conditions ('countervailing duty' in short). Both agreements regulate the detailed conditions to impose anti-dumping and countervailing measures on foreign exports. A political comparative method is employed to examine the implementation of these two norms, and to answer the research questions.

Controlling interfering variables

The comparison between China's implementation of anti-dumping duty and that of countervailing duty enables this research to focus on the impacts of systemic mismatch of these two norms with China's state socialist traditions by controlling four interfering variables including norms' institutionalisation at international level, domestic political structure, states' capacity and technical expertise.

Anti-dumping duty and countervailing duty are similar in terms of their institutionalisation. (1) Both norms are supported by detailed and specific rules of the WTO agreement that guide the anti-dumping and countervailing practices globally. The rightness to impose anti-dumping and countervailing duty on foreign goods is guaranteed by the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Anti-dumping Agreement), and the Agreement on Subsidies and Countervailing Measures. Anti-dumping and countervailing practices are empowered and constrained by these two agreements. The codes of the two norms are clearly defined in the documents. (2) Both norms exist as part of the General Agreement on Tariff and Trade 1947, and remain important in its revised version of 1994 (GATT 1994 or WTO agreement). They have both enjoyed international legitimacy for more than 50 years, which proves their

durability. (3) Both anti-dumping duty and countervailing duty are ratified by all WTO Members because of the requirements of the 'single-undertaking' of the Uruguay Negotiation Round¹²⁴. As the largest inter-governmental organisation of trade in the world, the WTO has more than 160 members¹²⁵. In other words, as an important part of the WTO agreement, anti-dumping duty and countervailing duty are accepted by at least 160 countries and regions, which justifies the concordance of these two norms. (4) This case selection also avoids the complex situation of 'feedback' effects¹²⁶ in the process of implementation. Betts and Orchards point out that the implementation of international norms at domestic level can have its impacts on the institutionalisation process at international level. The changes in institutionalisation may further affect the implementation at domestic level. The institutionalisation of the anti-dumping duty and countervailing duty has remained stable since 1994, which isolates, to a great extent, the implementation process from the 'bottom-up-and-back' dynamic of norms¹²⁷.

The implementation of anti-dumping duty and that of countervailing duty also proceeds in the same political structure in China. Scholars such as Jeffrey Checkel, Cortell and Davis believe that political structure, the power distribution among state elites and societal actors, matters to how an international norm can be empowered domestically¹²⁸; and the political structure can be case specific¹²⁹. In other words, the implementation

¹²⁴ According to the principle of 'single undertaking' of the WTO, the WTO Contracting Parties should accept the entire Uruguay Round package. See Patrick Low, 2011, 'WTO Decision-Making for the Future', Economic Research and Statistics Division of the World Trade Organization, WTO Staff Working Paper ERSD-2011-05, p4 https://www.wto.org/english/res_e/reser_e/ersd201105_e.pdf accessed on March 22, 2016.

¹²⁵ For the list of the WTO members, see 'Members and Observer' in the WTO website, https://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm accessed on March 22, 2016.

¹²⁶ See Alexander Betts and Phil Orchard, 'Conclusion: Norms and the Politics of Implementation', in Alexander Betts and Phil Orchard (eds.), *Implementation & World Politics - How International Norms Change Practice*. (Oxford: Oxford University Press, 2014a). p279.

¹²⁷ Ibid.

¹²⁸ Checkel, 'Norms, Institutions and National Identity in Contemporary Europe', (P89-90).

¹²⁹ Andrew P. Cortell and James W. Davis, 'How Do International Institutions Matter? The Domestic Impact of International Rules and Norms', *ibid.*40/4 (1996), 451-78.

processes of international norms could be varied because of the different political structure within which the implementation process happens. In the cases of this research, the decision-making body related to the implementation of these two norms in China are the same ones, namely the State Council and the State Economic and Trade Commission (the Ministry of Commerce after 2003). Two departments of the Ministry of Commerce, the Bureau of Fair Trade for Import and Export and the Bureau of Industry Injury Investigation, cooperate with each other in detailed administrative operations¹³⁰. On the other hand, the state-societal relations in the implementation of these two norms are in distant forms. The state and the individual entrepreneurs are connected through industry association, but the communication between the two is not equal. The Chinese industrial sectors do not have, or have little, influence on policy-making considering anti-dumping and countervailing measures¹³¹.

Previous studies also suggest that states' capacity and technical expertise also matter to the success of norms' implementation¹³². In the cases of this thesis, both anti-dumping duty and countervailing duty were alien to China in the late 1990s when China started its legislation process. China lacked expertise in both anti-dumping duty and countervailing duty¹³³. The anti-dumping duty

¹³⁰ See the job description of the Bureau of Fair Trade for Import and Export.

<http://gpj.mofcom.gov.cn/article/gywm/200203/20020300004002.shtml> accessed on April 19, 2016 and the job description of the Bureau of Industry Injury Investigation

<http://gpj.mofcom.gov.cn/article/gywm/200203/20020300004002.shtml> accessed on April 19, 2016.

¹³¹ This argument is concluded based on the interview with the Ningbo Electronic Industry Association on 20 December, 2014.

¹³² Schroeder and Tiemessen study the implementation of the Rome Statute in the State Parties of the International Criminal Court. They indicate that this norm fails to be implemented in some State Parties, especially those from Africa, because the latter have no capacity to implement this norm alone. They also argue that these states usually own poor expertise on the new norms and the related rules, which constrains their capacity in implementation; the international organisations network thus also contributes to the implementation process by providing consultation or training services. Schroeder and Tiemessen, 'Transnational Advocacy and Accountability - from Declarations of Anti-Impunity to Implementing the Rome Statute'. P64-6. Similar argument on state's capacity in implementation can also be found in the work of Phil Orchard. Orchard, 'Implementing a Global Internally Displaced Persons Protection Regime'.

¹³³ Zhang Zhigang, the vice director of the State Economy and Trade Commission (SETC) spoke on the Bo'ao Forum and pointed out that China needs more professional experts in order to promote implementing trade remedy norms in China. See the new release 'Zhang Zhigang: training a team of

and countervailing duty face the same condition of implementation in China considering the state's capacity and technical expertise.

Conflicts of the two liberal norms with China's state capitalist traditions

While anti-dumping duty and countervailing duty have similar levels of institutionalisation, and their implementation shares similar situations in terms of the domestic political structure, the state capacity and expertise, they have different levels of mismatch with China's domestic traditions. The Anti-dumping Agreement allows the government of importing countries to impose anti-dumping measures on foreign dumping goods under certain conditions¹³⁴. Foreign exporters thus should not trade their goods at extremely cheap prices in order to avoid possible punishment. In the case of China, its industrial structure is mainly defined by labour-intensive industries that produce low-value added exports, and the major comparative advantage of their products is the low price¹³⁵. Those exports with cheap prices are frequently targeted by global anti-dumping practices¹³⁶, which greatly harm the interests of China's exporters.

Meanwhile, countervailing duty constrains the subsidy policies of the governments of exporting countries. The SCM Agreement defines the term 'subsidy' and clarifies the types of subsidies that are subject to countervailing measures¹³⁷. It allows the authorities of the importing countries to impose

professional experts on anti-dumping and other trade remedy practices, *People 人民网*, available at <http://www.people.com.cn/GB/jinji/20011219/630756.htm> accessed on May 7, 2016.

¹³⁴ Those conditions include the determination of 'dumping' activities and the injuries to the domestic industries of the importing countries. For details, see Article 2 and 3 of 'Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994' (WTO Anti-dumping Agreement).

¹³⁵ See Mu-Zhu Shen 沈, 'Essay on International Anti-Dumping Measures and Suggestion for China's Response 论国际反倾销与中国之因应对策', *Studies in Law and Business 法商研究*, 188 (2002), 16-29.

¹³⁶ See 杨 Shihui Yang, 'Comparing Analysis of Foreign Anti-Dumping against China's Exporting Goods 外国对华出口商品反倾销比较研究', *Statistical Research 统计研究*, 1 (2000).

¹³⁷ For the definition of 'subsidy' see Article 1 'Definition of a Subsidy' in 'PART I: GENERAL PROVISIONS' of *Agreement on Subsidies and Countervailing Measures*. The different types of subsidies see 'PART II: PROHIBITED SIBSIDIES', 'PART III: ACTIONABLE SUBSIDIES', and 'PART IV: NON-ACTIONABLE SUBSIDIES'.

countervailing measures on foreign subsidized goods under certain conditions. The governments of exporting countries thus need to amend their subsidy policies in order to avoid the possible countervailing measures. However, China, as a state capitalist country, relies heavily on government subsidies to realise its development strategies, such as the five-year plans, the Western China development strategy, and the special economic regions¹³⁸. A report from the Unirule Institute of Economics also illustrates how much the Chinese state-owned enterprises (SoEs) rely on government subsidies for survival¹³⁹. Countervailing duty that constrains the governments' subsidy policies thus greatly conflict with the administrative tradition of the Chinese government's economic development strategies.

With all interfering variables controlled, the comparison of implementing anti-dumping duty and countervailing duty thus enable this research to understand how the systemic mismatch of international liberal norms with China's state capitalist tradition condition its implementation of these norms as well as the efficiency of the WTO in urging the progress of implementation.

3.3 Chapter plan

In order to identify and study the 'institutionalisation-implementation gaps' of anti-dumping duty and countervailing duty in China, Chapter Two proposes an analytical framework from a dynamic perspective. It proposes the examination of multiple aspects of changes in the domestic arena for the study of norms' implementation. It believes that norms' implementation can cause changes in the state system, in field-level acts, and in the domestic discourse of the non-state actors. This research also takes norm's

¹³⁸ For a summary of China's subsidy policies before China's WTO Accession, see ANNEX 5A 'Notification pursuant to Articles XXV of the *Agreement on Subsidies and Countervailing Measures, Protocol on the Accession of the People's Republic of China*. WTO document WT/L/432.

¹³⁹ Anonymous, 'The Nature, Performance, and Reform of the State-Owned Enterprises 国有企业的性质, 表现与改革', (The Unirule Institute of Economics, 天则经济研究所, 2011).

implementation as a continuing process without end, and it assumes that the 'gaps' change constantly with the progress of implementation. Chapter Two further explains the mixed method of textual analysis as the main research method to testify these hypotheses.

Chapter Three applies the analytical framework to identify and measure the changing 'institutionalisation-implementation gaps' of anti-dumping duty and countervailing duty in China. The identified 'gaps' changing with the progress of implementation are the dependent variables of this research.

With the well-defined dependent variables, the following three chapters investigate the factors that contribute to the changing 'gaps' on the three aspects of implementation, i.e., the changes in the state system, in the field-level acts, and in the domestic discourses of non-state actors, respectively. They examine the efficiency of the WTO implementing instruments in promoting the implementation progress. These instruments include the accession mechanism, the monitoring programmes, and the enforcements. These three chapters also explore how the systemic mismatch of the anti-dumping duty and countervailing duty with China's state capitalist traditions condition the progress of implementation, and discuss the role of the Chinese state in this process.

Chapter Seven concludes and further discusses the results of this thesis collectively, and thus clarifies its contribution to the field. It also discusses the limitations of this research, and suggests further researches in future.

Chapter two:

Analytical framework and methodology

1. Introduction

This thesis studies China's implementation of ratified norms in order to understand the normative constraints of the Western-led liberal world on state capitalist China. The research questions are:

1. How are international liberal norms implemented in state capitalist China?
2. How do international organisations promote the implementation of international liberal norms in state capitalist China?
3. How does the systemic mismatch of international liberal norms with China's state capitalist tradition condition the efforts of international organisations in this process?

In order to answer these questions, this thesis adopts Alexander Betts and Phil Orchard's definition of norms' implementation. 'Implementation' refers to the domestic process of norm diffusion that leads to the domestic changes 'on the ground'; it is a parallel process to 'institutionalisation', the norm diffusion process at international level¹⁴⁰.

Different from Betts and Orchard, who perceive the process of implementation from a constructivist perspective only, this thesis understands 'implementation' as a process in which international norms obtain salience in domestic institutions on one hand¹⁴¹, and are normatively

¹⁴⁰ Alexander Betts and Phil Orchard, 'Introduction - the Normative Institutionalization-Implementation Gap', in Alexander Betts and Phil Orchard (eds.), *Implementation & World Politics - How International Norms Change Practice* (Oxford: Oxford University Press, 2014). P5.

¹⁴¹ Cortell and Davis believe that it is the domestic salience of an international norm that determines the strength of that norm in the domestic arena. See Andrew P. Cortell and James W. Davis,

accepted, or even, internalised among the domestic actors on the other¹⁴². It is first of all a learning process that happens at both state and societal levels. It is undeniable that the ratification of international treaties signals states' decisions to adopt international norms, but one should not overestimate the capability of states in collecting, interpreting, and analysing norm-related information; one should also allow for a process for social actors to learn about the new norm, and related rules. Corresponding with organizational socialisation at international level¹⁴³, implementation is, by definition, a process of information acquisition and information processing.

'Implementation' is also a constructivist process. In order to make changes 'on the ground', the ratified norms need to be legalised into the domestic law and the judicial system, be supported and supervised by specific government organs, and be practiced by the relevant practitioners. In other words, the implementation of international norms requires the cooperation of the state sectors and various domestic actors. However, international norms rarely fit perfectly with the domestic tradition in either normative or material ways. Either for their material or political interests, the local agents¹⁴⁴ need to persuade these actors about the 'logic of appropriateness' in their promotion of norms.

This 'logic of appropriateness' is not only in normative forms, but also in rational ways. Norms are socially accepted ideas with moralities and

'Understanding the Domestic Impact of International Norms: A Research Agenda.', *International Studies Review*, 2/1 (2000), 65-87. P69.

¹⁴² Finnemore and Sikkink see internalization as the final stage in the 'life-cycle' of norms. At this stage, norms are accepted by individuals, and then acquire a taken-for-granted quality. See Martha Finnemore and Kathryn Sikkink, 'International Norm Dynamics and Political Change', *International Organization*, 52/04 (1998), 887-917. P 895.

¹⁴³ Cheri Ostroff and Steve W. J. Kozlowski, 'Organizational Socialization as a Learning Process: The Role of Information Acquisition', *Personnel Psychology*, 45/4 (Winter 1992), 849-74. For a similar argument also see Martha Finnemore, 'Norms, Culture, and World Politics: Insights from Sociology's Institutionalism', *International Organization*, 50/2 (1996), 325-47.

¹⁴⁴ Finnemore and Sikkink talk about . See Martha Finnemore and Kathryn Sikkink, 'International Norm Dynamics and Political Change', *ibid.* 52/04 (1998), 887-917.p914).

utilities¹⁴⁵. Many International Relations scholars believe in the role of norms in political change, while they equally emphasize the importance of rationality¹⁴⁶. Finnemore and Sikkink argue that “rationality cannot be separated from any politically significant episode of normative influence or normative change, just as the normative context conditions any episode of rational choice”.¹⁴⁷ The local agents of the new norms may use their discursive power to link the new norms with pre-existing normative structures, or with the economic and political interests of the key actors through framing or grafting¹⁴⁸, re-shaping¹⁴⁹ or re-interpreting¹⁵⁰, which helps to increase the domestic impact of these norms. Similarly, other local actors whose interests largely conflict with the new norms, may also use their discursive power to form resistance to the implementation of the norms.

‘Institutionalisation-implementation gaps’, therefore, may exist because of the incomplete learning process of implementation, or as a result of the constructivist process in domestic implementation. For the same reasons, the ‘gaps’ may also change overtime. They may be narrowed because the norm-followers learn more about the norms; they may also grow larger when new interpretations are developed and applied to the field-level acts.

¹⁴⁵ For detailed discussion see Chapter One ‘2.1 Definition of norms’.

¹⁴⁶ See the work of Lisa L. Martin, ‘Interests, Power, and Multilateralism’, *International Organization*, 46/4 (1992), 765-92. P766.

See also Thomas Risse-Kappen, ‘Ideas Do Not Float Freely: Transnational Coalitions, Domestic Structures, and the End of the Cold War’, *International Organization*, 48/02 (1994), 185-214.

Audie Klotz, *Norms in International Relations: The Struggle against Apartheid* / Audie Klotz (Cornell Studies in Political Economy: Cornell University Press, 1999).

Amy Gurowitz, ‘Mobilizing International Norms: Domestic Actors, Immigrants, and the Japanese State’, *World Politics*, 51/3 (1999), 413-45.

Jeffrey Checkel, ‘Why Comply? Social Learning and European Identity Change’, *International Organization*, 55/3 (2001), 553-88.

¹⁴⁷ Martha Finnemore and Kathryn Sikkink, ‘International Norm Dynamics and Political Change’, *ibid.* 52/04 (1998), 887-917. P888.

¹⁴⁸ *Ibid.* p 897.

¹⁴⁹ See Amitav Acharya, ‘How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism’, *ibid.* 58/02 (2004), 239-75.

¹⁵⁰ For detailed discussion of these two theories see Chapter One ‘2.3 Implementation issue of norm diffusion’.

To answer the research questions, an analytical framework is required to measure and analyse the 'gaps' in implementing the anti-dumping duty and countervailing duty in China. This thesis largely adopts the analytical framework of Betts and Orchards, but with modifications made to enhance the method of the location, and the measures, of 'gaps' in implementation, which is elaborated in the next section. Based on the literature on norms diffusion and EU studies¹⁵¹, the analytical framework of this thesis proposes to examine three aspects of implementation, including changes in state systems, in field-level acts, and in domestic discourse, from a dynamic perspective. It suggests that the changes of the 'gaps' in implementation, rather than their existence, should be taken as the dependent variable of analysis.

This chapter then discusses text analysis as the main research method employed by this thesis. Text analysis treats texts as data and provides the possibility to link quantitative and qualitative data in a study. This chapter discusses the advantages of such a mixed method and illustrates how it can be applied to answer the research questions and testify the hypotheses of the thesis. Interviews are used as a complementary method, and the corresponding ethical issues are discussed at the end of this chapter.

2. Betts and Orchard's analytical framework

Betts and Orchards study norms' implementation as a process attributed to both normative and rational factors. They examine both normative factors, such as the conflict between global norms and local traditions, and the

¹⁵¹ The literature on the implementation of the EU policies is relevant here for two reasons. Firstly, the EU exists as a supranational organization, and its policies usually reflect important norms that need to be adopted by its Member States. Secondly, the EU policies can only have factual impacts when implemented by its Member States. The situation here is very much similar to the implementation of international norms. For examples of the implementation of the EU policies see Simona Milio, *From Policy to Implementation in the European Union - the Challenge of a Multi-Level Governance System* (London: I.B. Tauris Publishers, 2010).

rational reasons, such as the political contestation and the conflicts of interests between the norm entrepreneurs and the resistance¹⁵².

In order to explore the 'institutionalisation-implementation gap', Betts and Orchard propose an inductive framework to analyse the 'gaps', and to discover the contributing factors¹⁵³. For a given international norm, they suggest the need for "constant institutionalization across countries with variation in outcomes across those countries"¹⁵⁴. Such variation indicates the existence of 'institutionalization- implementation gaps'. With the identified 'gaps', researchers can trace the implementation process of the norms and analyse relevant data to explore their possible causal mechanism.

Betts and Orchard's analytical framework values process tracing and comparative methods as two important research methods in the study of norms' implementation. They suggest process tracing as the major means to study norms' implementation and to identify the causal factors to the 'institutionalisation-implementation gaps'. "[It] involves inductively identifying the causal pathways that explain how norms are contested and change between institutionalization and practice ... [it] offers a flexible methodology which allows the micro-foundations of the relationship between independent and dependent variables to be causally unpacked in a way that is not possible using methodologies designed simply to reveal correlation"¹⁵⁵. Then, researchers may compare the implementation of the same norms in different countries with different outcomes, and thus identify the factors that condition the success of norms' implementation through political comparative methods.

¹⁵² Betts and Orchard, 'Introduction - the Normative Institutionalization-Implementation Gap'. P13-18.

¹⁵³ Ibid.

¹⁵⁴ Ibid. P20.

¹⁵⁵ Ibid. P19

This analytical framework provides a simple but flexible tool to analyse the process of implementation and to explore the causal factors of the 'gap'. It has been successfully applied in many empirical studies. For instance, Emily Paddon studies the implementation of the protection of civilians (POC) in the Democratic Republic of the Congo. By employing this framework, Paddon identifies human-caused risk as the major factor conditioning the implementation of POC at times of crisis¹⁵⁶. However, this framework also has *flaws* in terms of focusing on the obvious 'gaps', and for ignoring the whole picture of implementation.

Betts and Orchard's framework suggests initiating an analysis based on the observed variations, i.e., the 'gaps', between the implementation and the institutionalisation of international norms. However, the observed 'gaps' may not be the only 'gaps' in norms' implementation. In empirical studies, these variations are observed in norm-related domestic laws and regulations¹⁵⁷, supportive institution-building¹⁵⁸, matching policy-making¹⁵⁹, field-level acts¹⁶⁰, and domestic discourses¹⁶¹. These findings imply that norms' domestic implementation happens in multiple areas. It is logical to assume that when a 'gap' in implementation is observed in one of these areas, e.g., in the government policies in one case; similar 'gaps' may exist in other areas, e.g. in the field-level acts in the same case. However, as the analytical framework

¹⁵⁶ Emily Paddon, 'Peacekeeping in the Congo: Implementation of the Protection of Civilians Norm', in Alexander Betts and Phil Orchard (eds.), *Implementation and World Politics - How International Norms Change Practice* (Oxford: Oxford University Press, 2014).

¹⁵⁷ For examples, see Jon Birger Skjærseth, Olav Schram Stokke, and Jørgen Wettestad, 'Soft Law, Hard Law, and Effective Implementation of International Environmental Norms', *Global Environmental Politics*, 6/3 (2006), 104-20. P104.

¹⁵⁸ For example, see Phil Orchard, 'Implementing a Global Internally Displaced Persons Protection Regime', in Alexander Betts and Phil Orchard (eds.), *Implementation and World Politics - How International Norms Change Practice* (Oxford: Oxford University Press, 2014), p112.

¹⁵⁹ For examples, see Lester Ross, 'China: Environmental Protection, Domestic Policy Trends, Patterns of Participation in Regimes and Compliance with International Norms', *The China Quarterly*, 156 (1998), 809-35.

¹⁶⁰ For examples, see Alexander Betts, 'From Persecution to Deprivation - How Refugee Norms Adapt at Implementation', in Alexander Betts and Phil Orchard (eds.), *Implementation and World Politics - How International Norms Change Practice* (Oxford: Oxford University Press, 2014).

¹⁶¹ Urvashi Aneja, 'International Ngos and the Implementation of the Norm for Need-Based Humanitarian Assistance in Sri Lanka', *ibid.* (Oxford: Oxford University Press). P86.

suggests, when researchers discover single 'gaps' in implementation, they start their analysis at that point. Other 'gaps' that possibly exist in implementation remain unexplored and are thus excluded from the analysis.

More importantly, when Betts and Orchard's analytical framework suggests focusing on the observed 'gaps' and conducting research based on these 'gaps', it takes the 'gaps' as static existences. However, 'implementation' is, by definition, a process by which international norms transfer into practice, and any process is time-consuming. Before the ideal point in time when the process is perfectly completed, in fact in most cases this point may never be reached, the 'institutionalisation-implementation gap' will always exist and change constantly. Betts and Orchard's framework proposes observation of the variation in the implementation of international norms among different case studies, but they ignore the variation across time. In other words, the 'gaps' may change over time, and this analytical framework fails to involve these changes in the analysis.

The danger of focusing on the obvious 'gaps', and subsequently ignoring the dynamics of 'gaps' in implementation, is that the researchers may be blind to the progress that has been made in the implementation process. For a norm with an observed 'gap' in a state's field-level practices, the norm-related legislation in that state may well fit the requirements of the norm's institutionalisation at international level; China's implementation of countervailing duty is one of these cases (for details see Chapter Three). For the same norm, these field-level practices may also show improvements compared to how the state behaved in earlier years. Ignoring the progress and improvement in norms' implementation undermines the efforts of different actors in this process, and thus affects how researchers evaluate the role of these actors in implementation.

3. The dynamic analytical framework of implementation

Regarding the two problems discussed above, this thesis modifies Betts and Orchard's analytical framework in order to enable the analysis of this research. Based on norm diffusion literature, this section firstly discusses the three aspects of the domestic implementation of international norms. It then proposes a method to measure the dynamic 'gaps' in implementation. This analytical framework helps to identify the 'institutionalisation–implementation gap' in the study of norms' implementation, and thus enables better evaluation of the roles of international organizations in that implementation.

3.1 The three aspects of implementation

Different scholars examine different domestic processes to study norms' implementation. Based on the norm diffusion literature, this thesis suggests that the domestic implementation of international norms is constituted by three aspects, namely the change of the state system, the change of the field-level acts, and the changing domestic discourse of non-state actors. These three aspects of implementation are independent from each other, but are closely inter-related. In addition, they do not happen in a specific sequence¹⁶², and they should all be examined in order to properly measure the implementation of international norms.

State system

¹⁶² Cortell and Davis suggest international norms obtain domestic salience following three steps. The first sign is that the norms appear in domestic political discourse. The second sign is the changes in national institutions such as the building up of favouring institutions or the weakening of conflict institution. At this step, an international norm may be legalized and relevant judicial mechanisms may be designed to reinforce the norm-consistent behaviour. The third sign is the policy choice in accordance with the norm. see Cortell and Davis, 'Understanding the Domestic Impact of International Norms: A Research Agenda.', (p70-71)

However, the work of Betts and Orchard suggests norms' domestic implementation is not a linear process. The changes in domestic political discourse and the changes of national institutions may happen at the same time. See Betts and Orchard, 'Introduction - the Normative Institutionalization-Implementation Gap'. P7

The change of the state system in accordance with a new norm is the most popular indicator of norm's adoption at domestic level. There are three types of changes that have been studied by norm diffusion scholars specifically. Firstly, the legislation of the new norm is considered as a powerful indicator of norms' adoption¹⁶³. When a new norm is legalized into the state system, the norm-consistent behaviour is ensured and empowered by the states' enforcement. It becomes the 'hard law' that legally binds obligations¹⁶⁴. The subsequent judicial mechanisms could be designed as well. "The more numerous the [legal] mechanism devoted to its reproduction and reinforcement, the greater its domestic salience", and the greater domestic impact the new norm has¹⁶⁵. Audie Klotz, for instance, studies the adoption of racial equality in the U.S. and in South Africa. Whether this norm is legalised in these two countries is used as the most important indicator to the success of norm adoption in his research¹⁶⁶.

The building-up of supportive government entities is another type of change in the state system that can be observed in empirical cases. Whether, or not, the new norm is supported and assisted by specific government bureaucracy may determine the domestic impact of this new norm¹⁶⁷. The responsible government entity could be newly built for the ratified norm, or it may be an existing one re-assigned for the relevant work. Either case should be counted in analysis¹⁶⁸.

¹⁶³ Orchard, 'Implementing a Global Internally Displaced Persons Protection Regime'. p112

¹⁶⁴ Skjærseth, Stokke, and Wettstad, 'Soft Law, Hard Law, and Effective Implementation of International Environmental Norms', (P104

¹⁶⁵ Cortell and Davis, 'Understanding the Domestic Impact of International Norms: A Research Agenda.', (p71).

¹⁶⁶ For example see Audie Klotz in his study of racial equality in the U.S. and South Africa. Audie Klotz, 'Norms Reconstituting Interests: Global Racial Equality and U.S. Sanctions against South Africa', *International Organization*, 49/3 (1995), 451-78. See also Klotz, *Norms in International Relations : The Struggle against Apartheid / Audie Klotz*.

¹⁶⁷ Orchard, 'Implementing a Global Internally Displaced Persons Protection Regime'.p112.

¹⁶⁸ Ibid.

The matching policy-making is the third type of change that is usually used as an indicator of norm adoption. Amy Gurowitz, for instance, studies the changes in Japan's immigration policies after the Second World War, in order to discover how international human rights norms have domestic impacts¹⁶⁹. Lester Ross examines China's environmental policies as an indicator of China's participation in global environment protection regimes and its compliance with international environment norms¹⁷⁰. Some scholars also look into organisational policies in order to understand the implementation of international norms¹⁷¹. Cortell and Davis further suggest examining a series of policy choices related to the norm. They argue that one policy, or a single operation in accordance with the international norms, is not sufficient to prove the adoption of the norm, because it can be merely an expedient measure of short term interests.¹⁷²

These three types of change support each other in the implementation of international norms at the state level. For instance, a legalised norm needs to be supported by the administrative policies, the latter guides the norm-consistent behaviour of the states. When new policies are promulgated, we usually observe changes in governments' entities if the new policies are to be properly implemented. A norm can be considered well implemented in the state system when it results in all three types of change.

¹⁶⁹ Gurowitz, 'Mobilizing International Norms: Domestic Actors, Immigrants, and the Japanese State', (p417-33)

¹⁷⁰ Ross, 'China: Environmental Protection, Domestic Policy Trends, Patterns of Participation in Regimes and Compliance with International Norms', (p830-835)

¹⁷¹ For examples see Catherine Weaver and Christian Peratsakis, 'Engineering Policy Norm Implementation: The World Bank's Transparency Transformation', in Alexander Betts and Phil Orchard (eds.), *Implementation and World Politics - How International Norms Change Practice* (Oxford: Oxford University Press, 2014). Miriam J. Anderson, 'From Principle to Policy: The Emergence, Implementation, and Rearticulation of the Right to Post-Conflict Property Repossession', in Alexander Betts and Phil Orchard (eds.), *Implementation and World Politics - How International Norms Change Practice* (Oxford: Oxford University Press, 2014). James Milner, 'The Implementation of 'Integrated Approaches' in the UN System: Lessons from Tanzania and Burundi', in Alexander Betts and Phil Orchard (eds.), *Implementation and World Politics - How International Norms Change Practice* (Oxford: Oxford University Press, 2014).

¹⁷² Cortell and Davis, 'Understanding the Domestic Impact of International Norms: A Research Agenda.', (p71).

Field-level acts

The field-level acts are applications of international norms including the execution of norm-consistent policies and the practices of norm-related rules and procedures. For example in Finnemore and Sikkink's case of women's suffrage¹⁷³, the actual voting rate of women in elections is the concern of this aspect of implementation.

Many norm diffusion scholars examine the field-level acts as the indicator of norm adoption. Betts compares the acts of South Africa and Botswana in response to the 'refugees' from Zimbabwe in order to understand the implementation of the norm of non-refoulement. Although the Zimbabweans go to South Africa and Botswana because of the serious crisis in Zimbabwe, only ten percent of them are recognized as refugees. One of the dependent variables of this research is whether the Zimbabweans are deported from these two countries¹⁷⁴. Emily Paddon studies the implementation of the protection of civilians in peacekeeping in the Congo. Her dependent variable is whether the peacekeeping troops in the Congo use force to protect civilians in crisis¹⁷⁵. Charli Carpenter examines the humanitarian evacuation from the Balkans in the 1990s to explore the implementation of the norms of 'women and children first' in crisis situations¹⁷⁶. All these examples suggest the importance of field-level acts in the study of norms' implementation.

Full application of international norms in practice requires implementation at both system level and individual level. The norms' legislation, the building-up of supportive government organs, and the matching policy-making, enforce

¹⁷³ Although Finnemore and Sikkink did not examine the actual voting rate of women in elections, this is an easy example to illustrate the idea of 'field-level acts'. For Finnemore and Sikkink's study of women's suffrage see Finnemore and Sikkink, 'International Norm Dynamics and Political Change', (p893-900)

¹⁷⁴ Betts, 'From Persecution to Deprivation - How Refugee Norms Adapt at Implementation'.

¹⁷⁵ Emily Paddon, 'Peacekeeping in the Congo: Implementation of the Protection of Civilians Norm', *ibid.* (Oxford University Press).

¹⁷⁶ R. Charli Carpenter, 'Women and Children First': Gender, Norms, and Humanitarian Evacuation in the Balkans 1991-95', *International Organization*, 57/04 (2003), 661-94.

norm-consistent behaviour. Non-state actors' awareness of, and support for, the new norm also conditions their performance, especially when the new norms are to be practiced by non-state actors. The observation of field-level acts can thus inspect the implementation in the other two aspects.

However, norms' implementation cannot be measured based on their implementation at field-level. Contemporary norm-consistent acts, without support from states' systems and from non-state actors, may only be the result of compromise to external pressures. Cortell and Davis thus warn of the danger of equating norm-consistent behaviour with the adoption of international norms¹⁷⁷. They suggest further analysis of the justification of actors' behaviour. "Mere rationalizations can be distinguished from forthright justifications because the justifications can be reasonably fit into a larger pattern of behaviour, and reconciled with prominent contextual factors whereas the rationalizations cannot"¹⁷⁸.

Domestic discourse

The domestic discourse reflects how non-state actors adopt international norms. They are believed to be important players in norms' implementation¹⁷⁹. Their adoption of the new norms matters to the implementation of the norms in the state system¹⁸⁰. They are the local agents with whom international organisations cooperate to apply pressure for the implementation of international norms¹⁸¹. In some cases, they even force international organisations to alter their policies so that the implementation

¹⁷⁷ Cortell and Davis, 'Understanding the Domestic Impact of International Norms: A Research Agenda.', (p70).

¹⁷⁸ Ibid.p71-72.

¹⁷⁹ Betts and Orchard, 'Introduction - the Normative Institutionalization-Implementation Gap'. P14.

¹⁸⁰ Cortell and Davis, 'Understanding the Domestic Impact of International Norms: A Research Agenda.', (p70)

¹⁸¹ Michael Bluman Schroeder and Alana Tiemessen, 'Transnational Advocacy and Accountability - from Declarations of Anti-Impunity to Implementing the Rome Statute', in Alexander Betts and Phil Orchard (eds.), *Implementation and World Politics - How International Norms Change Practice* (Oxford: Oxford University Press, 2014). P51. Example also see Terrence L. Chapman, 'Audience Beliefs and International Organization Legitimacy', *International Organization*, 63/04 (2009), 733-64.

fits the interests of the domestic groups¹⁸². They may also re-shape, reconstruct, or re-interpret international norms in order to fit them into domestic normative contexts, and to promote the implementation of the new norms in the other two aspects of implementation¹⁸³. This is the 'bottom-up' model of norm diffusion¹⁸⁴.

However, the domestic discourse of the new norms should not be the only route studied to observe changes in the state system. Rather, it is an independent aspect of implementation. In Finnemore and Sikkink's model of the 'life-cycle' of norms, the final stage of norm diffusion is the internalisation of international norms among individuals. Legalization, rule-making, repeated behaviour, and professional training are considered as means to sell the "logic of appropriateness" of the new norms to individuals¹⁸⁵. As the ultimate purpose of norm diffusion, individuals' cognitive acceptance of the new norms matters to its success. It is thus an important indicator of norms' implementation.

The frequency with which non-state actors discuss the new norms indicates how important they think the norms are¹⁸⁶. Their understanding of, and support for, the norms are also important indicators for the implementation process¹⁸⁷. William Dyer and Dick Urban studied the institutionalisation of

¹⁸² Aneja, 'International Ngos and the Implementation of the Norm for Need-Based Humanitarian Assistance in Sri Lanka'. P101.

¹⁸³ Acharya illustrates how the local agents reconstruct the norm of collective security and cause important institutional change in ASEANS. See Acharya, 'How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism', (p254-269)

¹⁸⁴ The 'bottom-up' model has been widely discussed in the norm diffusion study of human rights. For examples see the articles in the edited book of Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (eds.), *The Power of Human Rights: International Norms and Domestic Change* (Cambridge: Cambridge University Press, 1999).

¹⁸⁵ Finnemore and Sikkink, 'International Norm Dynamics and Political Change', (p904-905)

¹⁸⁶ Andrew P. Cortell and James W. Davis, 'How Do International Institutions Matter? The Domestic Impact of International Rules and Norms', *International Studies Quarterly*, 40/4 (1996), 451-78. P456 see also Cortell and Davis, 'Understanding the Domestic Impact of International Norms: A Research Agenda.', (p69).

¹⁸⁷ Aneja, 'International Ngos and the Implementation of the Norm for Need-Based Humanitarian Assistance in Sri Lanka'. P86.

equalitarian family norms in the United States in the 1950s. The research objects of their research were systematically sampled men and women. They interviewed 400 individuals for their opinions on the equal rights and equal responsibilities of women and men in their families. They studied the responses of their interviewees to explore whether equalitarian family norms are institutionalised¹⁸⁸. This example illustrates how the analysis of individuals' opinions of new norms helps to measure their acceptance.

3.2 The dynamic gaps and the progress of implementation

Although Betts and Orchard propose to study norms' implementation in dynamic ways, their analytical framework treats the 'institutionalisation-implementation gaps' as static presences. For a given international norm, they suggest observing the existence of 'gaps', tracing the implementation process of the norms, and analysing relevant data using political comparative methods in order to explore the causal factors of the 'gaps'. In this type of research, whether the 'gaps' exist is the dependent variable.

This thesis believes that the 'institutionalisation-implementation gaps' always exist and constantly change in the process of norms' implementation. Time, as an independent variable needs be involved to examine the 'gaps' in norms' implementation. Different from Betts and Orchard's analytical framework, this thesis takes the changes of the 'gaps' in implementation as the dependent variable. The concept of 'progress' is introduced to the analytical framework of this thesis in order to emphasize this dynamic property of the 'gaps'.

¹⁸⁸ William G. Dyer and Dick Urban, 'The Institutionalization of Equalitarian Family Norms', *Marriage and Family Living*, 20/1 (1958), 53-58.

The progress of implementation has two folds of meanings. It firstly relates to the rate of progress of implementing norms in the domestic arena. The rate of progress concerns how fast a key target of implementation has been achieved. For instance, whether the domestic legislation of a ratified norm is completed in one or ten years is different to the evaluation of this norm's implementation, and further investigations are required to understand the difference between the two cases.

In order to measure the rates of progress, this thesis compares the implementation of two norms with similar levels of institutionalisation in one country. When researchers study single cases, they can hardly tell whether the implementation of a specific norm is in on a favourable track because no one can provide a standard rate of progress for norms' implementation. Comparing the implementation of two norms in one country solves this problem. In an ideal situation, two international norms, with similar levels of institutionalisation, should be implemented in the domestic arena at a similar rate of progress¹⁸⁹. The different rates of progress thus signal the complexity of the process of implementation. One would have to answer questions such as, 'why the legislation or policy-making of a norm is in a faster rate of progress than the other one'. The different rate of progress can also be reflected in the changing topic salience of the new norms in their discourse. If the implementation of a new norm is on a good track, one may observe increasing topic salience of this norm in the domestic discourse¹⁹⁰. More individuals will thus know of, and learn about, the new norm and its related rules.

¹⁸⁹ As the inherited qualities, states' capacities and domestic structure can hardly be changed by the efforts of norms' promoters, such as international organisations. However, they are also decisive to the success of the implementation of international norms. For discussion of states' capacities in norm's implementation see Orchard, 'Implementing a Global Internally Displaced Persons Protection Regime'. For the discussion of domestic structure see Jeffrey Checkel, 'Norms, Institutions and National Identity in Contemporary Europe', *International Studies Quarterly*, 43/1 (1999), 83-114.84-85).

¹⁹⁰ See Cortell and Davis, 'Understanding the Domestic Impact of International Norms: A Research Agenda.', (p70).

The second fold of meanings of progress concerns the achievements of implementing international norms at a specific point of time. The question is how well the achievements of domestic implementation fit the expectations of the norm promoters at international level. By using political comparative methods, researchers can thus answer questions such as, 'why the contents of legislation and policies of one norm is closer to its institutionalisation than that of another one', 'why the field-level practices of norms better fit the requirements of its institutionalisation than that of another one', and 'why one norm is better supported by the domestic discourse than the other one'.

3.3 process tracing and comparative method

Betts and Orchard propose to observe “constant [implementation] across countries with variation in outcomes across those countries” and use process tracing to “identify the causal mechanisms through which implementation leads to diverging outcomes given the same levels of [implementation]”¹⁹¹. They then suggest using comparative politics methodology to analyse the cases across states. This type of comparative method, however, is not able to involve the dynamic ‘gaps’ and the progress of implementation in analysis, because the political structure and states’ capacity as inherited variables differ across states. The rates of progress of cases across states are thus not compatible.

The research agenda proposed in this thesis traces and compares the implementation of two norms in one country. The comparison of the implementation of the norms in one country can largely exclude the impacts of states’ capacity and focus on the contributions of other factors in the process. As the inherited qualities, states’ capacities can hardly be changed by

¹⁹¹ Betts and Orchard, 'Introduction - the Normative Institutionalization-Implementation Gap'. p20

the efforts of norms' promoters such as international organisations. Different state capacities, however, are also decisive to the success of the implementation of international norms.¹⁹² The contributions of international organisations to the implementation of international norms are thus clouded by the different capacities of states. Comparing the implementation of norms in one country can avoid this problem.

This type of comparative method has one condition that the two norms in comparison should be same in terms of their institutionalisation level at international level. In other words, the 'quality' of the norms should be same. Quality of the norms, according to Legro, is mainly constituted by three elements including specificity, durability and concordance.¹⁹³ Specificity refers to the capabilities of the norm being transferred into specific rules and thus guiding practice and constraining behaviours. All codes should be simple and precise; overly complex or ill-defined code will reduce the specificity of the norm. The specificity of the norms can be assessed by examining the understanding of the prohibition. Durability considers the length of time that the norms are in power. Norms that enjoy long-standing legitimacy tend to be recognized for its quality. Legro also argues that the penalization of violations of the norms can enhance their legitimacy and thus strengthen the quality of the norms. Concordance is the third elements, which concerns the wideness of the norms being accepted. Affirmation from states, especially multiple states is believed to contribute to the robustness of the norms.¹⁹⁴ The case selection of this thesis, as discussed in Chapter one, fits this requirement.

¹⁹² See Orchard, 'Implementing a Global Internally Displaced Persons Protection Regime'.

¹⁹³ Jeffrey W. Legro, 'Which Norms Matter? Revisiting the "Failure" of Internationalism', *International Organization*, 51/01 (1997), 31-63.p34-35)

¹⁹⁴ *Ibid.*

3.4 Hypotheses

This thesis expects that the WTO, an important and powerful international organisation of the international trade regime, can promote the implementation of anti-dumping duty and countervailing duty in China through its implementing instruments. There are three major types of implementing instruments, including *accession*, *monitoring*, and *enforcement*. “Under each mechanism, the WTO is empowered to take the particular ways and means (implementing instruments) to realise its functions”.¹⁹⁵ The details of these two implementing instruments will be discussed in Chapter Five. This thesis thus hypothesizes that:

H1: The WTO promotes the progresses of implementing anti-dumping duty and countervailing duty in China through its implementing instruments.

This thesis also expects the systemic mismatch of the anti-dumping duty and countervailing duty with China’s social capital tradition to condition the impact of the WTO on the implementation process. The research design of this thesis controls the interfering variables, i.e., the levels of institutionalisation of norms, the states’ capacity, and the political structure, that may impact the process of implementation. It thus enables this research to focus on the systemic mismatch as the major conditions of the implementation process. As Chapter One discusses, anti-dumping duty that allows the authority of importing countries to impose measures on foreign exports conflicts with the interests of China’s exporters. Meanwhile, countervailing duty regulates the subsidy policies of China, which conflicts with the core of China’s state capitalist tradition. Because of distant state-societal relations, and the state-dominant system in China, this thesis expects stronger domestic resistance to the implementation of countervailing duty than to anti-dumping duty.

¹⁹⁵ Xin Zhang, *Implementation of the Wto Agreements in China* (London: Wildy, Simmonds & Hill Publishing, 2005). P10.

The hypothesis is that:

H2: The WTO implementing instruments are more efficient in the implementation of the anti-dumping duty than that of countervailing duty in China.

This thesis testifies these two hypotheses applying the proposed analytical framework. Chapter four, Chapter five and Chapter six use process tracing and comparative method to examine the three aspects of China's implementation of anti-dumping duty and countervailing duty respectively. Process tracing helps to understand the narrative of the causal relationship between the independent variable and dependent variable, while comparative method helps to identify the key factors that cause the variations in the progresses of implementing anti-dumping duty and countervailing duty in China.

4. Mixed method in text analysis

In order to test the hypotheses introduced above, this thesis employs the mixed method of text analysis that links qualitative and quantitative data. This section first discusses the advantages of using mixed methods in social research. It then explains how the method of mixing computer-assisted coding and manual coding are applied in the collection and analysis of the data for this research. The ethics issues of this research are discussed at the end of the chapter.

4.1 Linking quantitative and qualitative methods

Quantitative methods are largely based on modern positivism for social research, founded in the 1950s and 1960s¹⁹⁶. The positivists believe that social

¹⁹⁶ The major positivist doctrines were founded by Carl G. Hempel, 'A Logical Appraisal of Operationalism', *Scientific Monthly*, 79 (1954), 215-20, Ernest Nagel, *The Structure of Science* (New York: Harcourt Brace, 1961), Karl Popper, *The Logic of Scientific Discovery* (New York: Basic Books, 1959).

processes follow the “same orderly, linear, and observable causality that governed the natural world”¹⁹⁷. Social science thus needs to be studied in ‘scientific’ ways¹⁹⁸ in order to “explain and predict social processes through searching for universal social laws”¹⁹⁹. Along with the rise of positivism, quantitative analysis enjoys increasing importance in social science. Based on a large scale of data, statistical techniques, and mathematical modelling, quantitative methods are seen as the ‘scientific methods’ that provide more objective analysis in social research, compared to qualitative methods²⁰⁰. However, the positivist assumptions of linear causality and predictability are also criticized by many sociological scholars who argue for the non-linear and chaotic nature of human society²⁰¹. Quantitative methods are also criticized for providing only fragmented analysis of social facts without contexts, and having “no benefit, direct or indirect, for people’s understandings of society or for their lives”; qualitative methods, on the contrary, have unique and irreplaceable advantages regarding this point²⁰².

The debates over quantitative and qualitative methods never end, but some scholars seek possibilities for mixing these two methods in their research. Matthew Miles and Michael Huberman point out that “we have to face the fact that numbers and words are both needed if we are to understand the world”²⁰³. Similarly, Udo Kuckartz argues that “real science does not begin with numbers, quantification, and statistical analysis of data ... Qualitative data are by no means a weak form of data; rather, they are different forms

¹⁹⁷ Bernd Baldus, 'Positivism's Twilight?', *The Canadian Journal of Sociology / Cahiers canadiens de sociologie*, 15/2 (1990), 149-63. P151.

¹⁹⁸ See Paul Pennings, Hans Keman, and J Kleinnijenhuis, *Doing Research in Political Science: An Introduction to Comparative Methods and Statistics* (London: SAGE, 1999).

¹⁹⁹ Baldus, 'Positivism's Twilight?', (p151).

²⁰⁰ Sanford F. Schram and Brian Caterino, *Making Political Science Matter: Debating Knowledge, Research, and Method* (New York: New York University Press, 2006). P3.

²⁰¹ See Hubert Blalock, *Basic Dilemmas in The Social Science* (Beverly Hills: SAGE, 1984). P8. See also Robert Scott and A. R. Shore, *Why Sociology Does Not Apply* (New York: Basic Books, 1979). P3.

²⁰² Herbert Gans, 'Sociology in America: The Discipline and the Public. American Sociological Association 1988 Presidential Address', *American Sociological Review*, 54 (1989), 1-16. P12.

²⁰³ Matthew B. Miles and A. Michael Huberman, *Qualitative Data Analysis: An Expanded Sourcebook* (second edn.; Thousand Oaks: SAGE Publications, 1994). P39.

that require different, complex and systematic analysis”²⁰⁴. The mixed methods approach is thus believed to have the potential to overcome the old duality between quantitative and qualitative methods²⁰⁵.

The mixed methods approach has its unique advantages. (1) At the stage of research design and data collection, pilot studies using quantitative methods can provide a general overlook of the data and information; they also help to discover representative samples or deviant cases for the qualitative side of the studies and help avoid serious bias²⁰⁶. At the same stage in quantitative studies, qualitative data may help with conceptual development and instrumentation, which further facilitates quantitative data collection²⁰⁷. (2) At the stage of analysis, mixed methods enable the confirmation, or corroboration, of qualitative and quantitative findings; they also provide richer details to the findings²⁰⁸. “Quantitative data can help by showing the generality of specific observations, correcting the ‘holistic fallacy’ (monolithic judgments about a case), and verifying or casting new light on qualitative findings ... [qualitative data] can help by validating, interpreting, clarifying, and illustrating quantitative findings, as well as through strengthening and revising theory”²⁰⁹.

4.2 Two coding methods

Coding is the major tool of text analysis. Coding refers to the process of finding and processing codes that “symbolically assigns a summative, salient, essence-capturing, and/or evocative attribute for a portion of language-based

²⁰⁴ Udo Kuckartz, *Qualitative Text Analysis - a Guide to Methods, Practice and Using Software*, trans. Ann McWhertor (London: SAGE Publications Ltd, 2014). P2-6.

²⁰⁵ Ibid. p6.

²⁰⁶ Sam D. Sieber, 'The Integration of Fieldwork and Survey Methods.', *American Journal of Sociology*, 78/6 (1973), 1335-59. P41.

²⁰⁷ Ibid. p42.

²⁰⁸ Gretchen B. Rossman and Bruce L. Wilson, 'Numbers and Words: Combining Quantitative and Qualitative Methods in a Single Large-Scale Evaluation Study', *Evaluation Review*, 9/5 (October 1, 1985), 627-43.

²⁰⁹ Sieber, 'The Integration of Fieldwork and Survey Methods.', (p41)

or visual data”²¹⁰. The next section introduces two methods of text coding, namely manual coding and computer-assisted coding. These two coding methods represent the qualitative and quantitative methods respectively in the text analysis.

Manual coding

Manual coding is the traditional way of coding. It requires the researchers to read all their materials (usually several times) with a highly focused mind and great patience; a system of structuring information needs to be built, corrected, and confirmed in the early readings, and be applied and repeated in new rounds of coding²¹¹. The advantage of manual coding is that the researchers can have full knowledge of their materials; they understand the contexts and linkages of the codes, which is important to the validity of the research²¹². The disadvantage of this coding method, however, is also obvious. Manual coding cannot process large amounts of data, not only because it makes the research extremely time-consuming and tedious, but also because the pattern of manual coding may shift unconsciously. Manual coding is essentially subjective and interpretive – researchers may change their way of labelling, categorising, and interpreting texts unconsciously because of emotional changes or other changing conditions²¹³. Consequently, the validity of the results may be questioned because of a possible lack of consistency.

Computer-assisted coding

Computer-assisted coding, or automatic coding, is a new coding method for text analysis. Texts are treated as data, quantified by computer programmes such as Yoshikoder, and analysed by statistical techniques. Jonathan Sullivan and Will Lowe, for instance, use this method to study Chen Shuibian’s

²¹⁰ Johnny Saldana, *The Coding Manual for Qualitative Researchers* (London: SAGE publications Ltd, 2009). P3.

²¹¹ See Ibid. In his book, Saldana gives the guidelines to each round of coding.

²¹² Kuckartz, *Qualitative Text Analysis - a Guide to Methods, Practice and Using Software*. P2, p35.

²¹³ Margrit Schreier, *Qualitative Content Analysis in Practice* (London: SAGE, 2012). P3.

speeches²¹⁴ in order to understand the proportion of Chen's speeches given to different audiences, and the probability of different topics in his speeches. Dictionaries were carefully designed to quantify texts. Here, a dictionary refers to the collection of words and phrases that express one idea. Once the dictionaries are designed, the computer programme searches all the text for those specific words and phrases in the dictionary, counts the frequency of different ideas, and thus transfers the texts into data for quantitative analysis. Sullivan and Lowe collected all possible words and phrases that expressed the same ideas, including the idea of Taiwan's sovereignty, and applied this dictionary in their examination of more than 2,000 speeches. They then used quantitative means to analyse these data and conclude their findings²¹⁵.

To explain the underlying logic of this method, Sullivan and Lowe state that:

“[T]heoretically relevant categories of content are not directly observed, but that particular words and phrases reflect them in a systematic way ... Any particular word or phrase may be an unreliable indicator of a complex concept, but when such indicators are combined into a theoretically informed category structure to form a content analysis dictionary, this can generate a reliable mechanism for tapping content”.²¹⁶

The advantage of computer-assisted programmes is obvious – they can process huge amounts of data. It is almost impossible for any researcher to read through and manually code 2,000 pieces of work, as Sullivan and Lowe did in their work. Moreover, even if someone is willing to spend hundreds of hours to do so, the consistency of such work comes into question. For quantifying qualitative data, on the other hand, computer-assisted coding can

²¹⁴ Chen is known for his Taiwan independence speeches.

²¹⁵ Jonathan Sullivan and Will Lowe, 'Chen Shui-Bian: On Independence', *The China Quarterly*, 203/3 (2010), 619-38.

²¹⁶ *Ibid.* P 628.

avoid such problems. It makes it possible to process large amounts of data in a consistent coding system.

However, the disadvantage of this method is obvious as well. 'Counting words' may quantify the qualitative data, and thus introduce quantitative methods in text analysis, but it also removes the words from their context. Justin Grimmer and Brandon Stewart argue that "[t]he complexity of language implies that all methods necessarily fail to provide an accurate account of the data-generating process used to produce texts. Automated content analysis methods use insightful, but wrong, models of political text to help researchers make inference from their data"²¹⁷. Yet, they still admit that automatic coding is useful in helping the researchers "to assign documents into predetermined categories, discover new and useful categorization schemes for texts, or in measuring theoretically relevant quantities from large collection of text"²¹⁸. This argument of Grimmer and Stewart suggests the potential for combining the two coding methods in social science research.

4.3 Combining the two coding methods

Mixed method in text analysis, by combining the two coding methods, enjoys the benefits of linking qualitative and quantitative data in research. It enables the analysis of a large amount of textual data without losing the context. This method has been increasingly used by both linguists²¹⁹ and political scientists²²⁰. This section explains how the mixed method of text analysis is used in this research. It firstly illuminates Nvivo, the computer software used

²¹⁷ Justin Grimmer and Brandon Stewart, 'Text as Data: The Promise and Pitfalls of Automatic Content Analysis Methods for Political Texts', *Political Analysis* (Oxford University Press, 2013), 1-31. P4.

²¹⁸ Ibid. p5.

²¹⁹ For examples see Lohmann, Susanne and O'Halloran, Sharyn (1994), 'Divided government and U.S. trade policy: theory and evidence', *International Organization*, 48 (04), 595-632.

²²⁰ Examples see Rossman and Wilson, 'Numbers and Words: Combining Quantitative and Qualitative Methods in a Single Large-Scale Evaluation Study', (see also Schreier, *Qualitative Content Analysis in Practice*. Christopher Hahn, *Doing Qualitative Research Using Your Computer - a Practice Guide* (London: SAGE Publications Ltd, 2008).

in this research. This software is mainly designed for qualitative content analysis, but it well supports the mixed method of text analysis. The second part introduces the data source from which the text materials for this research are collected. There are three major data sources for this research, including the published data of the WTO secretariat, the official documents of the Chinese government, and the publications of China's non-state actors. The former two types of data are manually analysed, while the publications of China's non-state actors are processed and analysed via automatic coding methods because of their huge number. Thirdly, this section presents how this research sampled the publication of China's non-state actors. Three sample-sets of different sizes were created for the purpose of mixed method analysis. The final part of this section introduces the creation of dictionaries for automatic coding methods, and explains how the validity of results can be ensured.

4.3.1 Coding with Nvivo

NVivo software, one of a number of CAQDAS programmes, is employed to manage and process text data in this research. It has varied features and functions, and four of these make Nvivo software a good choice for this research. Firstly, Nvivo software is a convenient system for storing, organising, and labelling data. All the materials, text materials in this research, can be imported into the programme and stored as 'sources'. The data in 'sources' can be classified and labelled, and thus be reported on based on their classification and labels. They can also be searched by their titles and remarked on via the 'memo' system within Nvivo.

Secondly, Nvivo provides an efficient solution to manually code materials, not only texts but also pictures, audio, and video materials. Researchers can easily code and store the results of coding, called 'nodes' in this programme, when

they read the materials. All nodes can be classified, labelled, and reported on, just as the sources can. The programme can also visualise the nodes based on their labels.

Thirdly, Nvivo software can process many types of files, including PDF documents. This is important because most of the collected materials of this research are PDF documents, and this type of document is usually difficult to be processed in other computer programmes for content analysis, such as Yoshikoder. Nvivo software even has better capability in recognising PDF documents compared with most PDF converters (PDF converters transfer PDF documents into other file formats, such as DOC or TXT documents). It is thus a good choice since this research needs to process a large number of PDF documents. However, Nvivo software still cannot recognize text information in scanned PDF documents. To process this kind of file, one needs to use programmes which recognise text in pictures, Microsoft Office has this function, or manually input text in order to process the analysis.

Fourthly, Nvivo software has a built-in text search programme that can quantify texts and present the results in visual forms. This function makes it possible to generalise both qualitative data and quantitative data in one programme, which is convenient when the researcher intends to use the mixed method of text analysis.

Lastly, Nvivo software can recognise Chinese characters with its built-in programme. This research examines publications of Chinese actors, and most text materials of analysis are in Chinese. This fact provides the crucial reason for using Nvivo software as the analysis tool in this research.

4.3.2 Data source

This research collected three types of primary data for text analysis. The first are the WTO records, specifically the minutes of meetings of the Committee on Anti-Dumping Practice, and the Committee on Subsidies and Countervailing Measures. These two WTO Committees are in charge of all relevant affairs regulated by the WTO Anti-Dumping Agreement and the SCM Agreement. They normally hold two regular meetings every year, and after every meeting they provide the minutes which record all the agenda discussed, as well as the statements of each representative. These records are the key texts of this research to study the interaction between China and other Members in the meetings of the two Committees. The minutes of the meetings of the two Committees are available in WTO's online database²²¹.

There were 49 WTO documents in total that were manually analysed in this research. Two questions were the focus of the analysis of the WTO records:

- a. What are the major concerns of WTO Members regarding China's implementation of anti-dumping duty and countervailing duty?

The comments and critiques from WTO Members can be a source of social pressure on China that pushes the latter to fulfil its obligations and promotes the implementation of anti-dumping duty and countervailing duty in China. On the other hand, those comments and critiques are important and trust-worthy information that help to understand China's problems in the implementation of these two norms.

- b. Has China improved its behaviour in order to meet the expectations of the WTO and its Members?

²²¹ All the WTO documents and minutes of meetings of WTO trading committees can be downloaded here http://www.wto.org/english/res_e/res_e.htm

WTO Members, such as the United States, the European Community, and Japan pointed out many problems in China's implementation of anti-dumping duty and countervailing duty. The second purpose of the analysis of the minutes of meetings was to find out the impacts of these criticisms on the implementation. I examined the responses of Chinese representatives to the comments and critiques. Those statements represent China's official voice, and the contained information is highly credible. I also traced China's responses to the comments and critiques given by other Members in every meeting held by the two committees, to discover China's improvements in the implementation of the two norms regarding those issues. Then I cross-referenced the findings with the promulgation of China's policies and administrative rules and with information given by Chinese scholars. In this way, I ensured the credibility of my findings.

The second type of primary data are the published documents of the Chinese government. These documents include the government's work reports, the anti-dumping/countervailing related administrative rules, the official announcements of anti-dumping /countervailing investigations and measurements, the press releases of the Ministry of Commerce, and the chronicle of events of the Bureau of Fair Trade for Import and Export and the Bureau of Industry Injury Investigation²²².

The third type of data are the publications of China's non-state actors. This research assumes that the publications can reflect the authors' beliefs, knowledge, and attitudes. In order to understand China's non-state actors' awareness of, and support for, the Anti-dumping Agreement and the SCM Agreement, this paper analysed the publications of three groups of non-state actors involved in the implementation of anti-dumping duty and

²²² These documents are collected from the website of the Ministry of Commerce <http://www.mofcom.gov.cn/> and China Trade Remedy Information <http://www.cacs.gov.cn/>

subsidy/countervailing duty. (i) Academics constitute an important group of non-state actors in the implementation process. They are the professional experts whose knowledge may influence the process of decision-making and lead public opinion by publishing in newspapers or accepting interviews on television. (ii) Practice lawyers can be influential in this area as well. They provide enterprises with legal consultation and legal services in anti-dumping/countervailing investigations. Their knowledge is also reflected in their publications that discuss legitimistic problems of domestic or international laws, which could potentially influence the legal system. (iii) Industry/business association officials are the third type of non-state actors in this domain. Although most industry associations in China have a government background, the officials of the associations have no decision-making power. Their jobs usually include liaison, legal help, and consultation. The industrial associations are the ties between the Chinese government and China's industrialists, and they represent the interests of the latter.

Although these three groups of non-state actors may have different perspectives on anti-dumping duty and countervailing duty, their beliefs, knowledge, and attitudes towards them constitute a voice from China's domestic sectors in contrast to the of the Chinese states. The sampling of this research ensures that these three groups of non-state actors are equally represented in the samples (for the detailed sampling see Chapter six). Chapter six also maps out the different perspectives of the Chinese non-state actors in order to provide further discussion of the changing domestic discourse in China.

With the assumption that the publications generally reflect the authors' towards the WTO trading norms, this paper employed content analysis to explore China's non-state actors' discourses related to anti-dumping duty and countervailing duty. All data (publications) used in this paper were collected

from the Chinese National Knowledge Infrastructure (CNKI), the largest online data base and academic search engine in China. CNKI holds more than 400 academic journals and magazines published since 1915, including approximately 28 million articles. It also digitises 500 Chinese newspapers published after 2000, including more than 6.9 million articles. The work of digitisation is not yet complete, so the total number of articles in this database is still growing.

This research uses text analysis method to analyses three sample-sets with different sizes. Sample-set A is the largest one covering all publications in CNKI that are relevant to anti-dumping duty and countervailing duty. It helps to analyse the topic salience of these two norms in China’s domestic discourse. Sample-set B is the second largest sample set. All texts of Sample-set B are analysed by computer to explore the attitudes of the Chinese non-state actors towards the two norms. Sample-set C has 364 samples. All these samples are manually coded to create dictionaries for computer-assisted analyse, to provide the contexts to the results of computer-assisted coding, and to confirm the possible causal relations suggested by statistical analysis. The detailed sampling methods are explained in the section of 3.3.1, Chapter three

Table 2.1 the three sample-set for the analysis of domestic discourse

Sample-set	Anti-dumping duty	Countervailing duty	total
Sample-set A	6922	1638	8560
Sample-set B	1744	424	2168
Sample-set C	246	118	364

4.4 Interview as complementary method

Although content analysis is the major method of this research, there are always questions for which answers cannot be found in the text. Fragmented pieces need to be linked in order to see the whole picture. Interviews are thus necessary.

My first round of interviews took place in Geneva, where the WTO secretariat is located²²³. The first purpose is to learn more about the out-reach programmes of the WTO. The second purpose is to find out whether these outreach programmes are effective channels between the WTO and Chinese non-state actors. I managed to get in touch with three officials from the Information and Media Relation Division, the Institute for Training, and the Technical Cooperation and Rules Division. The semi-structured interview questions are attached as an Appendix at the end of this paper.

I did the second round of interviews in Shanghai. I was trying to talk to someone in the relevant department of the Chinese government, such as an official from the department of WTO Affairs. The purpose was to get information on the relation between the WTO and China's non-state actors from the perspective of the Chinese government. I expected such information to cross-reference with the interviews I did in Geneva. However, it was always difficult to get in touch, and make appointments, with senior government officials. Fortunately, there was a summer school specifically about WTO Agreement on Subsidies and Countervailing Measures and China's Industrial Politics. This summer school was organized by the School of WTO Research & Education, Shanghai University of International Business and Economics (SUIBE). SUIBE was one of the fourteen Chairs chosen by the WTO in 2009, and this summer school was a part of the Chair programme. In order to know

²²³ The semi-structured questionnaire is attached to the appendix of this thesis. See Appendix II.

more about the WTO Chair Programme, I applied to attend this summer school.

The summer school provided a perfect opportunity to learn about WTO Regional Trade Policy and WTO subsidy/countervailing measures from WTO officials, the Chinese government officials, and academics. The invited speakers discussed the WTO SCM Agreement and other WTO affairs and negotiations from their insiders' perspective, which helped me to further build knowledge on relevant areas.

4.5 Ethics issues

The discussion of ethics issues originates in natural and medical science where people are increasingly anxious about the unintended consequences of research²²⁴. Such anxieties also influence research in social science. Social research is recognised as a risk-producing endeavour²²⁵. Many claim that the risks and harms should be properly evaluated and managed to be mitigated or avoided²²⁶. This research takes ethics issues seriously. It follows the guidelines of the Economic and Social Research Council's (ESRC) 'Framework for Research Ethics'²²⁷ and passed the ethics review of the Ethics Committee of the University of Nottingham Ningbo, China.

The major principle of the ESRC's ethics framework is to minimise risks and harms that the research may cause to individuals and society. Researchers should respect the rights and dignity of their research objects whose participation should be voluntary and appropriately informed. They should

²²⁴ Ulrich Beck, *Risk Society: Towards a New Modernity* (London: SAGE, 1992).

²²⁵ Kevin Haggerty, 'Ethics Creep: Governing Social Science Research in the Name of Ethics', *Qualitative Sociology*, 27/4 (2004), 391-414. P392.

²²⁶ See Janet Lewis, 'Ethics Principles for Social Science Research: Report of a Meeting on 22 March 2010 Jointly Sponsored by Arc, the Social Research Association and the Academy of Social Sciences', *Research Ethics Review*, 6/2 (June 1, 2010 2010), 56-57.

²²⁷ Detailed guidelines of this framework see <http://www.esrc.ac.uk/funding/guidance-for-applicants/research-ethics/> accessed on Feb. 19, 2016.

also guarantee the integrity and transparency of their research, and clearly define the lines of responsibility and accountability. Finally, the independence of the research is emphasized. Researchers should make explicit any unavoidable conflicts of interests involved in their research²²⁸.

This research collects two types of data. One is the published data from the WTO, the Chinese government, and the publications of the Chinese political leaders and non-state actors. The other is the interview data which could involve ethical issues. Following the guidelines of the ESRC's ethics framework, this research designs a series of procedures to protect the rights of the interviewees²²⁹.

Respecting the rights and dignity of the interviewees, ethics issues are discussed with the participants when contacting them and at the outset of each interview. Only when all the terms above are agreed upon by the participants can the interviews be conducted. All participants enjoy the right to withdraw their participation at any time. Confidentiality, anonymity, and non-traceability of participants are fully respected. The researcher asks participants whether they want their statements confidential, anonymous, or non-traceable before the interview starts.

To protect the privacy of interviewees, the interview data and the name list of the interviewees are stored and hidden separately, and protected by separated passwords. Using these data for purposes other than academic research requires permission from the participants. The participants have the right of access to any personal data about themselves, and only themselves.

²²⁸ The principles of the ESRC ethics framework, see <http://www.esrc.ac.uk/funding/guidance-for-applicants/research-ethics/our-core-principles/> accessed on Feb. 19, 2016.

²²⁹ The form of the ethics review is attached in the Appendix of this thesis.

They are also informed that they can access the outcomes of this research in different ways.

Although economic and trading issues, such as anti-dumping, are not politically sensitive topics, it is still possible that the interviewees could give radical arguments that violate the sensitivities of the Chinese government, or China's Communist Party. In this situation, a certain level of risk applies to both the researcher and the participants. As a solution, the researcher eliminates risks by deleting those statements if they are not relevant. In the case that these statements are highly relevant to the findings and arguments of this research, the researcher carefully presents these statements in less radical ways; the anonymity and non-traceability of the participants are ensured. These risks, and possible associated harm, are discussed with the participants before each interview.

Chapter three:

Dependent variable: changing gaps in implementation:

1. Introduction

This thesis aims to understand how international liberal norms are implemented in social capitalist China. Chapter Two proposes an analytical framework to measure the implementation process and identify the 'institutionalisation-implementation gaps' in dynamic perspectives in order to involve time as a variable in the analysis. This chapter applies this analytical framework to examine the implementation process of anti-dumping duty and countervailing duty in China. It identifies and measures how the 'gaps' change in the implementation of these two norms; changes in 'gaps' are the dependent variable for the analysis in the following chapters.

This chapter firstly provides a brief introduction to the history of the WTO Anti-Dumping Agreement and the SCM Agreement, as well as the content of their legal documents. Although this thesis will not examine these two agreements in technical detail, there are still several key terms that need to be clarified. Following such clarification, the chapter traces and compares the progress that China makes in implementing the anti-dumping duty and countervailing duty on the three aspects of implementation, the changes in the state system, the changes in field-level practices, and the changes in domestic discourse respectively.

The progress of implementation has two features. The first concerns the rate of progress. By comparing the rate of progress of implementing the two norms, this research is able to tell whether the implementation of one norm

in a particular period is more efficient than that of another. Based on this identified dependent variable, the following chapters can use political comparative methods to investigate further questions, such as how the WTO contributes to increasing the efficiency of implementation. The second feature concerns how much the outcomes of norms' implementation fit the requirements of their institutionalisation. One country may promulgate regulations based on the requirement of norms' implementation, but the content of these regulations can be very different from the institutionalisation of these norms at international level. The evaluation of progress is thus necessary to the study of norms' domestic implementation.

2. The Two Agreements

WTO Anti-dumping Agreement

In 1904, an amendment was added to the Customs Tariff Act of 1897 in Canada. Paragraph Six of the Act regulated that the Canadian government had the right to impose extra tariffs on goods dumped by other countries. This is the first recorded anti-dumping law in the world²³⁰. This law was used to deal with cheap steel imports from the United States. The problem of 'dumping' was later formally addressed by the United States in the 'Anti-dumping Act of 1916', and the 'Anti-dumping Act of 1921'²³¹. Among the three anti-dumping laws in the early years, the 'Anti-dumping Act of 1921' was the most influential. It was the basis of Article VI of the GATT 1947, and later Article VI of the GATT 1994. Article VI of the GATT 1994 is also known as the WTO Anti-dumping Agreement.

²³⁰ Douglas A. Irwin, 'The Rise of US Anti-Dumping Activity in Historical Perspective', *World Economy*, 28/5 (2005), 651-68.

²³¹ This act aimed to protect the US domestic industries and markets from the European firms who would possibly use predatory means to regain their markets in the US after the World War I. See Philip De Keyser, 'Exploring Wto Dispute Settlement in Us Anti-Dumping Act 1916: An Easy Case?', *the Jean Monnet Seminar* (Harvard Law School, 2001).
http://centers.law.nyu.edu/jeanmonnet/archive/papers/01/013101-02.html#P30_5295 retrieved on 06/10/2013

Dumping refers to selling goods in a foreign market at a substantially lower price than the 'normal value'²³² which cause injuries to the competing domestic industries of the importing countries²³³. According to the WTO Anti-dumping Agreement, governments are allowed to impose anti-dumping measures against foreign exporting goods if they can prove three necessary conditions – the existence of price discrimination, 'material' injury, and their direct causality²³⁴. Anti-dumping investigations are thus required before the authorities impose anti-dumping measures on foreign goods, and the written requests for investigation should be submitted "by or on behalf of" a domestic industry. The means of collecting evidence and sampling techniques should follow the detailed rules of the Agreement. Provisional measures for a short period of time can be applied during the period of investigation²³⁵, when the authorities can make "a preliminary affirmative determination of dumping, injury, and causality"²³⁶. When the investigations are concluded with sufficient evidence to prove 'dumping activities', the 'material injuries', and the 'causality' in between, the authorities can impose official measures on the targeted foreign goods. The official measures are normally valid for a number of years.

WTO SCM Agreement

Countervailing duty was a part of Article VI of GATT 1947, but it was a controversial issue until the Uruguay Round Agreement was achieved in 1994. In the WTO Subsidies and Countervailing Measure Agreement of GATT 1994

²³² How to determine the normal value of the goods was in debate. The WTO anti-dumping agreement takes the exporter's home market prices of the goods as the standard of normal value. For a non-market economy, the WTO believes that their home market prices do not reflect the actual costs of products,

²³³ See WTO website, Anti-dumping,

http://www.wto.org/english/tratop_e/adp_e/adp_info_e.htm#investigation accessed on 14/8/2013

²³⁴ See Article 5.2 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994

²³⁵ See paragraph 5.7 and 7.1 of Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (WTO Anti-dumping Agreement).

²³⁶ WTO website, Anti-dumping,

http://www.wto.org/english/tratop_e/adp_e/adp_info_e.htm#investigation accessed on 14/8/2013.

(SCM Agreement), the term 'subsidy' is clearly defined for the first time, which enables the implementation of countervailing duty and provides "a workable multilateral discipline over subsidies"²³⁷.

According to the SCM Agreement, a subsidy comprises two essential elements²³⁸. Firstly, it is a financial contribution by a government. A financial contribution may be in different forms, such as loans, grants, loan guarantees, tax credits, goods or services, and payments for specific purposes. The second element is a *benefit conferred* thereby. The funding mechanism, or a private body, who receives the financial contribution from the government needs to benefit from it²³⁹. These two elements define a subsidy, but not all exports which benefit from subsidies can be imposed with countervailing measures.

Generally speaking, only subsidies with specificity²⁴⁰ can be imposed with countervailing duty. The SCM Agreement classifies three types of subsidies considering their specificity, including prohibited subsidies, actionable subsidies, and non-actionable subsidies. There are two types of prohibited subsidies, namely export subsidies and import substitute subsidies²⁴¹. Countervailing measures can always be imposed if these two subsidies exist in international trading²⁴². On the contrary, subsidies with no, or little, specificity are not subject to countervailing duty. If subsidies are not specifically granted to certain enterprises, industries, or regions, either in law or in fact, these subsidies are not actionable²⁴³. The exports benefiting from non-actionable

²³⁷ Unctad, 'Subsidies and Countervailing Measures', in Unctad (ed.), *Dispute Settlement - World Trade Organization* (2003). Page 3 http://unctad.org/en/Docs/edmmisc232add15_en.pdf retrieved on 06/10/2013.

²³⁸ Ibid. See page 11-13.

²³⁹ For details of the determination of subsidies, see Article 1 'Definition of a Subsidy', *Agreement on Subsidies and Countervailing Measures*.

²⁴⁰ For details about determining the specificity of a subsidy, see Article 2 'Specificity', *Agreement on Subsidies and Countervailing Measures*.

²⁴¹ For details of prohibited subsidies, see Articles 3 'Prohibition' and Annex I 'Illustrative list of export subsidies', *Agreement on Subsidies and Countervailing Measures*.

²⁴² For details of the remedies to prohibited subsidies, see Article 4 'Remedies', *Agreement on Subsidies and Countervailing Measures*.

²⁴³ Unctad, 'Subsidies and Countervailing Measures'. see the section of 'specificity' page 13-14.

subsidies cannot be imposed with countervailing duty if these subsidies are notified to the WTO secretariat as required²⁴⁴. There are also some special subsidies with specific purposes (including research, development, and the environment) which are non-actionable subsidies, but only “on the condition that they are notified in advance to the Subsidies Committee”²⁴⁵.

The subsidies other than prohibited subsidies and non-actionable subsidies are actionable subsidies. ‘Actionable’ means the authorities can impose duties on the subsidised goods when they prove that: (1) the exports benefit from actionable subsidies; (2) the subsidised exports cause injury or serious prejudice to the domestic industries and the interests of the host country²⁴⁶. Initiating countervailing investigations is thus a necessary procedure if the authorities plan to impose countervailing duty on foreign imported goods. Similar to anti-dumping investigations, countervailing investigations can be initiated by the government when domestic industries request this in written form. The investigation process has to follow the detailed rules of the Agreement on Subsidies and Countervailing Measures²⁴⁷. Countervailing measures will be undertaken if the investigation provides sufficient evidence to prove the existence of questionable subsidies (especially prohibited subsidies), the material injuries²⁴⁸ to the domestic industries, and the causality²⁴⁹. The only difference between anti-dumping investigation and countervailing investigation is the investigating target. Anti-dumping

²⁴⁴ See paragraph 8.3, Article 8 ‘Identification of non-actionable subsidies’, *Agreement on Subsidies and Countervailing Measures*.

²⁴⁵ Unctad, ‘Subsidies and Countervailing Measures’. page 17.

²⁴⁶ For details, see Article 5 ‘Adverse Effects’ and Article 6 ‘Serious Prejudice’, *Agreement on Subsidies and Countervailing Measures*.

²⁴⁷ For the details of initiating and conducting countervailing investigations, see Part V: ‘Countervailing Measures’, *Agreement on Subsidies and Countervailing Measures*.

²⁴⁸ Material injury is a WTO terminology referring to “material injury itself, threat of material injury, or material retardation of the establishment of a domestic industry”. See section ‘determination of injury’, ‘the Anti-dumping Agreement’, the WTO website, available at https://www.wto.org/english/tratop_e/adp_e/antidum2_e.htm retrieved on August 18, 2016.

²⁴⁹ See paragraph 11.2, Article 11 ‘Initiation and subsequent investigations’, *Agreement on Subsidies and Countervailing Measures*.

investigations target the behaviour of exporting companies, while the countervailing investigations target a government's subsidy policies.

3. The implementation of the two norms

3.1 Changes in the state system

As this thesis proposes in Chapter Two, norms' domestic implementation has three aspects. The first aspect is the changes in the state systems that support the norms, which specifically include the relevant legislations or the legislation amendments, the building-up of supportive government institutions, and the matching policy-making, mostly the promulgation of administrative rules in this case.

3.1.1 Legislation

The legislation of anti-dumping duty and countervailing duty were synchronous by fact. The Foreign Trade Law of the People's Republic of China (1994)²⁵⁰ regulated anti-dumping duty and countervailing duty in China for the first time. Article 30 and 31 of Foreign Trade Law (1994) signalled the formal legislation of anti-dumping duty and countervailing duty in China. They were the legal bases of China's anti-dumping and countervailing practice, but they are neither detailed in terms of the relevant rules, nor do they provide good guidelines for legal practices²⁵¹.

The first national regulation on anti-dumping duty and countervailing measures was promulgated in 1997. 'Anti-dumping and Countervailing Measures Regulation of People's Republic of China' (*《中华人民共和国反倾销和反补贴条例》* Regulation 1997) was promulgated by the State Council and came into force on March 25, 1997. Regulation 1997 made it possible for the Chinese government to conduct anti-dumping or countervailing investigations

²⁵⁰ Foreign Trade Law of the People's Republic of China was adopted at the 7th Session of the Standing Committee of the 8th National People's Congress and Promulgated on May 12, 1994.

²⁵¹ See the translation of Foreign Trade Law of PRC is adopted from the website 'Law Library', http://www.law-lib.com/law/law_view.asp?id=10417 retrieved on 28/2/2015.

on foreign goods, but it was also heavily criticised for its lack of detail and low consistency with the WTO Anti-dumping Agreement and the SCM Agreement in terms of the principle of transparency²⁵².

Anti-dumping duty and countervailing duty were separated into two individual regulations in 2001. The Anti-dumping Regulation of the People's Republic of China (the *Anti-dumping Regulation 2001*) and the Countervailing Regulation of the People's Republic of China (the *Countervailing Regulation 2001*) were promulgated on November 26, 2001, and came into force on January 1, 2002, shortly after the date of China's WTO accession (Dec. 22, 2001). The *Regulation 1997* abolished automatically. Compared to the *Regulation 1997*, the *Anti-dumping Regulation 2001* and the *Countervailing Regulations 2001* made great progress in the legislation. These two regulations were amended again in 2004. The *Anti-dumping Regulation 2004* and the *Countervailing Regulation 2004* are still in force. These two Regulations are largely recognised by the WTO secretariat and other WTO Members²⁵³.

However, although the legislation of anti-dumping duty and countervailing were synchronous, there were still differences between the two in terms of their detailed contents. *Regulation 1997* used 33 paragraphs with 3,400 words to regulate the identification of 'dumping' and 'injury', the procedure of anti-dumping investigations, and the imposition of anti-dumping measures. The WTO Anti-Dumping Agreement, in contrast, contains 138 paragraphs with more than 10,000 words to regulate the same affairs. Although these rules were not as detailed as that regulated by the WTO Anti-Dumping Agreement, they at least enabled the Chinese government to initiate its first anti-dumping

²⁵² Examples of criticisms see Xiaodong 晓东 Zhang 张, 'China's Wto Accession and the Amendment of China's Anti-Dumping Law 加入 wto 与修改中国的反倾销法', *Law Review 法学评论*, /6 (2000), 105-12.

²⁵³ See the comments of the delegate of the US in the minutes of the Regular Meeting Held on 24-25 October 2011, Committee on Anti-dumping Practice, WTO document G/ADP/M/41 p18

investigation on foreign exports in 1998 (according to the WTO's records). In contrast, *Regulation 1997* only used four short paragraphs with 200 words to regulate countervailing practices, which did not provide any useful guidelines to the practices. This comparison suggests the legislation of countervailing duty had a slower rate of progress than that of anti-dumping duty. This difference between the legislation of the two norms decreased significantly when the *Anti-Dumping Regulation 2001* and the *Countervailing Regulation 2001* were promulgated.

3.1.2 Supportive institution-building

Along with the legislation of the WTO Anti-Dumping Agreement and the SCM Agreement, the progress of the building-up of supportive facilities in central government was on a fast track. The same government departments and facilities cover the relevant work considering both anti-dumping duty and countervailing duty²⁵⁴.

The first round of institution-building was in 1998. Two important departments – the Committee of Industry Injury Investigation and Verdict on Issues on Anti-dumping and Countervailing, and the Anti-dumping/Countervailing Office of the State Economy and Trade Committee (the Office) – were established. The Office was in charge of the daily duty, anti-dumping and countervailing investigations, and the imposition of measurements.

The second round happened in 2000 and 2001. In March 2000, the Committee of Industry Injury Investigation and Verdict on Issues on Anti-dumping and Countervailing was renamed as the Committee of Industry Injury Investigation and Verdict of National Economy and Trade of the People's Republic of China

²⁵⁴ The source of following information is from the website of China Trade Remedy Information. See Chronicle of events of the Bureau of Fair Trade for Import and Export and the Bureau of Industry Injury Investigation <http://www.cacs.gov.cn/cacs/news/paihangshow.aspx?articleId=89248>.

(the Committee), government officials were re-assigned accordingly. In October, the Bureau of Industry Injury Investigation was established to replace the Office and to take charge of industry injury investigation and verdict, building up a pre-warning system of industry injury, and guiding other legislative and administrative work in the domestic arena. In the same year, the central government prepared to establish the Bureau of Fair Trade for Import and Export; its responsibilities were temporarily undertaken by the Department of Treaty and Law. After one year of preparation, the Bureau of Fair Trade for Import and Export was officially established in 2001 and became an individual department of the Ministry of Foreign Economic Cooperation and Trade. Its responsibilities are undertaking relevant affairs in anti-dumping duty, countervailing duty and measurement of safeguards, guiding and coordinating the responses to anti-dumping investigations against Chinese goods. Until then, the two major authorities at central level – the Bureau of Industry Injury Investigation and the Bureau of Fair Trade for Import and Export (BFTIE) were established²⁵⁵. The two Bureaux are the key government organs responsible for anti-dumping/countervailing related work, and they are still in force today. In short, the progress of institution building for the implementation of the two norms is the same.

3.1.3 Policy-making

There are two main types of policy relevant to the implementation of WTO anti-dumping duty and countervailing duty in China: (1) the policies that guide governments' protection of domestic industries against foreign dumping or subsidised goods; and (2) the policies that guide China's response to foreign anti-dumping or countervailing investigations.

Table 4.1 presents a clear picture of all the policies on anti-dumping and

²⁵⁵ The Ministry of Commerce replaced the Ministry of Foreign Economic Cooperation and Trade in 2003.

countervailing duty promulgated between 1994 and 2010. Two thirds of the policies on anti-dumping duty and countervailing duty were promulgated during 2002 and 2003. This table also provides a comparison between the timeline of the policy-making of anti-dumping duty and countervailing duty.

Table 3.1 Policy-making on anti-dumping duty and countervailing duty²⁵⁶

	Anti-dumping duty	Countervailing duty
1994	1. 'Provision on Responding to Antidumping cases concerning Chinese exporting goods in foreign countries'	
1995	1. 'Several rules on business associations' present in the hearing of foreign anti-dumping cases 2. 'Provisional rules on hiring lawyers in anti-dumping cases in foreign countries'	
1999	1. The Rule on the Hearing of Industry Injury Investigation	
2001	1. 'Provisions on Responding to Antidumping Cases concerning Export Products'	
2002	1. 'Provisional Rules on Public Hearing in Anti-dumping Investigation' 2. 'Provisional Rules on Initiation of Anti-dumping Investigation' 3. 'Provisional Rules of MOFTEC on Interim Review of Dumping and Dumping Margin' 4. 'Provisional Rules of MOFTEC on New Shipper Review in Anti-dumping Investigation' 5. 'Provisional Rules of MOFTEC on Questionnaire in Anti-dumping Investigation' 6. 'Provisional Rules of MOFTEC	1. 'Provisional Rules of MOFTEC on Public Hearing in Countervailing Investigation' 2. 'Provisional Rules on Initiation of Countervailing Investigation' 3. Provisional Rules of MOFTEC on Questionnaires in Countervailing Duty Investigation

²⁵⁶ Source from the website 'China Trade Remedy Information', see Chronicle of events of the Bureau of Fair Trade for Import and Export and the Bureau of Industry Injury Investigation <http://www.cacs.gov.cn/cacs/news/paihangshow.aspx?articleId=89248>.

	on Refund of Anti-dumping Duty’	
	7. ‘Provisional Rules of MOFTEC on Price Undertaking in Anti-dumping Investigation’	
	8. Provisional Rules on Disclosure of Information in Anti-dumping Investigation*	
	9. Provisional Rules of MOFTEC on On-the-spot Verification in Anti-dumping Investigation’	4. Provisional Rules of MOFTEC on On-the-spot Verification in Countervailing Investigation’
	10. ‘Provisional Rules of MOFTEC on Access to the Non-Confidential Information in Anti-dumping Investigation’**	
	11. Provisional Rules of MOFTEC on Sampling in Anti-dumping Investigation***	
	12. Provisional Rules on the Procedure of Adjustment to the Product Scope of Antidumping Investigation	
	13. Rules on Investigation and Verdict of Industry Injury in Anti-dumping Investigation	5. Rules on Investigation and Verdict of Industry Injury in Countervailing Investigation
2003	1. Rules of the Supreme People’s Court on Certain Issues Related to Application of Law in Hearings of Antidumping Administrative Case	1. Rules of the Supreme People’s Court on Certain Issues Related to Application of Law in Hearing of Countervailing Administrative Cases
	2. Rules on Anti-dumping Industry Injury Investigation (the Rules on Investigation and Verdict of Industry Injury in Anti-dumping Investigation <u>abolished</u>)	2. Rules on Countervailing Industry Injury Investigation (Rules on Investigation and Verdict of Industry Injury in Countervailing Investigation <u>abolished</u>)
2004	1. Measures for Consulting Public Information on Industry Injury Investigation*	
2005		
2006	1. Provisions on Responding to Antidumping Cases concerning Export Products (‘Provisions on Responding to	

Antidumping Cases concerning
Export Products' 2001
abolished)

	1. Rules on Disclosure of Information in Industry Injury Investigation**
2008	1. Rules of MOFTEC on Sampling in Industry Injury Investigation***
2010	1. Questionnaire of Industry Injury Investigation concerning Anti-dumping and Countervailing duty (trial version, January 2010)

This table shows that more policies were promulgated to regulate anti-dumping duty than countervailing duty in general. For the most distinct instance, 17 rules on anti-dumping and countervailing duty were promulgated in 2002, among which 13 were designed for anti-dumping duty, while only four policies were designed for countervailing duty.

Detailed analysis of the legal documents provides further, and better, evidence to suggest the Chinese government's work on policy-making obviously leaned towards anti-dumping duty. There are three major points of evidence that support this argument.

(i) Both the WTO Anti-dumping Agreement, and the SCM Agreement, regulate the rules of 'Undertakings'. The main idea of this rule is that host governments may suspend, or terminate, the proceedings of measures if the exporters, or exporting Members, voluntarily agree to meet certain conditions, such as revising the price of exporting goods, or eliminating/limiting the subsidy. The rules on 'undertakings' are reflected in both the *Anti-dumping Regulation 2001* and the *Countervailing Regulation 2001*, but the relevant paragraphs are short and simple - two paragraphs in the *Anti-dumping Regulation 2001*, and three paragraphs in the *Countervailing Regulation 2001* regulate 'undertaking'²⁵⁷. Due to the unclear rules of 'undertaking', the Ministry of Foreign Trade and Economic Cooperation promulgated the

²⁵⁷ See Paragraph 48 and 49 of the Anti-Dumping Regulation of People's Republic of China (2001), and the Countervailing Regulation of People's Republic of China (2001)

'Provisional Rules on Price Undertaking in Anti-dumping Investigation' as complementary documents to the *Anti-Dumping Regulation 2001*. In contrast, no equivalent administrative rule is issued for countervailing duty.

(ii) The relevant policy-making of anti-dumping duty also came prior to that of countervailing duty. The Provisional Rules on Disclosure of Information in Anti-dumping Investigation was promulgated in 2002. The equivalent policy for countervailing duty was only issued in 2004 in a joint document, the 'Measures for Consulting Public Information on Industry Injury Investigation'. Similarly, the 'Provisional Rules on Access to the Non-Confidential Information in Anti-dumping Investigation' was promulgated in 2002, while the equivalent policy for countervailing duty was issued in 2006 in the joint document 'Rules on Disclosure of Information in Industry Injury Investigation'. Another example is the rules of sampling in trade remedy investigations. The 'Provisional Rules of MOFTEC on Sampling in Anti-dumping Investigation' was promulgated in 2002, while the equivalent policy for countervailing investigations was not issued until 2008 in the joint document 'Rules of MOFTEC on Sampling in Industry Injury Investigation'.

(iii) The third evidence of different rates of progress of policy-making regards the policies that regulate China's responses to foreign trade remedy investigations. In 1994, the first government policy on anti-dumping duty was promulgated – the 'Provision on Responding to Antidumping cases concerning Chinese exporting goods in foreign countries'. This policy was amended twice, in 2001 and 2006. In contrast, there is no individual document that specifically regulates China's response to countervailing investigations against Chinese exporting goods.

In short, the adjustments of the domestic system for WTO Anti-dumping Agreement progressed at a faster rate than that for the WTO SCM Agreement

in general. Although there is no obvious difference between the implementation of the two agreements considering the progress of legislation and building-up of supportive government facilities, detailed investigations suggest that anti-dumping duty seemed to enjoy priorities in legislation work. The implementation of the Anti-dumping Agreement also enjoyed priorities in policy-making and policy-change compared to the SCM Agreement.

3.2 Field-level acts

The second aspect of implementation is the field-level acts. Two aspects of the implementation of norms in the field-level acts are of concern to this research. The first is whether the norms are applied in practice. The practices here refer to the legal procedures required to impose the anti-dumping and countervailing measures on foreign exports. The second is how well China's practice of the norms fit the requirements of the WTO.

3.2.1 '11-year-gap' of field-level practices

China started to practice anti-dumping duty prior to its WTO accession. China initiated the first anti-dumping investigation in 1997, immediately after the promulgation of the 'Anti-dumping and Countervailing Measures Regulations of People's Republic of China' – the first national regulations on anti-dumping duty²⁵⁸. On December 10, 1997, the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) and the Committee of Industry Injury Investigation and Verdict on Issues on Anti-dumping and Countervailing Duty (the Committee) decided to initiate an anti-dumping investigation into the newsprint (the paper on which newspapers are printed) exported from Canada, South Korea, and the United States. The period of industry injury investigation was from 10 December, 1996, to 9 December, 1997.

²⁵⁸ There is disagreement between Chinese official records and the WTO database on the date of China's first anti-dumping investigation against foreign goods. See <http://www.mofcom.gov.cn/aarticle/b/g/200407/20040700251463.html> retrieved on 26/5/2014.

Questionnaires were sent to the producers for investigation purposes in January, 1998. With the collected evidence, the Ministry of Foreign Economic Cooperation and Trade decided to impose anti-dumping duty on imported products from Canada, South Korea, and the United States for 5 years starting from 3 June, 1999²⁵⁹.

The Expiry Review of the imposed duty started on 1 July, 2003. The results of the review suggested that industry injury could still happen if the anti-dumping duty was removed. Thus, the Ministry of Commerce decided to continue imposing anti-dumping duty on products from the three countries for another five years. A report was released to the public, together with the documents providing detailed information on the review procedures, details of the domestic industry's injury, details of the investigated products and producers, and other information of the review. This case (especially with the expired review) was the evidence that China's legal system, institution building, and practitioners were capable of completing the entire legal procedure required by the WTO²⁶⁰.

China's countervailing practices started 11 years later²⁶¹. Only in 2009 did China initiate its first countervailing investigations on foreign goods. Table 5.3 compares the time and the frequency of China's anti-dumping investigations and measures on foreign exports with that of China's countervailing investigations and measures. It shows that despite the difference in the time of the first investigations, China also initiated anti-dumping investigations more frequently than countervailing investigations. From 2002 to 2012, China initiated 170 anti-dumping investigations (ADI), 146 of them were concluded

²⁵⁹ See the Ministry of Foreign Economic Cooperation and Trade of PRC, 1999, Document No.4, issued on 3 June 1999.

²⁶⁰ See the Ministry of Commerce of PRC, 2004, Document No. 30, issued on 30 June 2004. The review report was attached to the document.

²⁶¹ China's official records show China's first anti-dumping investigation was initiated in 1997, but the WTO records show the first initiation was in 1998. This thesis uses the WTO records from here on.

with the measures (ADM), which equals 15 investigations and 11 measures each year. Meanwhile, China only initiated six countervailing investigations (CVI), and only four of these were concluded with measures (CVM), which means China only initiated 1.5 countervailing investigations and imposed 1 measure on foreign goods each year.

Table 3.2 China Initiations: By Reporting Members 01/01/2002 – 31/12/2012²⁶²

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Total
ADI	30	22	27	24	10	4	14	17	8	5	9	170
ADM	5	33	14	16	24	12	4	12	15	6	5	146
CVI								3	1		2	6
CVM									2	2		4

The evidence above suggests the different progress of implementing anti-dumping duty and countervailing duty in field-level practices. These two norms were ratified by China at the same time, in the same legal document, but an '11-year-gap' exists between China's first anti-dumping practice and its first countervailing practices. The different legislation progress of these two norms is not the reason here. China started its anti-dumping practice in 1998 when it still had no comprehensive legislation on anti-dumping duty. In contrast, China finished the major part of its legislation on countervailing duty in 2004, but it waited another five years to initiate its first countervailing investigation on foreign exports. Chapter Five will discuss and explain this '11-year-gap' in detail.

3.2. Evaluations of China's practices

The second question concerns how well the new norms are applied in practice. This thesis evaluates China's practice based on the WTO Members' comments and criticisms of China's practice of anti-dumping duty and countervailing

²⁶² Data source: WTO database, anti-dumping initiations: by reporting member, anti-dumping measures: by reporting members, countervailing initiations: by reporting member, countervailing measures: by reporting members. There is slight difference in the date of China's first anti-dumping investigation against foreign goods. The WTO data shows this as 1998, while Chinese official data shows it as 1997.

duty at the Transitional Review meetings. Although these comments and critiques are not necessarily fair in all cases, they provide direct descriptions of China's practices of anti-dumping duty and countervailing duty. While this research does not have access to all the original information for an evaluation of China's practices, these comments and critiques are the second best choice of information source.

In the first few years of China's WTO accession, China received much criticism about its field-level practices. These practices include not only China's anti-dumping and countervailing practices, but its obligations to the WTO secretariat and other members, such as legislation notification and subsidy notification. Table 3.3 lists the number of negative comments that China received at its Transitional Review meetings.

Table 3.3 Negative comments China received on TRM²⁶³

		Anti-dumping duty	Countervailing duty
2002	United States	5	6
	European communities		3
	Japan		1
	Total	5	10
2003	United States	5	5
	European Communities		4
	Japan	2	1
	Total	7	10
2004	United States	8	8
	European Communities	1	5
	Japan	2	1
	Total	11	14
2005	United States	9	5
	Canada		2
	European Communities	4	
	Japan		2
	Mexico		1
	Total	13	10

²⁶³ For the detailed comments and criticism on China's anti-dumping and countervailing practices, see Appendix III and Appendix IV

Table 3.3 shows that, in its first few years after accession, China received around 10 criticisms from other WTO members, especially from the United States, the European Communities, and Japan. These criticisms are mainly about China's unclear legislation notification²⁶⁴, its delay of subsidy notification²⁶⁵, the problems in notifying interested parties of the initiation of investigations²⁶⁶, and other transparency issues, such as insufficient information disclosure in the investigations²⁶⁷.

For instance, considering China's anti-dumping investigations on foreign exports, the delegate from Japan stated that:

"Many companies complain about the insufficient disclosure of the process of determination, especially the process of injury determination and causality analysis ... insufficient disclosure hinders the opportunity for the responding parties to effectively defend themselves ... the responding party should be notified sufficiently detailed explanations about the determination on dumping and injury"²⁶⁸.

Regarding China's delay of subsidy notification, the delegates from the United States expressed their discontent in the second regular meeting of the Committee on Subsidies and Countervailing Measures held in 2003.

"[T]he United States was disappointed with China's failure to submit its annual subsidy notification ... The United States urged China to submit a new and full notification of its subsidies as soon

²⁶⁴ For examples, see Minutes of The Regular Meeting Held on 24-25 October 2002, the Committee on Anti-Dumping Practices, page 8, WTO document G/ADP/M22.

²⁶⁵ For examples, see Minutes of The Regular Meeting Held on 31 October and 1 November 2002, the Committee on Subsidies and Countervailing Measures, page 7, WTO documents G/SCM/M/43.

²⁶⁶ For examples, see Minutes of The Regular Meeting Held on 23-24 October 2003, the Committee on Anti-Dumping Practices, page 25, WTO document G/ADP/M/25.

²⁶⁷ For examples, see Minutes of The Regular Meeting Held on 24-25 October 2002, the Committee on Anti-Dumping Practices, page 8, WTO document G/ADP/M22.

²⁶⁸ Ibid.

as possible and, in any event, China should immediately notify what it could, even if such a notification was not comprehensive”²⁶⁹.

Such evidence as that above suggests the existence of the ‘institutionalisation -implementation gaps’ when considering China’s field-level practices of both anti-dumping duty and countervailing duty in the early 2000s. However, the further implementation of these norms in field level practices present different progress in the following years.

China improved the details of its anti-dumping practices and its obligations to the WTO, and progress in its field-level practices are recognized by other WTO Members. The delegate from Japan, for instance, expressed his appreciation of China’s steady improvement in the anti-dumping rules and practices²⁷⁰. The delegate from the United States stated, at the Transitional Review meeting in 2007, that “[T]he United States recognized the progress that China had made in developing a legal framework for its anti-dumping regime, which took into account the principles of transparency and fair procedures as set forth in the Anti-Dumping Agreement.”²⁷¹. These comments suggest that China’s practices were well improved and more aligned with the WTO’s requirements. Although issues remain in the procedural fairness for all parties, and the transparency of its investigative and decision-making processes²⁷², the ‘gaps’ in China’s field-level practices of anti-dumping duty are greatly narrowed.

On the contrary, although China’s progress in developing a legal framework of countervailing duty was recognised, the gaps in the implementation of

²⁶⁹ Minutes of The Regular Meeting Held on 28 October, 1 and 8 December, 2003, the Committee on Subsidies and Countervailing Measures, page 14, WTO documents G/SCM/M/48.

²⁷⁰ ‘Minutes of the Regular Meeting held on 22-23 October 2007, Committee on Anti-Dumping Practices P15, WTO document G/ADP/M/33.

²⁷¹ Ibid, P11.

²⁷² Minutes of The Regular Meeting Held on 24-25 October 2011, Committee on Anti-Dumping Practices, page 18, WTO document G/ADP/M/41.

countervailing duty at field level remained significant. The delegate from the United States commented on China's performance in the final Transitional Review meetings held by the Committee of Subsidies and Countervailing Measures in 2011 that:

“Over the past 10 years, China had made significant progress in developing a legal framework for its countervailing duty regime ... China had more to do to make its countervailing duty investigative and decision-making processes fully transparent and procedurally fair for all parties ... China had initiated certain countervailing investigations under troubling circumstances. Some of these investigations had generated WTO disputes in which multiple WTO violations had been alleged ... China's record of compliance was poor when it came to the obligations that China took on regarding its use of subsidies.”²⁷³

The comments of the delegate from the United States reveal the 'gaps' in China's implementation of countervailing duty in terms of the initiation of countervailing investigations and China's use of subsidies. Compared to the evaluation of China's practice of anti-dumping duty ²⁷⁴, China's implementation of countervailing duty in field-level acts was less recognised. In other words, compared to the implementation of anti-dumping duty, China made slower progress in that of countervailing duty in field-level acts.

3.3 Domestic discourse

This section aims to understand how implementation of the anti-dumping duty and countervailing duty has affected the domestic discourse in the past

²⁷³ See Minutes of The Regular Meeting Held on 26-27 October 2011, Committee on Subsidies and Countervailing Measures, page 9-10, WTO document G/SCM/M/79.

²⁷⁴ The United States See Minutes of The Regular Meeting Held on 24-25 October 2011, Committee on Anti-Dumping Practices, page 18, WTO document G/ADP/M/41.

twenty years. It firstly explains the sampling method for the publications of Chinese non-state actors discussing anti-dumping duty and countervailing duty; the domestic discourse over these two norms is believed as reflected by these publications. There was enormous number of articles published by China's non-state actors. Appropriate sampling methods were thus necessary. This section then compares the topic salience of the WTO Anti-Dumping Agreement and the SCM Agreement in the discourse of Chinese non-state actors. The topic salience of norms is a sign of norms' publicity. Higher topic salience of a norm here means more non-state actors are aware of this norm and consider it an important issue. It has been noted that norms' topic salience does not have a linear relation with the extent of implementation of the norms. The growing topic salience of norms usually signals the progress of implementation, but the decrease of topic salience may not necessarily suggest the regression of implementation. People may talk less often about the new norms once they accept them. In extreme cases, people do not talk about the norms that are 'taken-for-granted'²⁷⁵. The topic salience of the norm in implementation may thus decrease because of the success of implementation, rather than the failure. Therefore, further investigations into the domestic discourse will be required if the decrease of topic salience is to be observed.

The third part of this section studies the support for anti-dumping duty and countervailing duty in the discourse of China's non-state actors. There can be tremendous variation in the manner in which a norm is upheld, and such variation matters to norms' implementation²⁷⁶. In other words, a norm may

²⁷⁵ According to Finnemore and Sikkink's theory, the internalized norms may obtain the quality of 'taken-for-granted', which means the individuals may behave in accordance with the norms without debating the rightness of them. For details of 'internalisation', see Martha Finnemore and Kathryn Sikkink, 'International Norm Dynamics and Political Change', *International Organization*, 52/04 (1998), 887-917. P904-905.

²⁷⁶ Urvashi Aneja, 'International Ngos and the Implementation of the Norm for Need-Based Humanitarian Assistance in Sri Lanka', in Alexander Betts and Phil Orchard (eds.), *Implementation and World Politics - How International Norms Change Practice* (Oxford: Oxford University Press, 2014).

be implemented in terms of legislation, institution-building, and field-level acts, but such implementation can be preceded by either positive or negative behaviours. If there are only negative attitudes towards the new norms in the domestic discourse, one may have to question whether the implementation is successful.

3.3.1 Sampling

To facilitate different research purpose, this research collected three sample-sets from CNKI.

The 'sample-set A' was the largest set of samples. It was used to indicate the topic salience of the Anti-dumping Agreement and SCM Agreement among China's non-state actors. The large number of samples increased the validity of statistical results. I searched for all relevant articles and reports in six database of CNKI including academic journals (期刊), special journals(特色期刊), Chinese conferences(国内会议), international conferences(国际会议), yearbooks (年鉴) and academic special editions (学术辑刊). The searching terms for anti-dumping duty were 反倾销 (anti-dumping duty) AND 贸易 (trading). The terms for countervailing duty were 反补贴 (countervailing duty) AND 贸易 (trading).²⁷⁷ The term for all articles on trading related topics was 贸易 (trading). This sample-set included 6922 articles on the Anti-dumping Agreement and anti-dumping duty, and 1638 articles on SCM Agreement and countervailing duty. This sample set was used to analyse the changing topic salience of anti-dumping duty and countervailing duty among China's non-state actors, and their correlations with other variables such as the frequency of China's exports being investigated for anti-dumping or countervailing duty.

²⁷⁷ The database is CNKI, one largest database for journals, reports, and newspaper articles in China.

The 'sample-set B' was the second largest set of samples. These samples were used for the computer-assisted analysis of China's non-state actors' attitudes towards the two WTO norms. A smaller sample set was required because all samples in this set were to be manually processed first before they were imported into the computer programme. They were all labelled according to the year of publication, the profession of the authors and the types of publication. For the scanned PDF documents, I also converted the pictures into texts, and edited those texts into documents. Furthermore, the results of computer-assisted analysis were to be manually confirmed and modified in order to ensure the validity of the analysis (details see below 'the building-up of dictionaries'). The sample-set A included too many samples to be processed in this way, so a relatively smaller sample set was necessary.

All samples in 'Sample-set B' were from the same six data bases including academic journals (期刊), special journals(特色期刊), Chinese conferences(国内会议), international conferences(国际会议), yearbooks (年鉴) and academic special editions (学术辑刊). The searching term for anti-dumping duty was '反倾销' with the frequency of 'five'. The searching term for countervailing duty was '反补贴' with the frequency of 'three'. This sample-set included 1744 articles on the Anti-dumping Agreement and anti-dumping duty, 424 articles on SCM Agreement and countervailing duty (see table 3.4).

Table 3.4: the distribution of articles in Sample-set B

Year	Anti-dumping	Countervailing
1986	2	
1987		
1988	1	
1989	3	
1990		2
1991	7	
1992	7	1

1993	14	2
1994	29	11
1995	28	2
1996	16	
1997	25	
1998	25	1
1999	21	
2000	29	3
2001	74	12
2002	121	19
2003	135	17
2004	172	5
2005	150	20
2006	152	36
2007	147	54
2008	147	51
2009	123	47
2010	117	45
2011	102	51
2012	97	45
Total	1744	424

The 'sample-set C' was the smallest sample-set. It was used in this research for two purposes. Firstly, all samples in the sample-set C were manually coded in order to create the dictionaries for computer-assisted analysis (details see below 'the building-up of dictionaries') to recognize the attitudes of China's non-state actors towards anti-dumping duty and countervailing duty. Secondly, the samples were analysed to provide the contexts and interpretations to the results of computer-assisted coding. For instance in chapter six, the statistical result suggested that the frequency of foreign anti-dumping investigations on China's exports was correlated to the topic salience of anti-dumping duty in the discourse of China's non-state actors. Manual coding of the 'sample-set C' proved the causal relation between the two.

The sample-set C included the most relevant publications that discuss the issue of anti-dumping duty and countervailing duty from 1978 to 2012 in order to explore and analyse the mainstream discourse of China’s non-state actors. The standard of ‘most relevant’ is that the term of ‘anti-dumping’ appears more than 5 times in the article. In order to ensure the representativeness of the articles in sample-set C, only the most-cited (over 10 times) articles among all ‘most relevant’ articles are chosen as the material of research analysis. The choosing of most cited articles also ensures the significance of those articles, since the widely cited articles are more likely to represent the mainstream discourse of China’s non-state actors. All publications were sampled in the same six database including academic journals (期刊), special journals(特色期刊), Chinese conferences(国内会议), international conferences(国际会议), yearbooks (年鉴) and academic special editions (学术辑刊). For the articles on anti-dumping duty, the searching term was ‘反倾销’ with the frequency of 5, in the time period of 1978-2012. In the search result, there were 246 articles that were cited over 10 times. For the articles on countervailing duty, the searching term was ‘反补贴’ with the frequency of 5 in the time period of 1978-2012. Since there were only 28 articles that were cited over 10 times, all articles in the search result were sampled in Sample-set C to ensure the validity of the analysis in this research. The table below shows the distribution of the articles in Sample-set C across the timeline.

Table 3.5 the distribution of articles in Sample-set C

Year	Anti-dumping	Countervailing
1993		3
1996	2	
1997	4	
1998	5	
1999	3	
2000	10	
2001	14	2
2002	26	2

2003	32	5
2004	45	3
2005	26	7
2006	7	12
2007	17	14
2008	18	19
2009	13	19
2010	11	16
2011	9	8
2012	4	8
Total	246	118

3.3.2 Topic salience

This research examines the publications of Chinese non-state actors in order to study the topic salience of the two agreements among them. China's non-state actors, in this case, are mainly comprised of three groups of actors – academic experts, business or industry associations, and practice lawyers. 'Sample-set A' was used for the study of topic salience here²⁷⁸.

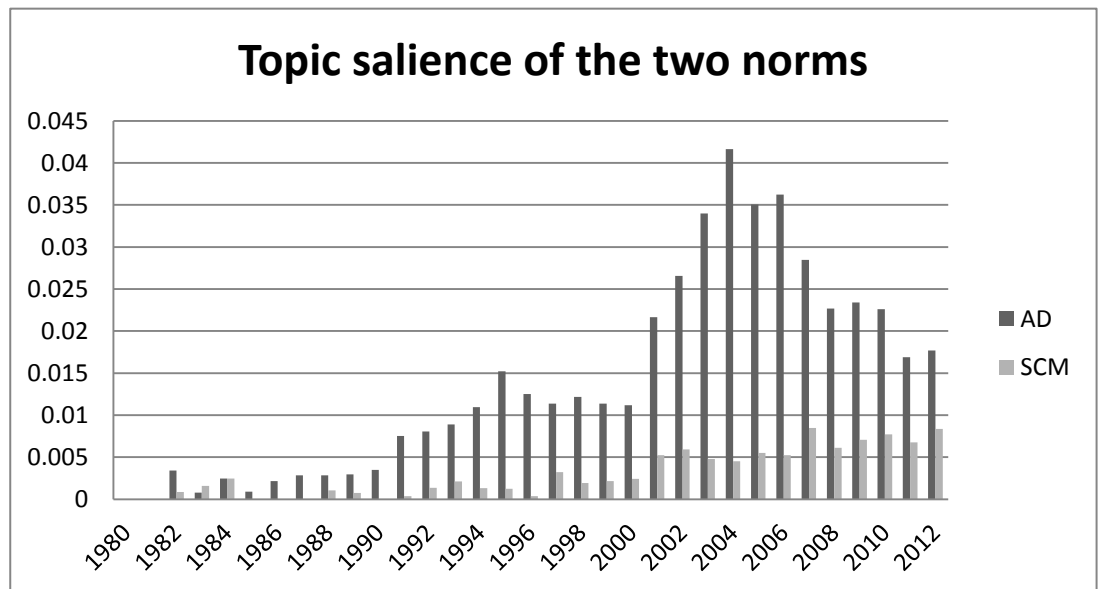
The topic salience of norms in this research is presented in relative ways. It is measured by the ratio of the number of articles on one specific topic out of all articles. In this case, the topic salience of anti-dumping duty is reflected in the ratio of the number of anti-dumping related articles out of all articles on trade, and that of countervailing duty is the ratio of the numbers of countervailing duty related articles out of all articles on trade. Some journals / magazines (such as China Economic Quarterly, published by Beijing University) only started their publications after 2000. Others may increase the number of their publications each year. China Soft Science, for example, had four issues every year before 1990. From 1991 to 1993, the number of issues rose to six per year. From 1994, it started to issue publications monthly; it also published special issues from time to time. When the total number of publications

²⁷⁸ For the sampling of 'Sample-set A' see Chapter Three 'Methodology'.

changes, the absolute numbers of norm-related articles may not properly reflect the importance of these norms in the discourse of China's non-state actors. The increased number of relevant articles may only be because more articles are published in general, not because this topic gains more salience compared to other topics. In this way, this research avoids possible invalid results caused by the increasing number of publications in total.

In order to get the value of topic salience, the result of searching the number of articles on these two norms is divided by the total number of articles on trade annually. For instance in 1995, the number of articles on anti-dumping duty was 122, on countervailing duty it was 10, and the total number of articles on trade was 8013. Then, the value of the topic salience of anti-dumping duty in 1995 was about 1.5%, and that of countervailing duty was about 0.1%.

Graph 3.6 The topic salience of anti-dumping duty and countervailing duty in the discourse of China's non-state actors²⁷⁹



*AD = anti-dumping duty

*SCM = countervailing duty

²⁷⁹ Data source: from 1980 to 1994, 杨 Shihui Yang, 'Comparing Analysis of Foreign Anti-Dumping against China's Exporting Goods 外国对华出口商品反倾销比较研究', *Statistical Research 统计研究*, /1 (2000). P25; after 1995, the WTO data base.

Graph 3.6 shows the topic salience of anti-dumping duty and countervailing duty in all trade-related articles from 1980 to 2012. This graph suggests that anti-dumping duty experienced much higher salience in the discourse of China's non-state actors than countervailing duty. The weight of anti-dumping duty was 4.6 times higher than countervailing duty on average. The largest difference of the topic salience between the two appeared in 1996. In this year, the value of the topic salience of anti-dumping duty was 1.25% and the value of countervailing duty was 0.03%. In 2004, the differences in their topic saliences peaked again – the topic salience of anti-dumping duty was eight times that of countervailing duty. After 2004, the distance between the topic salience of the two kept reducing, and in 2012, it reached its lowest point. The topic salience of anti-dumping duty was only two times higher than that of countervailing duty.

The changes in the topic saliences of the two norms among Chinese non-state actors are also shown in different curves. The salience of anti-dumping duty grew gently in the 1980s, and maintained a relatively stable level in the 1990s, with a small peak in 1995. A sudden increase appeared in 2001 where the value of the topic salience was 2.2%, two times of that in 2000. After that, the topic salience of anti-dumping duty experienced dramatic growth with an average growth rate of 24.4% in 2002-2004. In 2004, it reached its highest peak where the value was about 4.2%, almost four times that of the 2000 figure. The topic salience of anti-dumping duty then decreased steadily. By 2012, the value of the topic salience of anti-dumping duty was 1.8%.

In contrast to anti-dumping duty, the topic salience of countervailing duty experienced relatively simple development. It increased gradually from the 1980s to the 2000s. Nonetheless, special attention is required to the years 1997, 2001, and 2007. The year 2001 represented the division of two phases

of the implementation of countervailing duty concerning its topic salience in the discourse of China's non-state actors. Before 2001, the average value of the topic salience of countervailing duty was 0.11%; this figure rose to 0.63% after 2001. Two peaks can also be observed in 1997 and 2007. In 1997, the value of the topic salience countervailing duty was about 7.7 times higher than in 1996, and 0.5 times higher than in 1998. The peak shown in 2007 is also unexpected. Predicted by the general tendency of the topic salience of countervailing duty, countervailing duty should obtain its highest weight in 2012. However, a peak appeared in 2007 with a value of 0.86%, which was much higher than that of 2008, and even higher than that of 2012.

Comparing the topic salience of anti-dumping duty and countervailing duty over the past twenty years, this research points out that China's non-state actors have better and earlier awareness of anti-dumping duty than of countervailing duty, even though these two norms, with similar institutionalisation at international level, are ratified by China at the same time. The vertical comparison, i.e., across time, also suggests that the difference between the topic salience of the two norms reduced over time. Chapter Six seeks explanations to the different peaks of the topic salience of these two norms, as well as to their different progress of implementation in China's domestic discourse.

3.3.3 Support for the two norms

In order to understand China's non-state actors' attitudes towards anti-dumping duty and countervailing duty, this research employs computer-assisted methods to examine the connotation of their discourses about the nature of anti-dumping and countervailing duty in their publications. In order to ensure the validity of the results, this research carefully designed 'dictionaries' for computer programmes. As discussed in Chapter Three, a 'dictionary' refers to sets of key words that express the same idea. The computer searches for all key words in the dataset, and it then lists the

articles that express this idea. For instance, in Jonathan Sullivan's study of Chen Shuibian's speeches, he designed a dictionary that includes the key words used by Chen to express his idea of 'sovereign Taiwan'. His dictionaries were created through a manual analysis of a sample of 200 speeches. These dictionaries are then applied to a larger data set for analysis²⁸⁰.

This research designed the dictionaries for computer-assisted coding in a similar way. It firstly manually coded all the samples in Sample-set C, including 246 samples for anti-dumping duty, and 118 samples for countervailing duty (see Chapter Three for detailed sampling methods), and listed all key words that expressed either positive or negative attitudes towards the two agreements, and thus created the dictionaries (see Appendix I for detailed content of the dictionaries for this research). The dictionaries were then applied to the analysis of the samples in Sample-set B. All the results of the computer-coding were double checked manually for validity.

Graph 3.7 presents the connotations of China's non-state actors' publications on the WTO Anti-dumping Agreement and anti-dumping duty in the past two decades. The darker dots indicate the percentage of publications with positive expressions each year, while the lighter dots indicate the percentage of publications with negative expressions. Their changing tendencies are presented in the graph.

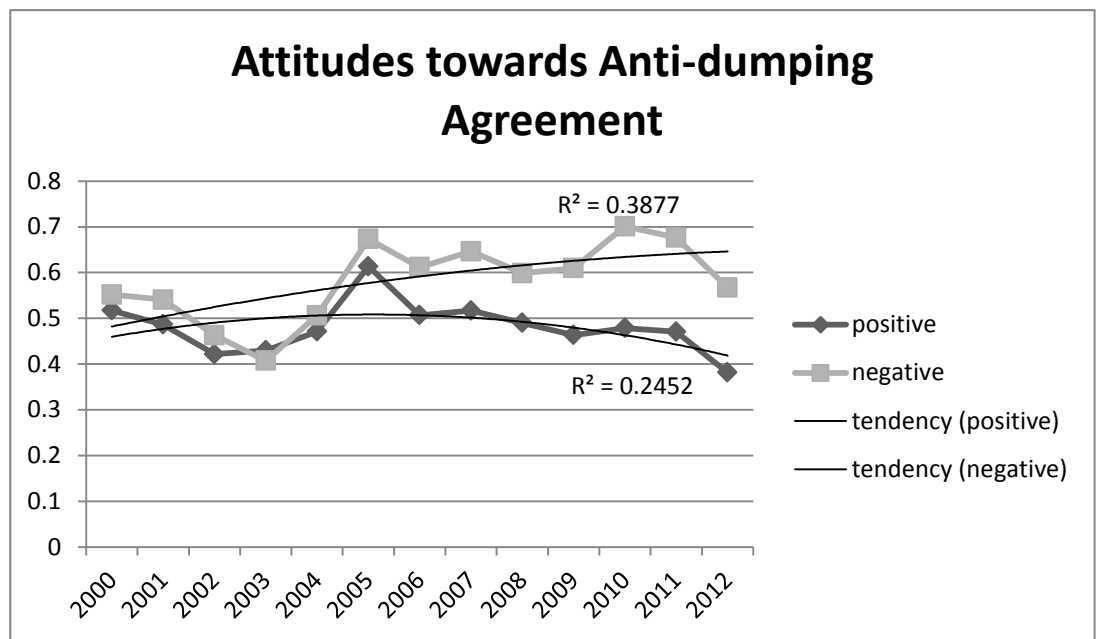
As this graph shows, Chinese non-state actors are more likely to use negative connotations, such as protectionism, protecting monopoly, sacrificing social welfare²⁸¹, when they discuss the WTO Anti-dumping Agreement and anti-dumping duty in their publications. The proportions of *anti-dumping as negative* are higher than of *anti-dumping as positive* in general. Moreover, the

²⁸⁰ Jonathan Sullivan and Will Lowe, 'Chen Shui-Bian: On Independence', *The China Quarterly*, 203/3 (2010), 619-38.

²⁸¹ See Appendix I for the specific words of the dictionaries.

percentage of articles with negative connotations tends to increase during the period from 2000 to 2012. On the other hand, the percentage of articles with positive tones increases during 2002-2005, and decreases gradually after that. By 2010, 70% of the articles discussed the Anti-dumping Agreement and anti-dumping duty in negative ways, while only 48% of the articles used positive expressions.

Graph 3.7: The connotations of the articles on the Anti-dumping Agreement

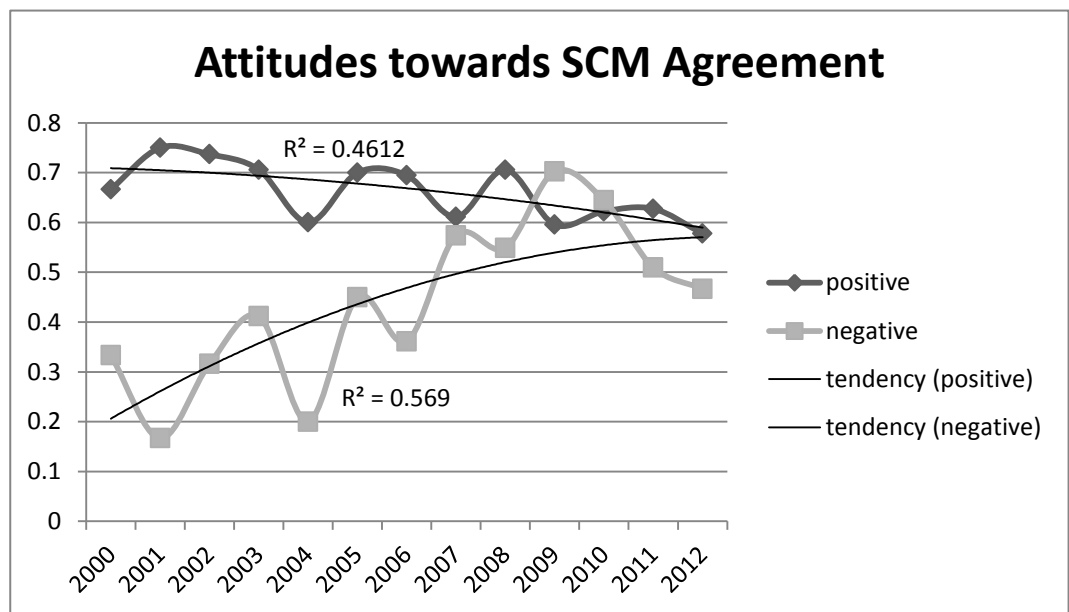


To note one problem, the total percentage of *negative* and *positive* is more than 100%. To explain this problem, I shall further clarify my research methods. Here I use ‘article’ as the analysing unit, but the computer-assisted method is mainly based on sentence-level analysis. Thus, an article can be double counted if the author sees both positive and negative sides of anti-dumping. Manual coding of the samples also proves that most authors who discuss the negative nature of anti-dumping in their publications also tend to mention the positive sides of anti-dumping. Only 17.1% of *negative* describe the nature of anti-dumping only in negative ways. Meanwhile, the non-state actors who consider the nature of anti-dumping duty as positive may also mention the negative consequences of anti-dumping practices.

This problem, however, does not undermine the value of the results that are presented in this graph. A proper interpretation of this graph is that China's non-state actors were more likely to use negative expressions in their discussion of anti-dumping duty, even though they were aware of the positive meaning of this norm.

A similar method was used in the analysis of the connotations of China's non-state actors' discourse on the SCM Agreement and countervailing duty. Graph 3.8 presents the percentage of the articles with positive/negative expressions.

Graph 3.8 The attitudes towards the nature of SCM Agreement in China's domestic debate



The connotation of articles on the SCM Agreement and countervailing duty were more positive in general (see Graph 3.8). In 2001, 75% of the articles used positive expressions in their discussion of the SCM Agreement and countervailing duty. In contrast, only 16.7% of the articles used negative expressions in the same year. However, the percentage of articles with positive expressions decreased in the following ten years. In 2012, 58% of

articles still held positive attitudes towards countervailing duty. Meanwhile, the percentage of articles with negative discourses increased. In 2012, 47% of the articles used negative expressions in their discussions, and in 2009 and 2010, the percentage of the articles with negative expressions were even higher than those with positive tones.

Comparing these two graphs, two findings should be addressed. Firstly, the Chinese non-state actors are more positive towards countervailing duty than towards anti-dumping duty. For the two norms with similar institutionalisation at international level, the different connotations of the discourse of non-state actors suggest different results of implementation. Secondly, increasing numbers of the Chinese non-state actors use negative connotations in their discussions on both norms. This fact suggests the 'institutionalisation-implementation gap' grows in the implementation of these two norms on the aspect of domestic discourse. These two findings will be further discussed in Chapter Six.

4. Conclusion

This chapter illustrates that the implementation of anti-dumping duty made better progress than that of countervailing duty in general. Although these two norms are similar in terms of their institutionalisation at international level, they experience different progress of implementation in China. Anti-dumping duty is implemented at a faster rate of progress compared to countervailing duty in terms of both the changes in China's state system, and China's relevant field-level practices. China's anti-dumping practices are better recognised by the WTO than its countervailing practices. However, the analysis of China's domestic discourse shows that although anti-dumping duty enjoys higher topic salience than countervailing duty, countervailing duty

seems to be better supported by China's non-state actors than anti-dumping duty.

Two conclusions should be further addressed. Firstly, notwithstanding the existence of 'institutionalisation-implementation gaps', both the implementation of anti-dumping duty and that of countervailing duty made important progress in terms of all three aspects of implementation in China in the 2000s. The 'gaps' between the implementation of these two norms in China, and their institutionalisation at international level, narrowed in the past 15 years. The following chapters (Chapters Four, Five and Six) examine the role of the WTO in promoting this progress of implementation in China.

Secondly, the implementation of both anti-dumping duty and countervailing duty in China's state system can be considered as successful. The majority work of legislation, institution building, and policy-making of both norms was completed before 2005, and this work was well recognised by the WTO secretariat and other WTO Members. On the contrary, the implementation of countervailing duty on the other two aspects is less effective than that of anti-dumping duty. Considering the aspect of field-level acts, there was an 11-year-gap between China's first initiation of anti-dumping investigation and that of countervailing investigation on foreign exports. The WTO's evaluation of China's anti-dumping duty is also better than its evaluation of China's countervailing practices. Considering the relevant domestic discourse, countervailing duty enjoyed much less topic salience in China's domestic discourse than anti-dumping duty, even after 2006 when the topic salience of anti-dumping duty decreased rapidly.

It should be further noted that the Chinese non-state actors had increasingly negative attitudes towards both norms. A growing 'gaps' can be identified in the implementation of anti-dumping duty and countervailing duty in China.

The different effectiveness of implementation in China suggests that the international liberal world is more likely to have normative impacts on China's state system than the other two aspects. This argument will be further discussed in Chapter Six.

Chapter four: Implementing the two norms in China's state system

1. Introduction

As Chapter Three demonstrates, the implementation of anti-dumping duty and of countervailing duty experienced similar progress in China's state system. It started in 1995 when China legalised the two norms for the first time, and the major work of legislation, supportive institution-building, and the matching policy-making were completed in 2004. The years between 2000 and 2004 saw the most intensive transformation of China's state system in the implementation of anti-dumping duty and countervailing duty. During these five years, China amended its national regulations on anti-dumping and countervailing practices twice, and promulgated 25 administrative rules on anti-dumping duty and countervailing duty. The results of the legislation, institution-building, and policy-making are well recognised by the WTO and the other WTO Members.

Nevertheless, Chapter Three also illustrates that the implementation of anti-dumping duty experienced a relatively faster rate of progress than that of countervailing duty. For instance, the Anti-dumping and Countervailing Regulation of People's Republic of China (*the Regulation 1997*) dedicated more than 90% of its space to regulate anti-dumping practice, while only four short paragraphs covered relevant regulations on countervailing duty. This situation changed when the 'Anti-dumping Regulation of PRC', and the 'Countervailing Regulation of PRC' were promulgated in 2001 and amended in 2004. The matching ministerial rules on anti-dumping duty were also issued earlier than that on countervailing duty. For instance, the 'Provisional Rules

on Disclosure of Information in Anti-dumping Investigation’ was issued in March 2002, but there was no equivalent rule to regulate the relevant work in countervailing investigations until 2006, when the ‘Provisional Rules on Disclosure of Information in Industry Injury Investigation’ was issued.

Chapter three, four and five, from three perspectives, examine and compare the implementation process of anti-dumping duty and countervailing duty in China with the purpose of testifying the two hypotheses of this thesis.

H1: The WTO promotes the implementation of anti-dumping duty and countervailing duty in China through its implementing instruments.

H2: The WTO implementing instruments are more efficient in the implementation of the anti-dumping duty than that of countervailing duty in China.

This chapter aims to explain the progress of implementing anti-dumping duty and countervailing duty in China’s state system, and to evaluate the role of the WTO and the Chinese state in implementation. China’s implementation of anti-dumping duty and countervailing duty could be seen as a spontaneous act for problem-solving in the 1990s. However, problem-solving cannot explain the fast rate of progress of China implementing the anti-dumping duty and countervailing in 2001-2004. It also cannot explain the different progress that the two norms experienced in implementation. On the other hand, the effects of the WTO’s implementing instruments, namely the *accession mechanism*, the *monitoring* programmes and *enforcement*, provide sufficient explanations to these phenomena.

2. Problem solving

China’s implementation of these two norms could be a spontaneous act for the purpose of problem solving. Individuals may consciously and

spontaneously adopt the regulative and normative rules from others, and this adoption can be the result of rational choice in the purpose of problem-solving or efficiency concerns²⁸². Strong motivations are required from the side of norm-adopters to initiate such process. From a hegemonic realist perspective, Marie-Laure Djelic argues that asymmetrical dependence is the most important motivation of the rule-adopters for their mimetic behaviour. Asymmetrical dependence can be seen in subjective ranking between organisations or countries. This dependent relationship may be firstly created through painful contradiction and then inherited through history²⁸³. A state may initially adopt other countries' development models, including their law system, normative structure, or administrative tradition, if the state elites are anxious to achieve the development of the nation²⁸⁴.

Scholars of communication and cognitive studies also suggest that sources of information can have a great impact on people's choice of solution. John Zaller demonstrates that people's opinions are more likely to be directed if they only receive one-sided information (e.g. only negative factors); in contrast, if they are exposed to two-sided information (e.g. both negative and positive factors), they are more likely to generate rational conclusions²⁸⁵. This theory is also proven by Vreese and Boogaarden²⁸⁶ in their study of European

²⁸² Tolbert and Zucker talk about innovation to solve problems, see Pamela S. Tolbert and Lynne G. Zucker, 'Institutional Sources of Change in the Formal Structure of Organizations: The Diffusion of Civil Service Reform, 1880-1935', *Administrative Science Quarterly* 28/1 (1983).; North's rational institutionalism also mentions the rationality of maximizing efficiency in the process of institutionalisation. See Douglass North, *Institutions, Institutional Change, and Economic Performance* (Cambridge: Cambridge University Press, 1990).

²⁸³ Marie-Laure Djelic and Sigrid Quack, 'Theoretical Building Blocks for a Research Agenda Linking Globalization and Institutions', in Marie-Laure Djelic and Sigrid Quack (eds.), *Globalization and Institutions: Redefining the Rules of the Economic Game* (Massachusetts: Edward Elgar Publishing, Inc., 2003).

²⁸⁴ Djelic's study on the voluntary imitation of the American Corporation Model in France provides a good example to illustrate this point. General de Gaulle defined the general guideline for the first French plan in January 1946, and since then the French planning board has positioned itself at the heart of a Franco-American model and experience. Marie-Laure Djelic, *Exporting the American Model: The Postwar Transformation of European Business* (New York: Oxford University Press, 1998).

²⁸⁵ John Zaller, *The Nature and Origin of Mass Opinion* (New York: Cambridge University Press, 1992).

²⁸⁶ See Claes De Vreese and Hajo G. Boogaarden, 'Projecting Eu Referendums: Fear of Immigration and Support for European Intergration', *European Union Politics*, 6/1 (2005), 59-82. See also Claes De Vreese

integration. In other cases, repeated one-sided information from different sources may also stress one's opinion or evaluation towards an object or action. Lynne Zucker's experiment provides good illustrations to this point²⁸⁷. She argues that the participants in highly institutionalised conditions tend to form relatively coherent judgements on one object. This experiment suggests that individuals tend to trust the information if they believe this information is given by a group of people; individuals also tend to trust it further if they believe the same information is given by someone who seems to be an authority.

Individuals may adopt others', especially the hegemon or the authorities, norms as solutions to their problems in order to avoid uncertainty²⁸⁸. Especially when individuals consciously understand their disadvantage in information access or in information processing²⁸⁹, they may adopt well developed solutions to their problems in order to avoid possible and unknown loss²⁹⁰. For instance, the owner of a company who needs a new managerial system to increase the efficiency of their work, does not have sufficient information to predict the consequences of applying the new managerial system. To avoid risk, the company may choose to mimic the model of

and Hajo Boomgaarden, 'Media Effects on Public Opinion About the Enlargement of the European Union', *Journal of Common Market Studies*, 44/2 (2006), 419-36.

²⁸⁷ In this experiment, Zucker asks the participants to measure the moving distance of a light dot in a completely dark room, by which means she excludes regulatory and normative factors that may affect the result. Every participant will be told by the previous participant about the evaluated moving distance of the light dot, then he/ she is required to provide the his/her evaluation. The only control condition is the information source that the participants believe. In the first group, every participant believes the provided figure is the personal evaluation of the previous participant. In the second group, participants believe this figure is an interpreted result of a group of people. In the third group, participants also believe this figure is an interpreted result of a group of people, but that it is told to them by someone who seems to possess higher position in a power hierarchy. The results of this experiment are that the participants from the third group provide the most coherent evaluations about the moving distance of the light dot, while the first group provide the least coherent ones. See Lynne G. Zucker, 'The Role of Institutionalization in Cultural Persistence', *American Sociological Review*, 42/5 (1977), 726-43.

²⁸⁸ W Richard Scott, *Institutions and Organisations: Ideas and Interests* (Third edition edn.; Los Angeles SAGE, 2008). P51

²⁸⁹ Theories of cognitive mobilisation claim individuals may differ in their capabilities of processing abstract and obscure information. See Joseph Janssen, 'Postmaterialism, Cognitive Mobilization and Public Support for European Integration', *British Journal of Political Science*, 21/4 (1991), 443-68.

²⁹⁰ Alastair Iain Johnston, *Social States: China in International Institutions, 1980-2000* (Princeton: Princeton University Press, 2008).

successful companies. Similar logic applies to the state elites whose aim is to achieve the development of their countries.

In the case of this thesis, the implementation of anti-dumping duty and countervailing duty in China's state system is a spontaneous act of the Chinese government for problem-solving at the very beginning. When China ratified the anti-dumping and countervailing duties, and wrote them into its legal text in the 1990s, it was not subjected to any WTO implementing instruments²⁹¹. Meanwhile, as a developing country, China had large numbers of infant industries that were lacking in competitiveness in the global market in the 1980s and 1990s. In order to protect them in international competition, China imposed various trading barriers, such as high importing tariffs or import substitute policies²⁹². However, because of the need for further economic reform, and because of the requirements of accession to the WTO, China had to remove those trading barriers and expose its infant industries to global competition. Both China's infant industries and its economy would be endangered²⁹³. The Chinese elites thus desperately needed legitimate means to protect China's domestic industries, and anti-dumping duty and countervailing duty provided good solutions.

The legislation of anti-dumping duty and countervailing duty enabled China to protect its domestic industries from unfair competition in international trading. According to the WTO Anti-Dumping Agreement and the SCM Agreement, the authorities of the importing countries have the right to

²⁹¹ China was in the negotiation for its WTO accession at this time, but it made no specific promises regarding its ratification or implementation of the anti-dumping duty and countervailing duty until 1999.

²⁹² Hui Feng, *The Politics of China's Accession to the World Trade Organization: The Dragon Goes Global* (New York: Routledge, 2006). P21.

²⁹³ China's WTO accession was expected to significantly threaten China's automobile industry, telecommunication industry, banks, and other state monopolized industries. See Jiang Qiangui's (Vice Director of SETC) speech on the China's Development Forum 2001, March 25-26, 2001. Quoted by Du Deng-bin and TONG Chen, 2001, 'China's WTO accession will threaten China's monopolized industries 入世将冲击中国垄断行业', *Beijing Industry & Commerce Management 北京工商管理* (9):6-8

impose high tariffs on the exports if they can prove that their domestic industries are injured by these exports.

Moreover, anti-dumping duty and countervailing duty may also provide protection for China's domestic industries which are injured in international trading, even when they are not, in fact, facing unfair competition. Article 7 of the WTO Anti-dumping Agreement allows the imposition of provisional measures during the period of time when anti-dumping investigations are in process. "Provisional measures shall not be applied sooner than 60 days from the date of initiation of the investigation ... shall be limited to as short a period as possible"²⁹⁴. Similar clauses exist in the SCM Agreement²⁹⁵. Provisional measures can be applied if the authorities: (i) give public notice to the interest parties; (ii) provide preliminary affirmative determination of the existence of dumping activities or subsidies and their causal relation with the industry injuries of the host countries; and (iii) judge the necessities of such measures to prevent further injuries during the investigation²⁹⁶. According to these rules, the host countries have adequate autonomy to impose such provisional measures. They may restrict the importing of certain goods over a short period of time, even if there is not sufficient evidence to prove dumping or subsidizing activities, or to prove causal relations with injuries to the domestic industry.

Problem-solving was an important motivation of China's legislation of anti-dumping duty and countervailing duty in 1994 and 1997. China needed an effective and legitimate means to protect its domestic industries, this would be particularly important after China removed trade barriers for further economic reforms and for the purpose of its WTO accession. However, problem-solving is not the only driving force of China's implementation of

²⁹⁴ See Paragraph 7.3, 7.4, Article 7 of the *WTO Anti-dumping Agreement*

²⁹⁵ See Article 17 of the *WTO SCM Agreement*

²⁹⁶ See paragraph 7.1, Article 7 of the *WTO Anti-dumping Agreement*

these two norms. It fails to explain the timing of China's intensive work on implementing anti-dumping duty and countervailing duty in the state system. It also fails to explain the different progress of implementing these two norms; these differences are small but can still be identified. These two problems, on the contrary, can be well explained by the impacts of the WTO's implementing instruments.

3. Impacts of the WTO implementing instruments

3.1 Accession

The accession mechanisms of international governmental organisations are powerful tools that promote the adoption of international norms in the candidate countries. In the case of EU enlargement, for instance, the EU promises the status of membership if the candidate countries fulfil its conditionality. Frank Schimmelfennig and Hanno Scholtz argue that the EU's political conditionality has been an effective mechanism in promoting EU norms in EU partner countries, especially when the EU promises highly credible membership²⁹⁷.

The WTO accession mechanism may similarly pressure the applicants' norm adoptions with the promise of membership. The provisions of the WTO accession regulate that "any state or separate customs territory possessing full autonomy in the conduct of its external commercial relations" can apply for membership of the WTO²⁹⁸. The applicants can accede to the WTO when two conditions are fulfilled. On the one hand, they shall accept all the terms of

²⁹⁷ Frank Schimmelfennig and Hanno Scholtz, 'Eu Democracy Promotion in the European Neighbourhood: Political Conditionality, Economic Development and Transnational Exchange', *European Union Politics*, 9/2 (June 1, 2008 2008), 187-215.

²⁹⁸ See Paragraph 1, Article XII 'Accession', *Agreement Establishing the World Trade Organization*, https://www.wto.org/english/docs_e/legal_e/04-wto.pdf accessed on April 6, 2016.

WTO Agreements and its annexes²⁹⁹. On the other hand, they shall negotiate with the WTO Members bilaterally for specific terms of their accession, such as the tariff rates for particular trading goods or specific market access commitments³⁰⁰. Working parties of WTO members are established to examine the applicants' trade regimes, to oversee the parallel bilateral market access negotiations, and to draft the reports that suggest the 'protocol of accession' and the schedules of the applicants' commitments³⁰¹. Only when a two-thirds majority of the members agree on the terms of accession can the applicants accede to the WTO³⁰².

The applicants are willing to experience such a difficult accession process, and to commit to adopt the WTO norms, because WTO membership may benefit them in various ways³⁰³. In the case of China, the WTO membership has vital meaning for China's economic development and domestic politics.

Importance of the WTO accession to China

Economically, China continued to emphasize the importance of international trading in its development in the late 1990s. It expected WTO Membership could benefit China with macroeconomic gains. China's economic growth was slowing down in the late 1990s. Compared to the two-figure growth rate in 1995 (10.98%), the annual growth rate of China's GDP in 1997 was 9.23%, and it reached its bottom (7.62%) in 1999³⁰⁴. International trading was expected to be an important means to stimulate the domestic economy³⁰⁵, and thus was heavily emphasized by Chinese top leaders. In the fifth meeting of the Eight

²⁹⁹ With several exceptions, the results of the Uruguay Negotiation Round and the Doha Negotiation Round need to be accepted by all Members based on the principle of 'single undertaking'.

³⁰⁰ See 'Accessions', the WTO website, https://www.wto.org/english/thewto_e/acc_e/acc_e.htm accessed on April 6, 2016. See also 'How to join the WTO: the accession process', the WTO website, https://www.wto.org/english/thewto_e/whatis_e/tif_e/org3_e.htm accessed on April 6, 2016.

³⁰¹ Ibid

³⁰² See Paragraph 3, Article XII 'Accession', *Agreement Establishing the World Trade Organization*,

³⁰³ Material interests are important.

³⁰⁴ Data from the National Data published by National Bureau of Statistics of China, available in <http://data.stats.gov.cn/ks.htm?cn=C01&zb=A0501> accessed on April 12, 2016

³⁰⁵ Joseph Fewsmith, 'The Political and Social Implications of China's Accession to the Wto', *The China Quarterly*, 167 (2001), 573-91. P573

National People's Congress (1997), Prime Minister Li Peng stressed that China would steadily implement an 'opening up' policy, and further develop international trading relations with foreign countries based on the principle of equality and mutual benefits; China's WTO accession is the desire of China and the desire of the world³⁰⁶. The Government Report of 1999 further reflects the eagerness of the Chinese government to develop international trading and consolidate Reform Policy³⁰⁷.

After the accession, China's international trading increased dramatically. According to UNCTAD's reports, China's export value was 106.8 in 2001, and this figure increased to 761.8 in 2011. In comparison, the export value of Japan, another important country in international trading in Asia, was 84.2 in 2001, and this figure was 171.7 in 2011³⁰⁸. The growth of Foreign Direct Investment (FDI) is another benefit of China's WTO accession. FDI is important to China not only because it brings capital, but more importantly it means advanced technology and managerial systems. Although China was already the second largest destination of FDI in 1999 (4,031.9 million US dollars), the value of FDI continues to increase and reached 6,032.5 million US dollars in 2005. This value was 1.75% higher than the estimated value for the year if China had not acceded to the WTO.³⁰⁹

China's WTO accession also has political meanings to Chinese reformists in power – the latter needs WTO Membership to boost the Chinese economy

³⁰⁶ See the 'Government Report' (1997), made by Prime Minister Li Peng in the fifth meeting of the eight National People's Congress on March 1, 1997

³⁰⁷ Zhu stated that "China should expand exportation by all means ... utilise internationally accepted policy means such as export credit and tax refund ... to make great effort in goods trading ... to motivate enterprises' enthusiasm in exporting in order to further expand producers' voluntary exporting ... increasing necessary importing to improve trade balance... [we should] connect importing with the adjustment and upgrading of domestic industry". See the 'Government Report' (1999), made by Prime Minister Zhu Rongji in the second meeting of the ninth National People's Congress on March 5, 1999.

³⁰⁸ Export values are the current value of exports (f.o.b.) converted to U.S. dollars and expressed as a percentage of the average for the base period (2000). See World Bank Data <http://data.worldbank.org/indicator/TX.VAL.MRCH.XD.WD/countries><http://data.worldbank.org/indicator/TX.VAL.MRCH.XD.WD/countries> accessed on February 14, 2016

³⁰⁹ Feng, *The Politics of China's Accession to the World Trade Organization: The Dragon Goes Global*. P71

and further economic reform, and thus justify their legitimacy in front of counter partners. The Chinese Communist Party has had two wings since 1978 – the reformists and the conservatives. The reformists are represented by Deng Xiaoping (the second generation of leadership), and Jiang Zemin and Zhu Rongji (the third generation of leadership). The conservatives were led by Chun Yun in the 1980s and early 1990s, Li Peng and Qiao Shi in the 1990s and early 2000s. The reformists have been in dominance since Deng's era; they are the majority in the Political Bureau³¹⁰, and the top leaders of the Party and the state (the “core” 核心) are always reformists.

The reformists and the conservatives have different policy preferences considering China's development. Following Deng's policy direction, the reformists launched radical reform programmes including bolder experimentation (crossing the river by feeling the stones 摸着石头过河), encouraging non-socialist economy (such as the household contract system 联产承包制), marketization and full integration into the world economic system. The conservatives question the high inflation and excessive decentralization resulting from an overheated economy. They pursue gradual economic development within the planned economy by emphasizing central control, cautious investment, the role of state owned enterprises (SOE), and distance from the global economic system.³¹¹

Feng argues that China's WTO Accession had two areas of meaning for the reformists in power. Firstly, the promising benefits to China's international trading and FDI are expected to reverse the slowing-down of the macro-economy. Better economic performance can justify the legitimacy of the reformists in their struggles with the conservatives. Secondly, the WTO can also play the role of applying external pressure and support against the

³¹⁰ The Political Bureau is the body possessed of top power of the Party and the state. Since the 1990s, its Standing Committee is usually comprised of five or seven people.

³¹¹ Feng, *The Politics of China's Accession to the World Trade Organization: The Dragon Goes Global*.

resistance to China's economic reform. The fragmented bureaucratic structure of China gives the ministries and ministry-level departments *de facto* veto power³¹². The resistance within the bureaucratic system thus may undermine any reform effort of Jiang Zemin (the President of the PRC and the Chairman of China's Communist Party), and Zhu Rongji (the Prime Minister of the PRC), especially when the political tradition of the CCP is maintaining a unitary image to the external world³¹³. The WTO Accession provides a great excuse to push forward the domestic economy reform without causing conflict within the Party and the bureaucratic system. Large scale reforms, including SOE reforms and the government restructuring in 1998, have been launched under the name of WTO Accession³¹⁴. China's WTO accession was also considered as a part of the battle against corruption. The 'two-track' system, the coexistence of a planned economy and a market-oriented economy provided spaces for rent-seeking practices, which led to widely spread corruption, not only in international trading but in all governance areas. The WTO's discipline on transparency was a good opportunity to fight against the growing 'internal regulations', or 'black box operation', of Chinese bureaucrats and industry sectors, which could enhance the legitimacy and the rule of the Party leadership³¹⁵.

Diplomatically, China expected to increase its international influence (especially in international trading) by joining the WTO. Hoekman and Kosteci claim that there are three criteria to determine a country's influence in the WTO including, "its share in world trade, its trade dependence or openness (the ratio of exports and imports to GDP) and the absolute size of its

³¹² See *ibid.* P117

³¹³ *Ibid* p 98-9

³¹⁴ *Ibid* p 72-4, p 129

³¹⁵ Feng, *The Politics of China's Accession to the World Trade Organization: The Dragon Goes Global*. P74-5

market (GDP)”³¹⁶. As a result, many predict China to play a leading role in the WTO Doha Negotiation Round, which would largely enhance China’s diplomatic influence³¹⁷. This prediction remains prospective for many reasons³¹⁸, but China still considers the WTO as an important diplomatic platform.

Efficiency of the accession mechanism

Because of the expected economic and political benefits, the WTO accession mechanism can be regarded as an effective instrument in promoting the implementation of anti-dumping duty and countervailing duty in China’s state system. Multiple commitments were made by China in the accession negotiations. One important commitment was to complete revising current regulations and procedures according to WTO requirements before the accession. Some members of the Working Party of China’s WTO accession pointed out that some provisions of China’s existing law, regulations, administrative notices, and other requirements did not meet the requirements of the WTO. In response to such concerns, the representative of China made the commitment that “by accession, China would repeal and cease to apply all such existing laws, regulations and other measures whose effect was inconsistent with WTO rules on national treatment”³¹⁹.

³¹⁶ Bernard Hoekman and Michel Kostecki, *The Political Economy of the World Trading System* (second edition edn.; New York: Oxford University Press, 2001). P58

³¹⁷ See Andrew L. Stoler, 'China's Role in the World Trade Organization and the Doha Round of Multilateral Trade Negotiations', *Second World Forum on China Studies* (Shanghai, China: Institute for International Trade, The University of Adelaide, 2006). P9

³¹⁸ Cheng Dawei suggests China’s vague attitude in the Doha negotiations may be due to no clear definition of China’s position in the WTO system. Dawei Cheng, *The Analysis of the Contradictions in Wto System (in Chinese)* (International Economic Issues (in Chinese); Beijing: China Renmin University Press, 2009). Kastner and Pearson indicated that China’s behaviour was relatively passive because China usually portrays itself as ‘learning’ on many WTO issues. See Scott Kastner and Margaret Pearson, 'When Does China Lead? China's Foreign Policy Behaviour in Multilateral Settings', (Washington DC: The American Political Science Association Annual Meeting, 2010).

³¹⁹ The Working Party of China’s WTO accession was established in 1995 with the purpose of examining China’s application for accession to the WTO. The Working Party met 18 times between 1996 and 2001. A report of the Working Party on the Accession of China was released in October 2001. Working Party on the Accession of China, 'Report of the Working Party on the Accession of China', WTO document WT/ACC/CHN/49, 1 October 2001, P4

On the issue of anti-dumping duty specifically, some members of the Working Party criticised China's in-force anti-dumping law and investigation procedures as not fitting the requirements of the WTO.³²⁰ The representative of China responded with a commitment revising "China's current regulations and procedures prior to its accession in order to fully implement China's obligation under the Anti-dumping and SCM Agreement"³²¹.

These commitments to the WTO and its member states constituted strong pressure on the Chinese government. The work of legislation and relevant institution building became urgent tasks of the government's work. In the 2000 Government Report, Zhu Rongji, the Prime Minister stated that:

"[The government] need to do the work well considering the preparation of WTO accession and the transitional period afterwards...deepening economic reform and building up China's economic and international trading system that fits international rules and China's current situation. [We] need to speed up amending and perfecting relevant law and regulations"³²².

Although Zhu did not mention anti-dumping duty or countervailing duty directly, he emphasized the importance of relevant legislation work to meet the requirements of WTO accession. The legislation of anti-dumping and countervailing duties was a part of the requirements of the Working Party, they were thus in a direct focus of the Chinese government's work.

In the 2001 working report of the Standing Committee of the National People's Congress, Li Peng, the Chairman of the Committee, further emphasized the importance of revising relevant regulations and procedures to

³²⁰ See *ibid*, p29

³²¹ See *ibid*, p30

³²² See the *Government Working Report*, made by Zhu Rongji, the Prime Minister of the State Council in the Fourth Meeting of the Ninth National People's Congress on March 5 2001.

meet the requirements of WTO Accession (he mentioned it four times in this report). In particular, the legislation of anti-dumping law was also mentioned for the first time in a top level government report. Li especially stressed in his report that the drafting and examination of the anti-dumping law was in the legislation plan of 2001 and 2002³²³. A few months later, on 26th November 2001, China promulgated 'Anti-dumping Regulations of the People's Republic of China' and 'Countervailing Regulations of the People's Republic of China', one month before China officially acceded to the WTO.

Although the published government reports did not mention the relevant institution building, the major government organs responsible for the implementation of anti-dumping duty and countervailing duty were established in 2000 and 2001 respectively. One of the most important tasks of these organs was to be in charge of drafting and regulating the administrative rules and procedures of the two norms, which was required by the Working Party on China's WTO accession. Furthermore, China started this series of institution building shortly after it ensured its WTO accession by reaching the vital bilateral agreement with the U.S. in November 1999³²⁴, and completed it before China's accession in December 2001. The comparison of the timeline thus supports the connection between the relevant institution building and the WTO's accession mechanism.

This evidence links China's WTO accession with the legislation and institution building of anti-dumping duty and countervailing duty in 2001 and 2002. The mechanism of *accession* increased the topic salience of these two norms, drew attention from China's top leaders, and thus urged the implementation of these two norms in China's state system.

³²³ See the *Working Report of the Standing Committee of National People's Congress(2001)*, made by Li Peng, the Chairman of the Standing Committee of the National People's Congress in the Fourth Meeting of the Ninth National People's Congress on March 9 2001.

³²⁴ See Feng, *The Politics of China's Accession to the World Trade Organization: The Dragon Goes Global*. P108-110

3.2 Monitoring

While the WTO's accession mechanism explains China's legislation and the relevant institution building in 2000 and 2001, the commitment that China made in its Accession Protocol required the continuing implementation of anti-dumping duty and countervailing duty in China's state system after the accession. In December of 2001, China signed the Accession Protocol, which signalled that China officially became a member of the WTO. In China's Accession Protocol, China promised to continue to fulfil its commitments to the Working Party and to implement all the terms on the WTO Agreement.

“This protocol, which shall include the commitments referred to in paragraph 342 of the Working Party Report, shall be an integral part of the WTO Agreement ... Except as otherwise provided for in this Protocol, those obligations in the Multilateral Trade Agreements annexed to the WTO Agreement that are to be implemented over a period of time starting with entry into force of that Agreement shall be implemented by China as if it had accepted that Agreement on the date of its entry into force”³²⁵.

This statement suggested that China needs to fulfil not only its commitments made in the accession negotiations, but also its obligation regulated in the WTO Agreements. To oversee China's implementation of the WTO norms and rules, including anti-dumping duty and countervailing duty after China's accession, the WTO employed *monitoring* as the major implementing instrument. This instrument is a “non-intrusive, discreet, information-gathering activity of watch or observation, with a review

³²⁵ See Paragraph 1.2, 1.3 of Part I – General Provisions, Protocol on the Accession of the People's Republic of China, WTO document WT/L/432.

function”³²⁶. Although monitoring does not possess any enforcement power, it may exert its influences over WTO members through socialising forces. Scholars, such as Jeffrey Checkel and Alastair Johnston, believe that even without the material force, the decision-making process of agents may still involve rationality, namely ‘consequentialism’, underlying their choices³²⁷. Individuals tend to make their choice in accordance with norms, because their behaviours are “judged by the in-group and rewarded with backpatting or status markers or punished by opprobrium and status devaluation”³²⁸. In the cases of implementing anti-dumping duty and countervailing duty, the socialising force of monitoring was effective because China was highly motivated to build a positive image in WTO affairs³²⁹.

Two major monitoring programmes

The Committee on Anti-dumping Practice and the Committee on Subsidies and Countervailing Measures are the two bodies of the WTO secretariat in charge of monitoring China’s implementation of anti-dumping duty and countervailing duty after the accession. There are two specific programmes that oversee this implementation – the legislative notification and the transitional review under Paragraph 18 of the Protocol of Accession of the People’s Republic of China to the WTO.

Legislation notification is a standard procedure of the Committee on Anti-dumping Practice and the Committee on Subsidies and Countervailing

³²⁶ Xin Zhang, *Implementation of the Wto Agreements in China* (London: Wildy, Simmonds & Hill Publishing, 2005). P10-11

³²⁷ Jeffrey Checkel, 'Why Comply? Social Learning and European Identity Change', *International Organization*, 55/3 (2001), 553-88. page 558

³²⁸ Johnston, *Social States: China in International Institutions, 1980-2000*. Page 24

³²⁹ China was keen to build a good image in international affairs, especially after 2000 under the policy of ‘peaceful rising’ and ‘responsible state’. For detailed discussion see Hanlin Zhang, 'Five Years after China's Wto Accession: Review and Prospect 中国入世五周年：回顾与展望', *Practice in Foreign Economic Relations and Trade 对外经贸实务*, 12 (2006), 3-9.

Measures³³⁰. WTO Members are required to submit notification when new legislations on anti-dumping duty and countervailing duty are promulgated and when existing legislations are amended³³¹. Notifications should be submitted to the Committees and be circulated among members in advance of the committee meetings. The countries under review will receive written questions concerning their submitted notifications from other Members before the meetings. Follow-up questions can be raised by other members in the meetings as well. WTO members under review need to give oral responses to those questions received in the meetings, and subsequently provide responses in written form as well³³². China had its first New Legislative Notification on anti-dumping duty reviewed on 1-2 May, 2003 and its first New Legislative Notification on countervailing duty reviewed on 8 May, 2003.

The transitional review, under paragraph 18 of Protocol I of the Accession of the People's Republic of China to the World Trade Organisation, is the second monitoring programme. It is the special review mechanism designed for China only. The review was to be conducted every year for 8 years following the accession, conducted by relevant subsidiary bodies of the WTO that cover China's commitments under the WTO Agreement and the Protocol³³³. The first transitional review was settled one year after China's accession. The Chinese government needed to provide all relevant information specified in Annex 1A to each review body in advance³³⁴. As the delegate of the United States stated, "the purpose of this transitional review mechanism was to

³³⁰ This procedure was adopted in April 1996, see 'Notes from the Chairmen' of the joint special meeting of the Committee on Anti-Dumping Practices and on Subsidies and Countervailing Measures, WTO document G/ADP/W/284, G/SCM/W/293, 12 February 1996.

³³¹ Paragraph 8, 9, *ibid*

³³² Paragraph 3 *ibid*

³³³ the Paragraph 18 of China's WTO Accession Protocol, WTO document WT/L/432

³³⁴ See *China's WTO Accession Protocol*, Paragraph 18

review China's progress in implementing its obligations under the WTO Agreement and its Protocol of Accession on an annual basis"³³⁵.

The implementation of both anti-dumping duty and countervailing duty in China were parts of the transitional review, and the reviews were conducted by the Committee on Anti-dumping Practice and the Committee on Subsidies and Countervailing Measures respectively. For anti-dumping duty, Annex 1A of China's Accession Protocol did not require China to submit any specific report to the Committee on Anti-dumping Practice. However, members could submit questions regarding China's implementation of the Anti-dumping Agreement in advance of the review meetings. The questions usually concerned China's legislation of anti-dumping duty, the functions of different government organs, the applications of relevant regulations and rules, and the transparency issue. Members could also make comments or ask questions during the meetings. China was required to give oral responses to the comments and questions in the meetings.

For countervailing duty, China was required to notify the domestic pricing policies to the Committee on Subsidies and Countervailing Measures for transitional review. Specific policies include, "(a) application of existing or any other price controls and the reasons for their use and (b) pricing mechanisms of China's state trading enterprises for exported products"³³⁶. Besides China's pricing policies, "there were no procedures set out for the conduct of the transition review in the Protocol, except that China was to provide relevant information in advance of the review"³³⁷. The relevant information included China's legislation on countervailing duty, the applications of relevant regulations and rules, and China's obligations to the Committee, including the

³³⁵ See minutes of meeting, Committee on Subsidies and Countervailing Measures in 2005, WTO document G/SCM/M/52, page 8

³³⁶ See paragraph 4, Annex 1A of China's WTO Accession Protocol, WTO document WT/L/432

³³⁷ Ms. Olga Lozano, 30 March 2004, WTO document G/SCM/M/48, page 13

elimination of prohibited subsidies³³⁸, and the notification of active subsidies. These issues were to be discussed in the transitional review meetings. Comments and questions concerning these issues were submitted before the meetings, and China could respond to these comments and questions in oral form in the review meetings. The first transitional review meeting held by the Committee on Anti-dumping Practice was on 24-25 October, 2002, and the first transitional review meeting held by the Committee on Subsidies and Countervailing Measures was on 31 October, and 1 November, 2002.

Effectiveness of monitoring

Graph 5.1 shows the timeline that compares the major events of China's state system considering the implementation of anti-dumping duty and countervailing duty, with the review meetings held by the Committee on Anti-dumping Practice and the Committee on Subsidies and Countervailing Measures. As this graph shows, the major work of matching policy-making was completed before the first transitional review and the first legislative notification review in the two Committees.

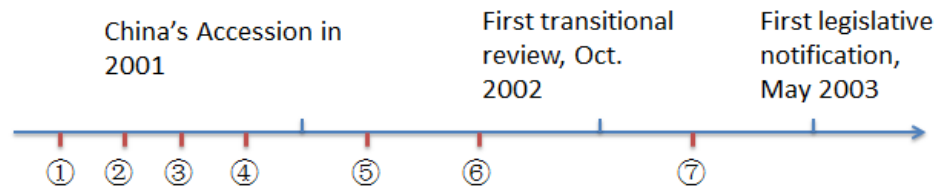
'Anti-dumping Regulations of the People's Republic of China' and 'Countervailing Regulations of the People's Republic of China' were promulgated in November, 2001. To match the new regulations on anti-dumping duty and countervailing duty, the Minister of Foreign Trade and Economic Cooperation (MOFTEC) then issued 11 ministerial rules on anti-dumping practice and four on countervailing measures before the first transitional review meetings in the Committee on Anti-dumping Practice and in the Committee on Subsidies and Countervailing Measures. MOFTEC further issued two ministerial rules on anti-dumping practice, and one on countervailing measures, before the first legislative notification to the

³³⁸ China committed to phase out three types of subsidy programmes, including the subsidies granted to State-owned enterprises, at a loss, the priority in obtaining loans and foreign currencies based on (automobile) export performance, and preferential tariff rates based on localization rate of automotive production. For details see Annex 5B of China's WTO Accession Protocol.

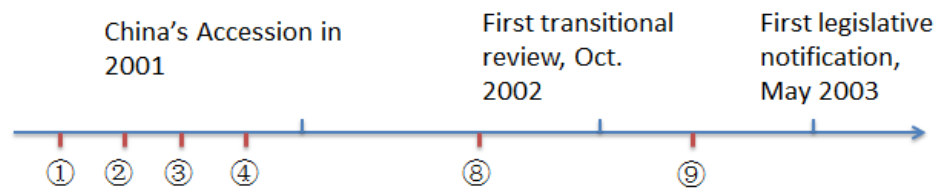
Committee on Anti-dumping Practice and the Committee on Subsidies and Countervailing Measures in 2003³³⁹.

Graph 4.1 Timeline comparing major events in China’s legislation and institution building with the committee meetings in the WTO secretariat

The committee of Anti-dumping Practice



The committee of Subsidies and Countervailing Measures



1. The establishment of the Committee on Industry Injury Investigation and Verdict of National Economy and Trade of the People’s Republic of China
2. The establishment of the Bureau of Industry Injury Investigation
3. The establishment of the Bureau of Fair Trade for Import and Export
4. The promulgation of ‘Anti-dumping Regulations of the People’s Republic of China’, and the promulgation of ‘Countervailing Regulations of the People’s Republic of China’
5. The promulgation of 11 ministerial rules concerning anti-dumping practices by the MOFTEC
6. The establishment of public information room of anti-dumping investigation
7. The promulgation of 2 ministerial rules concerning anti-dumping practice by the MOFTEC
8. The promulgation of 4 ministerial rules concerning countervailing measures by the MOFTEC
9. The promulgation of 1 ministerial rules concerning countervailing measures by the MOFTEC

Sources: China Trade Remedy Information

³³⁹ See ‘the Chronicle of events of the Bureau of Fair Trade for Import and Export and the Bureau of Industry Injury Investigation’, China Trade Remedy Information website. <http://www.cacs.gov.cn/cacs/news/paihangshow.aspx?articleId=89248>
‘China Trade Remedy Information’ is a website running on behalf of the Ministry of Commerce to store and release trade remedy information. <http://www.cacs.gov.cn/>

The comparison of timelines suggests that the two monitoring programmes of the Committee on Anti-dumping Practices and the Committee on Subsidies and Countervailing Measures could be relevant to the timing of China's intensive policy-making in 2002 and 2003. On the one hand, the reviews of legislative notification and the transitional review in these two Committees would uncover whether China had implemented WTO Agreements and its Accession Protocol as it committed, and thereby fulfil its obligations as a WTO member. They thus constitute social pressure that was built on the commitments China made in the Accession Protocol.

On the other hand, although the China's Accession Protocol and the procedures of the two Committees regulated no specific schedule for the relevant legislation, the supportive institution-building and the matching policy-making, the Chinese government chose to complete the major part of the work before the reviews in order to reveal the Chinese government's capacity, and to earn a good reputation in the WTO. The delegate from China stated in the first transitional review held by the Committee on Anti-Dumping Practices that:

“[T]he Chinese Government had taken a firm and positive stand on the implementation issues, for example, institutional restructuring, undertaken by China to better adapt to the demands posed in particular by the WTO accession, fulfilling WTO obligations and China's accession commitments ... As part of the implementation efforts, and enormous amount of preparations had been made by various related government agencies for the smooth proceeding of this review”³⁴⁰.

³⁴⁰ See Minutes of the Regular Meeting held on 24-25 October 2002, Committee on Anti-dumping Practices, page 10, WTO document G/ADP/M/22

This statement firstly reflects that the Chinese government took the implementation of anti-dumping duty and the proceeding of the review mechanism as important tasks in the government's work after China's accession. Secondly, because of the convergence of governing ideologies of the two wings of the CCP, and because of the *de facto* veto power of different ministerial departments, whether the government agencies can cooperate with each other largely condition the success of policy implementation in China³⁴¹. This statement implies that the pressure from the WTO review programmes facilitated the cooperation between different government agencies. Finally and more importantly, it confirms the linkages of the review programmes with the intensive implementation work in 2002 and 2003. Similar statements can be found in China's first transitional review in the Committee on Subsidies and Countervailing Measures³⁴².

3.3 Enforcement

The WTO's mechanism of *enforcement* ensures the compliance with the WTO norms and rules. This mechanism is used to correct or remedy WTO-inconsistent implementing measures or specific administrative acts³⁴³. In the cases of anti-dumping duty and countervailing duty, the authorities of importing countries are allowed to initiate anti-dumping or countervailing investigations, and impose the measures on foreign dumping or subsidized exports³⁴⁴. These practices of enforcement have two areas of meaning. On the one hand, they correct its members' non-compliance with the WTO norms, and protect the domestic industry of the importing countries from dumping or subsidized exports. Any dispute over the use of these practices can be brought

³⁴¹ See Feng, *The Politics of China's Accession to the World Trade Organization: The Dragon Goes Global*. P116-7

³⁴² See Minutes of the Regular Meeting held on 31 October and 1 November 2002, Committee on Subsidies and Countervailing Measures, p7, WTO document no. G/SCM/M/43

³⁴³ Zhang, *Implementation of the Wto Agreements in China*. p277

³⁴⁴ For the detailed procedures of investigations, see section 2 'the two agreements', Chapter three.

to, and settled by, the WTO Dispute Settlement Body (DSB).³⁴⁵ On the other hand, the repeated practices of anti-dumping duty and countervailing duty further reinforce the adoption of these two norms. By linking neo-functional arguments with constructivist theories, Finnemore and Sikkink argue that the “frequent interactions among people ...ultimately create predictability, stability, and habit of trust ... procedural changes that create new political processes can lead to gradual and inadvertent normative, ideational, and political convergence”³⁴⁶. From this perspective, anti-dumping and countervailing practices contribute to the iterated behaviour and habits that consolidate and universalise the two norms in China.

The use of enforcement has direct linkage with the topic salience of the norms in the government’s work; this is proved by comparing the implementation of the anti-dumping duty and the countervailing duty in China. China encountered an anti-dumping investigation in 1980, and it has been the country most frequently targeted by global anti-dumping practices since then. By 2012, there were 1106 anti-dumping investigations that targeted China’s export goods. In contrast, China was not a target of countervailing measures until 2004. From 2004 to 2012, there were 64 countervailing investigations that targeted China’s exporting goods, which was also a much smaller number than that of anti-dumping investigations against Chinese goods³⁴⁷.

As the consequence of the different timing and frequency of China being targeted by global anti-dumping and countervailing practices, anti-dumping duty and countervailing duty enjoy different topic salience in the Chinese government’s work. Because of the high frequency of China’s exporting goods being targeted by global anti-dumping practices, and because of the loss of

³⁴⁵ See Article 3.3 of ‘Dispute Settlement Understanding’ of the WTO Agreements.

³⁴⁶ Martha Finnemore and Kathryn Sikkink, 'International Norm Dynamics and Political Change', *International Organization*, 52/04 (1998), 887-917.

³⁴⁷ Data from WTO online database https://www.wto.org/english/tratop_e/scm_e/scm_e.htm accessed on April 27 2016.

Chinese exporters in these practices, anti-dumping duty enjoyed higher topic salience than the countervailing duty. Zhang Zhigang, the former vice-president of the National Foreign Economic Relation and Trade Committee, claimed in April, 2002 that the implementation of anti-dumping duty was important because China's domestic industries faced serious threats from global anti-dumping practices. Zhang thus called for attention from different branches of the government, business industries, and enterprises for relevant institution-building³⁴⁸.

This claim was quickly responded to by the administrative branches of the central government and by local governments at different levels. The Bureau of Fair Trade for Import and Export held a working conference specifically for anti-dumping practice in the same year. This conference was a high level conference of the central government; it was attended by 80 representatives from the Supreme People's Court, the Central Committee of the Communist Party of China, the State Council, relevant departments of the Minister of Foreign Trade and Economic Cooperation, business/industry associations, enterprises, and academic institutions. Two months later, the Bureau of Industry Injury Investigation and the Department of Industry Policy held a working roundtable for business/industry associations on the topic of anti-dumping practice. This roundtable was a follow-up activity of the earlier working conference.

At local level, the progress of implementing anti-dumping duty was different across China's provinces and cities. Shanghai was one of the first regions to implement anti-dumping duty in its administrative branches. Shanghai issued two relevant policies in 2002; one was an industry injury warning system, the other was a special fund for enterprises to respond to foreign antidumping

³⁴⁸ Zhang, Xiaosong, 2002, 'Zhang, Zhigang New Challenges to China's Domestic Industry Security after China's WTO Accession', Xinhua Net News, http://news.xinhuanet.com/zhengfu/2002-04/18/content_363805.htm, retrieved on 16/5/2015.

investigations³⁴⁹. Shao Zhemin, one senior official of the Shanghai Economy Committee, stated that the government has the responsibility to promote the implementation work in order to help the enterprises to respond to foreign anti-dumping investigations³⁵⁰.

With the attention of senior government officials, and with the cooperation of different government departments, the implementation of anti-dumping duty progressed quickly. Wen Jiabao, the former Prime Minister of China, confirms the progress of implementing anti-dumping duty at the very beginning of the government report of 2004.

“[We] improved our work in dealing with foreign anti-dumping investigations and in settling trading disputes, further optimised the composition of importing/exporting goods”³⁵¹.

This statement further suggests the high topic salience of anti-dumping duty in the government’s work because of the global anti-dumping practices targeting China’s exports.

In contrast to high topic salience of anti-dumping duty, countervailing duty was never mentioned alone in the working report of the Chinese government, or in any working report of the local government before 2007. This fact suggests that anti-dumping duty and countervailing duty enjoyed different topic salience in the Chinese government’s work, especially before China’s exporting goods were targeted by global countervailing measures³⁵². The different topic saliences of these two norms in the Chinese government’s

³⁴⁹ Yu Huang, 'Industry Remedy Policies Are Issued, Shanghai Plans Anti-Dumping Relevant Work 产业救济政策出台, 上海筹划反倾销', *International Finance News 国际金融报*, July 19 2002 2002 p. 2.

³⁵⁰ Ibid.

³⁵¹ Wen, Jiabao, 2004, The Government Report 2004, presented in the second meeting of the 10th National People’s Congress in March 5 2004

³⁵² China was not a target of global countervailing measures because it was not recognized as a market economy. See Provision 15, 'Price Comparability in Determining Subsidies and Dumping' in Part I of the Protocol on the Accession of the People’s Republic of China. page 8

work can well explain why the relevant legislation and policy-making lean towards the implementation of anti-dumping duty in 1997-2004.

Retaliation against foreign trade remedy

While the instrument of 'enforcement' is proved to be highly relevant to the topic salience of anti-dumping duty and countervailing duty in the Chinese government's work, the need for retaliation in response to the enforcements may explain the causal relationship between this instrument and the different topic salience of these two norms in the work of the Chinese government.

Bruce Blonigen and Chad Bown analyse the anti-dumping investigations initiated by the U.S. from 1980 to 1998, and argue that the more the U.S. exports goods to a country (country B), the less likely it is to initiate anti-dumping investigations on similar goods imported from country B. Concern over retaliation is the major reason here. Yet, they also indicate that their theory can only be applied if country B has its own domestic anti-dumping law and thus possesses the capacity for retaliation³⁵³. Similarly, Vandenbussche and Zanardi argue that retaliation is the major motivation of many countries (especially developing countries) that newly develop anti-dumping law and initiate their first anti-dumping investigations³⁵⁴.

According to the 'retaliation' theory, China's implementation of anti-dumping duty and countervailing duty in the state system is to build and elaborate its capacity in retaliating against foreign anti-dumping investigations and countervailing investigations on China's exports. This argument is supported by the legal text of China's anti-dumping and countervailing regulations.

³⁵³ Bruce Blonigen and Chad Bown, 'Antidumping and Retaliation Threats', *Journal of International Economics*, 60 (2003), 249-73.

³⁵⁴ Hylke Vandenbussche and Maurizio Zanardi, 'What Explains the Proliferation of Antidumping Laws?', *Economic Policy*, 53/1 (2008), 95-139.

Article six of the 'Anti-dumping and Countervailing Regulations of People's Republic of China (*The Regulation 1997*) regulated that:

"If any country or region discriminatorily imposes anti-dumping measures or countervailing measures on exports from People's Republic of China, China will have the right to take corresponding measures"³⁵⁵.

Similar provisions continue to exist in the Anti-dumping Regulation of People's Republic of China and the Countervailing Regulations of People's Republic of China that were promulgated in 2001, and the amended versions in 2004. Article 56 of the Anti-dumping Regulation of People's Republic of China (2001, 2004) states:

"If any country (or region) discriminatorily imposes anti-dumping measures on exports from People's Republic of China, China will have the right to take corresponding measure"³⁵⁶.

Article 55 of Countervailing Regulation of People's Republic of China (2001, 2004) states:

"If any country (or region) discriminatorily imposes countervailing measures on the exporting goods of People's Republic of China, China will have the right to take corresponding measure"³⁵⁷.

These provisions are not a part of the WTO Anti-Dumping Agreement or WTO SCM Agreement but a special regulation existing in China's domestic law. In the first transitional review held by the Committee on Anti-dumping Practice, the representative of the United States expressed his concern over the 'corresponding' measures in the first transitional review held by the

³⁵⁵ See Article 40, chapter six of the 'Anti-dumping and Countervailing Regulations of People's Republic of China', promulgated by MOFTEC in 1997.

³⁵⁶ See Article 56 of Anti-dumping Regulation of People's Republic of China.

³⁵⁷ See Article 55 of Countervailing Regulation of People's Republic of China.

Committee on Anti-Dumping Practices.³⁵⁸ This concern was also shared by many WTO Members³⁵⁹.

China's delegation, however, never directly explained the meaning of the 'corresponding' measures, or confirmed Article 56 of Anti-dumping Regulation of PRC as a 'revenge' clause at any formal occasion. In spite of this, many experts still believe that one of the purposes of China's legislation of anti-dumping duty was to build China's capacity for anti-dumping retaliation³⁶⁰. Heng-you Sun argues that "[China's legislation on anti-dumping duty] can effectively protect China's domestic industries from the unfair competition of foreign exports, and it also deters foreign countries' discriminative measures targeting on China's exports"³⁶¹.

This argument was popular in the early 2000s because it reflected Chinese academics' understanding of WTO anti-dumping duty and countervailing duty in China. They believe that anti-dumping duty and countervailing duty were not only the means to fight against unfair activities in international trading, but a legitimate means of trade protection³⁶². This understanding is shared by some senior officials of the Chinese government³⁶³. Shen Muzhu, one of the top Chinese scholars on international trade, even clearly pointed out that

³⁵⁸ Minutes of the Regular Meeting held on 24-25 October 2002, Committee on Anti-Dumping Practices, WTO document G/ADP/M/22, Page 9

³⁵⁹ Ibid. Page 9-10

³⁶⁰ Examples see Pitman B. Potter, 'China and the International Legal System: Challenges of Participation', *The China Quarterly*, /191 (2007), 699-715. P707

³⁶¹ Heng-You Sun, 'Study on Substantive Planning of China's Anti-Dumping Regulations 中国反倾销条例实体规则研究', *Journal of Zhengzhou University of Technology (Social Science) 郑州工业大学学报 (社会科学版)*, 18/2 (2000), 17-21. P21

³⁶² For detailed discussion of the interpretation of anti-dumping duty and countervailing duty, see Chapter six

³⁶³ This idea was expressed in the lecture given by HONG Xiaodong from the Department of WTO Affairs of MOC, in the summer school on SCM Agreement organized by the School of WTO Research & Education, Shanghai University of International Business and Economics (SUIBE) as a part of the Chair Programme of the WTO. July 2012.

Article 56 of the Anti-dumping Regulation of PRC, and Article 55 of the Countervailing Regulation of PRC, were the *de facto* 'revenge' clauses³⁶⁴.

In short, whether or not China is the target of the WTO enforcement mechanisms, largely determines the topic salience of the anti-dumping duty and countervailing duty to the Chinese government's work. It explains the relatively fast rate of progress in the implementation of the anti-dumping duty over that of the countervailing duty in China's state system. The theory of retaliation helps to further understand the linkage between the use of enforcement and the different topic salience of anti-dumping duty and countervailing duty in the government's work in the early 2000s. China needs to build and elaborate its capacity for retaliation through the relevant legislation and institution-building in order to reduce the frequency of China's exports being targeted by global anti-dumping and countervailing practices. While China was not a target of global countervailing practices before 2004, China's exports were facing severe threat from foreign anti-dumping practice from the 1980s. With the expectation that the threat of retaliation may deter others, the implementation of anti-dumping duty in the state system was thus more salient than that of countervailing duty.

4. Conclusion

Chapter three illustrates that both anti-dumping duty and countervailing duty experienced similar progress of implementation in China's state system. Only small differences in their progress can be identified. The analysis of this chapter suggests that this phenomenon can be attributed to the strong influences of the WTO in this implementation process.

³⁶⁴ Mu-Zhu Shen 沈, 'On China's Anti-Dumping Law and Its Improvement 中国反倾销立法评价及其完善思考', *The Political Science and Law Tribune 政法论坛*, /4 (2004), 80 - 89. See page 80.

The WTO *accession* mechanism explains the intensive legislation and institution-building in 2000 and 2001. Its effectiveness is based on the Chinese leaders' rhetoric of China's WTO accession. In exchange for the economic, political, and diplomatic benefits, the top leaders of China, Jiang Zemin and Zhu Rongji, greatly emphasize the importance of the WTO accession in the work of the Chinese government. The legislation of anti-dumping duty and countervailing duty in China's state system, as a part of the requirements of the Working Party of China's accession, thus enjoyed high topic salience in the Chinese government's work.

Meanwhile, the instrument of *monitoring* effectively urges the progress of implementing these two norms by imposing social pressures on the Chinese government. China is under pressure to fulfil its commitments made in the accession negotiations, as well as its obligations as a WTO Member. In order to earn a good reputation, China took the monitoring programmes seriously and exerted great efforts in preparing for the reviews, including the transitional review held by the Committee on Anti-Dumping Practices and the Committee on Subsidies and Countervailing Measures. This process increased the topic salience of the two norms in the work of the Chinese government.

While the effectiveness of *accession* and *monitoring* explains China's intensive work in implementing anti-dumping duty and countervailing duty in 2000-2004, the use of *enforcement* may explain the relatively faster rate of progress of implementing anti-dumping duty in China's state system. Anti-dumping duty enjoyed higher topic salience in the Chinese government's work in the early 2000s, because China's exports had been frequently targeted by global anti-dumping practices while they were not the targets of global countervailing practices until 2004. Compared to countervailing duty, the higher topic salience of anti-dumping duty led to the relatively faster rate of progress of implementing anti-dumping duty in China's state system. The

theory of 'retaliation' further explains the causal relationship between the use of *enforcement* and the topic salience of the two norms.

Although the WTO implementing instruments are effective in promoting the progress of the implementation, their influences are only realised through the Chinese state, the major local agent in this implementation process. These instruments serve as the external pressure that is built in China's interests, its desire for its WTO accession, and for its good reputation in international affairs. The WTO implementing instruments are effective in China's legislation, institution-building, and policy-making because this implementation meets China's interests in protecting its domestic industries and in building-up its positive image in the WTO affairs. However, as the following two chapters illustrate, domestic resistance to the implementation process can be observed where the new norms conflict with its social capital traditions and the interests of the Chinese exporters. Such resistance can result in the different progress of implementing the anti-dumping duty and countervailing duty in China.

Chapter five: Implementing the two norms in the field-level acts

1. Introduction

This chapter examines China's implementation of anti-dumping duty and countervailing duty in field-level acts, and evaluates the role of the WTO in this process. As Chapter three illustrates, the progress of implementing anti-dumping duty and countervailing duty in China's field-level acts differ in two ways. One way is whether the norms are applied in practice, or not³⁶⁵. China initiated its first anti-dumping investigation into foreign exports in 1998, immediately after it promulgated 'Anti-Dumping and Countervailing Regulation of the People's Republic of China'. In contrast, China did not initiate any countervailing investigations until 2009, 11 years later than its first anti-dumping investigation. Meanwhile, China's implementation of these two norms also differs in terms of the extent that China's practices fit the institutionalization of these two norms. The collected evidence shows that China's implementation of anti-dumping duty in practice is better recognized by the WTO than that of countervailing duty.

This chapter examines these differences between the implementation of the two norms in detail. It is interested in how the mismatch between the two norms and China's traditions constitutes barriers to implementation, and thus results in the different progress of their implementation in practice, and how the WTO helps to overcome these barriers and promote progress.

³⁶⁵ 'Practice' here refers to the legal procedures applied by a state. In order to protect domestic industries against unfair trading activities, the governments of importing countries need to initiate anti-dumping/countervailing investigations of suspected foreign exports. Only when the investigations prove the existence of dumping activities, or subsidies, and their causal relationship with domestic industry injuries, can the authorities impose anti-dumping/countervailing measures on those foreign exports.

To the '11-year-gap' between China's first initiation of anti-dumping practices and that of countervailing practices, the first section of this chapter proposes three explanations. It suggests that this '11-year-gap' could be the result of: the different legislative progress of these two norms in China; the purpose of 'problem-solving'; and *WTO enforcement*. These three explanations are evaluated based on the collected evidence.

The second section concerns the extent to which China's anti-dumping and countervailing practices fit the requirements of the WTO. Three case studies are undertaken, including the problem of information disclosure in anti-dumping investigations, the problem of coordination of the investigating authorities and customs authorities collecting anti-dumping duty³⁶⁶, and the problem of subsidy notification in accordance with the SCM Agreement. These three cases help to illustrate the effectiveness of the *WTO monitoring* mechanism in promoting the progress of implementation in field-level practices.

In order to elaborate on the limitations of the WTO in implementation, the final part examines a series of trade disputes between China and the EU which happened in 2012-2014. These trade disputes are believed to be interrelated, and China's anti-dumping and countervailing practices targeting the EU's exports are believed to be for retaliation purposes, rather than to protect fair trade. By tracing the development of these cases, the roles of the Chinese state and the WTO are discussed.

³⁶⁶ Anti-dumping duty here refers to the high tariff imposed on foreign goods on importation. It is the terminology written in WTO Anti-dumping Agreement.

2. Explanations for the '11-year-gap'

China initiated its first anti-dumping investigation into foreign exports in 1998, while its first countervailing investigation was initiated 11 years later. The question is how to explain this '11-year-gap' between the two. This section proposes and evaluates three possible explanations for this phenomenon.

2.1 Different legislation progress

The different legislation progress of anti-dumping duty and countervailing duty in China is the first possible explanation for the late practice of countervailing duty. It is logical to assume that China's countervailing practice came later than its anti-dumping practice because the progress of the legislation of countervailing duty is slower than that of anti-dumping duty in China.

China's first national regulations on anti-dumping duty and countervailing duty – the Anti-dumping and Countervailing Regulation, placed great emphasis on the regulations for the anti-dumping duty. About 90% of its text regulated anti-dumping practice, while only around 10% mentioned the regulations on countervailing duty. Furthermore, the matching policy-making of the SCM Agreement progressed more slowly than that of the Anti-dumping Agreement. For instance, MOFTEC promulgated the 'Provisional Rules on Disclosure of Information in Anti-dumping Investigation', and the 'Provisional Rules on Access to the Non-confidential Information in Anti-dumping Investigation' in 2002, but there were no equivalent rules for a countervailing investigation until 2004 and 2006 respectively. For another example, the 'Rules on Sampling in Industry Injury Investigation' were promulgated in 2008 to regulate both anti-dumping practices and countervailing practices, while the 'Provincial Rules on Sampling in Anti-dumping Investigation' was promulgated in 2002.

However, this assumption is disproved by China's practice in its application of anti-dumping duty. The Chinese government promulgated the 'Anti-dumping Regulation of PRC' and the 'Countervailing Regulation of PRC' in 2001, and amended these two regulations at the same time in 2004. MOFTEC issued 13 ministerial rules to regulate anti-dumping investigations and measures in 2002, three of them were amended later³⁶⁷. In other words, China's legislation on anti-dumping duty was not completed before 2004. However, notwithstanding the incomplete legislation, China initiated 82 anti-dumping investigations into foreign goods in 1998-2004³⁶⁸. This fact suggests that the progress of legislation has little relation to China's decision to start applying anti-dumping duty and countervailing duty in practice.

Therefore, although this thesis cannot exclude the incomplete legislation of countervailing duty as one of the reasons for its late practice in China, the different progress of the legislation of the two norms is not sufficient to explain the different timeline that China applied to anti-dumping duty and countervailing duty in practice.

2.2 Problem-solving

The second explanation for the '11-year-gap' is problem-solving. According to the WTO Anti-dumping Agreement and SCM Agreement, WTO members have the right to restrict international trading when their domestic industries are injured by foreign dumping or subsidized goods. Anti-dumping and countervailing practices are thus legitimate means of protecting China's domestic industries that are threatened by unfair international trading activities.

³⁶⁷ See 'the Chronicle of events of the Bureau of Fair Trade for Import and Export and the Bureau of Industry Injury Investigation'

³⁶⁸ Data from 'Anti-dumping Initiation: by reporting members', WTO database.

Problem-solving can explain China's first initiation of anti-dumping investigations into foreign newsprint exports (the paper on which newspapers are printed). According to a report by the Chinese government, China's domestic newsprint industry was threatened by newsprint imported from Canada, the US, and South Korea³⁶⁹. The amount of newsprint imported from Canada in 1997 increased by 743.36% compared to that in 1996; in the same year, the growth rate of newsprint imported from South Korea was 15,598%, and from the US it was 1,335.68%³⁷⁰. The dramatic growth in the amount of imported newsprint caused severe injury to China's domestic industry. In 1997, the domestic production of newsprint declined by 22%, and total income from sales decreased by 26%. The unemployment rate in the domestic newsprint industry also increased. In the fourth quarter of 1997, the average unemployment rate of the nine reporting enterprises was 17.94%; and the average number of employers decreased by 15.8% compared to the previous year.³⁷¹

To protect China's newsprint industry, the Chinese government initiated anti-dumping investigations into the newsprint imported from Canada, South Korea, and the US in 1998 (in WTO record). In 1999, the Chinese government determined to impose anti-dumping measures on the imported newsprint from the three countries. In 2004, the expiry report of this measurement stated that the negative impacts of dumping activities were eliminated because of the imposed measures; the production of the domestic newsprint industry increased, and the unemployment rate decreased³⁷². China's anti-dumping practices thus protected China's newsprint industry.

³⁶⁹ Document No. 4 of 1999, Ministry of Foreign Trade and Economic Cooperation (MOFTEC), issued on June 3rd, 1999.

³⁷⁰ Ibid.

³⁷¹ See GAO 高 Yongfu 永福 and GAO 高 Lu 璐, The Anti-dumping Practice in China '中国反倾销的实践', *Journal of Shanghai Institute of Foreign Trade 上海对外贸易学院学报*, No.12, 2000k, p22

³⁷² See 'Expiry Report of Anti-dumping Measures Against Newsprint Imported From Canada, South Korea and the United States', Document No. 30, 2004, Ministry of Commerce of the PRC.

Although problem-solving may explain China's first anti-dumping practice in 1998, it cannot explain the '11-year-gap' between China's anti-dumping practices and countervailing practice. Both anti-dumping duty and countervailing duty can help to protect China's domestic industries, but China practiced only anti-dumping duty for this purpose before 2009.

If problem-solving is the only reason for this phenomenon, we have to assume that China's domestic industries had not been injured by foreign subsidized exports before 2009. It is true that no direct evidence can prove that China's domestic industries were injured by foreign subsidized exports before 2009, since no countervailing investigation was conducted during this period of time, and no independent research was conducted for this purpose either³⁷³. However, it is also arbitrary to claim that China's domestic industries were threatened only by foreign dumping of goods, and not by subsidized goods in international trading before 2009.

Table 5.4 displays China's anti-dumping and countervailing practices in comparison to those practices globally from 1998 -2012. This table shows that the Chinese government had been using anti-dumping practices regularly during this period of time; especially from 2002 to 2004, the number of anti-dumping investigations initiated by China was 10% of that of global anti-dumping investigations. The logic of problem-solving suggests that the authorities of importing countries initiate anti-dumping investigations because their domestic industries are under threat. Following this logic, China's anti-dumping practices in 1998-2008 suggest China did need to protect its domestic industries from the threat of unfair activities in international trading.

³⁷³ Neither can this thesis conduct a similar investigation because countervailing investigation is highly technical. It requires not only an extremely large scale of data collection (by circulating questionnaires) nation wide, but it also requires a specific method to calculate the causal relationship between domestic injuries and the imported, subsidized goods. This method was never revealed to the public.

Meanwhile, before China initiated its first countervailing investigation, there were 184 countervailing investigations initiated globally, and 108 of them were determined with the imposition of countervailing measures. Some of the exports under investigations were also exported to China. For instance, the European Commission (EC) initiated an investigation into imports of polyethylene terephthalate (PET, a type of plastic) from Thailand in 2004³⁷⁴. China was also a large importing country of PET from Thailand. China imported 14463.1 tons of PET in 2004, and this number increased in the following years³⁷⁵. This case suggests that China, as one of the largest importing countries in the world, was not immune to importing subsidized goods in international trading before 2009. This thesis thus argues that 'problem-solving' cannot provide sufficient explanation for the '11-year-gap' between China's anti-dumping practices and countervailing practices.

³⁷⁴ See 'Reports under Article 25.11 of the Agreement', May 2004, Committee on Subsidies and Countervailing Measures, WTO document no. G/SCM/N/112.

³⁷⁵ For import/export data of PET, see the data base of PPI, <http://pet.100ppi.com/imex/> retrieved on April 27, 2016

Table 5.1: China's anti-dumping and countervailing practices vs. global practices

	1	1	2	2	2	2	2	2	2	2	2	2	2	2	2	2	t
	9	9	0	0	0	0	0	0	0	0	0	0	0	0	0	0	o
	9	9	0	0	0	0	0	0	0	0	0	0	1	1	1	1	t
	8	9	0	1	2	3	4	5	6	7	8	9	0	1	2	2	al
ADI	2	3	2	3	3	2	2	2	2	1	2	2	1	1	2	2	3
Glob	6	5	9	7	1	3	2	0	0	6	1	0	7	6	0	0	6
al	6	8	8	2	5	4	0	1	4	5	3	9	2	6	8	8	0
																	1
ADI	2	4	4	5	5	5	4	5	7	6	7	7	4	5	6	6	8
targ	8	2	4	5	1	3	9	6	2	2	6	7	4	1	0	0	2
etin																	0
g																	
Chin																	
a																	
ADI	3	2	1	1	3	2	2	2	1	4	1	1	8	5	9	9	2
by			1	4	0	2	7	4	0		4	7					0

Chin																	0
a																	
CVI	2	4	1	2	9	1	8	6	8	1	1	2	9	2	2	2	2
Glob	5	1	8	7		5				1	6	8		5	3	6	
al																	9
CVI							3		2	8	1	1	6	9	1	6	
targ											1	3			0	2	
etin																	
g																	
Chin																	
a																	
CVI												3	1		2	6	
by																	
Chin																	
a																	

ADI Global: anti-dumping investigations globally

ADI targeting China: anti-dumping investigations of China's exports

ADI by China: anti-dumping investigations initiated by China

CVIG: countervailing investigations globally

CVI targeting China: countervailing investigations of China's exports

CVI by China: countervailing investigation initiated by China

Source of data: WTO database

2.3 Enforcement and topic salience

China's first countervailing investigation into foreign goods in 2009 therefore, seems to owe more to its increasing topic salience (as the result of being targeted by global countervailing duty), than it does to the legislation progress, or to the purpose of problem solving.

Chapter four illustrates that although the implementation of anti-dumping duty and countervailing duty in China's state system were similarly pressured by the WTO *accession* and *monitoring* mechanisms, the topic saliences of these two norms were different in the government's work. China has been a target of global anti-dumping practices since the 1980s, but it was not targeted by global countervailing practices before 2004. China thus took the implementation of anti-dumping duty as a more urgent task than that of countervailing duty in the first half of the 2000s, and the topic salience of countervailing duty remained at the minimal level³⁷⁶.

The topic salience of countervailing duty in the government's work increases, however, in the following years. 2004 was a milestone for the implementation of countervailing duty in China. In this year, three countervailing investigations were initiated against China's export goods. This was the first time that China's exports were targeted by global countervailing practices. The number of countervailing investigations initiated against China's export goods increased dramatically in 2007. Eight countervailing investigations were initiated against China's exports, and one was concluded with positive determination* (see table 5.4)³⁷⁷.

³⁷⁶ The topic salience of countervailing duty was only for the relevant legislation work in the early 2000s. This topic salience was the result of China's commitments for the WTO accession. Only a few government departments participated in this legislation work.

³⁷⁷ Source: WTO database.

*When a countervailing investigation is concluded with positive determination, the countervailing measure will be imposed as the result.

These countervailing investigations drew great attention from the Chinese leaders and from government officials. In October, 2007, the first nation-wide working conference on countervailing duty was held by MOFCOM in Hangzhou. It was a high level conference attended by senior officials from relevant departments of MOFCOM, senior officials from the Departments of Commerce of local governments, and representatives from business associations and industries. The purpose of this conference was to emphasize the importance of countervailing duty and its practices, to discuss response strategies to foreign countervailing practices, and to coordinate the relevant departments at different levels of government for the relevant work³⁷⁸. Three years later, MOFCOM organised the second working conference in Beijing. It summarised the work of different levels of governments after the first working conference in 2007, and further assigned tasks for future work³⁷⁹.

The topic salience of countervailing duty also increases in the work of China's local government. Available public records show that follow-up work after these conferences was soon undertaken by the provincial and the local governments. For instance, Shanxi Province organised a working conference in December, 2007, as follow-up work to the national working conference held by MOFCOM. It required the attendance of all departments of commerce in Shanxi Province³⁸⁰. A similar working conference was also held in Jiangxi

³⁷⁸ 'National working conference for responding to global countervailing practice was held in Hangzhou', press release on October 18, 2007, Trade Remedy and Investigation Bureau, Minister of Commerce of the PRC, <http://gpi.mofcom.gov.cn/aarticle/b/200710/20071005163674.html> Retrieved on May 3, 2016.

³⁷⁹ 'National working conference for responding to global countervailing practice was held in Beijing', press release on June 9, 2010, <http://shandong.mofcom.gov.cn/aarticle/sjdixiansw/201006/20100606957494.html> retrieved on May 3, 2016.

³⁸⁰ 'Conference information on the provincial countervailing working conference & trade remedy training 关于召开全身反补贴应对工作会议暨 '两反一保' 工作培训会议的通知', Department of Fair Trade, Shangxi Province (2007) no. 337, available at <http://www.shanxigov.cn/n16/n1233/n1503/n1881/n2788/6812056.html> retrieved on May 3, 2016.

Province³⁸¹, and Zhejiang Province³⁸² in 2008. Zhejiang Province also established an institution of joint countervailing working meetings in 2008. This institution is responsible for coordinating the responses to global countervailing practices and guiding the amendments of subsidy policies³⁸³.

The idea of 'retaliation' helps to further understand the correlation between China being targeted by global countervailing practices, and China's countervailing investigations of foreign exports. Feinberg and Reynold argue that anti-dumping practices have been used for strategic purposes. The authorities of international trading countries may use these practices to demonstrate their capacity for retaliation³⁸⁴. This capacity can reduce the possibility of their exports being investigated for dumping activities, because the authorities of the importing countries have to consider the risk of retaliation when they make their decisions.³⁸⁵ Similar arguments can also be found in the work of Prusa and Skeath³⁸⁶, Thomas Prusa³⁸⁷, and Vandenbussche and Zanardi³⁸⁸. Some Chinese scholars also point out that the phenomena of retaliation exists in China's anti-dumping practices, and their

³⁸¹ 'Conference information on the provincial countervailing working conference & training 关于举办全身反补贴应对工作会议暨培训班的通知', press release on December 12 of 2008, available at http://www.jxdoftec.gov.cn/zwgk/tzgg/200812/t20081222_142624.htm retrieved on May 3, 2016.

³⁸² 'The department of Fair Trade of Zhejiang Province held a countervailing working seminar in Lishui 省进出口公平贸易暨反补贴工作研讨会在丽水举行', Zhejiang News, released on August 17 of 2007, available at <http://zjnews.zjol.com.cn/05zjnews/system/2007/08/17/008711892.shtml> retrieved on May 3, 2016.

³⁸³ 'Information on enhancing relevant work responding to global countervailing practices', Zhejiang Province government (2008) no. 24, available at http://www.zj.gov.cn/art/2015/12/30/art_38271_257157.html retrieved on May 3, 2016.

³⁸⁴ Robert M. Feinberg and Kara M. Reynold, 'The Spread of Antidumping Regimes and the Role of Retaliation in Filings', *Southern Economic Journal*, 72/4 (2006), 877-90.

³⁸⁵ Bruce Blonigen and Chad Bown, 'Antidumping and Retaliation Threats', *Journal of International Economics*, 60 (2003), 249-73.

³⁸⁶ Thomas Prusa and Susan Skeath, 'Modern Commercial Policy: Managed Trade or Retaliation?', (Wellesley College, 2002).

³⁸⁷ Thomas J. Prusa, 'Anti-Dumping: A Growing Problem in International Trade', *World Economy*, 28/5 (2005), 683-700.

³⁸⁸ Hylke Vandenbussche and Maurizio Zanardi, 'What Explains the Proliferation of Antidumping Laws?', *Economic Policy*, 53/1 (2008), 95-139.

evidence proves that these retaliations effectively reduce the frequency of China's exports being targeted by global anti-dumping practices³⁸⁹.

Following this line of thinking, China's initiation of countervailing investigations into foreign exports can be a way to expand its capacity for retaliation. By doing so, China hopes to suppress the frequency of China's exports being targeted by global countervailing practices. In fact, this frequency peaked in 2009 when 13 countervailing investigations were initiated against China's exports, and six investigations were concluded with positive determination. In the same year, China initiated its first countervailing investigation of foreign goods. It could be more than a coincidence that China decided to start its countervailing practices in this particular year.

3. Effectiveness of WTO monitoring programmes

This section examines three examples of China's implementation of anti-dumping duty and countervailing duty at field-level and includes: information disclosure in anti-dumping investigations; the coordination of China's investigating and customs authorities; and China's notification to the WTO secretariat of subsidies. These examples help to illustrate how the WTO monitoring programmes, especially the transitional review programme, urge the Chinese government to make important progress in the field-level practices.

3.1 Information disclosure

Article 6 of the WTO Anti-dumping Agreement, and Article 12 of the WTO SCM Agreement, state that the authorities need to make sure that all

³⁸⁹ Examples see Li Lei and Qin Xin, 2010, 'Can China's Anti-dumping Retaliation Ability for Deterrence Inhibit Anti-dumping Against China 我国对外反倾销威慑力能否有效抑制国际对华反倾销', *Finance & Trade Economics 经贸经济*, p76-81, see also Yu Li-hong and LIU Hai-yun, 2011, 'An Empirical Research on the Relationship between China's Retaliation Threat and US's Anti-dumping against China 我国报复威胁与美国对华反倾销关系实证研究', *Guoji JingMao TanSuo 国际经贸探索*, 27(10), 53-60.

information collected in anti-dumping and countervailing investigations is available to all interested parties. Considering confidential information, the authorities shall provide non-confidential information to all interested parties³⁹⁰.

In accordance with these requirements, the Chinese government promulgated the Provisional Rules on Information Disclosure in Anti-Dumping Investigations, and the Provisional Rules on Access to Non-Confidential Information in Anti-dumping Investigations, in March, 2002. These two ministerial rules were added as amendments to the Measures for Consulting Public Information on Industry Injury Investigation in 2004, and the Rules on Disclosure of Information in Industry Injury Investigations in 2006. These revised versions regulate information disclosure in both anti-dumping and countervailing investigations. The Chinese government also established the public information reading room in June, 2002. This reading room provides access for interested parties, and the public, to the released information of anti-dumping and countervailing investigations³⁹¹.

Although the information disclosure was regulated in detail in the ministerial rules, the relevant work on information disclosure in anti-dumping investigations was heavily criticized by other WTO Members in China's transitional reviews. The delegate from the US pointed out in the first transitional review meeting in October, 2002, that there was little non-confidential information available to interested parties, or to the public. He thus encouraged the Ministry of Foreign Trade and Economic Cooperation

³⁹⁰ For the detailed provisions, see Paragraphs 6.5 – 6.9, *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* (also known as 'WTO Anti-dumping Agreement'). See also Paragraphs 12.4 – 12.8, *Agreement on Subsidies and Countervailing Measures* (SCM Agreement).

³⁹¹ For the promulgation of these ministerial rules and the establishment of the public reading room, see 'the Chronicle of events of the Bureau of Fair Trade for Import and Export and the Bureau of Industry Injury Investigation', China Trade Remedy Information website, <http://www.cacs.gov.cn/cacs/news/paihangshow.aspx?articleId=89248> Retrieved on 21 April 21, 2016.

(MOFTEC) and the State Economic and Trade Commission (SETC) to work further on this problem.³⁹²

The same issue was stressed again in the transitional review of 2003. The delegate from the United States specifically pointed out that although the Chinese government created a reading room for information disclosure on anti-dumping investigations, there was no injury document placed in this room for the interested parties.³⁹³

The delegate from China confirmed, in 2003, that the injury documents were not available in the public reading room. He further explained that:

“The process of government restructuring was still going on ... it was China’s intention to make such documents or information available in this public reading room in the future”³⁹⁴.

Significant progress considering information disclosure was then made by China in 2004. The Chinese delegate stated in the transitional review of that year, that the injury documents of anti-dumping investigations were available in the public reading room for public access³⁹⁵. This progress was confirmed and approved by other WTO members. The delegate from the United States stated that:

“The United States appreciated MOFCOM’s efforts to make certain types of documents available to interested parties. The Bureau of Fair Trade (‘BOFT’), MOFCOM’s dumping investigation unit, maintained a public reading room in which it provided non-confidential versions of the petitions filed by Chinese domestic

³⁹² See Minutes of the Regular Meeting hold on 24-25 October 2002, Committee on Anti-dumping Practices, WTO document G/ADP/M22, page 8.

³⁹³ See Minutes of the Regular Meeting Held on 23-24 October 2003, pages 22, 26.

³⁹⁴ Ibid, page 27.

³⁹⁵ See Minutes of the Regular Meeting held on 26,28 and 29 October 2004, page 12.

industries and most anti-dumping-related questionnaire responses submitted by responding parties.”³⁹⁶

One important fact should be noted in relation to the case of information disclosure in anti-dumping investigations. Before the establishment of MOFCOM in 2003, both MOFTEC and SETC were the investigating authorities in China. Specifically, there have been four government departments responsible for China’s anti-dumping investigations including: the Anti-dumping/Countervailing Office of SETC; the Committee of Industry Injury Investigation and Verdict of SETC; the Bureau of Industry Injury Investigation of SETC; and the Bureau of Fair Trade for Import and Export of MOFTEC. In order to make the documents of investigations available in the public reading room, BOFT needed the cooperation of four government departments belonging to two separate ministries.

Notwithstanding the difficulties, China made important progress in applying the rules of information disclosure in field-level practices in a short period of time. In 2003, no relevant document on injury investigations could be found available in the public reading room. Only one year later, the public was able to access the non-confidential documents of China’s industry injury investigations.

However, although China made important progress in providing the public access to the non-confidential documents in injury investigations, the problem of information disclosure was still criticised for providing no summary of the confidential documents, and no documents of margin calculation in the investigations in the following years. In the final transitional review held by the Committee on Anti-Dumping Practices in 2009, the delegate from the US

³⁹⁶ Ibid, page 9.

especially expressed his disappointment regarding these problems³⁹⁷. This concern was also shared by Japan and the European Commission³⁹⁸.

3.2 Duty collection

The second example is the problem of duty collection after the imposition of anti-dumping measures³⁹⁹. In the transitional review held by the Committee of Anti-dumping Practices in 2004, the Japanese delegate criticised the insufficient work of China's customs authorities in providing public notice of the collection of anti-dumping duty.

“Japan had heard that China had made a public notice to resolve the problem but also had heard that Japanese respondents were still facing the problem of the implementation of the public notice because the public notice so far has not been implemented by Chinese customs and other relevant authorities.”⁴⁰⁰

In October, 2005, the US also criticized the implementation of imposed anti-dumping measures at China's borders:

“[The] US government continued to receive reports from responding parties of Chinese customs authorities either assessing anti-dumping duties on merchandise not subject to the measure, or imposing seemingly unreasonable burdens of proof before allowing entry of non-subject merchandise... urged China to put in place such procedures, as well as to refine the process by which MOFCOM informed Chinese customs officials, at China's ports ...”⁴⁰¹

³⁹⁷ 'Minutes of the Regular Meeting held on 24-25 October 2011', Committee on Anti-Dumping Practices, released on 22 December 2011, WTO document no. G/ADP/M/41, see page 19.

³⁹⁸ See *ibid.* p 21-22.

³⁹⁹ Anti-dumping duties refer to the high tariff on imports as a part of the imposed anti-dumping measures, for details see Article 9, *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (WTO Anti-dumping Agreement)*.

⁴⁰⁰ Minutes of the Regular Meeting held on 26,28 and 29 October 2004, Committee on Anti-dumping Practices, WTO document G/ADP/M/27 P14-15.

⁴⁰¹ See Minutes of The Regular Meeting Held on 31 October 2005, Committee on Anti-Dumping Practice, WTO document G/ADP/M/29, p10.

These criticisms suggested the poor coordination of China’s investigating authorities and its customs authorities. The same problem was then repeated, as stressed by the delegate from the US in China’s transitional reviews in 2006⁴⁰², 2007⁴⁰³, 2008⁴⁰⁴, and 2009⁴⁰⁵. The delegate from China confirmed the existence of this problem in China’s practices. He assured members that:

“... any technical problems encountered during implementation would be addressed by MOFCOM and the custom administration through mutual consultations at the working level.”⁴⁰⁶

This commitment of the Chinese delegation in 2006 was soon reflected in the Chinese government’s work. China Customs attendance at the high level meetings for trade remedy issues increased significantly after 2005, which coincides with the times when China received relevant criticisms in the transitional reviews (see table 5.2).

Table 5.2: Meetings for trade remedy issue attended by the Customs⁴⁰⁷

Year	Content of the event	Organized by
Before 2004	N/A	N/A
2005	Cooperation of law enforcement in the imposition of anti-dumping measures	The Minister of Commerce
2006	The first workshop on the technical problems in	The Bureau of Fair Trading for Import and Export

⁴⁰² ‘Minutes of the Regular Meeting held on 25-26 October 2006’, Committee on Anti-dumping Practices, WTO document G/ADP/M/31, p9.

⁴⁰³ Minutes of the Regular Meeting held on 22-23 October 2006’, Committee on Anti-dumping Practices, WTO document G/ADP/M/33, p11.

⁴⁰⁴ Minutes of the Regular Meeting held on 27-28 October 2006’, Committee on Anti-dumping Practices, WTO document G/ADP/M/35, p13.

⁴⁰⁵ Minutes of the Regular Meeting held on 21 October 2006’, Committee on Anti-dumping Practices, WTO document G/ADP/M/37.

⁴⁰⁶ ‘Minutes of the Regular Meeting held on 25-26 October 2006’, p11.

⁴⁰⁷ Data source: the chronicle of events of the Bureau of Fair Trade and the Bureau of Industry Injury Investigation.

	anti-dumping investigations	
2007	The second and third workshop on the technical problems in anti-dumping investigations	The Bureau of Fair trading for Import and Export
2008	<i>One</i> meeting of the Coordinating Committee of Trade Remedy Measures	The Minister of Commerce
2009	<i>Seven</i> meetings of the Coordinating Committee of Trade Remedy Measures	The Minister of Commerce
	Joint research group	The Bureau of Industry Injury Investigations
2010	<i>Four</i> meetings of the Coordinating Committee of Trade Remedy Measures	The Minister of Commerce

China Customs did not attend any high level industry injury events, including government working conferences and workshops, before 2004. The first high level event that China Customs attended was the workshop on the cooperation of law enforcement held by the Minister of Commerce in June, 2005. This workshop, attended by the Customs Tariff Commission, Customs and National Bureau of Quality Inspection, was to establish/enhance the cooperation between different departments, and to clarify their responsibilities regarding the imposition of anti-dumping measures specifically⁴⁰⁸. Since this event, the frequency of Custom's attendance at high level industry injury events increased. The Bureau of Fair Trade for Import and Export organised three workshops on the technical problems in anti-dumping investigations in 2006 and 2007, and Customs attended two of them. From

⁴⁰⁸ See 'the chronicle of events of the Bureau of Fair Trade and the Bureau of Industry Injury Investigation'.

2008 to 2010, Customs attended 12 meetings of the Coordinating Committee of Trade Remedy Measures. In these meetings, different government departments, including Customs, discussed and verified the determinations of anti-dumping investigations and expiry reviews on foreign exports⁴⁰⁹. In 2009, Customs also participated in the joint research groups organised by the Bureau of Industry Injury Investigation to inspect anti-dumping related work at the local level. As a consequence of the series of efforts made by the Chinese government, the problem of the coordination of the investigating authorities and the customs authorities was questioned no more in the final transitional review meetings in 2010.

3.3 Notification of subsidies

The third example is China's notification of subsidies. Based on the principle of transparency, an important principle of fair trade, the Committee of Subsidies and Countervailing Measures requires the Member States to provide full and updated notification of all specific subsidies every three years⁴¹⁰. The delegate from the US explained the meaning of subsidies notifications:

“Prompt and timely compliance with such subsidy notification requirements... it was also critical for satisfying the rights of other Members to know and understand the range and operation of subsidy measures that were subject to the provisions of the Agreement ... provide a means of disseminating information domestically about the obligations ... to avoid the adoption of measures that might be inconsistent with a Member's multilateral obligations, thereby preventing unnecessary trade frictions.”⁴¹¹

⁴⁰⁹ A document issued by the Office of the Ministry of Commerce in 2007 regulated that the meetings of the Coordinating Committee of Trade Remedy Measures should be held before the determination of injury investigations. For details see the ‘Working Mechanisms of Coordinating Committee of Trade Remedy Measures’, issued by the Office of Ministry of Commerce on April 30 2007, Document No. [2007]2, http://www.110.com/fagui/law_201880.html retrieved on 08/06/2015.

⁴¹⁰ Article 25.1 of *SCM Agreement*.

⁴¹¹ Minutes of the Regular Meeting held on 31 October and 1 November 2002, the Committee on Subsidies and Countervailing Measures, WTO document G/SCM/M/43, released on 17 March 2003, p8.

As a new member, China was required to submit its first annual subsidy notification by June, 2002, in addition to the subsidy notification that it provided in its Accession Protocol. However, China missed this submission deadline due to the time constraints and the complexity of information collection⁴¹². The delay of subsidy notification was repeatedly mentioned by other members, especially the US and the European Community in the following years. They urged China to fulfil this obligation⁴¹³.

To put further pressure on China, in November, 2004, the US filed a formal request, under Article 25.8 of SCM Agreement, to China for clarifying the existence of certain subsidies in China.

“In light of China’s failure to provide a subsidies notification, the United States had felt obligated to file a request pursuant to Article 25.8 ... a written request for information on the nature and extent of certain subsidy programmes believed to exist in China, some which could be prohibited export or import substitution subsidies. The delegate of the United States requested that China provide a comprehensive response as soon as possible.”⁴¹⁴

This request was followed by requests from the European Community, Japan, and Canada.

The delegate from China replied that:

“China intended to fully honour this commitment following its accession to the WTO ... China was in the process of assimilating information on subsidies and good progress had been made, given

⁴¹² Ibid P9.

⁴¹³ P18.

⁴¹⁴ Minutes of the Regular Meeting held on 4-5 November 2004, Committee on Subsidies and Countervailing Measures, WTO document G/SCM/M/52, released on 25 February 2005, p6.

the heavy workload and the number of government agencies involved.”⁴¹⁵

This statement suggests that China fully understood subsidy notification as its obligation to the WTO and other members, but it kept missing the deadline for its first notification after the accession. China thus received many criticisms from other members. Those criticisms constituted great pressure on the Chinese government⁴¹⁶.

China submitted its first subsidy notification, aside from the notification it provided in its Accession Protocol, in April, 2006. In this document China notified 78 subsidies granted by different government departments at central level⁴¹⁷. The effort made by the Chinese government in providing such notification was appreciated by other WTO members⁴¹⁸.

Examining this case, there are two important points that should be noted. Firstly, collecting subsidy information was a heavy burden for the Chinese government because of the complexity of China’s subsidy system. The Chinese delegate explained “there was more than one authority responsible for the administration of subsidies in China, and that information collecting and sorting is a complex and time-consuming exercise.”⁴¹⁹. This problem was also reflected in China’s notification of subsidies submitted later; 98% of subsidies notified in this document were granted by two or three authorities, sometimes four, jointly. For instance, the first subsidy programme in this notification was,

⁴¹⁵ Ibid, p6.

⁴¹⁶ HONG Xiaodong, from the Department of the WTO Affairs of MOC, stated in an interview for this research that he and his colleges felt great pressure every time the delegates of other WTO members asked them about information on China’s subsidies. To fulfill China’s obligations, the department of WTO Affairs exerted great effort in collecting information from different authorities. The interview was conducted on 16 July, 2012, in Shanghai.

⁴¹⁷ See ‘New and Full Notification Pursuant to Article XVI:1 of the GATT 1994, and Article 25 of the SCM Agreement, People’s Republic of China’, Committee on Subsidies and Countervailing Measures, 13 April 2006, WTO document G/SCM/N/123/CHN.

⁴¹⁸ See ‘Minutes of the Regular Meeting held on 26-27 October 2006’, Committee on Subsidies and Countervailing Measures, WTO document G/SCM/M/58, released on 2 April 2007, p4.

⁴¹⁹ see Minutes of the Regular Meeting held on 4-5 November 2004, Committee on Subsidies and Countervailing Measures, WTO document G/SCM/M/52, released on 25 February 2005 p11

'Preferential tax policies for foreign-invested enterprises granted jointly by the Ministry of Finance (MOF), State Administration of Taxation (SAT) and MOFCOM⁴²⁰. Therefore, although the government was willing to provide new and full notification of subsidies as required, the information collection process was slow and difficult.

Secondly, the pressure from the WTO is directly related to China's success in providing the first new and full subsidy notification. The delegate from China stated that China "had received assistance from the Secretariat to help Chinese officials to understand *the SCM Agreement* and determine which policies should be notified"⁴²¹. This statement suggests two important facts. Firstly, the Chinese officials from different subsidy authorities did not understand the obligation of subsidies notification and the detailed requirement of notification. Secondly, the WTO Secretariat's involvement facilitated cooperation between different subsidy authorities by providing professional knowledge and external pressure.

However, even with the assistance of the WTO secretariat, this subsidy notification of China did not satisfy other WTO members. In the transitional review of 2006, the delegate from the US questioned this notification for its lack of specific subsidy information on textiles, autos and auto parts, and agriculture, the lack of transparency in the reported export credits, and the lack of subsidy information at provincial and local levels⁴²². These problems were not solved in 2009 when the delegate from the U.S. concluded China's implementation of the SCM Agreement in the final transitional review⁴²³.

⁴²⁰ See 'New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the SCM Agreement, People's Republic of China', Committee on Subsidies and Countervailing Measures, 13 April 2006, WTO document G/SCM/N/123/CHN. Page 2

⁴²¹ See 'Minutes of the Regular Meeting held on 26-27 October 2006' p5.

⁴²² See *ibid*, p4-5.

⁴²³ For details, see 'Minutes of the Regular Meeting held on 20 October 2006', Committee on Subsidies and Countervailing Measures, WTO document G/SCM/M/71, released on 5 February 2010, p9.

3.4 Summary and Discussion

This section examines three examples of the implementation of WTO anti-dumping duty and countervailing duty at field-level in China. These examples present the same scenario of implementation. The Chinese government made policies that meet the requirements of the WTO, or made the relevant commitments in the accession protocols, but its field-level practices were not in accordance with these policies or commitments. This thesis argues that the lack of cooperation between different government departments is an important reason for the difficulties of field-level implementation in these three examples.

Table 5.3 displays the coordinating agencies and the relevant bureaucratic units whose cooperation is required for field-level practices in each case. (1) For information disclosure in anti-dumping investigations, BOFT, who maintains the public reading room, needs to collect the documents of injury investigations from four government organs belonging to two ministerial-level departments. (2) For proper public notice and duty collection, MOFCOM needs to invite the customs authorities into its administrative work. (3) For the subsidy notification to the WTO secretariat, the department of WTO Affairs needs to collect the subsidy information from MOF, SAT, MOFCOM, MOST, and other relevant authorities under the State Council⁴²⁴.

Table 5.3 the coordination of different government departments

Case	Coordinating agency	Relevant bureaucratic unit
Information disclosure	The Bureau of Fair Trade for Import and export	Former SETC, former MOFTEC, Anti-dumping and Countervailing

⁴²⁴ These departments are listed in China's subsidy notification, 2006, as the authorities for subsidies. See 'New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the SCM Agreement, People's Republic of China'.

	(BOFT)	Office, the Committee of Industry Injury Investigation and Verdict, the Bureau of Industry Injury Investigation
Public notice & duty collection	MOFCOM	The Customs Tariff Commission, the Customs and National Bureau of Quality Inspection
Subsidy notification	The Department of WTO Affairs	MOF, SAT, MOFCOM, Ministry of Science and Technology (MOST), and other relevant authorities under the State Council

Orchard points out that bureaucratic lack of understanding of the norms, and the willingness for norm-consistent practices, are important reasons for the failures in implementing international norms⁴²⁵. Implementation is thus a more difficult task if it requires cooperation between different ministerial level departments who possess the *de facto* veto power in China⁴²⁶.

The collected evidence proves the causal relationship between the pressure of the monitoring programmes and the cooperation of different government departments in fulfilling China's obligations. For instance, in the second case discussed above, the US and Japan criticized the problem of duty collection in China's anti-dumping practices. The delegate from China committed to address this problem with MOFCOM in order to solve it at the working level. The topic salience of this problem increased in the Chinese government's work. MOFCOM responded in a timely manner by holding three workshops, in

⁴²⁵ Phil Orchard, 'Implementing a Global Internally Displaced Persons Protection Regime', in Alexander Betts and Phil Orchard (eds.), *Implementation and World Politics - How International Norms Change Practice* (Oxford: Oxford University Press, 2014). P123.

⁴²⁶ See Hui Feng, *The Politics of China's Accession to the World Trade Organization: The Dragon Goes Global* (New York: Routledge, 2006). P117.

2006 and 2007, to discuss the coordination of the investigating authorities and the customs authorities. China Customs has also been invited to attend the meetings of injury investigating determination since 2006. The problem of duty collection is solved. Similar causal relations can also be found in the other two cases.

The WTO instrument of *monitoring* possesses no enforcement power but it a socialising force through which it exerts its influence on the implementation of the WTO norms. To promote the progress of implementation, this mechanism brings feelings of embarrassment, anxiety, guilt, and shame⁴²⁷ to the Chinese bureaucrats by reminding them of China's obligations to the WTO. It is an effective mechanism because China values its identity as a WTO Member and is keen to create and maintain a good reputation in WTO affairs. Chinese top leaders also prioritised the implementation of WTO Agreements in the government's work for the same reason⁴²⁸. Due to the pressure from both the WTO and the Chinese leaders, the criticisms that China received in the monitoring programmes can easily increase the topic salience of the relevant issues in the Chinese government's work. Important progress in the implementation of field-level practices could thus be made.

However, although the instrument of *monitoring* promotes China's practices of anti-dumping duty and countervailing duty in general, it is less effective in the case of subsidy notification than the other two instruments. The Department of WTO Affairs faces strong resistance from bureaucrats when it collects subsidy information from the subsidy authorities. The lack of knowledge of subsidy notification was neither the only, nor the major, reason

⁴²⁷ Finnemore and Sikkink argue that it is how social norms are sustained. See Martha Finnemore and Kathryn Sikkink, 'International Norm Dynamics and Political Change', *International Organization*, 52/04 (1998), 887-917.

⁴²⁸ See ZHU, Rongji, 2002, 'the Government Work Report of the PRC', presented at the fifth meeting of the Ninth National People's Congress on March 5, 2002, see also Zhu Rongji, 2003, 'the Government Work Report of the PRC', presented at the first meeting of the tenth National People's Congress on March 5, 2003.

for this resistance. China received assistance from the WTO Secretariat that improved China's bureaucratic understanding of the SCM Agreement and China's obligation to subsidy notification⁴²⁹. China then submitted its first subsidy notification in 2006, four years after the initial deadline⁴³⁰. However, this notification was criticised for its lack of certain subsidy information, especially that from provincial or local governments. China also submitted no further subsidy notification before the final transitional review meeting in 2010.

Compared to the other two cases, which only require better coordination of the different government departments, notifying subsidies to the WTO secretariat touches the core interests of the authorities on subsidies, and thus causes stronger resistance from the latter. Many scholars believe that China's current subsidies, granted by different levels of governments, contain prohibited ones. These subsidies need to be removed in accordance with the SCM Agreement and China's commitments made in its accession protocol⁴³¹. However, the Chinese government, especially the local governments, are not willing to notify or remove these subsidies that can help to stimulate the development of their local industries; and their local economic development is directly related to the evaluation of their government work⁴³². This conflict between the norms-consistent practice, i.e., notifying subsidies, and the interests of Chinese bureaucracies led to strong resistance from the

⁴²⁹ 'Minutes of the Regular Meeting held on 26-27 October 2006', p5.

⁴³⁰ The initial deadline of China's first full and new subsidy notification was 30 June, 2002, see 'Minutes of the Regular Meeting held on 31 October and 1 November 2002', page 8.

⁴³¹ Yang Rongzhen, for instance, points out that the Shenzhen government grants many subsidies that directly encourage export activities. These subsidies are prohibited by the SCM Agreement. See Rong-Zhen 荣珍 Yang 杨, 'Analysis of Foreign Countervailing and Chinese Subsidy Policy 国外对华反补贴现状及中国补贴政策分析', *Guoji Jing Mao Tansuo 国际经贸探索*, 27/3 (2011), 67-82. P71. A report from the US steel industries also suggests the existence of some prohibited subsidies in China's steel industry. See Alan H. Price et al., 'The China Syndrome How Subsidies and Government Intervention Created the World's Largest Steel Industry', (The American Iron & Steel Institute, The Steel Manufacturers Association, The Speciality Steel Industry of North America, and The Committee on Pipe and Tube Imports, 2006).

⁴³² Yang 杨, 'Analysis of Foreign Countervailing and Chinese Subsidy Policy 国外对华反补贴现状及中国补贴政策分析', (p71).

bureaucracies. We thus observed the delayed and incomplete subsidy notification. The same reason also explains the low effectiveness of the WTO *monitoring* in this case.

4. Remaining gaps and the limitation of the WTO instruments

Previous sections elaborate on how the WTO implementing instruments urge the progress of China's anti-dumping and countervailing practices. In the long term, the WTO implementing instruments help to increase the topic salience of the anti-dumping duty and countervailing duty in the government's work, and to correct China's behaviour in its practices. Notwithstanding this progress, this section shows that important 'gaps' remain in China's practice of the anti-dumping and countervailing duties; and because the influences of the WTO are limited in these cases, these 'gaps' may continue to exist and will not be eliminated in the foreseeable future.

The following section examines a series of trade disputes which happened between China and the EU during 2012-2014. These disputes involve eight trade remedy cases on four types of exports, including: solar products from China; solar glass from China; solar grade polysilicon from the EU; and wine from the EU. In this trade war, China's practices of anti-dumping duty and countervailing duty were not consistent with the expectation of norms' institutionalisation at international level. Anti-dumping measures and countervailing measures were not used as means to protect domestic industries from unfair trading activities, but were additionally used for retaliation. This section first examines the process of this 'trade war', including how it started, how it developed, and how it was settled. It then discusses and evaluates the acts of the Chinese government and the role of the WTO in this case.

4.1 A trade war between China and the EU

This trade war between China and the EU started from September 6, 2012, when the European Commission (EC) announced that it had initiated anti-dumping investigations into solar products exported from China. The products under investigation included solar panels, solar batteries, and other solar components⁴³³. On November 1, 2012, the Chinese government announced both an anti-dumping investigation and a countervailing investigation into solar grade polysilicon, the key material in the production of solar panels, imported from the EU⁴³⁴. One week later, the EC announced a countervailing investigation on China's solar panel and battery exports⁴³⁵. On February 28, and April 13, 2013, the EU also initiated an anti-dumping investigation⁴³⁶ and a countervailing investigation into China's solar glass exports⁴³⁷.

The 'trade war' between China and the EU reached its peak in June, 2013. On June 4, the EC decided to impose an 11.8% provisional duty on China's solar products. It also stated that if China and the EU failed to reach an agreement on price undertaking, the EU would increase the tariff rate to 47.6%⁴³⁸.

⁴³³ European Commission, 2012, 'EU initiates anti-dumping investigation on solar panel imports from China', press release, accessed Dec. 23, 2015 <http://trade.ec.europa.eu/doclib/press/index.cfm?id=829>.

⁴³⁴ MOFCOM, 2012, 'The announcement of the initiation of anti-dumping investigation of solar-grade polysilicon exports from the EU', MOFCOM document 2012, no. 71, accessed Dec. 23, 2015. <http://www.mofcom.gov.cn/aarticle/b/g/201212/20121208496388.html>.

⁴³⁵ European Commission, 2012, 'EU initiates anti-subsidy investigation on solar panel imports from China', press release, accessed Dec. 23, 2015. http://europa.eu/rapid/press-release_MEMO-12-844_en.htm.

⁴³⁶ European Commission, 2013, 'EU initiates anti-dumping investigation on solar glass from China', press release, accessed Dec. 23, 2015. http://europa.eu/rapid/press-release_MEMO-13-153_en.htm.

⁴³⁷ European Commission, 2013b, 'EU Launches anti-subsidy investigation on solar glass from China', press release, accessed Dec. 23, 2015. <http://trade.ec.europa.eu/doclib/press/index.cfm?id=891>

⁴³⁸ See news report, <http://www.mofcom.gov.cn/article/difang/im/201306/20130600152549.shtml> retrieved on June 15, 2015.

On June 5, 2013, one day after the EC's announcement, the Chinese government announced the initiation of an anti-dumping investigation and a countervailing investigation into EU wine exports.⁴³⁹

Meanwhile, China actively engaged in the negotiation of a 'price undertaking' on China's solar products with the EU. After nearly two months of negotiation an agreement was reached on July 27, 2013. Chinese solar enterprises promised to raise the price of their products on the European market, and the EU would not collect the high tariff rate (47.6%) on their exports. China thus saved about 60% of its solar market in the EU⁴⁴⁰. This agreement was verified by the EC on August 2, and came in force on August 6. It would expire by the end of 2015⁴⁴¹.

The achievement of a 'pricing undertaking' between China and the EU was the turning point in the series of trade remedy disputes. On August 7, 2013, the EC announced no provisional countervailing measures would be imposed on China's solar product exports⁴⁴². On March 24, 2014, China decided to terminate anti-dumping and countervailing investigations into EU wine exports

⁴³⁹ MOFCOM, 2013b, 'MOFCOM initiates anti-dumping and countervailing investigation on wine exports from the EU', press release, accessed Dec. 23, 2015

<http://www.mofcom.gov.cn/article/ae/ai/201306/20130600152716.shtml>.

⁴⁴⁰ See news report, <http://www.mofcom.gov.cn/article/difang/yunnan/201307/20130700218483.shtml> retrieved on June 15, 2015.

⁴⁴¹ MOFCOM, 2013c, 'Sheng accepts joint media interview and talks about several issues concerning economics and trading', press release,

<http://www.mofcom.gov.cn/article/ae/ag/201308/20130800233091.shtml> accessed Dec. 23, 2015.

⁴⁴² European Commission, 2013d, 'European Commission continues anti-subsidy investigation on solar panel from China without duties', press release, accessed Dec. 23, 2015

http://europa.eu/rapid/press-release_IP-13-769_en.htm.

after a memo was signed by the representatives of the respective wine industries⁴⁴³.

On April 30, 2014, the Chinese government announced the final determination of the anti-dumping investigation and countervailing investigation into EU polysilicon exports. China decided to accept the price undertaking of Wacker Chemie, the largest polysilicon producer in the EU, and the major exporter of solar grade polysilicon to China⁴⁴⁴. On May 14, 2014, the EC announced the final determination of their anti-dumping and countervailing investigations into China's solar glass exports, and China's price undertaking proposal was accepted⁴⁴⁵. This announcement marked the end of the 'trade war' between China and the EU in 2012-2014.

4.2 Trade remedy measures as leverage in negotiation

The trade remedy cases between China and the EU in 2012-2014 constituted the largest trade dispute between the two since China's WTO accession. Table 5.4 compares the timeline of the acts of China and the EU. It shows closed connections between these trade remedy cases. Although the acts of the EC are equally as interesting as those of China, I only discuss the response of China in this thesis.

China's response to the EU's trade remedy investigations and measures on China's solar products was unusually fierce compared to other trade remedy

⁴⁴³ MOFCOM, 2014a, 'Announcement on the terminating anti-dumping and countervailing investigation on wine exports from the EU', MOFCOM document 2014 no. 19, accessed Dec. 23, 2015 <http://www.mofcom.gov.cn/article/b/c/201403/20140300526470.shtml>.

⁴⁴⁴ MOFCOM, 2014b, 'Announcement on the final determination of anti-dumping investigation on solar-grade polysilicon exports from the EU', MOFCOM document 2014 no. 25, accessed Dec. 23, 2015 <http://www.mofcom.gov.cn/article/b/e/201404/20140400568724.shtml>.

⁴⁴⁵ Hangzhou Photovoltaic Association, 2014, "欧盟对华太阳能玻璃作出反倾销终裁 the EC announces the final determination on China's solar glass exports", available at <http://www.hzpvpa.org/prealerts/4778> accessed on October 12, 2016

cases China encountered. In 2012, shortly after the EC initiated its anti-dumping investigation into China's exports of solar panels and components, the Chinese government initiated anti-dumping and countervailing investigations into EU solar grade polysilicon exports.

When the EC announced the imposition of provisional measures on China's solar panel components on June 4, 2013, the Chinese government expressed strong discontent. On June 5, Shen Danyang, the spokesman of MOFCOM and the vice director of the Bureau of Fair Trade, stated in a special press conference for China-EU solar product trade remedy, that China would intervene in the trade dispute between China and the EU because the Chinese government had a responsibility to protect its national interests, industry interests, and enterprise interests⁴⁴⁶. On the same day, the Chinese government announced it would initiate anti-dumping and countervailing investigations into wine exported from the EU.

⁴⁴⁶ See the record of press conference of MOFCOM on June 5 2013, <http://finance.sina.com.cn/world/20130605/174615708368.shtml> retrieved on June 17, 2015.

Table 5.4: The chronicle of Sino-EU trade remedy dispute in 2012-2014

Time	Acts of the European Commission	Act of China
September 6, 2012	The initiation of anti-dumping investigation into China's solar products	
September 17, 2012		The initiation of countervailing investigations into solar grade polysilicon imported from the EU
November 1, 2012		The initiation of anti-dumping investigation and countervailing investigation into solar grade polysilicon imported from the EU
November 8, 2012	The initiation of countervailing investigation into China's solar products	
February 28, 2013	The initiation of anti-dumping investigation into China's solar glass exports	
April 13, 2013	The initiation of countervailing investigation into China's solar glass exports	
June 4, 2013	Decision to impose provisional measures on China's solar panel components exports	
June 5, 2013		The initiation of anti-dumping investigation and countervailing

		investigation into EU wine exports
August 2, 2013	Accepted price undertaking ⁴⁴⁷ agreement in the anti-dumping investigation of China's solar products exports	
August 7, 2013	No provisional countervailing measures imposed on China's solar products exports	
March 24, 2014		Terminated anti-dumping investigation and countervailing investigation into EU wine exports
April 30, 2014		Accepted price undertaking of EU's solar grade polysilicon Final determination of the anti-dumping investigation and countervailing investigation into EU solar grade polysilicon exports
May 14, 2014	Final determination of anti-dumping investigation and countervailing investigation into China's solar glass exports	

⁴⁴⁷ Definition of price undertaking: "undertaking by an exporter to raise the export price of the product to avoid the possibility of an anti-dumping duty", see WTO terminology, https://www.wto.org/english/thewto_e/glossary_e/price_undertaking_e.htm retrieved on June 13, 2015.

The Chinese government claimed that the initiation of anti-dumping and countervailing investigations into polysilicon and wine exports from the EU were not for the purpose of 'retaliation'⁴⁴⁸. However, many observers still believed that there were close connections between these cases. For instance, an article from the Guardian indicates that China's inquiry into European wine exports is an upgrade of the trade war between China and the EU⁴⁴⁹. An article from *Sina Finance* points out that four countries in the EU voted for provisional imposition of anti-dumping measures on China's solar products, they were France, Italy, Portugal, and Lithuania. The former three countries were, at the time, large exporting countries of agricultural products, and wine was their specialty. The article thus suggests that although the Chinese delegation claimed that China's initiation of anti-dumping and countervailing investigations into the EU wine exports were not for retaliation, it was not a coincidence either⁴⁵⁰.

A report from the MOFCOM website further points out that the initiation of anti-dumping investigations into EU wine exports was the leverage for the negotiation for price undertaking on China's solar products. It also suggests that China might also initiate trade remedy investigations on imported automobiles as further leverage in this negotiation⁴⁵¹.

⁴⁴⁸ 'MOFCOM claims China's anti-dumping and countervailing investigations of EU wine exports are regular trade remedy investigations, not retaliation' 商务部否认对欧葡萄酒双反系报复, 称正常贸易调查', new release, MOFCOM, June 5, 2013, available at <http://finance.people.com.cn/n/2013/0605/c70846-21750439.html>

Retrieved on May 14, 2016

⁴⁴⁹ Ian Traynor, 2013, 'China launches inquiry into European wine exports as trade war fears grow', *the Guardian*, available at <https://www.theguardian.com/business/2013/jun/05/china-europe-wine-exports-trade-war>

Retrieved on May 14, 2016

⁴⁵⁰ Jia Liu, 'Why China Fought Back the Eu with Wine', *Sina Finance* (2015, 2013). Available at <http://finance.sina.com.cn/column/international/20130608/104215747645.shtml> retrieved on June 16, 2015

⁴⁵¹ Anonymous, 'The Mofcom Protested against the Decision of the Ec, Polysilicon and Automobile as Leverage', (MOFCOM website, 2013)., retrieved on June 15 2015.

A report from the *Economic Observer* explains how the Chinese government used China's anti-dumping investigation on EC exports as negotiating leverage to settle the dispute over solar products⁴⁵². It firstly points out that the date of the first determination of the anti-dumping investigation into EC polysilicon exports had been postponed by the Chinese government several times. This report then references a senior Chinese official and reveals the underlying intention of this move by the Chinese government. According to this senior official, China expected Germany, the major polysilicon exporting country in Europe, to pressure the EC into making further concessions in the case of solar products. In return, China was willing to make concessions in the case of polysilicon. Similarly, China also expected France, Italy, Portugal, and Lithuania, the four countries whose wine exports were under China's trade remedy investigations, to exert the same pressure on the EC; China would make concessions in the case of wine as well.⁴⁵³

These arguments were proved by the facts later. In August, 2013, the EC accepted the 'price undertaking' proposed by the Chinese solar producers, and the provisional measures were thus not applied to the exports of these producers. In the same month, the EC announced it would not impose provisional measures in the countervailing investigations into China's solar products. A few months later, China terminated its anti-dumping investigation and its countervailing investigation into EC wine exports without any measures; China also accepted the 'price-undertaking' of the largest polysilicon producer in the EC in its anti-dumping and countervailing investigations into EC polysilicon exports. It seemed that China's strategies of negotiation worked as anticipated and the trade dispute between China and the EC was settled through negotiation.

⁴⁵² Wan, Xiaoxiao 2013, 'feign attach' anti-dumping investigation and countervailing investigation on EU's polysilicon 多晶硅双反 '佯攻' *The Economic Observer* 经济观察报, July 18, 2013, <http://www.eeo.com.cn/2013/0718/246759.shtml> retrieved on June 18, 2015.

⁴⁵³ Ibid.

4.3 Discussion

Although the Chinese government never confirmed this negotiation strategy, all evidence suggests that China used anti-dumping and countervailing practices as leverage for negotiations over its solar exports. This purpose of such practices is not a part of the institutionalisation of anti-dumping duty and countervailing duty at international level. This thesis thus argues that the 'institutionalisation- implementation gaps' in both norms in China's field-level acts remain wide, 10 years after China's WTO accession. Economic interest and the security of China's domestic solar industry were the major reasons for these 'gaps', and the role of the WTO was largely absent in this case.

The solar products industry in China was new and fast growing with tremendous production. A report provided by the China Photovoltaic Industry Association (CPIA) and the SEMI PV Group indicated that the annual growth rate of China's solar products industry was over 100% during 2004-2009. In 2010, its annual production was more than 300 billion RMB, and China's production of solar batteries was over 50% of global production⁴⁵⁴.

Compared to its solar production, China's domestic market for solar products was very small. Its installed capacity of solar power was only 145MW in 2008. Supported by Chinese government policies, its domestic solar market increased greatly, the installed capacity of its solar power station increased to 295MW in 2009, and 795MW in 2010, which was over five times that of 2008. Even with this great growth, China's solar power development could not provide a sufficient market for its solar product industry. For instance, its

⁴⁵⁴ Anonymous, 'Report of China's Solar Industry Development 2011', delete one of these dates 2011 中国光伏产业发展报告', (CPIA and SEMI PV Group, 2012).

annual production of solar batteries was 9GW (1GW \approx 1000MG) in 2010, which was more than 18 times the demand of the Chinese solar market⁴⁵⁵.

With limited consuming capacity in its domestic market, China's solar industry relied strongly on foreign markets, especially the European market. The EU was one of the largest solar markets in the world at this time, representing 30% of the global market. Meanwhile, China's solar products occupied 70% of the EU solar market (see Graph 5.5)⁴⁵⁶. In 2011, China's solar product exports to the EU were valued at 21 billion Euros, which was 7% of the total value of exports from China to the EU. It was estimated that if the EU imposed 60% tariffs on China's solar exports, 30% of Chinese solar enterprises would go bankrupt, and at least 300,000 workers would lose their jobs. The direct loss to China's solar industry would be 350 billion RMB⁴⁵⁷. Because of the enormous economic interests, and because of the intolerable loss from the trade remedy measures, the Chinese government was willing to take the risk of upgrading the trade dispute between China and the EU. It protected its national interests and the security of its solar industry by initiating anti-dumping and countervailing investigations on relevant exports from the EC as leverage in the negotiations.

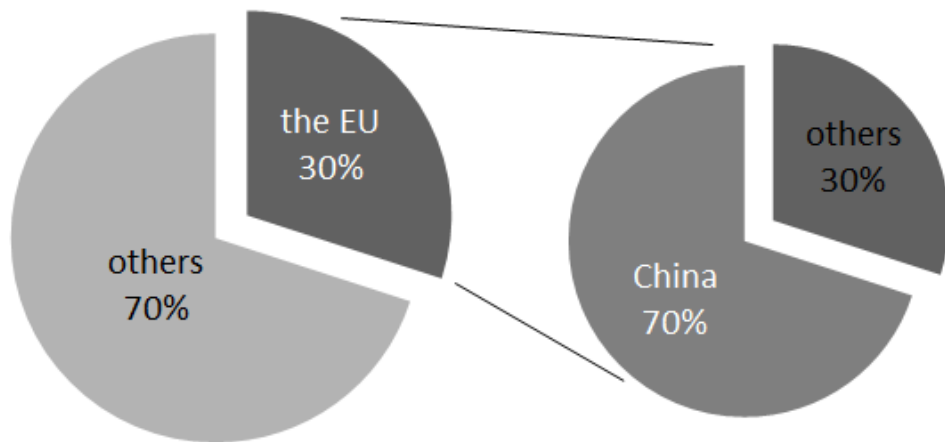
Graph 5.5: Global solar market and China's production in EU solar market

⁴⁵⁵ Ibid.

⁴⁵⁶ Source from ifeng Finance, 'special issue on Sino-EU trade remedy of solar products', see <http://finance.ifeng.com/news/special/omguangfu/> retrieved on June 17, 2015.

⁴⁵⁷ Ibid.

Solar market



To clarify the key point, China's subsidies to the solar industry are not illegal, and the EC also has the right to investigate these subsidies if they have the evidences to prove their domestic industries are threatened by China's solar exports. This situation is called "actionable subsidies". A "gap" between institutionalisation and implementation, however, exists when China uses anti-dumping and countervailing investigations of EC's exports as leverage in the negotiation of trade dispute over China's solar exports. In particular, many believe China's anti-dumping and countervailing investigations of wine exports from the EC are closely related to the series of trade dispute over solar products. This assumption is proved by China's termination of its investigations on the EC's wine export right after China and the EC reached 'price undertaking' negotiation over solar panel products. The institutionalisation of anti-dumping duty and countervailing duty takes practices as mean direct means to protect domestic industries from unfair trading activities. China's strategy that takes anti-dumping and countervailing practices as leverages in the negotiations of other trading dispute is thus not fully consistent with the institutionalisation of these two norms.

However, the WTO was largely absent in correcting the abuse of trade remedy measures in this case. The WTO's dispute settlement body (DSB) may use its enforcement power to correct the trading behaviours of its members⁴⁵⁸, but only when the cases are officially brought by one party of the dispute to the DSB to start the dispute settlement procedure⁴⁵⁹. In this case, the Sino-EU trade dispute over solar products was settled through the negotiation between the two parties, the WTO DSB was not empowered to have any influence. Furthermore, as a 'rule-based' system⁴⁶⁰, the WTO DSB is designed to correct rule-violating behaviours of its members. Practicing anti-dumping duty and countervailing duty for retaliation, or for negotiation purposes, is not the concern of the WTO system, provided all the practices follow the rules of the WTO. The influence of the WTO on the implementation of these two norms in field-level practices is thus limited.

5. Conclusion

This chapter has studied the implementation of anti-dumping duty and countervailing duty in China's field-level acts. It explains two phenomena: the '11-year-gap' between China's first initiation of an anti-dumping investigation and its first initiation of a countervailing investigation; and China's progress in fulfilling the requirements of the WTO in field-level practices. By explaining these two phenomena, this research sheds light on the contribution of WTO implementing instruments in the implementation process.

⁴⁵⁸ Xin Zhang, *Implementation of the Wto Agreements in China* (London: Wildy, Simmonds & Hill Publishing, 2005).

⁴⁵⁹ See 'Dispute settlement', WTO website, available at https://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm
Retrieved on May 14, 2016.

⁴⁶⁰ WTO secretariat, 'The Multilateral System: 50 years of Achievement', on Geneva WTO ministerial 1998, available at https://www.wto.org/english/thewto_e/minist_e/min98_e/mc98_e/introd_e.htm
Retrieved on May 14, 2016.

The mismatch of these two norms with China's domestic tradition is mainly reflected in resistance of the Chinese bureaucracies. This resistance is not obvious in their implementation in terms of the state system, because acceding to the WTO and fulfilling China's commitment to amendments were in the rhetoric of the Chinese top leaders. However it, makes significant differences to the progress of China's implementation of anti-dumping and countervailing practices. The implementation of anti-dumping duty encountered less resistance than that of countervailing duty; its progress is thus better recognised by the WTO.

The WTO's implementing instruments help to overcome this barrier by increasing the salience of the implementation of these two norms in the government's work. This chapter demonstrates how the WTO monitoring mechanism increased the topic salience of information disclosure, coordination of investigating authorities and customs authorities in duty collection, and subsidy notification by the Chinese government. Direct evidence is found to prove the causal relationship between the social pressure from the WTO and China's progress in anti-dumping and countervailing practices. This chapter also suggests that the global anti-dumping and countervailing practices targeting China's exports, the *enforcement* of the WTO system, may increase the topic salience of the two norms in the government's work as well. In addition, the low topic salience of countervailing duty could be the major reason that China initiated no countervailing investigations, only anti-dumping investigations into foreign exports, before 2009.

Although this chapter illustrates that the WTO has an important impact on the progress of China's implementation of both anti-dumping duty and countervailing duty, it also shows that its effectiveness varies in two ways. Firstly, the pressure from the WTO monitoring programmes is less effective in

urging the progress of China's countervailing practices. Compared to the timely response of the Chinese government in the case of information disclosure and duty collection, China's reactions to the criticisms of subsidy notification were less satisfactory to the WTO members. Although the Chinese delegation faced strong pressure on this issue, China kept missing the deadline for its subsidy notification to the WTO secretariat, and its first new and full subsidy notification submitted in 2006 was also criticised as an incomplete version. Strong resistance from the different subsidy authorities is the major reason for China's difficulty in notifying its subsidy policies. The pressure from the WTO monitoring programme was the direct reason that China was able to provide a subsidy notification in 2006, but it is not effective enough to urge significant progress in the implementation of field-level practices when the norm largely conflicts with China's administrative traditions and the interests of government bureaucrats.

Secondly, the role of the WTO is limited in single anti-dumping / countervailing cases. In the series of trade disputes between China and the EU in 2012-2014, China initiated anti-dumping and countervailing investigations into EU polysilicon and wine exports in response to the EU's anti-dumping and countervailing investigation of China's solar products. Trade remedy practices are used as leverages in trade negotiation, which is not consistent with the institutionalisation of anti-dumping duty and countervailing duty. The role of the WTO is largely absent in correcting the abuse of anti-dumping and countervailing practices in these cases. The rule-oriented system empowers the WTO in urging the progress of China's implementation of the two norms, but it also limits its influences at the same time.

Chapter six: Domestic discourse over anti-dumping duty and countervailing duty

1. Introduction

This thesis aims to understand how the Western-led international order constrains state capitalist China who is rapidly emerging into the world. It argues against the assumption that equates a state's ratification of international treaties with its adoption of the related international norms. 'Institutionalisation-implementation gaps' may exist when China implements its ratified international norms in the domestic arena.

Anti-dumping duty and countervailing duty are two WTO trade remedy norms that protect domestic industries of importing countries from unfair trading activities. These two norms are similar in terms of their institutionalisation at international level, even though, as Chapter Three illustrates, the progress of implementing these two norms were different in China. Chapters Four and Five compare the implementation of anti-dumping duty and countervailing duty in the aspect of the state system and field-level acts respectively.

The different progress of implementing these two norms is also reflected in China's domestic discourse. To note again, this thesis defines domestic discourse as a separate concept from the political discourse in the government's work. It is comprised of the voices of non-state actors, and reflects their adoption of international norms. Many norm diffusion scholars value domestic discourse because it sets the agenda for political procedures,

and thus has an important impact on the decision-making process⁴⁶¹. However, this thesis believes that domestic discourse should not only be studied as a path to political decisions, but also as an individual aspect of implementation, especially when the norm in implementation needs to be practiced by non-state actors. How much non-state actors know about this norm, and what they think of it, matters to the behaviours that they uphold when they practice it⁴⁶². Therefore, after examining the implementation of anti-dumping duty and countervailing duty in China's state system and in its field-level practices, this chapter analyses the relevant domestic discourse in China in order to further understand China's implementation of these two norms in a comprehensive way.

Although WTO anti-dumping duty and countervailing duty were similar in terms of their institutionalisation at international level, their topic salience in China's domestic discourse remained distinct. The collected data of Chapter Three suggests that anti-dumping duty enjoyed much higher topic salience than countervailing duty in China's domestic discourse, so did the growth rate of its topic salience in the first half of the 2000s. Meanwhile, the data also show that the topic salience of countervailing duty increased after 2005, and the difference between the two norms' topic salience reduced in the second half of the 2000s.

⁴⁶¹ This is the 'bottom-up' route of norm diffusion. Scholars such as Thomas Risse and Kathryn Sikkink argue that international norms can reach the states via their domestic actors. The internal pressure can influence the decision-making process at the state level, and urges the states to ratify these norms. See Thomas Risse and Kathryn Sikkink, 'The Socialization of Human Rights Norms', in Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (eds.), *The Power of Human Rights: International Norms and Domestic Change* (Cambridge: Cambridge University Press, 1999). For similar argument about the role of domestic non-state actors see also Andrew P. Cortell and James W. Davis, 'Understanding the Domestic Impact of International Norms: A Research Agenda.', *International Studies Review*, 2/1 (2000), 65-87.

⁴⁶² For similar argument see Urvashi Aneja, 'International Ngos and the Implementation of the Norm for Need-Based Humanitarian Assistance in Sri Lanka', in Alexander Betts and Phil Orchard (eds.), *Implementation and World Politics - How International Norms Change Practice* (Oxford: Oxford University Press, 2014).

Furthermore, Chapter Three also illustrates that China's non-state actors were more likely to describe anti-dumping duty using language with negative connotations. In contrast, their discourse towards countervailing duty was relatively positive in general. However, the available evidence shows that in both cases the percentage of expressions or words with positive connotations decreased in the past decades, while those with negative connotations increased.

This chapter further discusses these phenomena and explores the effectiveness of the WTO's implementing instruments on this aspect of implementation. In order to understand why the topic saliences of anti-dumping duty and countervailing duty in China's domestic discourse change over time, this chapter tests the correlation of the topic saliences with several factors including the frequencies that China's exporting are targeted by foreign anti-dumping and countervailing investigations and the frequencies that China initiates investigations of foreign goods. Manual coding of the relevant texts helps to confirm the possible causal relations between them.

The second part of this chapter presents the result of manual coding of Sample-set C in order to investigate the changing attitudes of the Chinese non-state actors towards anti-dumping duty and countervailing duty. It analyses the references and reasons that the non-state actors provide to support their arguments, examines their interpretation of these two norms, and thus explores how the WTO implementation instruments affect the domestic discourse in both positive and negative ways.

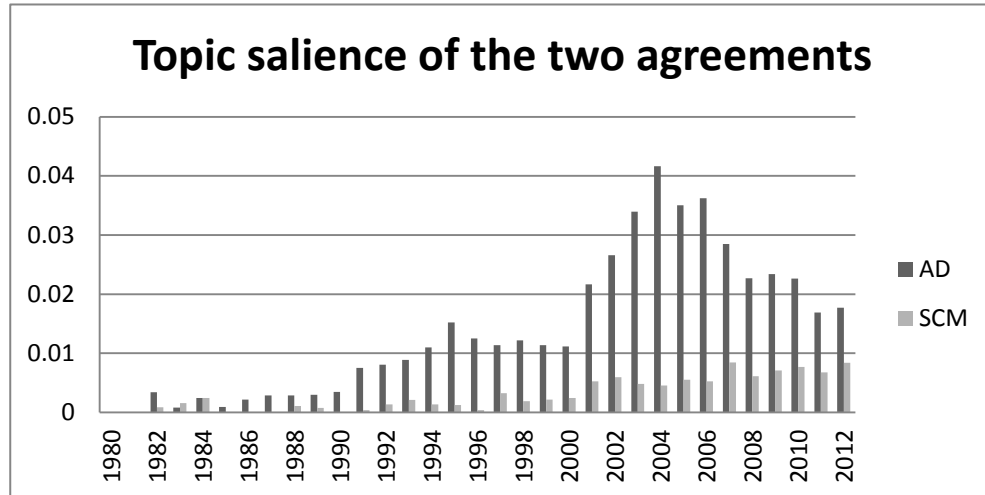
2. Topic salience in domestic discourse

The topic salience of international norms in the discourse of non-state actors refers to the publicity of these norms among non-state actors. High topic salience of a norm in domestic discourse means this norm has been frequently discussed by non-state actors and it is very likely to be valued by them. Topic salience of international norms is not a direct indicator of the implementation of international norms in general; it has no linear relation to the latter. The best implemented norms may not be discussed on most occasions because they are internalised and taken-for-granted by individuals⁴⁶³. However, it is still an important indicator to the implementation of the newly introduced norms. This is because, fundamentally, people need to know about the norms before they can react and behave accordingly. Cortell and Davis also argue that “[w]hen a norm is salient in a particular social discourse, its invocation by relevant actors legitimates a particular behaviour or action, creating a prima facie obligation, and thereby calling into question or delegitimizing alternative choice”⁴⁶⁴.

Graph 6.1 The topic salience of anti-dumping duty and countervailing duty

⁴⁶³ Finnemore and Sikkink did not talk about the implementation of norms, but their idea of internalization described the situation of best implemented norms. See Martha Finnemore and Kathryn Sikkink, 'International Norm Dynamics and Political Change', *International Organization*, 52/04 (1998), 887-917. Page 904-905.

⁴⁶⁴ Cortell and Davis, 'Understanding the Domestic Impact of International Norms: A Research Agenda.', (Page 69).



The collected data suggest that the topic salience of anti-dumping duty was much higher than that of countervailing duty in general (see Graph 6.1). The topic salience of anti-dumping duty (from 1980 to 2012) was an average of 1.39%⁴⁶⁵, which was 4.6 times that of countervailing duty. In some of the years the differences between the two were great. For instance, in 2004, the topic salience of anti-dumping duty was 4%, which was eight times that of countervailing duty (0.5%). The topic salience of anti-dumping duty decreased after 2004, while at the same time the topic salience of countervailing duty increased slowly, but constantly. In 2012, the topic salience of anti-dumping duty was 0.017, twice that of countervailing duty.

Furthermore, Graph 6.1 shows that the topic salience of anti-dumping duty in the discourse of China's non-state actors peaked in 1995 and again in 2004. In contrast, the topic salience of countervailing duty grew steadily over time. Nevertheless, the topic salience of countervailing duty is observably distinct in 1997, 2001, 2002, and 2007. The value of topic salience in 1997 is 0.32%, which is considerably higher than that of 1996 and 1998. The value in 2001 is

⁴⁶⁵ This research uses the weight of articles of anti-dumping duty and countervailing duty in all trading related articles as the indicator of topic salience of the two norms. Weight of anti-dumping duty = the number of articles on anti-dumping duty / the number of articles on international trading; weight of countervailing duty = the number of articles on countervailing duty / the number of articles on international trading. Using 'weight' as the indicator avoids the problem generated by the increasing number of publications in China in the 2000s. For detailed discussion see Chapter Three 'Methodology'.

0.52%, and it then peaks in 2002 with a figure of 0.59%. In contrast, its value in 2000 is only 0.24%. (iii) In 2007, the value of the topic salience of countervailing duty reaches its highest peak at 0.85%, while in 2006 it reaches just 0.52%, and in 2008 only 0.61%. This section examines and evaluates three possible explanations for these phenomena.

2.1 Effectiveness of enforcement

Anti-dumping duty

The initiation of anti-dumping investigations and the imposition of anti-dumping measures on China's exports, can have important impacts on the topic salience of anti-dumping duty in the discourse of China's non-state actors. Chinese exporters may lose their foreign market because of these investigations and measures, and their loss may draw attention from the Chinese non-state actors whose interests are closely related to China's international trading.

Table 6.2 shows the correlation between the salience of anti-dumping duty and four items, namely the number of anti-dumping investigations initiated by WTO Members in total, anti-dumping investigations on China's exports, the determined anti-dumping measures in total, and the determined anti-dumping measures against Chinese goods. The results show that the topic salience of anti-dumping duty in the discourse of China's non-state actors has a significant correlation ($p=0.82$) with the number of anti-dumping investigations initiated against China, and the number of anti-dumping measures against China. In contrast, the number of anti-dumping investigations and anti-dumping measures globally, does not correlate with the topic salience of anti-dumping duty in the discourse of China's non-state actors. These results suggest that China's non-state actors are more likely to discuss anti-dumping duty when China's exporting interests may be harmed.

Table 6.2 The correlation between topic salience and anti-dumping practice

Year	Saliency AD %	ADI, global	ADI against China	ADM global	ADM against China
1980	0.00		1		
1981	0.00				
1982	0.34		3		
1983	0.08		4		
1984	0.25				
1985	0.09		6		
1986	0.22		1		
1987	0.29	120	2		
1988	0.29	124	11		
1989	0.30	96	10		
1990	0.35	165	19		
1991	0.75	228	22		
1992	0.81	326	37		
1993	0.89	299	32		
1994	1.10	228	42		
1995	1.52	157	20	119	26
1996	1.25	226	43	92	16
1997	1.14	246	33	127	33
1998	1.22	266	28	181	24
1999	1.14	358	42	190	21
2000	1.12	298	44	237	30
2001	2.16	372	55	171	32
2002	2.66	315	51	218	36
2003	3.40	234	53	224	41
2004	4.16	220	49	154	44
2005	3.51	201	56	138	42

2006	3.62	204	72	142	38
2007	2.85	165	62	108	48
2008	2.27	213	76	139	53
2009	2.34	209	77	141	56
2010	2.26	172	44	123	53
2011	1.69	166	51	98	37
2012	1.77	208	60	117	34
correlation since 1980	0.109	0.819	0.060	0.584	
correlation since 2000	-0.202	0.053	-0.017	0.058	
correlation 1980-1999	0.549	0.833	N/A	N/A	

*ADI: Anti-dumping investigation

*ADM: Anti-dumping measures

Manual coding of the corpus of publications of China's non-state actors (Sample-set C⁴⁶⁶), proved the causal relationship between the topic salience of anti-dumping duty and the frequency of foreign anti-dumping investigations of China's exports. 94% of articles in Sample-set C mention the high frequency of foreign anti-dumping investigations of China's exports as an important reason for their research. 60% emphasize that China was the largest victim of global anti-dumping practice, considering its high frequency of being targeted. They argue China's exports were facing a difficult situation because of global anti-dumping practice, and this situation would not change in future international trading activities⁴⁶⁷.

⁴⁶⁶ Sample c includes 246 articles on anti-dumping duty and 118 on countervailing duty. All articles in this sample set are manually coded. For details, see Chapter Three 'sampling'.

⁴⁶⁷ For examples see Yang 杨, Shi-Hui 仕辉 and Xiong 熊, Yan 艳, 'The Study of the Tendency, Characteristics and Causal Factors in International Anti-Dumping Practice and China's Responding Strategies 国际反倾销趋势、特点、成因与我国对策研究', *Management World 管理世界*, /3 (2002), 19-32. P22. Fang 方, Yong 勇 and Zhang 张, Er-Zheng 二震, 'An Economic Research on Anti-Dumping

To be noted, Table 6.2 also shows that the correlations between the two vary across different periods. The correlation is significant if the analysis involves all data from 1980 to 2012 ($p=0.0.819$). The significance is even higher ($p=0.833$), when the analysis scale ranges from 1980 to 1999. Yet, if the range of data is limited to the period from 2000 to 2012, the correlation between the two is not significant ($p=0.053$). These results suggest that before 2000, the high frequency of anti-dumping investigations against Chinese goods is major reason of the topic salience of anti-dumping among China's non-state actors, but the situation changes after 2000. Other factors may have emerged and stimulate the topic salience of anti-dumping duty in China's domestic discourse. China's intensive legislation process between 2000 and 2004, which will be discussed later, can explain this phenomenon.

Countervailing duty

Table 6.3 shows the WTO records on the number of countervailing investigations and the imposed measurements from 1995 to 2012⁴⁶⁸. The four columns in this table compare the topic salience of countervailing duty with the number of countervailing investigations globally (CVI global), the number of countervailing investigations against China (CVI against China), the number of imposed countervailing measures globally (CVM global), and the number of imposed countervailing measures against China (CVM against China).

Table 6.3: Countervailing investigations and measures from 1995 to 2012

	CVI global	CVI against China	CM global	CVI against China
1995	10		19	
1996	7		5	

Alarming of Exports 出口产品反倾销预警的经济学研究', *Economic Research 经济研究*, /1 (2004), 74-82. P74.

⁴⁶⁸ The official statistical data of the WTO starts from 1995, but this does not mean that there were no countervailing investigations conducted before 1995.

1997	16		3	
1998	25		6	
1999	41		14	
2000	18		21	
2001	27		14	
2002	9		14	
2003	15		6	
2004	8	3	8	
2005	6		4	2
2006	8	2	3	
2007	11	8	2	1
2008	16	11	11	10
2009	28	13	9	6
2010	9	6	19	10
2011	25	11	9	5
2012	23	10	10	8
Correlation	-0.040	0.535	-0.123	0.0388
with salience				

Source of data: WTO database

The result suggests that the topic salience of countervailing duty in the discourse of China's non-state actors, positively correlates with the number of countervailing investigations on China's exports ($p = 0.535$). At the same time, the number of countervailing investigations globally (CVI global), the number of imposed countervailing measures globally (CVM global), and the number of imposed countervailing measures on China's exports (CVM against China), are not statistically significant in relation to the topic salience of countervailing duty in the domestic discourse.

The statistical results suggest the correlation of foreign countervailing investigations on China's exports and the topic salience of countervailing duty in the domestic discourse. The result of manual coding proves the causal relation between the two. The initiation of foreign countervailing investigations on China's exports is considered as the most important reason to call for attention on countervailing duty. For instance, among the 20 manually coded articles published in 2005, six directly point out that their study of countervailing duty was motivated by the countervailing investigations of Chinese exports in 2004⁴⁶⁹. The authors of the other 14 articles all expressed their concerns about foreign countervailing investigations on China's exports.

Although the manual coding of China's non-state actors' publications after 2004 prove the causal relation between the two, this cannot explain the discussion of countervailing duty in the domestic discourse prior to China's exports being targeted by foreign countervailing practices. In particular, it cannot explain the two peaks of its topic salience in 1997 and 2001/2002.

2.2 China's trade remedy practices

To further explain the dramatic growth of the topic salience of anti-dumping duty in 2000 to 2004, and its decline after 2005, this research then tests the correlation between the topic salience of anti-dumping duty and the number of China's initiations of anti-dumping investigations on foreign exports. The assumption is that China's initiation of anti-dumping investigations might draw attention from China's non-state actors, and thus increase the topic salience of anti-dumping duty. Table 6.4 presents the correlation between the

⁴⁶⁹ For examples see Yuge 玉阁 Zhao 赵, 'Watching out the Investigation of Anti-Subsidy Becomes the New Obstacles of Our Export 警惕反补贴调查成为我国外贸出口的新障碍', *International Trading 国际贸易问题*, /5 (2005), 107-10. Juan 娟 Xu 许 and Heshuang 和爽 Hou 候, 'Countervailing Measures: Another Blade Blocking China's Foreign Trade 反补贴: 阻碍中国对外贸易发展的又一把利刃', *Market Modernization 商场现代化*, /451 (2005), 23.

topic salience and China's anti-dumping practices. As this table shows, the topic salience of anti-dumping duty positively correlates with both the initiation of investigations, and the imposition of measures during the period from 1998 to 2012⁴⁷⁰. These statistical results suggest that the number of China's initiations of anti-dumping investigations, and the imposition of anti-dumping measures on foreign exports, positively correlate with the topic salience of anti-dumping duty in the discourse of China's non-state actors. However, the result of manual coding did not provide sufficient evidence to prove the causal relation between China's initiation of anti-dumping investigations and the imposition of anti-dumping measures on foreign goods with the topic salience of anti-dumping duty in the discourse of China's non-state actors. China's non-state actors rarely mention China's anti-dumping practice. This fact suggests that China's anti-dumping practices have no direct causal relation with the changing topic salience of anti-dumping duty in China's domestic discourse.

Table 6.4 The correlation between topic salience and China's anti-dumping practice

Year	China's initiation of AD investigations	China's imposition of AD measures
1998	3	3
1999	2	2
2000	11	5
2001	14	
2002	30	5
2003	22	33
2004	27	14
2005	24	16

⁴⁷⁰ China initiated its first anti-dumping investigation on foreign exports in 1998.

2006	10	24
2007	4	12
2008	14	4
2009	17	12
2010	8	15
2011	5	6
2012	9	5
Correlation with topic saliency	0.661	0.732

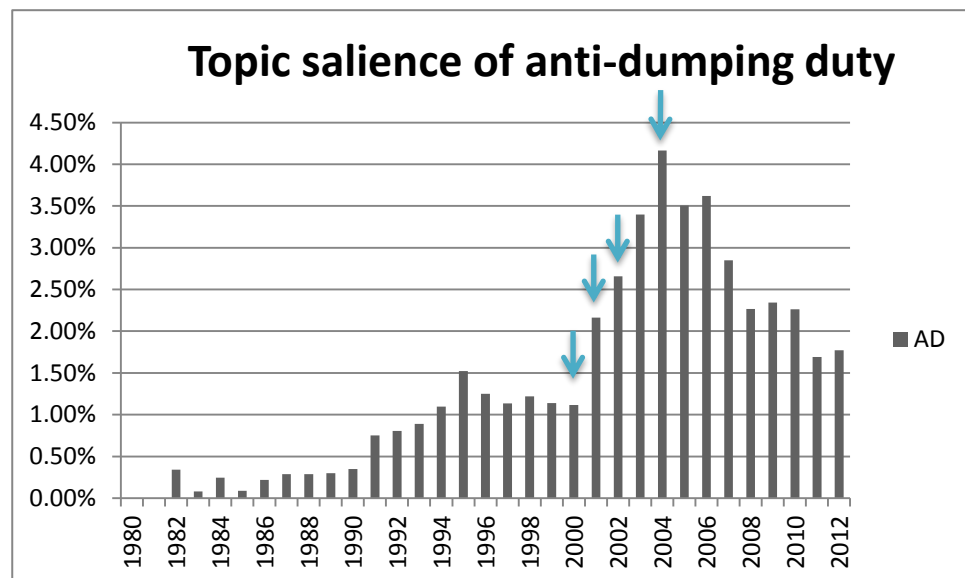
For countervailing duty, China only initiated six countervailing investigations of foreign exports from 2009 to 2012. The dataset is too small to conduct valid statistical analysis. The result of manual coding suggests China's non-state actors rarely discuss China's initiation of countervailing investigations of foreign exports as well. Among all 118 samples, only two articles mention this issue.

2.3 The progress of legislation and institution-building

China's legislation of anti-dumping duty (including the promulgation of law and the issue of matching ministerial rules) and supportive institution-building, also contribute to the changes in the topic saliency of anti-dumping duty and countervailing duty after 2000. Graph 6.5 compares the timeline of China's legislation of anti-dumping duty with the changes of the topic saliency of anti-dumping duty among China's non-state actors. The arrows point to the four years when major events of relevant legislation and institution-building occurred. (1) In 2000, two major government departments in charge of relevant work on anti-dumping duty, the Bureau of Industry Injury

Investigation and the Bureau of Fair Trade for Import and Export⁴⁷¹, were established. (2) 2001 was an important year; China signed the WTO Accession Protocol in November, 2001, and became an official member of the WTO one month later. China's WTO accession meant it legally recognized WTO anti-dumping duty and was committed to following all rules and procedures regulated by the WTO Anti-dumping Agreement. In the same year, immediately before WTO Accession, China also promulgated 'Anti-dumping Regulations of the People's Republic of China', the first national regulation specifically for anti-dumping duty. (3) In 2002, 13 ministerial rules concerning anti-dumping duty were issued; those rules are still in force. (4) In 2004, 'Anti-dumping Regulations of the People's Republic of China' was amended; this version is the current national regulation of anti-dumping duty in service.

Graph 6.5: Topic salience and the changes in China's domestic system



The comparison of the timeline presented in Graph 6.5 suggests that the implementation of anti-dumping duty in the state system is possibly related to the increase of its topic salience in the discourse of non-state actors. As the timeline shows, while the government was intensively working on the legislation of anti-dumping duty in 2000-2004, its topic salience among

⁴⁷¹ The Bureau of Fair Trade started to function from 2000, although it was not an independent department until 2001.

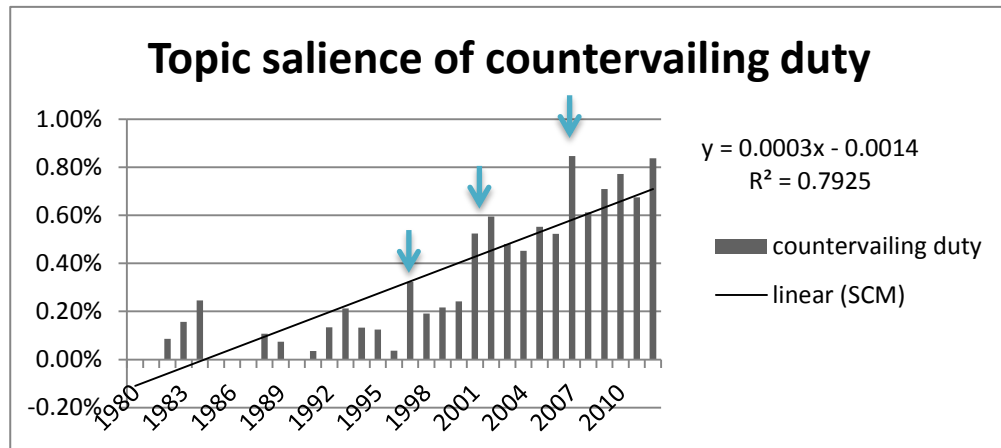
China's non-state actors grew dramatically. After 2004 when the major work of legislation finished, the topic salience of anti-dumping duty declined rapidly; this further suggests a correlation between China's implementation of anti-dumping duty in the state system and the rapid growth of its topic salience in the domestic discourse.

The result of manual coding proved the causal relation between the two. Among all the manually coded articles⁴⁷² that were published in 2004, when the topic salience of anti-dumping duty reached its highest point, half of the articles either took the legislation of anti-dumping duty as their theme, or discussed relevant legislation. This result suggests that China's legislation of anti-dumping duty could be an important factor in drawing the attention of China's non-state actors.

Similarly, the topic salience of countervailing duty in China's domestic discourse seems to have a close relation with China's legislation and institution-building of countervailing duty. The three peaks of the topic salience of countervailing duty fit the timeline of major events in China's state system concerning the implementation of countervailing duty (see Graph 6.6).

Graph 6.6: The topic salience of countervailing duty among Chinese non-state actors.

⁴⁷² For the manually coded articles, the method of sampling is described in Chapter Three 'Methodology'.



. (i) In 1997, China promulgated its first national regulation on anti-dumping duty and countervailing duty (*Regulation 1997*). This regulation provided the basic legal support and guidelines for China’s countervailing practices. (ii) In 2001, *Regulation 1997* was replaced by two individual regulations on anti-dumping duty and countervailing duty. The Countervailing Regulations of the People’s Republic of China (*Countervailing Regulation 2001*) greatly amended *Regulation 1997*; it was largely consistent with WTO countervailing duty in all perspectives, including the definition of ‘subsidies’, the determination of specificity and industry injuries, the procedures of countervailing investigations, the imposition of countervailing measures, and the collection of countervailing duties. Then, in 2002, the central government promulgated five administrative rules for detailed operations in countervailing investigations, including the ‘Provisional Rules of MOFTEC on Initiation of Countervailing Investigation’, the ‘Provisional Rules of MOFTEC on Public Hearing in Countervailing Investigation’, the ‘Provisional Rules of MOFTEC on On-the-spot Verification in Countervailing Investigation’, the ‘Provisional Rules of MOFTEC on Questionnaires in Countervailing Duty Investigation’, and the ‘Rules on Investigation and Verdict of Industry Injury in Countervailing Investigation’⁴⁷³. These five administrative rules were essential to the initiation of countervailing investigations. (iii) In 2007, the first nation-wide working conference of countervailing duty was held by the Ministry of

⁴⁷³ See Chapter Three, 3.1 ‘Changes in the state system’.

Commerce. It was attended by officials from relevant departments of MOFCOM and the Department of Commerce of local governments, and representatives from business associations and industries. This conference marked a new phase in the year of implementation of countervailing duty in the government's work. After 2007, countervailing duty became an important topic in government work, not only at central level, but also at local level.⁴⁷⁴

The manual coding of the published articles of non-state actors (Sample-set C) verifies this link between the topic salience of countervailing duty and the legislation and institution-building related to countervailing duty. Among all the manually coded articles on countervailing duty published between 2001 and 2004, around 70% of articles focus on the legislative issues of subsidies and countervailing measures in China, while the other 30 % mention the government's legalisation in China in their discussions.

However, the result of the manual coding does not provide sufficient evidence to prove a causal relation of the topic salience of countervailing duty in the discourse of non-state actors with the norms' saliences in the Chinese government's work. Not one article mentions the government working conferences on countervailing duty. This result suggests that these highly exclusive conferences of the Chinese government have no direct impacts on the domestic discourse on countervailing duty.

2.4 Comparison and discussion

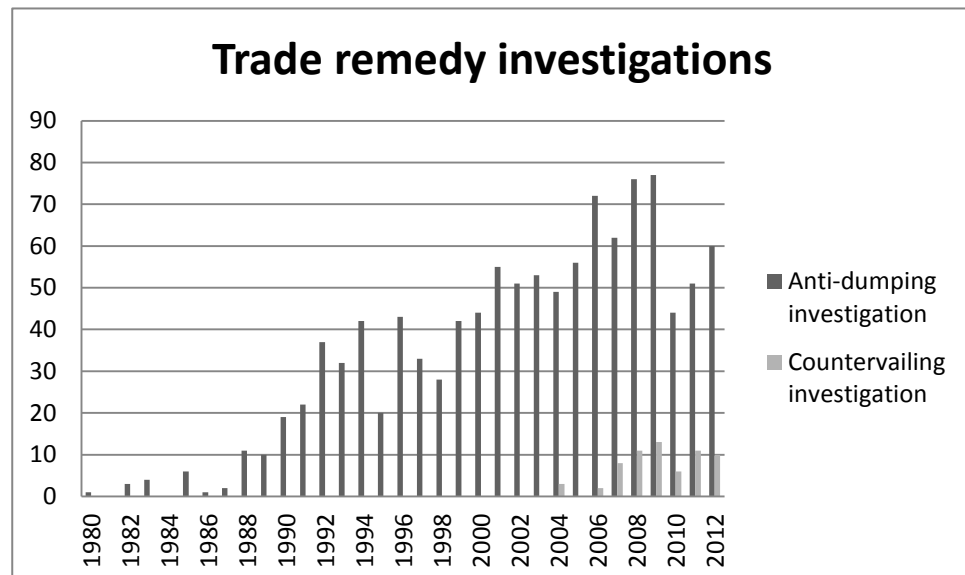
This section statistically proves the positive correlation of the topic salience of anti-dumping duty and countervailing duty in China's domestic discourse with the frequency of China's exports being targeted by global anti-dumping and countervailing practices. The manual coding of the sampled articles also provide similar results. This positive correlation helps to explain why (1) the

⁴⁷⁴ See Chapter Five for detailed discussion on the government conferences on countervailing duty.

topic salience of anti-dumping duty was much higher than that of countervailing duty in general, and (2) China's non-state actors discuss anti-dumping duty earlier than they discuss countervailing duty.

The number of anti-dumping investigations of China's exports is much larger than that of countervailing investigations. Graph 6.7 presents the number of anti-dumping and countervailing investigations on China's exports. As this graph shows, the number of anti-dumping investigations on China's exports is much larger than that of countervailing investigations. In 2009, for example, there were 77 anti-dumping investigations on China's exports, while the number of countervailing investigations on China's exports was 13. The higher frequency of China's exports being targeted by global anti-dumping practices explains the higher topic salience of anti-dumping duty in China's domestic discourse in comparison to that of countervailing duty.

Graph 6.7: The number of anti-dumping and countervailing investigations on China's exports



Meanwhile, since the 1980s, China encountered global anti-dumping practices when it was not a target of countervailing measures, because of its status as a

non-market economy⁴⁷⁵. This situation changed after 2004 when Canada amended its domestic countervailing law and initiated the first countervailing investigations on grills exported from China in 2004⁴⁷⁶. The United States made a similar amendment that included non-market economies in the target of countervailing measures in 2005⁴⁷⁷. After this, global countervailing practices started to target China's goods in international trade, two decades later than global anti-dumping practices began. Due to the correlation between the use of enforcement and the topic salience of the relevant norms in China's domestic discourse, the different timeline of China's exports being targeted by global anti-dumping practice and by countervailing practices, explains why China's non-state actors discuss anti-dumping duty earlier than they discuss countervailing duty.

Furthermore, both the topic salience of anti-dumping duty and of countervailing in China's domestic discourse were affected by China's implementation of these two norms in the state system. The topic salience of anti-dumping duty grew dramatically from 2000 to 2004, and in the same period of time there were major changes in China's state system in terms of the implementation of anti-dumping duty. With the support of the results of manual coding, there seems to be enough evidence to argue that China's domestic legislation of anti-dumping duty also contributed to the growth of topic salience of anti-dumping duty in the discourse of China's non-state actors.

⁴⁷⁵ See Ruxiao 如晓 Qu 曲, 'Anti-Subsidies Measures: A Potential Threat to China's Export 反补贴: 中国出口贸易的潜在威胁', *International Economic cooperation 国际经济合作*, 13 (2005), 35-38.

⁴⁷⁶ See the Economic and Commercial Counsellor's Office of the Embassy of the People's Republic of China in Canada, 'Canada initiated anti-dumping and countervailing investigations of China's grill', news release on April 14, 2004, available at <http://ca.mofcom.gov.cn/aarticle/jmxw/200404/20040400209130.html> accessed on June 7 2016.

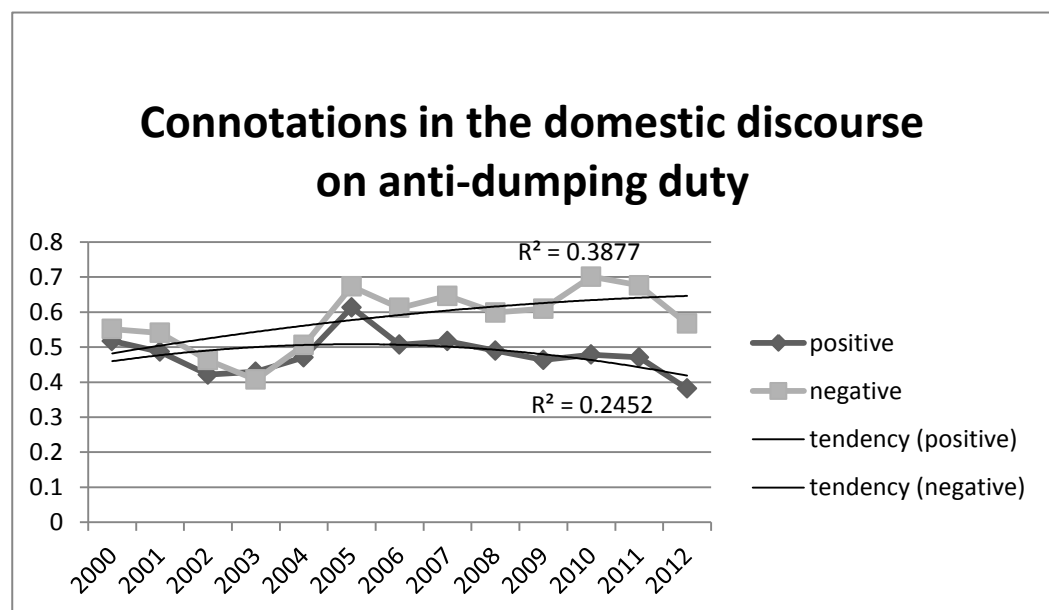
⁴⁷⁷ See 'S.1421 – United States Trade Rights Enforcement Act', 109th Congress of the United State of America, available at <https://www.congress.gov/bill/109th-congress/senate-bill/1421> accessed on June 7, 2016.

Similar arguments can also be applied to the analysis of the topic salience of countervailing duty. The results show that the three peaks of the topic salience of countervailing duty in the discourse of China's non-state actors coincides with the timeline of major events of implementing countervailing duty in China's state system. The causal relation between the changes in China's state system and the topic salience of countervailing duty is also verified by the detailed text analysis.

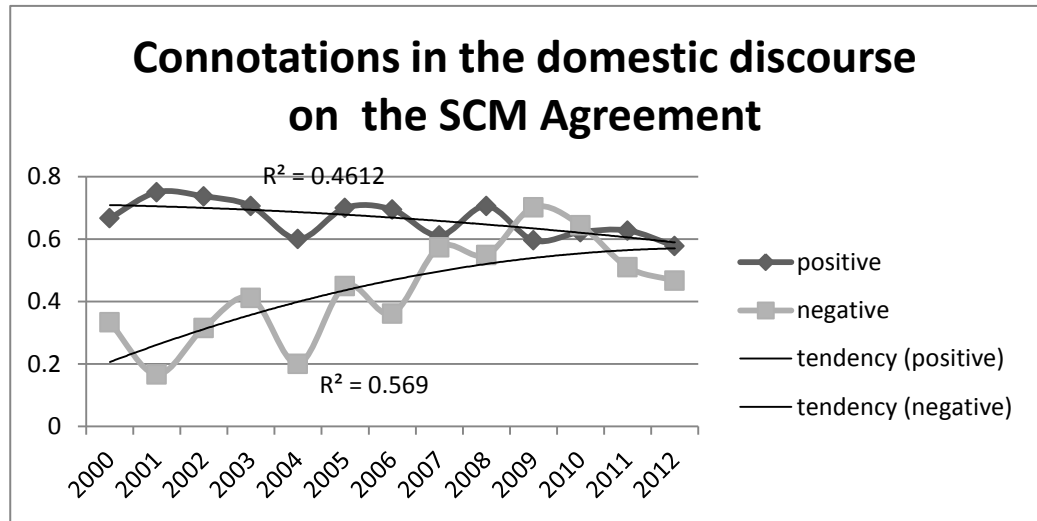
3. Changing attitudes

The previous section illustrates how the use of enforcements and China's implementation of the norms results in the changing topic salience of anti-dumping duty and countervailing duty in China's domestic discourse. However, non-state actors' increasing awareness of, and about, the norms is only a part of implementation. Whether China's non-state actors hold positive attitudes towards these two norms also matters to the success of implementation.

Graph 6.8: Connotations in the publications on anti-dumping duty



Graph 6.9: Connotations in the publication on countervailing duty



As illustrated in Chapter Three, the attitudes of the Chinese non-state actors towards anti-dumping duty and countervailing duty change over time. Comparing graphs 6.8 and 6.9, two phenomena can be noted. (1) The proportions of samples with positive connotations are similar to that of samples with negative connotations in the first half of the 2000s. In contrast, their discourse was more positive when they discussed the SCM Agreement and countervailing duty. (2) In both situations, the percentage of articles expressing positive discourse decreased, while those expressing negative discourse increased over the past ten years. This result suggests that the implementation of the two norms impacted the discourse of non-state actors in a different direction from that expected by the norm promoters at international level.

In order to understand the changing attitudes of China’s non-state actors towards anti-dumping duty and countervailing duty, this section looks into the contexts of China’s domestic discourse in detail, and analyses the interpretations of these two norms. The analysis is based on the results of manual coding of 246 samples on anti-dumping duty, and 118 samples on countervailing duty in Sample-set C ⁴⁷⁸. This thesis argues that the

⁴⁷⁸ For the sampling method of Sample-set C, see Chapter Three ‘sampling’.

understanding of anti-dumping duty and countervailing duty in China's domestic discourse develops as both a learning and constructivist process. In this process, the WTO plays an indirect, but important, role, but its impact is not always positive.

3.1 Positive effects of enforcement

The Chinese non-state actors' acquisition of knowledge about anti-dumping duty and countervailing duty is, first of all, a conscious and spontaneous process⁴⁷⁹. It is mostly triggered by the anxiety caused by global anti-dumping and countervailing practices. China's exports have been frequently targeted by global anti-dumping practices since the 1980s. From 1980 to 1999, there were 356 anti-dumping investigations of China's exports, and all were concluded with positive determinations⁴⁸⁰. The detailed manual coding shows that 90% of the samples emphasize the high frequency of inquiry into China's exporting in anti-dumping investigations, and the loss of China's exporters in this process. This represents serious problems that constrain China's international trade. In contrast, China possessed little expertise on anti-dumping duty and its relevant rules. The Chinese non-state actors thus value the studies of the WTO Anti-dumping Agreement and the domestic anti-dumping law of foreign countries, such as the United States, the EU, Japan, and Canada⁴⁸¹.

⁴⁷⁹ Chinese non-state actors are pioneers in studying anti-dumping duty. Their studies started from the 1980s, and grew rapidly in the 1990s. In contrast, the Chinese government did not take anti-dumping duty as an important topic in its work until 1997 when the first national regulation on anti-dumping duty and countervailing duty was promulgated; it never voiced its position regarding anti-dumping duty and countervailing duty until 2001, when the State Economy and Trade Commission (SETC) held two trade remedy working conferences in Beijing and Nanjing. See the Chronicle of the Bureau of Fair Trade for Import and Export and the Bureau of Industry Injury Investigation, available at <http://www.cacs.gov.cn/cacs/news/paihangshow.aspx?articleId=89248> accessed on May 25, 2016.

⁴⁸⁰ 杨 Shihui Yang, 'Comparing Analysis of Foreign Anti-Dumping against China's Exporting Goods 外国对华出口商品反倾销比较研究', *Statistical Research 统计研究*, /1 (2000). P26.

⁴⁸¹ For examples see Zhulin 追林 Wang 王 and Bingxu 秉旭 Zhang 张, 'The Study of the Core Principles of the U.S. Anti-Dumping Law and China's Corresponding Strategies 美国反倾销法的核心问题及其对策研究', *Journal of International Trade 国际贸易问题*, /z1 (1989), 68-73.

In the 1990s, the Chinese non-state actors, especially academics and lawyers, actively engaged in collecting and studying the relevant rules regulated by the WTO Anti-Dumping Agreement. In the 44 manually coded articles published before 2000, 20 studied the WTO Anti-Dumping Agreement and the domestic anti-dumping law of the developed countries. They focused on the basic terminologies and specific rules of these legal documents because, as they indicated, the WTO Anti-dumping Agreement, and the anti-dumping law of foreign countries, were still alien to most Chinese non-state actors⁴⁸².

These studies mostly use positive connotations to describe anti-dumping duty and the related rules. They often portray anti-dumping practices as the important and legitimate means to protect 'fair trade'⁴⁸³, to fight against unfair competition in international trading⁴⁸⁴, and to protect importing country's domestic industries from unfair trading activities⁴⁸⁵. These portrayals largely fit the institutionalisation of anti-dumping duty at international level.

Based on these understandings of anti-dumping duty, many Chinese non-state actors recognise the lack of self-regulation in the Chinese exporters' trading activities, and the low-value added exports, as two major immanent causes of China frequently being targeted by global anti-dumping duty. Among the 40 manually coded articles published in the 1990s, eight articles mention that Chinese exporters often compete with each other, in order to export their goods at the lowest price. The game of "race-to-the-bottom" increases the

⁴⁸² For example see Zhang 张, Yong 勇, 'The European Communities' Anti-Dumping Law and China's Strategies 欧共体反倾销法以及对策', *Forum for Politics and Law 政法论坛*, 15 (1993), 81-87. P81.

⁴⁸³ Example see Mu-Zhu Shen 沈, 'Essay on International Anti-Dumping Measures and Suggestion for China's Response 论国际反倾销与中国之因应对策', *Studies in Law and Business 法商研究*, 188 (2002), 16-29. P19.

⁴⁸⁴ Example see Lin 林, Zongtang, 'The Role of Industry Association in Anti-Dumping Practices and Countervailing Practices 行业协会在反倾销、反补贴工作中的作用', *Architectural Design Management 建筑设计管理*, 12 (2002), 16-18. P16.

⁴⁸⁵ Example see Zhu 朱, Qing-Hua, 'The Issue of Public Interest in Anti-Dumping Proceedings 反倾销中的公共利益问题', *Journal of Central University of Finance and Economics 中央财经大学学报*, 101 (2003), 66-69. P67.

possibilities of China's exports being targeted by foreign anti-dumping practices⁴⁸⁶. They thus urge Chinese exporters to regulate their dumping activities because dumping may cost not only their profits, but also their foreign markets⁴⁸⁷. They also indicate that China's exports were mostly low value added products, such as agricultural products and clothing. The only comparative advantage of these products in the international market was the low prices. China's exports were thus easily targeted by global anti-dumping practice⁴⁸⁸. Eleven out of the 40 articles thus mention improving the mix of exports and increasing the proportion of high-value added products in the exports, as solutions to this problem.

Furthermore, there are 10 samples pointing out the fact that the Chinese exporters never responded to a single anti-dumping investigation before the 2000s⁴⁸⁹. Responding to foreign anti-dumping investigations is an important opportunity for the exporters to defend their own interests. The exporter can provide the key evidence that justifies their trading activities, or negotiate for 'price-undertaking' in order to reduce their loss. They thus encourage the Chinese exporters to actively respond to the foreign anti-dumping investigations in order to avoid further loss. "Facing anti-dumping investigations initiated by foreign government, Chinese enterprises should have the courage to respond; they should utilize relevant laws and regulations to protect their legal rights."⁴⁹⁰

⁴⁸⁶ Cui 淬 Yan 阎, 'Starting from China Being Frequently Targeted by Global Anti-Dumping Practices 我国出口屡遭反倾销制裁的反思', *World Economy Study 世界经济研究*, /3 (1992), 30-35. P35.

⁴⁸⁷ Example see Hua 华 Guo 郭, 'Stading Questions and Conterplan of Chinese Anti-Dumping 中国的反倾销现状与对策', *East China Economic Management 华东经济管理*, 12/2 (2001), 57-59. P59.

⁴⁸⁸ For examples see Yan 阎, 'Starting from China Being Frequently Targeted by Global Anti-Dumping Practices 我国出口屡遭反倾销制裁的反思', (p33); see also Yan 艳 Zhang 张, 'Foreign Anti-Dumping Practices and China's Corresponding Strategies 国外反倾销现状及我国应采取的对策', *Modern Law Science 现代法学*, /3 (1998), 64-68. p68.

⁴⁸⁹ The first time that the Chinese exporters responded to foreign anti-dumping investigations was in 2000. The EU imposed anti-dumping measures on China's TV exports from 1998. The Chinese TV producers responded to the investigation in the 'Sun-Set' procedure. For details, see <http://news.sina.com.cn/china/2000-07-21/110178.html> accessed on May 25, 2016.

⁴⁹⁰ Da-Wei Chen, 'Wto Anti-Dumping Measures and China's Response Wto 反倾销措施和中国反倾销应诉', *International Economic Cooperation 国际经济合作*, /11 (2000), 13-16. P16.

The Chinese non-state actors' suggestion of solutions based on their spontaneous learning of anti-dumping duty, and its related rules, have important political implications. In 1998, the Anti-dumping/Countervailing Office of the State Economy and Trade Committee (SETC), and the Law department of the Ministry of Foreign Economic Cooperation and Trade, jointly held a conference inviting Chinese experts, academics, lawyers, and representatives of industries to discuss the theories and practices of anti-dumping duty. This conference was an important channel through which the Chinese government consulted the Chinese non-state actors for advice on the issue of anti-dumping duty⁴⁹¹.

The solutions suggested by the Chinese non-state actors were later reflected in China's trading policies. In the Government Work Report of 1999, the Prime Minister, Zhu Rongji, stated that "China shall increase the weight of mechanical and electrical products, high value added products and famous brand products in China's exports, and thus improve the mix of exports..."⁴⁹² Improving the mix of China's exports became an important policy of China's foreign trade in the early 2000s, and continued to be mentioned in the Chinese Government Work in 2001, 2002, 2003 and 2004.

Meanwhile, encouraging China's exporters to respond to foreign anti-dumping investigations became one focus of China's trade remedy work. In 2001, the SETC held the industry association working seminar on anti-dumping and countervailing practice. Zhang Zhigang, the Vice Director of SETC, stated that the industry associations should provide necessary consultations to the enterprises and exporters, and encourage them to

⁴⁹¹ the Chronicle of the Bureau of Fair Trade for Import and Export and the Bureau of Industry Injury Investigation, available at <http://www.cacs.gov.cn/cacs/news/paihangshow.aspx?articleId=89248> accessed on May 25, 2016.

⁴⁹² Zhu Rongji, 1999 "the Government Work Reports of 1999 政府工作报告 (1999)", released on the second meeting of the Ninth National People's Congress, March 5, 1999.

actively respond to foreign anti-dumping investigations⁴⁹³. In the same year, the Ministry of Foreign Economic Cooperation and Trade promulgated the ‘Provisions on Responding to Antidumping Cases concerning Export Products’. This provision regulates how the different levels of government and industry associations encourage and serve the Chinese enterprises and exporters in foreign anti-dumping cases.⁴⁹⁴

In short, the foreign anti-dumping practices alerted the Chinese non-state actors to the importance of anti-dumping duty. The latter were motivated by the need for problem-solving and thus spontaneously engaged in learning about anti-dumping duty and its related rules. These pilot learners mostly held positive attitudes towards anti-dumping duty and the WTO Anti-dumping Agreement. Based on their acquired knowledge, they recognised the immanent causes of China frequently being targeted by global anti-dumping duty, and provided their solutions accordingly. Some of their suggestions were adopted by the Chinese government and were later reflected in China’s trade policies.

3.2 Positive effects of accession and monitoring

While the Chinese non-state actors’ spontaneous learning of anti-dumping duty was triggered by the global anti-dumping practices targeting China’s exports, the process of learning about countervailing duty was mostly triggered by China’s WTO accession, and China’s intensive legislation of countervailing duty in the early 2000s. This intensive legislative work, as illustrated in Chapter Three, is the result of the pressure from China’s WTO accession and the WTO’s monitoring programmes.

⁴⁹³ Zhang Zhigang, 2001, ‘Speech on the industry associations seminar on anti-dumping and countervailing work 在行业协会反倾销反补贴工作座谈会上的讲话’, *China Economic & Trade Herald 中国经贸导刊*, no.7, p4-5.

⁴⁹⁴ The content of this provision is available at http://www.law-lib.com/law/law_view.asp?id=16522

The Chinese non-state actors' spontaneous learning about countervailing duty started later than their learning about anti-dumping duty. As this chapter discusses above, the topic salience of countervailing duty in China's domestic discourse increased rapidly in the early 2000s. The result of manual coding shows that the samples published between 2001 and 2004 mostly focus on the basic terminologies and rules of the WTO SCM Agreement, similar to the publications on anti-dumping duty in the 1990s. Among the 24 manually coded samples, 14 compare China's legislation with the WTO SCM Agreement, and eight mention how China's WTO accession changes China's subsidy system. Considering China was not a target of global countervailing practices before 2004, China's WTO accession, and China's intensive legislation of countervailing duty in the early 2000s are more likely to be the factors that motivate the Chinese non-state actors' spontaneous learning.

Sixty percent of these samples portray countervailing duty in positive ways. They agree that countervailing practices are the legitimate means to protect importing countries' domestic industries from unfair competition in international trading⁴⁹⁵. Exporting goods which have benefited from subsidies is an unfair activity in international trading, because subsidies can benefit exporters by decreasing their exporting prices, which may cause injuries to the domestic industries of the importing countries⁴⁹⁶. Applying countervailing duty thus helps to improve fairness in international trading⁴⁹⁷. With this positive attitude towards countervailing duty, 10 out of 24 samples claim China should work further on the legislation of countervailing duty. Six samples urge the Chinese government to remove the subsidies prohibited by

⁴⁹⁵ For example see Xiaohong Jiang, 'Countervailing Legislation and Practice of the European Community 欧共体反补贴立法与实践', *Law Review 法学评论*, 117/1 (2003), 61-70. P70.

⁴⁹⁶ For example see Feng Xu, 'Government Subsidies and Countervailing in International Trading 国际贸易中的政府补贴与反补贴', *World Trade Organisation Focus*, /6 (2002), 26-9. P27.

⁴⁹⁷ For example see Jingming 景明 Liu 刘, 'Subsidies and Countervailing Measurement Agreement ‘红灯停, 绿灯行’: 《补贴与反补贴措施协议》', *Financial Law Forum 金融法苑*, 50/12 (2001). p91.

the WTO SCM Agreement. This result of implementation largely fits the institutionalisation of countervailing duty.

The collected evidence shows that the Chinese non-state actors value China's identity as a WTO member. They argue that China needs to implement anti-dumping duty and countervailing duty because these two norms are accepted by all WTO Members, and have been practiced for a long time⁴⁹⁸. They also argue that China should adopt WTO anti-dumping duty and behave accordingly because of its obligations as a WTO member⁴⁹⁹. Both arguments stress 'inevitability', or 'lack of choice', of China complying with the norms. Therefore, although the Chinese non-state actors are never exposed to the pressure of the WTO monitoring programmes, or have no direct connection to the WTO secretariat and other international players⁵⁰⁰, they are still affected by the socialising force of the WTO that creates normative "inevitability" based on the sense of "belonging"⁵⁰¹.

3.3 Negative effects of enforcement

While China's non-state actors' spontaneous learning of basic knowledge about anti-dumping duty and countervailing mostly portray the two in positive ways, the growing frequency of China being targeted by global

⁴⁹⁸ The US and the EU are the two examples that Chinese non-state actors and political elites favor the most when they study anti-dumping law and anti-dumping measures. They have the best developed legal systems to deal with international trading disputes; they are the most experienced users of anti-dumping measures; and, more importantly, they initiate most of the anti-dumping investigations against Chinese goods. Examples see Rong-Zhen 荣珍 Yang 杨, 'Analysis of Foreign Countervailing and Chinese Subsidy Policy 国外对华反补贴现状及中国补贴政策分析', *Guoji Jing Mao Tansuo 国际经贸探索*, 27/3 (2011), 67-82. See also Xu 徐, Lin, 'Study of Anti-Subsidy Mechanism under Wto Wto 下的反补贴机制研究', *Journal of South West University of Politics and Law*, 4/5 (2002), 71-76.

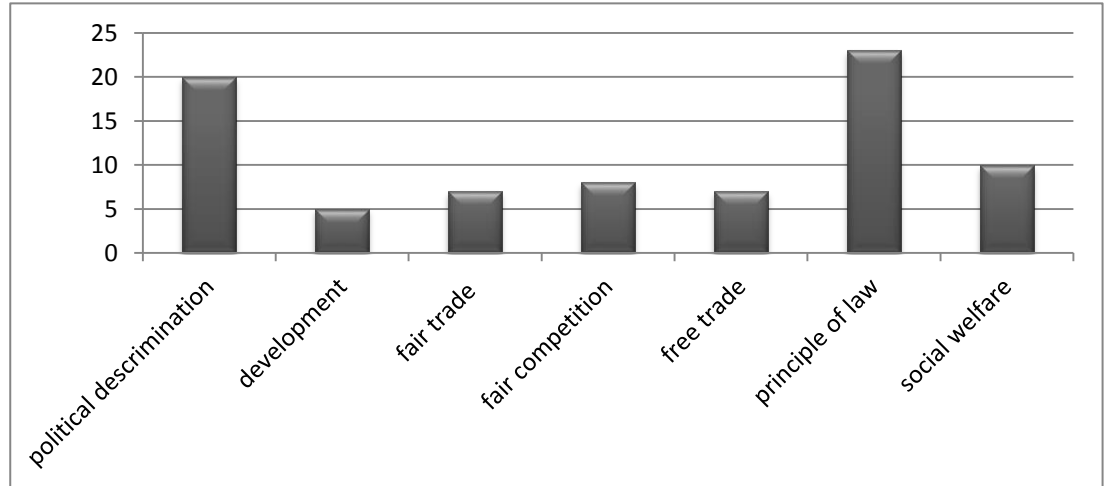
⁴⁹⁹ Example see LI Na and YUAN Xiaojun, 'An Empirical studies on EU's Regulations Imposing Anti-dumping Measure Based on material injury from 2004 to 2010 2004-2010 年欧盟反倾销实质性损害认定裁决的实证研究', *International Trading 国际贸易问题*, No. 9, 2010 page 123-8, see p 123.

⁵⁰⁰ China's non-state actors were rarely exposed to social pressure directly from the WTO and its Members since their connections with the WTO were weak. The interviews with the WTO secretariat officials revealed that although the WTO had its 'reaching-out' programmes, such as the Public Forums and cooperation with NGOs, China's non-state actors rarely participated in these programmes. The travel cost and the concern for efficiency were the major reasons.

⁵⁰¹ For the discussion on socializing force, see Chapter four, p117-8.

anti-dumping and countervailing practices causes not only attention, but also resentment, to these two norms in China’s domestic discourse.

Graph 6.10: Reasons for the negative attitudes towards anti-dumping duty and anti-dumping practices



In all the 246 manually coded samples that discuss anti-dumping duty, 90 express obvious negative attitudes towards this norm and its practices. Graph 6.10 presents the top seven reasons non-state actors use to argue against anti-dumping duty or anti-dumping practices. Twenty-three samples criticize the WTO Anti-dumping Agreement for not being in accordance with the principles of law, including fairness, objectivity, and predictability⁵⁰². They claim that the departments in charge of investigating anti-dumping disputes possess too much autonomy in deciding the cost of products, the economic status of Chinese companies, and the choices of surrogate countries⁵⁰³, which results in a lack of objectivity and predictability of the decisions⁵⁰⁴.

⁵⁰² For example see Lei 磊 Yuan 袁, Yan 延 Yan 颜, and Qunying 群英 Jiang 蒋, 'On the Historical Limitation of Antidumping Legislation 论反倾销法的历史局限性', *Journal of Finance and Economics 财经研究*, 29/3 (2003), 54-69. P56 see also Xiaohong Jiang, 'Study on European Community's Anti-Dumping Rule Towards Non-Market Economy 欧共体非市场经济反倾销规则研究', *Foreign Law 外国法译评*, /4 (2000), 22-37. P 28.

⁵⁰³ Since China is recognized as the non-market economy, the WTO Members have the right to choose another country (market economy) with similar development level as the “surrogate country” in investigation. The price of the same goods in the domestic market of the surrogate country is considered as the ‘normal value’ of these goods, and is used to compare with the price of the exports in investigation to determine the existence of ‘dumping’ activities.

⁵⁰⁴ For examples see Yang 杨, Shi-Hui 仕辉 and Xiong 熊, Yan 艳, 'The Study of the Tendency, Characteristics and Causal Factors in International Anti-Dumping Practice and China's Responding Strategies 国际反倾销趋势、特点、成因与我国对策研究', (p25). See also Zheng 铮 Sun 孙 and Hao

Political discrimination is the second most popular reason that the Chinese non-state actors express their negative attitudes towards anti-dumping duty. This type of argument connects with China's status as a 'non-market economy'. Many Chinese non-state actors point out that China's status as a 'non-market economy' is the result of discrimination by socialist countries. They argue that the Western developed countries define socialist countries as non-market economy countries based on political and ideological concerns⁵⁰⁵, and ignore the successful economic reform that China has accomplished in the past 20 years, thereby continuing to regard China as a 'non-market economy', or a 'market economy with conditions'⁵⁰⁶.

The Chinese non-state actors also believe that international trading should benefit development and social welfare. The imposition of anti-dumping measures on foreign exports will increase the prices of these goods in the domestic market of the importing countries, and thus increase the cost of downstream industries and the final retail prices of downstream goods. It may thus harm the social welfare and future development of the importing countries⁵⁰⁷. Many of them are also convinced that the application of anti-dumping duty is a form of protectionism conflicting with the principles of international trading, such as free trade, fair trade, and fair competition⁵⁰⁸. In other words, anti-dumping duty violates these key principles, thus should be questioned for its rightness.

浩 Liu 刘, 'On the Mistaken Cognition of Current Anti-Dumping Accounting Research and Recognition of Trade Remedy Accounting 反倾销会计研究中的若干问题辨析', *Accounting Research 会计研究*, /1 (2005), 67-76. P68.

⁵⁰⁵ Example see Li 李, Lijiang 丽江, 'The Discrimination of West Countries' anti-Dumping Practice against 'Non-Market Economy' 西方国家对非市场经济国家反倾销的歧视性', *Morden Finance and Economics 现代财经*, 147/5 (2002), 24-27. P24.

⁵⁰⁶ Example see 陈 Li Chen, 'Analysing European Union's Anti-Dumping Investigation against China, and the Issue of 'Non-Market Economy' 欧盟对华反倾销 '非市场经济' 问题探析', *China and Europe 中国与欧洲*, /3 (2003). P142.

⁵⁰⁷ For examples see Haixing 海星 Zhang 张, 'Economic Analysis of Anti-Dumping Duty 反倾销的经济分析与对策', *Social Science in Ningxia 宁夏社会科学*, /118 (2003), 45-49. p47. See also Tang 唐, Yu 宇, 'The Analysis of Four Types of Economic Effects Triggered by Anti-Dumping Protection 反倾销保护引发的四种经济效应分析', *Finance & Trade Economics 财贸经济*, /11 (2004), 65-69. P67.

⁵⁰⁸ Examples see Zhang 张, 'Economic Analysis of Anti-Dumping Duty 反倾销的经济分析与对策', (p46).

Similarly, global countervailing practices also threaten the interests of the Chinese exporters, which is the major trigger for the negative attitudes towards countervailing duty. The collected data shows that only 22% of samples published before 2004, in Sample-set B, use negative connotations to describe countervailing duty and its practice. On the contrary, more than 50% of samples used negative connotations after 2004, when China's exports began to be targeted by global countervailing practices.

These non-state actors, with negative attitudes towards countervailing duty and its practices, mostly believe that countervailing duty is another form of trading barrier, just as anti-dumping duty essentially reflects protectionism in international trading⁵⁰⁹. Sixty-five percent of articles on the SCM Agreement and countervailing duty manually coded in this research use the terms 'protectionism' (贸易保护主义), or 'trading barrier' (贸易壁垒), to describe countervailing practices. Around 30% of the articles also claim that countervailing duty had political meanings, because it intervenes in the policy-making of the government in terms of granting subsidies, while the autonomy of policy-making is regarded as part of a state's sovereignty⁵¹⁰.

The Chinese non-state actors, especially the academics, are more concerned with national interest than with traditional culture or socialist ideology. There are several examples that provide a glimpse of national interests in the publication of the Chinese academics:

⁵⁰⁹ Examples see Cai 蔡, Chun-lin 春林, 2007, An Anatomy on the USA Anti-subsidy Investigation against Chinese Imports 规则的背后: 美国对华实施首次反补贴调查剖析, *International Trade Issue 国家贸易问题*, no. 6, p122-136, p4.

⁵¹⁰ Huaxiang Zhang, 'Strategy Study of China's Response to the U.S. Countervailing Policy 中国应对美国反补贴政策的策略研究', *Market Modernization 商场现代化*, 535 (2009), 4-5. P5.

“Treating products exported from different countries with different standards... the motivation is obvious that they want to freeze Chinese products out of European market”.⁵¹¹

“[They] do not apply the same competition law or antitrust law on foreign companies as it is on domestic firms, which is an unfair activity that harms competition”.⁵¹²

“When anti-dumping law is applied to so call ‘non-market economy’ countries, people can easily witness its unfairness, its violation of international law, and its purpose of practicing protectionism”.⁵¹³

In these contexts, the terms ‘non-market economy countries’, and ‘foreign companies’, actually refer to China and the Chinese companies. An ‘us’ versus ‘them’ ideology can thus be easily observed. As the manual coding of the samples reveals, most Chinese non-state actors have no intention to criticise capitalist ideology. In contrast, they often invoke international liberal norms, such as free trade, fair trade, and fair competition, to condemn anti-dumping/ countervailing duty and their practices.

3.4 Summary

The analysis in this section shows that the Chinese non-state actors’ spontaneous learning about anti-dumping duty and countervailing duty is more likely to result in the use of language with positive connotations in their publications. This spontaneous learning could be triggered by either the use of enforcements, or the intensive domestic legislation of these two norms. Meanwhile, the increasing frequency of China being targeted by foreign

⁵¹¹ Feng 王峰 Wang, 'The Characteristics of Western Countries Dumping in China and Conducting Anti-Dumping Investigations against China, and Our Strategies Concerning That 西方国家对我国反倾销和倾销的特点及我们的对策', *Economic Review 经济评论*, 6 (1999b), 68-71. P69.

⁵¹² Li 周莉 Zhou, 'Anti-Dumping: The Conflicts between Theoretical Targets and Reality', *International Trading Issues 国际贸易问题*, /4 (1995), 25-29.

⁵¹³ Chuanli Wang, 王传丽, 'Chinese Anti-Dumping Law - Law-Making and Practices', *Chinese Law 中国法学*, /6 (1999a), 93-104. P102.

anti-dumping and countervailing practice has a negative impact on the Chinese non-state actors' attitudes towards these two norms. These two casual relations greatly contribute to the changing attitudes of the Chinese non-state actors towards anti-dumping duty and countervailing duty.

The fact of China being frequently targeted by global anti-dumping practices, and China's WTO accession, triggered the spontaneous learning process of the Chinese non-state actors in the late 1990s and early 2000s. Meanwhile, the use of enforcements allowed by the WTO Anti-dumping Agreement also caused antagonism towards anti-dumping duty in China's domestic discourse. The similar proportions of the samples with positive and negative attitudes towards anti-dumping duty, as presented in Graph 6.8, are reflective of these divided camps in China's domestic discourse.

On the contrary, China was not a target of global countervailing practices until 2004. The Chinese non-state actors' spontaneous learning about countervailing duty was only triggered by China's legislation on countervailing duty in the early 2000s, pressured by China's WTO accession and the WTO monitoring programmes. As a consequence, in the early 2000s, there are more samples of positive connotations in the descriptions of countervailing duty, than there are those with negative connotations (see Graph 6.9).

Graphs 6.8 and 6.9 also show that the proportion of the samples with negative connotations in describing anti-dumping duty and countervailing duty increases from 2000 to 2012, while that of those with positive connotations decreases. This phenomenon can be explained by the negative effects of the use of enforcements allowed by the WTO Anti-dumping Agreement and the SCM Agreement.

For anti-dumping duty, the proportion of the samples that discuss the basic terminology and specific rules related to this norm decreases after 2004, because the Chinese non-state actors know more about this norm, and its related rules, after a number of year's learning. As a direct consequence, the proportion of the samples with positive connotations decreases. Meanwhile, China's exports continue to be the target of global anti-dumping practices. The negative effect of the use of enforcement remains. We thus observe that there are more samples with negative connotations than those with positive connotations in the second half of the 2000s.

A consensus on understanding anti-dumping duty emerges in China's domestic discourse. It is generally agreed that anti-dumping practices have become a form of protectionism in international trading⁵¹⁴. They are not only the means to eliminate price discrimination and to protect fair trade, but the powerful tools of states' trading policies to achieve states' trading objectives⁵¹⁵. This interpretation of anti-dumping duty is not only shared by those who still hold negative attitudes towards anti-dumping duty, but also by the those who intend to promote further development of it in China. In the 105 manually coded samples published in 2005-2012, 60 express similar understanding; 87 suggest that the global anti-dumping practices are not fair to China's exports. In spite of this, most Chinese non-state actors still believe that China should solve this problem through legal means, such as responding to the investigations and defending its own interests⁵¹⁶. They also

⁵¹⁴ For examples see Zhengliang 正良 Liu 刘, 'New Protectionism Policy Adjustment and China's International Trade Development 新贸易保护主义的政策调整与我国贸易发展', *Journal of International Trade 国际贸易问题*, /10 (2004).

⁵¹⁵ For example see Jiankang 建康 Huang 黄 and Wenyuan 文远 Sun 孙, 'A Dynamic Analysis of the Motivations and Efficiency of the U.S. Anti-Dumping Policies 美国实施反倾销贸易政策的动因与绩效分析', *World Economy Studies 世界经济研究*, /6 (2006), 22-27. P 27.

⁵¹⁶ Yue 跃 Zhou 周 and Lin 琳 Cai 蔡, 'Chinese Facturing Should Protect Itself in Global Anti-Dumping Practices 2005 反倾销警报频响 “中国制造”要自我保护', *China Petrochemical News 中国石化报*, January 4, 2006 2005.

argue that China should better utilise anti-dumping and countervailing practices to serve its domestic interests⁵¹⁷.

For countervailing duty, the global practices targeting China's exports largely increase the number of the samples with negative connotations after 2004. Around 47% of the manually coded samples published after 2004, point out that countervailing duty and its practices are another form of protectionism, just as anti-dumping duty and its practices⁵¹⁸. They thus generally hold negative attitudes towards this norm. Meanwhile, the learning process of countervailing related knowledge that started from the early 2000s has not yet finished. Around 44% of the samples discuss the basic terminologies and rules of countervailing duty and the WTO SCM Agreement⁵¹⁹. This group of non-state actors argue that countervailing practices are the legitimate means that the importing countries use to protect their domestic industries⁵²⁰, and the primary solution to the problem of China's exports being targeted by global countervailing practice is to adjust China's subsidy policies, including eliminating the prohibited subsidies⁵²¹. The domestic discourse over countervailing duty is thus divided, which explains the similar proportions of samples with negative and positive attitudes towards countervailing duty presented in Graph 6.9.

⁵¹⁷ Wang 王, Guiqin 贵勤 and Liu 刘, Jintao 景涛, 'Brief Discussion of Eu's Anti-Dumping Policies and the Legal Responses of the Chinese Entreprises 简述欧盟反倾销与中国企业的法律对策', *China Chief Financial Officer 中国总会计师*, 44/3 (2007), 28-30.

⁵¹⁸ Cai 蔡, Chunlin 春林, 'An Anatomy on the USA Anti-Subsidy Investigation against Chinese Imports 规则的背后: 美国对华实施首次反补贴调查剖析', *Journal of International Trade 国际贸易问题*, 16 (2007), 122-26.

⁵¹⁹ For example see Shuang-Jiang 双焦 Guo 郭, 'Pondering on Evolution of Wto Countervailing Law System', *Public Administration and Law 行政与法*, 19 (2006), 52-54.

⁵²⁰ For examples see Hai-Tao 海涛 Lan 蓝, 'Protecting China's Industry Security by Utilizing Wto Countervailing Duty 运用世贸反补贴规定维护我国产业安全', *Hong Guan Jing Ji Guan li 宏观经济管理*, 15 (2006), 48-51.

⁵²¹ Zhao 赵, 'Watching out the Investigation of Anti-Subsidy Becomes the New Obstacles of Our Export 警惕反补贴调查成为我国外贸出口的新障碍', (p109).

4. Conclusion

This chapter examines China's domestic discourse concerning anti-dumping duty and countervailing duty during the past 20 years. The analysis shows that the enforcements allowed by the WTO Anti-dumping Agreement and the SCM Agreement, effectively increase the topic salience of anti-dumping duty and countervailing duty in China's domestic discourse. The statistical results suggest the frequency of China being targeted by global anti-dumping duty and countervailing duty is positively related to the topic salience of these two norms, and the detailed manual coding proves the causal relation between the two. The WTO accession and the monitoring programmes also have an indirect impact on their topic salience. Chapter Four illustrates how China's WTO accession and its transitional review programmes result in the intensive legislation work as a part of the implementation of anti-dumping duty and countervailing duty. The manual coding of the samples shows that this intensive legislation work is an important factor that results in the rapid growth of the topic salience of the two norms in China's domestic discourse.

In order to better understand the context of China's domestic discourse over anti-dumping duty and countervailing duty, this chapter further studies the Chinese non-state actors' attitudes and interpretations of these two norms. The analysis shows that the use of enforcement allowed by the WTO Anti-dumping Agreement and the SCM Agreement does have important and immediate effects on the discourse of non-state actors. It motivates non-state actors to learn about and debate the new norms. The spontaneous learning mostly leads to positive attitudes towards the new norms. However, this research suggests that in the long term the use of the enforcement may have negative impacts on the implementation of international norms and on the discourse of non-state actors. Where global anti-dumping and countervailing practices harm the interests of non-state actors, they are more likely to hold

negative attitudes towards the relevant norms. They may develop interpretations of the norms that are different from the original intentions of the norm promoters at international level. Consequently, the use of the enforcements may enlarge the 'institutionalisation-implementation gaps'. Therefore, the hypothesis that assumes the WTO instruments have positive impacts on China's domestic discourse is disproved.

The results of this chapter address two important conclusions. Firstly, the major reason for the different implementing progress of anti-dumping duty and countervailing duty on the aspect of domestic discourse is not the different level of mismatch between the two norms and China's state capitalist traditions. The Chinese non-state actors are mostly interested in how the practices of these two norms benefit, or harm, the exporting interests of China, and place less emphasis on the negative effects of the SCM Agreement affecting China's subsidy policies. In other words, the implementations of anti-dumping duty and countervailing duty on this aspect face similar resistance.

Secondly, although the enforcements are greatly responsible for the increasing topic salience of the norms in China's domestic discourse, the effectiveness of the WTO implementing instruments are proved weak on this aspect of implementation. The development of China's domestic discourse over anti-dumping duty and countervailing duty combines the spontaneous learning process of relevant knowledge and the constructive process of interpretations of the norms. The pressures from the WTO are thus transferred into different types of arguments.

Chapter seven: conclusion

1. Introduction

China is rising in a Western-led liberal world, but has it been effectively contained by the liberal order? In order to answer this question, this thesis studies the implementation of international liberal norms in China, and investigates three specific questions.

1. How are international liberal norms implemented in state capitalist China?
2. How do international organisations promote the implementation of international liberal norms in state capitalist China?
3. How does the systemic mismatch of international liberal norms with China's state capitalist tradition condition the efforts of international organisations in this process?

It examines closely the implementation of two WTO trading norms, namely anti-dumping duty and countervailing duty as the representative case studies. Each of the two norms encourages fair competition in international trading, which is at the core of the liberal trading system. Studying the implementation of these two norms in China helps to understand what happens after China ratifies international liberal norms. This case selection avoids the complex situation of 'feedback' effects⁵²² in the process of implementation. The stable institutionalisation of anti-dumping duty and countervailing duty isolates the process of implementation from its international institutionalisation. Furthermore, the comparison of two norms in one country excludes 'states', 'capacity', and 'political structure', two

⁵²² Betts and Orchard point out that the implementation of international norms at domestic level can have its impact on the institutionalisation process at the international level. The changes of the institutionalisation of norms may further affect the implementation at domestic level again. See BETTS, A. & ORCHARD, P. 2014. Conclusion: Norms and the Politics of Implementation. In: BETTS, A. & ORCHARD, P. (eds.) *Implementation & World Politics - How International Norms Change Practice*. . Oxford: Oxford University Press.

inherited and decisive conditions of domestic implementation of norms, from the consideration of this study. It thus enables the analysis to focus on how the systemic mismatch' between international liberal norms and China's state capitalist traditions condition the implementation of anti-dumping duty and countervailing duty in China. Meanwhile, the WTO, as a powerful international organisation and a defender of international liberal order, is expected to promote the implementation of its trading norms in China by helping China to overcome the implementation barriers in its domestic arena.

The findings and analyses are presented and discussed in the empirical chapters of this thesis.

In this final chapter, I summarise the results of this research and further discuss these findings collectively. The chapter is structured in four parts. It firstly describes the implementation of anti-dumping duty and countervailing duty in China, and identifies the changing 'gaps' in the implementation process. The second part evaluates the role of the WTO in implementation through its three instruments, namely the accession mechanism, the monitoring mechanism and the enforcement mechanism. The third part discusses the role of the Chinese state as the major agent in the implementation of the anti-dumping duty and countervailing duty in China, and how the mismatch between the two norms and China's interests and state capitalist traditions condition their implementation progress. The final part of this chapter lists the contributions of this thesis to the field of norm diffusion and to the debate over a rising China in the liberal world. It also discusses the limitations of this research, and suggests future studies that may help to understand China's rise in the liberal world.

2. Implementation and the changing ‘gaps’

Current studies of norms’ implementation usually start from an identified ‘institutionalisation-implementation gap’, at a specific time, and then uses process tracing and political comparative methods to discover the factors that contribute to the ‘gaps’. This research, however, demonstrates that the ‘gaps’ can exist in multiple aspects of implementation, and they change because of the progress of implementation.

Considering the implementation of the anti-dumping duty and countervailing duty in China, there are three phases that can be identified. *The first phase* runs from 1994, when this norm was written into China’s legal documents for the first time, to 1999, when China reached the bilateral agreement with the US concerning China’s WTO accession⁵²³. During this period, the implementation process of both norms made slow progress. *Foreign Trade Law* (1994) provided the legal basis for practicing the anti-dumping duty and countervailing duty, but it did not regulate the details of China’s anti-dumping and countervailing practices. In 1997, the first national regulation on anti-dumping duty, ‘Anti-dumping and Countervailing Measures Regulation of People’s Republic of China’ (*Regulation 1997*), was promulgated by the state council and came into force on March 25, 1997. It clarified the principles of China’s anti-dumping and countervailing practices, and regulated the general rules that guide China’s anti-dumping and countervailing investigations and measures. However, this document was far less detailed than the WTO Anti-dumping Agreement and the SCM Agreement.

Although the ‘gaps’ in the implementation of both the anti-dumping duty and countervailing duty were large in the first phase, the implementation of

⁵²³ “November 15, 1999, China and the United States signed the bilateral agreement on China’s WTO accession (1999年11月15日,中美签署我国‘入世’双边协议)”, China.com.cn(中国网), available at http://www.china.com.cn/aboutchina/txt/2009-11/12/content_18876384.htm accessed on July 31 2016

anti-dumping duty still made better progress than that of countervailing duty. The Chinese government promulgated four administrative rules regulating the detailed rules in anti-dumping investigations. With the guidance of *Regulation 1997*, and the promulgated administrative rules, the Chinese government initiated five anti-dumping investigations into foreign exports (WTO database). In contrast, no administrative rule regulating countervailing investigations was promulgated, and China initiated no countervailing investigations into foreign exports during this period. Moreover, anti-dumping duty enjoyed much higher topic salience in the discourse of China's non-state actors' than did countervailing duty during this period.

The second phase is from 2000 to 2004. During this period, the implementation of the anti-dumping duty and countervailing duty were on fast track, and the 'gaps' in both cases greatly reduced. The Anti-dumping Regulation of the People's Republic of China (*Anti-dumping Regulation, 2001*), and the Countervailing Regulations of the People's Republic of China (*Countervailing Regulation, 2001*), were promulgated on November 26, 2001, and came into force on January 1, 2002, one week after the date of China's WTO accession. *Regulation 1997*, was abolished automatically. Compared to *Regulation 1997*, the *Anti-dumping Regulation 2001* and the *Countervailing Regulation 2001* made great progress in legislation. These two regulations were amended again in 2004 and they are still in force. Meanwhile, the Chinese government promulgated 24 administrative rules that regulate all aspects of anti-dumping practices and countervailing practices in detail. These regulations and administrative rules are well recognised by the WTO secretariat and other WTO Members⁵²⁴.

⁵²⁴ Committee on Anti-Dumping Practices, 2012, 'Minutes of the Regular Meeting held on 24-25 October 2011', WTO document no. G/ADP/M/41, page 18; Committee on Subsidies and Countervailing Measures, 2012, 'Minutes of the Regular Meeting held on 26-27 October 2011, WTO document no. G/SCM/M/79, page 9.

China has become one of the largest countries to regularly employ anti-dumping practices. From 2000 to 2004, it initiated 103 anti-dumping investigations into foreign exports, in comparison to five investigations in 1994-1999⁵²⁵. The topic salience of the anti-dumping duty in the discourse of the non-state actors continued to grow in the second phase, and reached its peak in 2004 (see Chapter Three and Chapter Six). These facts suggest that both the state sectors and non-state actors of China are increasingly familiar with the anti-dumping duty and its related practices.

Even so, clear 'gaps' in the implementation of anti-dumping duty can still be identified. For instance, the WTO Members such as the US and Japan criticise China's anti-dumping practices for not fully meeting the requirements of the WTO Anti-dumping Agreement, especially on the issue of information disclosure and duty collection. For another instance, the attitudes of the non-state actors towards the anti-dumping duty were increasingly negative. They interpret this norm differently from its institutionalisation at international level (see Chapter Six).

In contrast to the anti-dumping duty, the 'gaps' in China's implementation of the countervailing duty in the second phase were even larger. Compared to the 103 global anti-dumping investigations into foreign goods, China did not initiate any countervailing investigations during this period. Meanwhile, the topic salience of the countervailing duty in China's domestic discourse was much lower than that of anti-dumping duty, which means that China's non-state actors either know less about the countervailing duty, or consider it less politically insignificant comparing to anti-dumping duty.

⁵²⁵ Data source: WTO database.

The third phase of implementation comes after 2005. The progress of implementing the anti-dumping duty largely slows down during this period, but it remains on-going. While the major work of legislation finished in the second phase, the Chinese government amended three administrative rules in 2006 and 2008. Moreover, as the records of China’s transitional reviews after 2005 show, China improved the way of practicing the anti-dumping duty, which better meets the requirements of the WTO. However, the case study of the ‘trade war’ between China and the EU in 2011-2014, and the increasing negative attitudes of China’s non-state actors towards anti-dumping duty, suggest that the ‘gaps’ remain, although they are reducing with the progress of implementation, and that they may not be eliminated in the foreseeable future.

Meanwhile, the implementation of the countervailing duty makes good progress in this third phase. China initiated its first countervailing investigation into foreign exports in 2009; by 2012, China initiated six countervailing investigations, and four of them were concluded with the imposition of countervailing measures. The topic salience of the countervailing duty grows rapidly in this period, while that of anti-dumping duty decreases steadily. Both the state sectors and the non-state actors unprecedentedly value the countervailing duty, although they do not necessarily believe in, or behave in accordance with, this norm. The analysis of China’s field-level practices of the countervailing duty and the growing negative attitudes of China’s non-state actors towards this norm suggest the existence of clear ‘gaps’ in its implementation. The summary of the changing gaps of implementing anti-dumping duty and countervailing duty in China is presented in Table 7.1.

Table 7.1 The changing gaps of implementing the two norms in China.

Phases	Evaluations
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	Anti-dumping duty	Countervailing duty
Phase I: 1994-1999	Poor implementation: <ul style="list-style-type: none"> · Weak legislation; · Inexperienced practices; · Low topic salience in the domestic discourse; 	Poor implementation: <ul style="list-style-type: none"> · Weak legislation (also weaker than that of anti-dumping duty); · Absence of practices; · Low topic salience in the domestic discourse (also lower than that of anti-dumping duty in the same phase);
Phase II: 2000-2004	Good progress of implementation: <ul style="list-style-type: none"> · Well recognised legislation; · Increasing number of practices, with many criticisms; · Rapidly growing topic salience in the domestic discourse. 	Good progress on legislation: <ul style="list-style-type: none"> · Well recognised legislation; · Absence of practices; · Slowly growing topic salience in the domestic discourse.
Phase III: After 2005	Slower rate but better progress: <ul style="list-style-type: none"> · Well recognised legislation · Improved practices, with some criticisms; · Decreasing topic salience and increasing negative attitudes in the domestic discourse. 	Fast rate of progress: <ul style="list-style-type: none"> · Well recognised legislation; · Some practices, with many criticisms; · Increasing topic salience and increasing negative attitudes in the domestic discourse.

In short, both the implementation of the anti-dumping duty and countervailing duty made important progress from 1994 to 2012. As a consequence, the ‘gaps’ between China’s implementation of the two norms and their institutionalisation at the international level largely reduce during this period. Meanwhile, this thesis also demonstrates that the ‘gaps’ remain in terms of field-level practices and domestic discourse. In particular, the attitudes of the Chinese non-state actors towards the anti-dumping duty and countervailing duty are increasingly negative, and new interpretation of these two norms are developed with great difference from that of the WTO. The

next two sections summarise and discuss the findings of this thesis which explain these changing 'gaps' in China's implementation of the anti-dumping duty and countervailing duty.

3. Role of international organisations in implementation

Norm diffusion theories value the role of international organisations in promoting international norms and urging national states to ratify them. Finnemore and Sikkink argue that international organisations provide the platforms for norm diffusion. They point out that "sometimes these platforms are constructed specifically for the purpose of promoting the norms"⁵²⁶, but they also argue that in most cases, norm entrepreneurs, i.e., the norm promoters, can work with international organisations that "have purposes and agendas other than simply promoting one specific norm"⁵²⁷, such as the World Bank or the UN. These International organisations provide information and "access to important audiences for that information"⁵²⁸, and act as socialising forces to persuade national states to adopt the norms. International Organisations can also provide the external support for domestic actors to urge norms' adoption. For instance, Audie Klotz illustrates how non-state actors in South Africa, supported by international organisations such the UN, protested to pressure their government to abandon apartheid policies⁵²⁹.

The study of norms' implementation, however, has divergent conclusions about the role of international organisations in the implementation process. Scholars, such as Phil Orchard, argue that the pressure from international

⁵²⁶ FINNEMORE, M. & SIKKINK, K. 1998. International Norm Dynamics and Political Change. *International Organization*, 52, 887-917.p899).

⁵²⁷ Ibid. (p899).

⁵²⁸ Ibid. (p900).

⁵²⁹ KLOTZ, A. 1995. Norms Reconstituting Interests: Global Racial Equality and U.S. Sanctions Against South Africa. Ibid.49, 451-478.

players in such international organisations can increase the political will of state leaders and thus promote the implementation of international norms⁵³⁰. Schroeder and Tiemessen suggest international NGOs can associate with local agents to urge local government for further and better implementation⁵³¹. Other scholars such as Alexander Betts⁵³² and Urvashi Aneja⁵³³ argue that the local agencies that international organisations cooperate with in the process of implementation may undermine, or even jeopardise, the efforts of the latter.

This thesis participates in this debate over the role of international organisations in implementation. From a dynamic perspective, it examines the effectiveness of the WTO's implementing instruments in China's implementation of anti-dumping duty and countervailing duty. These instruments include the WTO accession mechanism, the monitoring mechanism, and the enforcement mechanism.

The accession mechanism of the WTO is effective in urging the progress of China's implementation in the state system. In China's WTO accession negotiations, the Chinese government made many important commitments to the Working Party, including revising and completing China's legislation of the anti-dumping duty and the countervailing duty. Because of the multiple and vital meanings to China of its WTO accession, fulfilling these commitments became one of the priority tasks of the Chinese government in the early 2000s. The reports of the Chinese government prove the direct causal relationship between this mechanism and the relevant legislation in 2000 and 2001 (see

⁵³⁰ ORCHARD, P. 2014. Implementing a Global Internally Displaced Persons Protection Regime. In: BETTS, A. & ORCHARD, P. (eds.) *Implementation and World Politics - How International Norms Change Practice*. Oxford: Oxford University Press.

⁵³¹ SCHROEDER, M. B. & TIEMESSEN, A. Ibid. Transnational Advocacy and Accountability - From Declarations of Anti-Impunity to Implementing the Rome Statute.

⁵³² BETTS, A. Ibid. From Persecution to Deprivation - How Refugee Norms adapt at Implementation. Oxford University Press.

⁵³³ ANEJA, U. Ibid. International NGOs and the Implementation of the Norm for Need-Based Humanitarian Assistance in Sri Lanka. Oxford: Oxford University Press.

Chapter Four). China's WTO accession, and the relevant legislation and policy-making of the anti-dumping duty and countervailing duty, are also important factors that lead to the sudden increase of their topic salience in China's domestic discourse (see Chapter Six).

The monitoring mechanism of the WTO also plays an important role in China's implementation of the two norms. The *de facto* veto power of the ministerial departments, and their lack of willingness to cooperate are two of the main barriers to China's implementation of the anti-dumping duty and countervailing duty. The monitoring mechanism creates the social pressures that are built on China's identity as a WTO Member, and its desire for a good reputation in international affairs. When China is criticized for its failures in fulfilling its obligations or commitments, government departments are more likely to cooperate with each other. In other words, the WTO's monitoring mechanism exerts external pressure on the Chinese government and thus urges the cooperation and coordination of different government departments, which promotes the progress of implementation.

The monitoring programmes of the Committee of Anti-dumping Practices, and the Committee of Subsidies and Countervailing Measures, explains the intensive work of the legislation and institutional building of anti-dumping duty and countervailing duty between 2002 and 2004 (see Chapter Four). These monitoring programmes also urge China to improve the details in its anti-dumping and countervailing practices, such as information disclosure, coordination between the investigation authorities and the customs authorities, and the subsidies notification to the WTO (see Chapter Five).

The mechanism of enforcement has a significant, but mixed, impact on China's implementation of the two norms. The WTO itself does not 'force' the fair trade activities of the exporters, but it regulates how the authorities of

importing countries may impose anti-dumping measures and countervailing measures, i.e., sanctions on foreign exports if the exporters violate the norms. In this way, the WTO exerts its enforcement power through its Members indirectly. The findings of this thesis demonstrate that whether, or not, China is a target of global anti-dumping practice and countervailing practice is decisive in the progress of implementation, including the relevant legislation, the topic salience of the two norms in the government's work and in the discourse of non-state actors, and the application of these norms in practice. Chapter Four also argues that the timing of China being a target of global anti-dumping and countervailing practices explains why China initiated its first countervailing investigation 11 years later than its first anti-dumping investigation into foreign goods. From this perspective, the application the enforcement mechanism positively promotes China's practice of anti-dumping duty and countervailing duty.

The analysis of this research, however, also points out that the global anti-dumping and countervailing practices on China's exports also results in the increasing negative attitudes among China's non-state actors towards the two norms. New interpretations of the norms are developed and quickly shared by both government officials and the non-state actors in China (see Chapter Six). Because of the growing negative attitudes in the domestic discourse and because of the new interpretations, the 'gaps' in the implementation of the anti-dumping duty and the countervailing duty may remain, or even increase in the future. From this perspective, the enforcement mechanism has a negative impact.

The three implementing instruments are effective in promoting the implementation of the anti-dumping duty and countervailing duty in the areas of legislation, institution-building, and some aspects of field-level practice. They exert external pressure on the Chinese government, increase the topic

salience of these two norms in the government's work and in the discourse of non-state actors, urge the cooperation and coordination between different government departments in implementation, and thereby promote the progress of implementation.

4. Mixed interests, mixed impacts

The WTO implementing instruments are not always effective. Their domestic impacts are also conditioned by the systemic mismatch of the two norms with China's political economy and administrative tradition. Norm diffusion and implementation theories emphasize the roles of local agents in urging the ratification and domestic implementation of international norms⁵³⁴. In the case of this research, the Chinese state is the major agent in implementing the anti-dumping duty and countervailing duty in China, which fits the expectation of the hegemonic theories for the states in global norm diffusion⁵³⁵. However, unlike these theories which assume the states to be coherent political bodies, this research explores the Chinese state as an entity with mixed interests and preferences; these mixed interests and preferences condition the influences of the WTO in implementation.

China, on the one hand, desires the protection that the anti-dumping duty and countervailing duty may provide to its domestic industries after it reduces or removes its tariffs and other trading barriers. The relevant legislation,

⁵³⁴ For examples, see BETTS, A. & ORCHARD, P. 2014. Conclusion: Norms and the Politics of Implementation. In: BETTS, A. & ORCHARD, P. (eds.) *Implementation & World Politics - How International Norms Change Practice*. Oxford: Oxford University Press. See also ANDERSON, M. J. 2014. From Principle to Policy: The Emergence, Implementation, and Rearticulation of the Right to Post-Conflict Property Repossession. In: BETTS, A. & ORCHARD, P. (eds.) *Implementation and World Politics - How International Norms Change Practice*. Oxford: Oxford University Press. WEAVER, C. & PERATSAKIS, C. 2014. Engineering Policy Norm Implementation: The World Bank's Transparency Transformation. In: BETTS, A. & ORCHARD, P. (eds.) *Implementation and World Politics - How International Norms Change Practice*. Oxford: Oxford University Press.

⁵³⁵ See IKENBERRY, G. J. & KUPCHAN, C. A. 1990. Socialization and hegemonic power. *International Organization*, 44, 283-315. See also RISSE-KAPPEN, T. 1994. Ideas do not float freely: transnational coalitions, domestic structures, and the end of the cold war. *International Organization*, 48, 185-214.

institution-building and policy-making empower China to restrict importing activities when it believes its domestic industries are threatened by their global competitors. Therefore, when the WTO pressures China's implementation of the antidumping duty and countervailing duty in the state system through its implementing instruments, China responds to these pressures actively and makes great progress in implementation. In other words, the WTO's implementing instruments are effective in promoting the implementation process in China's state system because this implementation fits China's interests.

On the other hand, the implementation of anti-dumping duty and countervailing duty also conflict with China's state capitalist traditions in different ways. The WTO Agreement requires great transparency in anti-dumping and countervailing practices. This requirement constitutes a challenge to China's administrative departments to whom transparency is not a part of their traditions. Moreover, SCM Agreement requires the WTO members to remove prohibited subsidies and report other subsidies. As a state capitalist state, China largely relies on subsidies, in many cases prohibited subsidies, for guiding and managing its economic development. This requirement of the SCM Agreement touches the core interests of the Chinese government. Consequently, the WTO monitoring programmes urged China to fulfil its obligations, such as information disclosure and subsidies notification, but 'gaps' remain because of the strong resistance from the bureaucracies. In particular, although China submitted its subsidies notification in 2006, under pressure from the WTO monitoring programme, this submission came four years later than its first deadline and included no information about the subsidies granted by local governments. The resistance from China's bureaucracies, especially those of local governments,

undermines the efforts of the WTO in urging China's full notification of subsidies⁵³⁶.

Furthermore, as a large exporting country, China's exports are frequently targeted by foreign anti-dumping and countervailing investigations, and most of them are concluded with the imposition of measures. Chinese exporters frequently lose their profits, and even their foreign market, in these investigations. Therefore, the WTO accession and enforcement mechanism successfully increased the topic salience of the anti-dumping duty and countervailing duty in China's domestic discourse. China's non-state actors are better informed by the relevant knowledge about these two norms, but their attitudes towards the two are increasingly negative. Unlike the Chinese government, who is interested in practicing the anti-dumping duty and countervailing duty for domestic industrial security, the Chinese non-state actors are concerned more about dealing with foreign trade remedy measures. The enormous loss to the Chinese exporters in global anti-dumping and countervailing practices triggers great discontent among the Chinese non-state actors.

Many Chinese non-state actors are thus sceptical about the nature of the anti-dumping duty and countervailing duty in the international trading regime. They debate the legitimacy of these two norms and the consequences of applying them in practice. These debates lead to the development of new interpretations of the anti-dumping duty and countervailing duty in China. According to these interpretations, the two norms are not only the means to protect importing countries' domestic industries from unfair competition in global trading, but, more importantly, are the legitimate policy tools of protectionism. These interpretations create important 'gaps' between China's

⁵³⁶ See Chapter five for details.

implementation of these two norms and their institutionalisation at international level. These interpretations, along with the negative attitudes of the Chinese non-state actors towards the anti-dumping duty and countervailing duty, constitute continued resistance to the full implementation of these two norms, and this resistance will not be eliminated by any external pressure.

5. Towards future study

In summary, this thesis makes three important contributions to the field of norm diffusion and to the debate over China's rise in a liberal world. First, it develops an analytical framework for studying norms' implementation based on the research agenda of the existing research. This analytical framework suggests that norms' implementation at domestic level should be examined from three aspects, namely the changes in the state system, the changes in field-level acts, and the changes in the domestic discourse (of non-state actors). It also suggests investigating the changes of 'gaps' in norms' implementation as the dependent variable, instead of taking the 'gaps' as a static existence. Examining and measuring the changes of gaps is thus the first stage necessary to the study of norms' implementation; comparative methods and process tracing serve as good methods at this stage. This framework provides a multi-layered, dynamic guideline to better understand how China implements its ratified international norms. It can also be applied to the study of norms' implementation in other states.

By applying this analytical framework, this thesis is able to identify and measure the implementation of international norms in more detail. It demonstrates that the implementations of these two norms in China are far more complex than hegemonic theorists would expect. The progress of implementation is not a linear timeline but varies across different periods of

time, or even across different aspects of implementation. For instance, the implementation of anti-dumping duty experienced the fastest rate of progress in the second phase compared to that in the first and third phases. The implementation of the countervailing duty makes good progress in legislation, institution-building, and policy-making. Its implementation on two other aspects, field-level practice and domestic discourse, does not make any meaningful progress until 2005. The identification of the changing 'gaps' in implementation facilitate the multi-level analysis of the role of the WTO and the Chinese state.

Second, this thesis illustrates how international organisations can urge the implementation of international liberal norms in China. The current literature provides inconclusive debate over the roles of international norms in implementation, and there is little research investigating the impact of international organisations on China's implementation of international norms. This research illustrates that the WTO can effectively urge the progress of implementing the anti-dumping duty and countervailing duty in China through its three implementing instruments: the accession mechanism, the monitoring mechanism, and the enforcement mechanism.

The collected evidence shows that these three instruments directly relate to the changes in the 'gaps' in the implementation of the anti-dumping duty and countervailing duty in different phases. For instance, the accession mechanism and the monitoring mechanism explain the accelerating rate of legislation of the two norms in the second phase; the different timing of China's exports being targeted by global anti-dumping and countervailing practices explains the '11-year-gap' between China's first anti-dumping investigation and its first countervailing investigation. These findings help to understand how the international liberal system works to contain China.

Third, this research illustrates how the 'cultural-match' between international liberal norms and China's state capitalist traditions conditions the implementation process. Norm diffusion scholars, such as Checkel, Cortell and Davis, argue that 'cultural-match' is an important condition and decisive as to whether an international norm can be ratified. But in the implementation process it is a crucial factor that conditions how well the norms can be implemented and how much the 'gaps' can be narrowed because of the progress of implementation. In the cases of the anti-dumping duty and countervailing duty in China, great economic and political benefits motivate China's economic and political reforms, and each reform signals a further step toward globalization for China. This thesis has illustrated how China ratifies and implements the anti-dumping duty and countervailing duty in its domestic arena for problem-solving reasons, and how the WTO successfully urges the progress of these implementations.

While international organisations, such as the WTO, work as a force to contain China in the international liberal order, the mismatch of international liberal norms with China's state capitalist tradition constitutes strong resistance to this process. Such resistance may build a ceiling for the implementation of international liberal norms in China, such as China's failure to provide the summaries of confidential information in anti-dumping investigations, or its incapacity to submit subsidy notifications that include the information of subsidies granted by local governments. These types of resistance prevent China from being fully contained.

Notably, this thesis has its limitations concerning the role of the Chinese non-state actors in implementation. When it examines how the anti-dumping duty and countervailing duty cause changes in the domestic discourses, it could not involve the Chinese industrialist in its analysis. This group of non-state actors is highly relevant to the implementation of the two norms,

because their interests are directly threatened by global anti-dumping and countervailing practices, and their cooperation is also required in anti-dumping and countervailing investigations. The problem is that the Chinese exporters rarely express their opinions in public, not only about these two norms, but about most issues. Very few records can be traced from newspapers, magazines, or other sources, based on which Chapter Six offers some discussion. This research also interviews 10 managers from seven factories of solar production in Ningbo in order to explore their understanding of the anti-dumping duty and countervailing duty after a series of trade disputes over China's solar exports. These records, however, cannot be analysed to explore how the discourse of the Chinese exporters has changed over the past 20 years. A handful of media records and interviews cannot represent the opinions of millions of exporters in China, not to mention how the discourse changes over time.

It also remains unclear how the Chinese non-state actors contribute to the relevant policy-making and to anti-dumping and countervailing practices in implementation. The non-state actors are more than the passive receivers in this implementation process. As Chapter Six illustrates, the Chinese experts started their spontaneous learning of the anti-dumping duty in the 1980s, a decade before the Chinese government ratified this norm for the first time in 1994. The collected evidence shows that their expertise contributed to the implementing policies of the government in the early 2000s. Questions raised concern such points as: through what channels can the Chinese non-state actors reach the decision-makers in China's anti-dumping and countervailing practices; and do their negative attitudes have an impact on these practices and on the relevant policy-making? These questions, however, are out of the scope of this thesis whose foci are the role of the WTO, as the external pressure, and the role of the Chinese state, as the major local agent in implementation.

Yet, these are the questions worthy of future studies. The discontent of the Chinese non-state actors towards global anti-dumping and countervailing practices may be decisive in the manner in which they are upheld when they are required to participate in these practices. More importantly, with the development of the internet in China, the political influence of the Chinese non-state actors increases rapidly, not only because of the technology, but also their awakening willingness to affect the decision-making process.⁵³⁷ The resistance of the Chinese non-state actors to the anti-dumping duty and countervailing duty can be reflected at both policy-level and field-level. In order to investigate these questions, proper access to the government departments, the industrial associations, and the exporters is necessary, because the relevant information is often regarded as sensitive, especially to foreign researchers.

Furthermore, this research fails to examine whether and how the Chinese local government eliminate prohibited subsidies as required, because it has no access to valid data sources. The Chinese government only submitted two subsidies notifications to the WTO secretariat, and these two notifications have no information on the subsidies granted by the local governments. This fact suggests that the Chinese local governments are not cooperative in terms of reporting the information of their subsidies to local industries. It also suggests that the subsidy issue is very sensitive in China, partly because of the threat of global countervailing measures. Even the report of The American Iron & Steel Institute could not provide solid evidences of the prohibited subsidies to the steel industry, although it firmly believes in the existence of these subsidies⁵³⁸. However, the issue of subsidies is an important part of

⁵³⁷ RAWNSLEY, G. D. 2005. The media, Internet and governance in China. *In*: ZHENG, Y. & FEWSMITH, J. (eds.) *China's Opening Society - The non-state sector and governance*. London and New York: Routledge.

⁵³⁸ PRICE, A. H., WELD, C. B., NANCE, S. & ZUCKER, P. 2006. The China syndrome how subsidies and government intervention created the world's largest steel industry. The American Iron & Steel Institute,

implementing countervailing duty in China. The subsidies policies of the Chinese government and the local government need to be examined thoroughly in order to evaluate China's implementation of countervailing duty. Future studies are thus required

Appendix I: Dictionaries

Dictionaries	Positive discourse	Negative discourse
Anti-dumping duty	<p>公平贸易 OR 公平的贸易</p> <p>不正当竞争 OR 国际正当竞争 OR 国际公平竞争 OR 不正常竞争 OR 不公平竞争 OR 不公平的竞争</p> <p>正常的竞争次序 OR 正常竞争次序 OR 保护国际公平竞争 OR 保护国际正当竞争 OR 保护国际公平竞争 OR 保护正当竞争</p> <p>维护经贸秩序 OR 保护经贸秩序 OR 维护国际经贸秩序 OR 维护贸易秩序 OR 维护国际贸易秩序 OR 维护公平贸易秩序 OR 保护公平贸易秩序</p> <p>OR 不公平的价格歧视 OR 抵制不公平的价格 OR 国际贸易的健康发展 OR 国际贸易健康发展 OR 国际贸易秩序 OR 国际贸易正常秩序 OR 有序的国际贸易</p> <p>外来侵犯 OR 外来不合理侵犯</p> <p>OR 合法手段 OR 合法的手段 OR 合法保护 OR 合法的保护 OR 合法的贸易保护手段 OR 合法措施 OR 合法的措施 OR 合法的贸易保护措施</p> <p>OR 保护国内民族工业 OR 保护国内民族产业 OR 保护本国工业 OR 保护国内的工业 OR 保护本国产业 OR 保护国内的产业 OR 保护幼稚产业 OR 保护国内企业 OR 保护本国企业</p> <p>OR 抵制倾销 OR 应对倾销</p>	<p>幌子 OR 旗号 OR 歧视</p> <p>贸易保护 OR 贸易保护主义 OR 工具 OR 政治因素</p> <p>阻碍经济全球化 OR 阻碍了经济全球化 OR 损害经济全球化 OR 损害了经济全球化 OR 阻碍世界经济一体化 OR 阻碍了世界经济一体化 OR 损害世界经济一体化 损害了世界经济一体化 OR 阻碍经济一体化 OR 阻碍了经济一体化 OR 损害经济一体化 OR 损害了经济一体化 OR 阻碍全球经济一体化 OR 阻碍了全球经济一体化 OR 损害全球经济一体化 OR 损害了全球经济一体化</p> <p>OR 下游企业的损失 OR 下游产业的损失 OR 损害下游企业 OR 损害了下游企业 OR 损害下游产业 OR 损害了下游产业 OR 牺牲下游企业 OR 牺牲了下游企业 OR 牺牲了下游产业 OR 牺牲消费者 OR 牺牲了消费者 OR 损害消费者 OR 损害了消费者 OR 牺牲社会福利 OR 牺牲了社会福利 OR 损害社会福利 OR 社会资源浪费 OR 浪费社会资源 OR 社会成本上升 OR 提高社会成本</p> <p>OR 保护垄断 OR 保护国内垄断 OR 保护国内的垄断 OR 承认垄断</p> <p>OR 扭曲市场商业行为 OR</p>

		<p>扭曲正常的市场商业行为</p> <p>OR 抗拒同业竞争 OR 抗拒竞争 OR 损害同业竞争 OR 损害合理竞争 OR 限制进口 OR 限制合理竞争 OR 限制合理贸易</p>
<p>Countervailing duty</p>	<p>公平贸易 OR 公平的贸易</p> <p>保护国际正当竞争 OR 保护国际公平竞争 OR 反对不正当竞争 OR 反对不公平竞争 OR 反对不公平的竞争 OR 反对不正当竞争 OR</p> <p>正常的竞争次序 OR 正常竞争次序 OR 保护国际公平竞争 OR 保护国际公平竞争 OR 保护正当竞争</p> <p>维护经贸秩序 OR 保护经贸秩序 OR 维护国际经贸秩序 OR 维护贸易秩序 OR 维护国际贸易秩序 OR 维护公平贸易秩序 OR 保护公平贸易秩序</p> <p>国际贸易的健康发展 OR 国际贸易健康发展 OR 国际贸易秩序 OR 国际贸易正常秩序 OR 有序的国际贸易</p> <p>OR 合法手段 OR 合法的手段 OR 合法保护 OR 合法的保护 OR 合法的贸易保护手段 OR 合法措施 OR 合法的措施 OR 合法的贸易保护措施</p> <p>OR 保护国内民族工业 OR 保护国内民族产业 OR 保护本国工业 OR 保护国内的工业 OR 保护本国产业 OR 保护国内的产业 OR 保护幼稚产业 OR 保护国内企业 OR 保护本国企业</p>	<p>贸易保护主义</p> <p>OR 贸易保护危害 OR 贸易保护的有害 OR 危害正常贸易 OR 危害合理贸易 OR 危害贸易自由 OR 危害自由贸易 OR 限制正常贸易 OR 限制合理贸易 OR 限制贸易自由 OR 限制自由贸易 OR 控制贸易 OR 贸易控制</p> <p>OR 贸易歧视 OR 新的贸易壁垒</p> <p>OR 贸易中的壁垒</p> <p>OR 干涉国内政治 OR 干涉政策制定 OR 干涉我国政策制定 OR 干涉他国政策制定 OR 干涉别国政策制定 OR 干涉发展中国家政策制定 OR 干涉发展政策 OR 干涉我国发展政策 OR 干涉他国发展政策 OR 干涉别国发展政策 OR 干涉发展中国家发展政策 OR 政治因素的干扰 OR 问题政治化</p> <p>幌子 OR 工具 OR 旗号 OR 滥用</p>

Appendix II: Semi-structured questions for interviews

[Consents from the interviewees]

About the research: this is an independent research for my PhD thesis. It studies how differently the WTO and national state affect different groups of Chinese sub-elites concerning their adoption of international trading norms. The result generated from the interviews will only be in for the relevant outcomes of this research such as conference paper, publication in academic journals and my PhD thesis. You have every right to claim for confidentiality, anonymity and non-traceability before the thesis is submitted even if you agree to be mentioned by name at the first place. You also have the right to withdraw your participation any time without any condition before the thesis is submitted. In the case that you want to withdraw your participation, you can contact me via my email or my phone.

You have the right of access to my dissertation in different ways. For instance, I can send you part of my dissertation draft where the interview data has been used; or the results can be presented in your institute if you want. Moreover, if you require, I can send you the summary of our interview, the data will not be used unless you approve.

[Questions for WTO officials working with NGOs]

- (ice breaking) [*see material*] How do you like your work? You must be excited when you start your job at the first place? Still excited? [introduce the research project and ethical issues]
- I want to know more about your work. What are the major contents of your job?
- What is the purpose of the WTO to work with NGOs [*see material*]? Trying to build direct linkage with member states' domestic groups? If yes, who benefit the most from these linkages, the WTO or member states' civil society? For civil society, what are the benefits of these linkages (such as promoting norms, or internalise norms)? How efficient?
- Have you ever dealt with any Chinese NGOs? Hong Kong ministerial conference, 6 NGOs based in mainland China [*see material*]. Those you have contacted with, who are they, academics, lawyers, governmental officials?
What do you think about these Chinese NGOs? (e.g. professional or not, easy to work with or not, efficiency,)

- As long as I know, Chinese NGOs are actually GONGOs (government organised NGOs). Do you think it is still meaningful to work with these NGOs (does it actually affect Chinese civil society, building up understandings on WTO trading norms)? Has anti-dumping issue ever been a topic?
- Do you know any direct connection that the WTO has built with Chinese domestic actors (maybe not NGOs, but non-governmental interest groups)? Such as in the area of anti-dumping? If no, why not? No motivation or there are the barriers (such as intervening from Chinese).

[Questions for WTO officials working for WTO Training Courses]

- (ice breaking) How long have you been working for the WTO? You must be excited when you start to work here at the first place? Still excited? [statement of research project and ethical issues]
- I want to know more about the technical assistance and training plan of the WTO [see material]. Who are the course convenors (senior WTO officials, academics, ambassadors)? Considering the content of the courses, most of the courses involve interactive training methods. To what extent do you think this plan serve to promote WTO trading norms, or it actually provides opportunities for participants to criticise the WTO rules and norms? Do you think these training courses can eventually have impacts on the building up of member states' domestic discourses over WTO trading issues?
- Is it popular? Based on the material, the number of participants is limited? Is it because of the resources from the WTO is limited, or there is a lack of participating will? Reasons of less willingness?
- Does the WTO provide similar training for non-governmental actors [see material]? Are they actually attractive programme for participants? Participants from China?
- Workshops for academics
- From the information that I found in the website, it seems that the technical assistance and training plan start from 2007. Is there any similar training provided before?

-

[Questions for WTO officials working for Public forum]

- Who are the usual participants? Are there many participants that come from China? Who are they? Any contribution?
- Do you think the WTO is trying to build direct connections with its member states' domestic actors (concerning the training courses, public forum, and cooperation with NGOs)? What do you think the purpose of doing this? Is it successful? Do you know other means that direct connections between the WTO and domestic actors are built expect training courses, public forum, and cooperation with NGOs?

[Questions for Chinese officials working in Chinese WTO delegates]

- (ice breaking) How long have you been in Geneva? How is your life here?
- Is it often that Chinese come to Geneva and take the training course provided by the WTO? Who are those people normally (governmental officials, students, young scholars, lawyers)? Where do they receive the information of training courses? How about their funding?
- What do you think of the training courses provided by the WTO? Useful? Efficiency? Fairness? The participating will of Chinese governmental officials?
- Can you talk about the public forum held by the WTO? Who are the usual participants? What do you think the purpose of holding WTO public forum regularly? Does it affect China in any means?
- What do you think the ways that the WTO works with NGOs in China? Is it meaningful or efficient?
- Do you think the WTO is trying to build direct connections with its member states' domestic actors (concerning the training courses, public forum, and cooperation with NGOs)? What do you think the purpose of doing this? Is it successful? Do you know other means that direct connections between the WTO and domestic actors are built expect training courses, public forum, and cooperation with NGOs?

[Final part]

Is there any other issue that you think our talk should cover? Do you know anyone that you think I should probably talk to concerning my research area?

Finally, we should also talk about the potential risks of being involved in this research. Although economic and trading issues such as anti-dumping are not sensitive topic in China, it is still possible that some of our conversations violate Chinese government or CCP. In this situation, it can bring certain level of risk to both of us. As solution, I will eliminate the risks by deleting those statements if they are not relevant. If those statements are highly relevant and crucial to my research, I will ensure your anonymity and the non-traceability of your identity, and I will also watch the way of framing and presenting my arguments to lower the risk.

Thank you for your time.

Appendix III: Transitional Review Meetings, Committee of Anti-Dumping Practices

Year	Member States	Questions and criticisms
2002	United States	<ul style="list-style-type: none"> • Disappointed by the delay in China's legislation notification; request details of the new legislations; • No semi-annual reports submitted; need information on the status of the investigations; • Unclear role of Chinese government entities in China's anti-dumping regime; • Request written answers to the questions submitted by other Members;
2003	United State	<ul style="list-style-type: none"> • The late date of China's response precluded the United States from commenting on the content of those answers; • Insufficient information released to interested parties; the SETC had never adequately made available documents relating to their injury investigations; • Encourage China to provide details of the administering authorities' decision-making process and reasoning; • Need to clarify the oversight role of the State Council Tariff Commission • Request to notify the law and regulations of how the Customs Administration will apply anti-dumping duties, collect anti-dumping duty and provide for judicial review;
	Japan	<ul style="list-style-type: none"> • Problems in notifying the interested parties of the initiation of the investigation; • Insufficient disclosure of the process of determination, especially the process of injury determination and causality analysis;
2004	United States	<ul style="list-style-type: none"> • Not following the instruction of the semi-annual report; • Miss one anti-dumping investigation in the semi-annual report • Urge China to clarify in detail to the Committee the full set of rules, regulations and laws that currently govern its anti-dumping regime; • Urge further steps towards making non-confidential document of investigations in the public reading

		room;
		<ul style="list-style-type: none"> • To ensure that confidential documents not released were identified in comprehensive indices so that all parties knew of their existence; the summaries of confidential documents must be provided; • Urged China to enforce tighter standards for the summary of confidential document; • The problems of evidences in injury determination; • Urged China to apply fair procedures to all parties to an investigation as envisioned by the Anti-Dumping Agreement •
	European Communities	<ul style="list-style-type: none"> • Urged China to provide written answers to its questions and comments;
	Japan	<ul style="list-style-type: none"> • Request for adequate disclosure of the analysis in the preliminary and final determinations of two investigations
2005	United States	<ul style="list-style-type: none"> • insufficient public notices of initiating investigations • question on the role of the Ministry of Agriculture in investigations • question on the affirmative steps taken of informing and notifying the exporters of investigations; • little progress in improving transparency and fair procedure in investigations; • Concerns about the availability of information from China's administering authority; limited number of documents pertaining to a few of China's on-going injury investigation; • Insufficient non-confidential summaries of confidential documents; • No sufficient evidence release to the public in injury determination; • Urged to apply fair procedures to all parties in an investigation • Problem of the custom authorities in collecting anti-dumping duty; poor interaction between the investigating authorities and the customs authorities; • Urged China to clarify in detail to the Committee the full set of rules, regulations and laws that govern its anti-dumping regime;
	European Communities	<ul style="list-style-type: none"> • Unclear responses of China to its questions submitted earlier

		<ul style="list-style-type: none"> • No disclosure had been given on injury and causal link; • Concerns about information requests; EC exporters had been confronted with excessive information request; • The various causes of injury must be separated and distinguished
2006	United States	<ul style="list-style-type: none"> • The problem of non-confident summary remains; no access, or poor quality; • The problem of evidences remains; critical arguments or evidence had not been addressed adequately; determinations did not appear to be supported by adequate evidence; • Urge China to apply fair procedures to all parties; • Poor interaction between the administering authorities and the customs authorities; • Urge China to notify all relevant legislation to the Committee; • The issue of VAT; its calculation of the duty deposit rate and its calculation of the VAT deposit; • The problem <i>de minimis</i> rate
2007	United States	<ul style="list-style-type: none"> • Urged China to continue develop its expiry review regulations and procedures; • The problem of injury and causal link determinations remains; • Problem of the responding parties in obtaining adequate non-confidential versions of documents; • Urged China to ensure the application of fair procedures to all parties to an investigation or review; • Coordination between the administrative authorities and the customs at border;
	Japan	<ul style="list-style-type: none"> • Criticism on the means of notifying exporters of the investigations • the injury finding, in particular the non-attribution requirement (this problem is fully addressed, and the delegate of Japan was pleased);
2008	United States	<ul style="list-style-type: none"> • urged China to apply fair procedures to all interested parties; • urged China to refine the process by which MOFCOM and Chinese customs official at China's ports confirmed the precise merchandise subject to each anti-dumping measure and the anti-dumping duty rates applicable to each importers;

		<ul style="list-style-type: none"> • urged China to continue taking account the principle of transparency and fair procedures in its legal framework; • the results of expire review were not reflected in China's semi-annual report;
	Japan	<ul style="list-style-type: none"> • the problem of unknown exporters accessing to the questionnaire from the website;
2009	United States	<ul style="list-style-type: none"> • MOFCOM's failure to require the reasonable non-confidential summaries; • Urged China to improve the level of detail provided by MOFCOM in its disclosure of dumping margin calculations and of the essential facts supporting the positions taken in the preliminary determination; • Urged China to finalize its expiry review regulations and procedures • Urged China to apply fair procedures to all parties involved in an anti-dumping proceeding;
	Japan	<ul style="list-style-type: none"> • the problem of unknown exporters accessing to the questionnaire from the website; • the problem of detailed operation on injury determination;
	The European Communities	<ul style="list-style-type: none"> • concerns about the disclosure issue
2011	United States	<ul style="list-style-type: none"> • Inadequate non-confidential summary; • Insufficient explanation of disposition of parties evidence and arguments; • Inadequate disclosure of margin calculations and essential facts; deficiencies in affirmative injury and causal link decisions; • Lack of uniform, published procedures of inadequate communication between MOFCOM and the customs authorities • Need for fair consideration of hearing requests • Need for expiry review regulations • Incomplete notification of legislation and regulations
	Japan	<ul style="list-style-type: none"> • Some concerns with respect to the investigations and decisions undertaken by China's investigating authority from the viewpoint of due process and transparency; • The disclosure of how margins were calculated and the source of fact available;
	European Union	<ul style="list-style-type: none"> • Too often label information as confidential;

Mexico	<ul style="list-style-type: none">• Concern over the standards of the injury analysis• Encourage further actions to improve transparency• Limited information with respect to anti-dumping law and regulations, procedures on the MOFCOM website;
Korea	<ul style="list-style-type: none">• Encourage further actions to improve transparency

Appendix IV: Transitional Review Meetings, Committee of Subsidies and Countervailing Measures

Year	Member States	Questions and criticisms
2002	United States	<ul style="list-style-type: none"> • Stressed the subsidies that China committed to eliminate • China's delay in notifying national regulations on countervailing duty and in notifying its underlying statute governing countervailing measures or the text of its provisional implementing rules • Questions and concerns China's countervailing duty regulations, especially on common procedural and injury issues • Transparency issue in countervailing duty proceedings • Little practical or detailed elaboration of the principles of rule of law and due process • China's delay in submitting its annual notification of subsidies
	European Communities	<ul style="list-style-type: none"> • China's obligation of notifying information of subsidies • Concern about an export subsidy with regard to the export of automobiles • Question about filling questionnaire in countervailing investigation
	Japan	<ul style="list-style-type: none"> • The rest of the relevant rules on subsidies and countervailing measures
2002	United States	<ul style="list-style-type: none"> • Review of legislative notification: China's failure in providing subsidy notification
2003	United State	<ul style="list-style-type: none"> • Review of legislative notification: Concerns about Information accession and transparency • Gaps remained in this legal structure • The transparency of Members' countervailing duty regimes, including the judicial review process • China's failure in submit its subsidy notification • Concerned about subsidies provided to certain state-owned enterprises which were running at a loss
	European Communities	<ul style="list-style-type: none"> • Lack of transparency • Subsidy notification • Possible subsidies to the copper industry

		<ul style="list-style-type: none"> • Income tax advantage • VAT redistribution system scheme
2004	<p>Japan</p> <p>Request from the United States to China pursuant to Article 25.8 of the SCM Agreement</p> <p>United State</p>	<ul style="list-style-type: none"> • China's failure to provide a subsidies notification • Emphasized the important of transparency and information accession • Followed by European Communities, Japan and Canada
2004	<p>Transitional review</p> <p>United States</p> <p>European Communities</p> <p>Japan</p>	<ul style="list-style-type: none"> • China's failure in submit its annual subsidy notification • Concerned about subsidies provided to certain state-owned enterprises which were running at a loss • Several subsidy programmes in China that appeared to fall under the prohibited category, including forest products, textiles, semiconductors, and agriculture • Price control • Request for governmental notification of subsidies • No progress had been made on compliance by China with transparency obligation since last year • Copper scrap • Verify the existence of several subsidies • All information about the programme of China's copper ore VAT refund system
2004	<p>VAT Reimbursement Scheme for the Import of Copper Raw Materials operated in the People's Republic of China –Statement by the EC</p> <p>European Communities</p>	<ul style="list-style-type: none"> • Request information from China on the legal references and on the operations of the scheme, and in particular on the intention of China to renew the scheme. • Followed by Japan
2005	<p>United States</p>	<ul style="list-style-type: none"> • China didn't update its long-overdue subsidy notification, especially concerning forest products, textiles, semi-conductors and agriculture as requested by the US in the previous year. • Information accession to subsidies documents or evidences of dismissed subsidies. • Concerns about the subsidies to state-own enterprises and state-owned banks, state-owned steel policy • Price control over coal, rice, steel, copper scrap,

		fertilizer and water
	Japan	<ul style="list-style-type: none"> • Notification of subsidies • VAT refund scheme for copper
	Canada	<ul style="list-style-type: none"> • Request to provide a new and full notification of subsidies • Expect clarifications from China concerning China's new policies of steel industry
	Mexico	<ul style="list-style-type: none"> • New steel policy
2006	Export credit provided by China with respect to procurement of telecommunications equipment by Tunisia	
	European Communities	<ul style="list-style-type: none"> • A subsidized export credit from China to Tunisia in the framework of an international call for bidding for telecommunications equipment
2007	Canada	<ul style="list-style-type: none"> • Concern about China's new steel policy could have significant repercussions on the world steel market and on the Canadian steel industry
	United States	<ul style="list-style-type: none"> • The continued existence of prohibited subsidies should be terminated without delay and without pre-conditions • Lack of information about subsidies provided to state-owned banks • WTO-inconsistent fund arranged to finance textile industry • Request further clarification on automobile production
	Japan	<ul style="list-style-type: none"> • There still remained uncertainty around China's subsidy regime
	European Communities	<ul style="list-style-type: none"> • Questioning China's VAT refund policy • Request to identify the particular programme in the full subsidy notification of China
2008	United States	<ul style="list-style-type: none"> • The fund provided by the China Development Bank to China's high-tech industry • Request for detailed explanation of how VAT programmes operate • Contradictions between governmental report and media release • China's failure to notify sub-national subsidies, transparency issue • Support for weak state-owned enterprises
	European Communities	<ul style="list-style-type: none"> • Late submission of notification • Not providing answers to the EC's request
	Canada	<ul style="list-style-type: none"> • Lack of information with respect to some questions of Canada • Fail to explain how the subsidy programmes for

		foreign investment enterprise with export orientation
		<ul style="list-style-type: none"> • Details about the new Income Tax Law of China • Concern about the not-provided statistical data of tax or VAT forgone under the various subsidy programmes
	Mexico	<ul style="list-style-type: none"> • Re-request for the statistical data on the number of enterprises that were beneficiaries under the subsidy programmes and on the issue of whether these beneficiaries were predominantly state-owned enterprises
	Japan	<ul style="list-style-type: none"> • Concern about the lack of transparency regarding the details of the implementation of the new Income Tax Law
	Turkey	<ul style="list-style-type: none"> • Wait for complete answers from China to their questions
2009	European Communities	<ul style="list-style-type: none"> • China's failure in providing information on its sub-federal programmes and of its next new and full subsidy notification
	United States	<ul style="list-style-type: none"> • Incomplete subsidy notification, especially no sub-central government measure • Ask about China's intension to proceed with its plans for SOEs and to meet its WTO obligation to operate its SOE solely on a commercial basis • Questions about the domestic support of for China's agricultural sector
	Japan	<ul style="list-style-type: none"> • Request a clear explanation on the lending decision making process
	Canada	<ul style="list-style-type: none"> • Request for more information about China's industrial policies and subsidy programmes particularly in the iron and steel sectors • Questions about SOE operations in China • VAT rebates and VAT exemption
	Mexico	<ul style="list-style-type: none"> • Sub-national level subsidy programmes
	Turkey	<ul style="list-style-type: none"> • Request further clarification on the VAT exemption system of China
2010	United States	<ul style="list-style-type: none"> • problems with China's initiation of three countervailing investigations against American goods concerning the evidence of subsidies, domestic price, and export price • lack of transparency with respect to the findings contained in China's countervailing duty determinations
2011	United States	<ul style="list-style-type: none"> • questions about China's initiation of three

		<ul style="list-style-type: none"> countervailing investigations against American goods • weak factual basis in the records of those investigations • lack of procedural consistency and transparency in the investigation process
	Japan	<ul style="list-style-type: none"> • a strong interest in ensuring due process and transparency in anti-dumping and countervailing duty investigation
	Canada	<ul style="list-style-type: none"> • stress the importance of transparency and due process in the context of trade remedy investigation
2012	United States	<ul style="list-style-type: none"> • incomplete process of removing government intervention • China's record of compliance of subsidies disciplines was poor • Transparency is an serious issue • Notification of subsidies at sub-national level
	Japan	<ul style="list-style-type: none"> • Poor notification record as well as the poor content of notification
	Mexico	<ul style="list-style-type: none"> • Concerns about the lack of knowledge of subsidies and the difficulty of monitoring subsidies granted by local governments in China • Although China eliminates export subsidies, other forms of subsidies are used for the same purpose, which creates unfair competition. • Concerns about the difficulty of monitoring measures
	European Union	<ul style="list-style-type: none"> • Urge china to fully meet its notification obligation and furnish complete and timely notification in accordance with the SCM Agreement
	Norway	<ul style="list-style-type: none"> • Looking forward to seeing China notifying all its subsidy programmes
	Canada	<ul style="list-style-type: none"> • Concerns about China's industrial policies and their linkages with regard to subsidization • Wish to understand about the relationship between national five-year plans and specific government industrial policies broadly, and how policies were implemented, coordinated and funded between various level of government

Appendix V: Ethical Review Form

School of Politics and International Relations Research Ethics Committee



Ethical Review

If you have answered 'YES' to any of the questions on the checklist (REC#2), you should complete this form.

Researchers should not begin data collection or approach potential participants until the process of ethical approval has been completed, and you are in possession of an approval form from the Research Ethics Committee.

Before completing and submitting the form, it is strongly recommended that you study carefully, and cite, the ESRC's 'Framework for Research Ethics', which is available here: <http://www.esrc.ac.uk/about-esrc/information/research-ethics.aspx>

Please proceed as follows:

1. Complete the form, as far as it applies to your situation.
2. Attach a copy of your research proposal, and any other relevant documentation (e.g. sample letter/email to potential participants), as appropriate. Make a list of any attachments in the box on the form.
3. Email the form, with attachments, to Gail Evans (gail.evans@nottingham.ac.uk).

DETAILS (TO BE COMPLETED IN ALL CASES)

Name: Yujia ZHAO
Status (i.e. PGR/Staff): PGR
Email: ldxyz6@exmail.nottingham.ac.uk
Names of other researchers on the project: none
Project Title:

Adopting global trading norms in China – a case study on Chinese subelites' discourses over WTO anti-dumping

Summary: (please give a brief outline of the project/proposal to include subject areas, sources, research methods and intended audience)

My research studies how international organisations and national government affect the discourse forming process of Chinese subelites concerning international norms. There are two parts of my research projects that need ethical review.

The **first** one is interviews that will be conducted in Geneva. It includes interviews with WTO officials from the division of public and external relations, NGO officials, officials of Chinese delegate in WTO, and academics working in the field of WTO.

As an important part of my PhD thesis, I investigate how the WTO promote international trading norms through 'soft' means, such as providing training courses in Geneva for foreign governmental officials and young scholars, cooperating with NGOs of member states, and holding public forum about world trading. I expect the WTO, through this way, can build up informal but direct connections with domestic actors of its member states. My trip to Geneva aims to find out the answers of three questions by interviewing some WTO officials working on this field.

- Whether the connections with Chinese domestic actors are successfully built up through the 'soft' means?
- Is there any obstacles during the process of building up connections?
- Do they have any concern about the current situation regarding to the informal connection with Chinese domestic actors?

The **second** one is a survey targeting on Chinese subelites including academics, lawyers and officials working in industry associations. It aims to understand the channels and restrictions of information flow that contribute to the discourses of those people. The major method of collecting data is through questionnaire sent by email. It also involves semi-structured interviews with academics, lawyers, officials working in industry associations, as well as editors of academic journals.

I expect this survey can help me to answer three questions

- How many information channels that Chinese subelites can access to and normally use?

- How do they think about an impact of political elites' discourses (in my case, the information speeches of governmental officials) on their work?
- What is the relationship between the media and Chinese subelites?

List of attachments:

- Semi-structured questions for interviews
- Questionnaire of the survey

ADDITIONAL DETAILS (TO BE COMPLETED BY STUDENTS)

Student ID number: 2111425

Supervisor: Gernot Klantschnig, Benjamin Holland

THE FOLLOWING QUESTIONS ARE TO BE COMPLETED IN ALL CASES

1. Procedures for gaining participants' informed consent

For interviews

When contacting informants and at the outset of each interview, I will discuss the ethical issues with the interviewees ahead of the interviews. The content of discussion includes:

- nature of research, the scope, purpose (academic) and aim of the project, as well as the ways that data will be processed and presented
- the protection of interviewees' identity and the confidentiality of the conversations
- pointing out potential ethical issues and risks and providing solutions to avoid or minimised them
- clarifying that interviewees have every right to withdraw their statements any time before the thesis is submitted
- stating that no data will be used in the research unless the participants agree

- asking for the permission to use audio recorder

For the survey via questionnaires

The statement of gaining consensus is just below the title of research. The participants will be provided with a check list which includes the same ethical issues as the ones discussed with interviewee (see attachment 'questionnaire'). Only when the consensus is achieved, the data can be used for further analysis.

2. Procedures relating to participants' right to withdraw from the research

Participants can withdraw their statements any time before the thesis is submitted

Procedures: the researcher's email address and telephone number will be provided to informants to allow for direct access to researcher (on consent form/introductory letter). In case of complaints, contact details of my superior at my home institution will also be provided.

For the questionnaire survey: the answers will be inputted as data into analysis software, no one can trace participants' answers based on their identity, thus the confidentiality, anonymity and non-traceability can be ensured. However, for the very same reason, they will not be able to withdraw their participation, because even the data processor cannot identify their answers and excluded them from the entire data set.

3. Confidentiality, anonymity, and non-traceability of research participants

Confidentiality, anonymity and non-traceability of participants will be fully respected. The researcher will ask participants whether they want their statements confidential, anonymous or non-traceable before the interview starts. Although this research expects the participants provide their names, it will be clearly stated that they have every right to claim for confidentiality, anonymity and non-traceability.

How to assure **anonymity**:

- Without permission, the researcher will not use their names in any situation by any form;
- no detail that can be used to identify the participants will appear

- in any type of research output;
- in very rare situations that the participants can be identified through basic information, the profile of the participants will be slightly modified in order to protect their identities

The participant can also claim for confidentiality, anonymity and non-traceability before the thesis is submitted even if they agree to be mentioned by name at the first place. The researcher's email address and telephone number will be provided to informants to allow for direct access to researcher (on consent form/introductory letter). In case of complaints, contact details of my superior at my home institution will also be provided.

4. Data storage (to ensure compliance with the Data Protection Act, 1998), and participants' right of access to any personal data stored in relation to them

Interview data generated from this research will be only stored in my hard driver. **The name list** of my interviewees will be saved separately in one USB driver. Both folders will be hidden and then protected by a unique password. Thus anyone who happens to access my computer or my USB driver has to know both the name and the passwords of the folders.

Data will only be used in the relevant outcomes of this research such as conference paper, publication in academic journals and PhD thesis. Permission from the participants will be required if any other research wants to use these data.

Accessibility: the participants have the right of access to any personal data of themselves and only themselves. They will be informed that they can access to my dissertation in different ways. For instance, I can send them part of my dissertation draft where interview data has been used; or the results can be presented in their institute if they want.

5. What are the anticipated risks associated with this research? How will this be minimised or dealt with?

Although economic and trading issues such as anti-dumping are none-sensitive topic in China, it is still possible that the interviewees

give **radical arguments** that violate Chinese government or CCP. In this situation, it can bring certain level of risk to both the researcher and the participants. As solution, I will eliminate the risks by deleting those statements if they are not relevant. If those statements are highly relevant and crucial to my research. I will ensure the participants' **anonymity and non-traceability**, and watch the way of framing and presenting my arguments to lower the risk.

I will also discuss the possible risk with my interviewees before the interview starts. They may know the risk better than I anticipate.

6. Potential harm to research participants and/or others

If my paper presents interviewees' **radical statements** that violate Chinese government or CCP, it is possible that their careers will be harmed. Therefore, their anonymity will be ensured.

Presenting radical arguments made by my interviewees will harm my career in China as well. It is important to frame language in proper ways.

I will also discuss the harm with my interviewees before the interview starts. They may know the possible harm better than I anticipate.

7. Are there any specific issues relating to children or vulnerable adults? If so please specify.

no

8. Is there any covert element to this research? If so please provide a justification.

no

9. Is there any deception involved in this research (eg misleading participants as to its purpose)? If so please provide a justification.

no

10. If funding for this research is **not from a UK Research Council, the British Academy, the Leverhulme Trust, or the University of Nottingham, please provide details of funding sources.**

Funding from PGR committee (applied), and self-funded

11. If this is **student** research that involves the monitoring of 'extreme' websites (e.g. pornographic sites or sites that advocate violence) please detail what supervisory arrangements are in place for this.

no

12. Any other matters that you would like to bring to the attention of the Research Ethics Officer.

no

Please note:

It is your responsibility to follow the University's code of Practice on Ethical Standards and any relevant academic or professional guidelines in the conduct of your study. This includes providing appropriate information sheets and consent forms, and ensuring confidentiality in the storage and use of data. Any significant change in the question, design or conduct over the course of the research should be notified to the Research Ethics Committee and may require a new application for ethics approval.

Signed

Date

If submitted by a student please pass to your supervisor for signature

Supervisor's
Comments:

Ethical issues related to this research have been discussed in detail with Yujia and she is well aware of the ethical problems that could arise from conducting interviews and surveys. We have talked about the extra precautions to take when doing research in the Chinese context, in order to protect the identities of research participants and assure their and Yujia's own safety.

Name of supervisor

Signature of

supervisor

Date

Name

(Chair of REC or representative)

Signed

Date

Name

(Chair of REC or representative)

Signed

Date

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