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Chinese Dream?

Opportunities of and Barriers to the Chinese Film Market

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The economic growth of China in the recent decade has made China one of the world's most important economies. Its large population, along with increasing purchasing power as a result of economic growth, also makes China a promising country for foreign filmmakers pursuing profitability of their films. However, foreign film entry into the Chinese market might not be as easy as it seems, as witnessed in the ban of movies *Christopher Robin* (2018) and *Parasite* (2019) for speculated reasons. As a matter of fact, international trade in films has long been controversial. The purpose of this thesis is therefore to firstly find out what are the characteristics of films that make international trade in films difficult and secondly to map the opportunities of and the barriers to the Chinese film market.

The author finds that the dual nature of films—as economic commodities and cultural goods—has made international trade in films controversial and difficult, which could be already seen in a series of negotiations within the WTO regime between pro-trade and pro-culture countries. In the case of China, although its film market may look appealing to foreign filmmakers for profitability, such appealing market cannot be accessed until overcoming various hurdles set by the 'gatekeeper'—the Chinese government. These hurdles include content censorship, import quota, short notice window and blackout period. In addition, the film regulatory authority can remove a given foreign film under 'special circumstances' even after the given film has successfully entered the Chinese market. Among all these hurdles, content censorship remains unchallenged and may be the most difficult hurdle for foreign filmmakers to overcome, as it affects all entry modes available for foreign filmmakers and the recent development shows no sign of loosening but strengthening of content censorship. It is therefore recommended to take a comprehensive look into economic potential, barriers before and after film entry, as well as additional costs/risks before engaging in any of the film entry modes.

Keywords	Chinese film market; films for theatrical release; foreign film import; international trade; WTO

Contents

Abbreviations

AB	Appellate Body
CCIs	Cultural and Creative Industries
CPC	Communist Party of China
EAO	European Audiovisual Observatory
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
MFN	Most Favoured Nation
MOU	Memorandum of Understanding
NBS	National Bureau of Statistics of China
SOE(s)	State-owned Enterprise(s)
WTO	World Trade Organization
WWII	Second World War

1 Introduction

The rise of China, in terms of economic growth, on the world stage can no longer be overlooked. In the context of the film market, the growth of the Chinese film market can be seen in Figure 1, which shows that the box office revenue in China increased from 2014 to 2017 and gradually caught up with the box office revenue in the North America. While it is generally agreed that China is the second largest market for films in the world (Grimm, 2015; Richeri, 2016), an article by *Financial Times* on 28 May 2018[1] claimed that the Chinese box office revenue has already exceeded the gross box office revenue of the North American market on a quarterly basis. China's box office revenue in the first quarter of 2018 was USD 3.17 billion, accounting for almost 40 per cent of its total box office revenue in 2017. The growth in film consumption and in box office revenue witnessed in China in the past few years therefore imply a greater opportunity, in terms of monetary return from box office revenue, for most foreign filmmakers whose films would be less likely to be financially viable if depending solely on the national market.

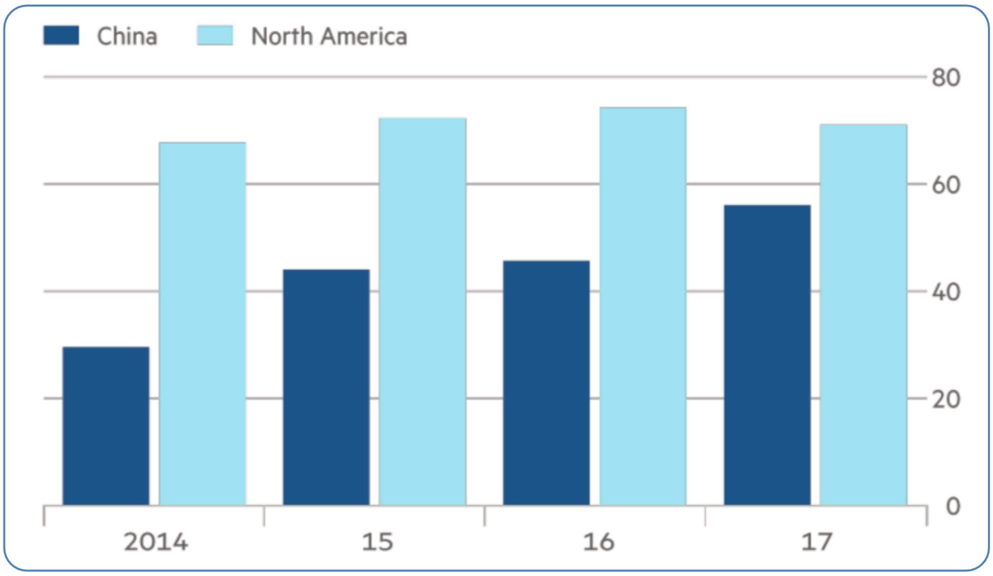

Figure 1. China-North America box office revenue (in billion Renminbi/RMB)[1]

Although the Chinese film market may look promising for foreign filmmakers, film entries to the market may not be as easy as it seems. A recent example would be *Christopher Robin* (2018), a film about Winnie the Pooh released in 2018. This film has

[1] Financial Times (2018) *Chinese box office takings look to beat US for first time*. Last accessed 18 February 2019: https://www.ft.com/content/c47d53ee-5fff-11e8-9334-2218e7146b04.

been relatively successful in terms of box office revenue yet was unable to enter the Chinese market. The reason behind it was speculated to be the character 'Winnie the Pooh'[2], which has been used by Chinese citizens, in an indirect way, to mock the Chinese President Xi Jingping since his meeting with the then US President Obama in 2013. Another example is the South Korean film *Parasite* (2019), a rather violent and dark comedy talking about class conflicts between destitute and wealthy families in South Korea. This particular film, despite being well received in the international market and having won Palme d'Or in 2019 Cannes Film Festival, was pulled from screening scheduled in China's FIRST Film Festival[3] due to 'technical reasons', an euphemistic term often used in China nowadays to deny a foreign film's distribution or screening without providing actual reasons. The ban on the entry of *Christopher Robin* and the cancellation for the screening of *Parasite* might be extreme. The international trade in films, as a matter of fact, has been rather controversial and China is not the only country imposing restrictive measures on foreign film import.

In light of the aforementioned controversies with films, this thesis intends to firstly discuss ***What are the characteristics of films that make them controversial in international trade?*** The discussion will then be narrowed down to the context of the Chinese film market: ***What are the (economic) opportunities?*** and **what are the *(institutional) barriers to the Chinese film market before and after film entry?*** This thesis, focusing on the Chinese film market in which Hong Kong and Macau are not included due to their status as Special Administrative Regions of China and the relatively autonomous legal systems applied in both regions, aims to address the aforementioned questions using secondary data from reliable sources including peer-reviewed journal articles, reports of governments and international institutions, as well as relatively authoritative entertainment news.

The structure of this thesis is as follows. In the Theoretical Background section, I will discuss film from both economic and cultural/ideological aspects. While the economic aspect of films is one of the key drivers for filmmakers to distribute their films in an international scale, the cultural/ideological aspect of films, however, makes

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[2] The Guardian (2018) *China bans Winnie the Pooh film after comparisons to President Xi.* Last accessed 28 August 2019: https://www.theguardian.com/world/2018/aug/07/china-bans-winnie-the-pooh-film-to-stop-comparisons-to-president-xi.

[3] Variety (2019) *Bong Joon-ho's Palme d'Or Winner 'Parasite' Pulled from China Festival*. Last accessed 28 August 2019: https://variety.com/2019/film/news/parasite-bong-joon-ho-first-festival-china-palme-dor-1203282678/.

international trade in films difficult. In addition, the controversies of international trade in films at the World Trade Organization (WTO) will also be discussed. The Methodology section will set the frame of research—the import of films for theatrical release into the Chinese film market, and outline the key secondary sources used in this thesis. In the The Chinese Film Market section, I will look into the Chinese film market in terms of the economic/monetary opportunities provided to foreign, i.e., non-Chinese, filmmakers, and the before- and after-entry barriers imposed by the Chinese government on foreign films, as well as three modes of film entry, namely revenue sharing entry, flat fee entry and co-production, to the Chinese film market. In the Discussion section, the discussion will primarily focus on the complicated nature of films in China leading to difficulties in film entry for foreign filmmakers, along with censorship regime and the three film entry modes in China. Finally, this thesis will end with brief concluding remarks answering to the research questions set at the beginning of the thesis, as well as with limitations of this thesis.

2 Theoretical Background

2.1 Film as a commodity

2.1.1 What is a commodity?

A commodity, from the perspective of political economics, is generally defined by its use value and exchange value. Use value is concerned with the utility of a given product, provided by its physical or material properties, in satisfying needs and wants of customers (e.g., the use value of a watch is to tell the time). In the absence of such utility, the given product would not be able to be sold in the market, and therefore would not have been produced. While the usefulness of use value is relatively difficult to be quantified, exchange value exhibits a quantitative relation between commodities, that is, the ratio in which a given commodity is exchanged with other commodities. In order for something to be considered as a commodity, its use value and exchange value have to be present at the same time. In other words, use value alone is not enough to turn a given item into a commodity, should the use values of such item be created naturally and freely available (e.g., sunlight or wild berries), or not meant to be exchanged for money in the market (e.g., growing food for personal use)—i.e., lacking exchange value (Fine and Saad-Filho, 2004; Varul, 2011).

In a similar vein, Sedgwick (2000) and Sedgwick and Pokorny (2004) have argued that commodities exist in two distinct yet interrelated forms. First, they exist as an array of utility-generating things (e.g., physical products, ideas or services), each of which is different in terms of characteristics. Second, they exist as carriers of price. Commodities as carriers of price imply money as “an integral aspect of commodity production” (Sedgwick and Pokorny, 2004, p. 10): producers or suppliers assign a set of prices to respective commodities, which then allows potential buyers to consider and allocate their funds based on the return—the ratio of utility to price—provided by each commodity. The status of product or service as a commodity will be confirmed when the assigned price is realised in the transaction between the producer/supplier and buyer(s)/consumer(s). In the circumstances where buyers or consumers reject the product over the price, or where the product is unable to enter the commodity space (i.e., marketplace), the product in question would exist as a quasi-commodity if its supply is guaranteed by the support of other agencies such as the State, or would exist as a non-commodity if it is distributed in a form of gifting (Sedgwick, 2000).

2.1.2 Film as a commodity and its characteristics

In the case of films, as Figure 2 shows, they are produced and exist in a form of celluloid strips that carry audio-visual images copied from, and identical with, the original template. In addition, films are carriers of price at two levels. On the one hand, the physical elements of film (i.e., celluloid strips) are the object transacted between the film producer, distributor and exhibitor at a price grounded on the expected popularity in a given market. On the other hand, the popularity is determined by the size of the audience who is willing to pay the admission fees and eventually ‘consume’ the audio-visual images carried by respective celluloid strips. The link between film production and consumption is facilitated by the exhibitor who transforms the material strips of celluloid into sequences of audio-visual images consumed by the audience (Sedgwick, 2000; Sedgwick and Pokorny, 2004). The status of a given film as a commodity, as argued earlier, will be confirmed only after the audience pays admission fees to the exhibitor and finally consumes the film; the status as a commodity will be otherwise rejected if the given film is not shown due to, for example, technical or governmental issues, and therefore not seen by the audience (Sedgwick, 2000).

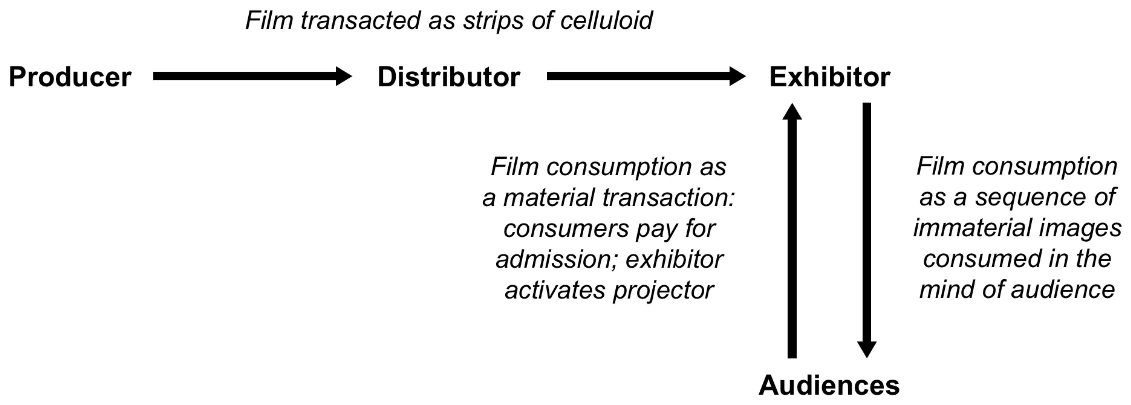

Figure 2. Film production and consumption relations (Sedgwick, 2000; Sedgwick and Pokorny, 2004).

Film as a commodity has a number of characteristics that distinguish it from other commodities. First, films are characterized by slow physical deterioration and non-diminishability of film images (Sedgwick, 2000; Sedgwick and Pokorny, 2004). The celluloid strips are the outcome of a film production with a slow rate of deterioration thanks to modern technologies of preservation and restoration. However, celluloid strips themselves are not the ‘product’ being consumed by the audience but the audio-visual images carried by individual celluloid strips. Those audio-visual images, and the physical properties of films will not diminish no matter whether they are consumed by one or thousand audiences. Modern digital technologies also make it possible to infinitely reproduce a film template with almost zero marginal cost (Sedgwick, 2007). Second, each film is unique in its constitutive components and the resulting audio-visual sequence in an attempt to distinguish itself from other films in terms of genres, plot, leading and supporting actors, art directions, music, etc., and at the same time bring cinematic and entertaining utility to consumers (Sedgwick, 2000; Sedgwick and Pokorny, 2004). Finally, films are characterized by commercial diminishability. Although the physical properties of films will not be diminished after consumption, their cinematic utility will rapidly diminish after consumption. Such commercial diminishability is a result of the fact that films, once consumed, are rarely revisited by consumers who are more likely to choose other films brining new pleasures rather than watch films providing known or old pleasures (Sedgwick, 2000, 2007; Sedgwick and Pokorny, 2004).

2.2 Film as a cultural good

In addition to their existence as celluloid strips and as carriers of price, films also exist as carriers of ideology and culture. Indeed, films as a commodity are produced within a given economic system and the production of films, similar to the production of other commodities, requires certain extent of labour force. In the process of film production, nonetheless, films inevitably carry the ideology and culture of the social-economic system in which they are produced (Hamza, 2016). A film, as Comolli and Narboni (2000) have argued, is "a result of a material product of the system" and at the same time "an ideological product of the system" (p. 59). In the *2009 UNESCO Framework for Cultural Statistics*, films are included as one of cultural goods—consumer goods that convey ideas, symbols and ways of life (UNESCO, 2009)[4]. Those ideas, symbols and ways of life, according to Yu (2011), are the key properties that distinguish cultural goods from other products that typically serve utilitarian purposes. Such qualities are also the key source of value of cultural goods rather than their physical quality or utility. As will be discussed in Uncertainties, economic rationales and controversies section below, the ideological and cultural elements embedded within films, and the dual nature of films as both commercial and cultural goods, can raise considerable concerns when films are distributed across border to reach a wider market for higher profitability.

2.3 Uncertainties, economic rationales and controversies

In the film production-consumption relationship, the audience plays an important role in the sense that film consumption legitimates the status of the film as a commodity, and the resulting popularity is a decisive element in a film's profitability. Based on the aforementioned sections, it can be seen however that uncertainty seems to be an integral part of both film consumption and film production. From the point of view of consumers, the uniqueness of respective films implies that films differ from other standardised products in consumption experience. While standardised products are more likely to guarantee consumers standardised consumption experience that meets their expectations, consumers often experience differences between expectations *ex ante* and evaluation or reception *ex post* when consuming a film (Sedgwick, 2000). Such differences between expectations and actual experience could be due to

[4] Other cultural goods include books, magazines, multimedia products, software, recordings, film videos, audio-visual programmes, crafts, and fashion.

bounded rationality of consumers and impartial information. On the one hand, consumers may not know what kind of films they really like. On the other hand, consumers are provided with impartial information concerning a given film through, for example, trailers, and they are therefore unable to foresee what kind of audio-visual utility they are going to experience *ex ante* in the film. As a result, the decision-making process of film consumption often involves consumers' making reference to their previous moviegoing experience, to personal preference for certain genres, directors or actors, etc. (Sedgwick, 2007), or to the opinions of those who have already watched the film (Eliashberg, Elberse, and Leenders, 2006).

From the point of view of film producers, the film production environment is highly uncertain where "*no one knows anything*" (de Vany and Walls, 1999, p. 285). While it is difficult for film producers to predict how well their films will perform in individual markets, there is no recipe guaranteeing a hit production. Certain actors and actresses starring in a film may decrease uncertainties to a certain degree but are not sufficient to guarantee a box office success (de Vany and Walls, 1999; Sedgwick, 2000). Furthermore, film production, especially the production of feature films, often involves high development costs that are also sunk—all the costs spent in the film production could not be retrieved for alternative uses and the reels of films would be worth only the scrap value of the celluloid and photosensitive silver compounds outside distribution and exhibition (Sedgwick and Pokorny, 2004, p. 14). Films, in order to be profitable, therefore require a relatively large minimum market size along with sufficient purchasing power, both of which are rarely satisfied by the home country. Taking European film market for instance, small domestic markets mean that European filmmakers may have to tightly control their film production budget and rely on state subsidiaries to survive in the market (Lorenzen, 2007, p. 349). Even for the United States, one of the few countries whose film market size is large enough to allow film production without state subsidies, the production of expensive blockbusters makes it impossible to rely solely on the domestic market for return on investment in film production (Richeri, 2016). In the presence of high development costs and small or insufficient national market size, film producers therefore have the economic rationale to distribute their films to as many markets as possible to a point that the revenues, or rent, received by the producers from distributors can at least cover costs incurred in the production and those additional costs incurred in making new prints, distributing prints, as well as marketing campaign and distribution overheads (Francois and van Ypersele, 2002; Sedgwick, 2000; Sedgwick and Pokorny, 2004).

Although film producers have the economic rationale to play their films on an international scale seeking a profitable rate of return, film distribution across borders often raises concerns due to the dual nature of films as cultural goods (i.e., as economic commodities and as carriers of ideology and culture). As a matter of fact, international trade in cultural goods has been controversial, which can be seen in the following academic arguments. Academic arguments supporting free trade in cultural goods, for instance, are primarily grounded on the fact that international trade based on comparative advantages allows a relatively free flow of ideas and culture. Counterarguments have contended that free trade in cultural goods, if based on comparative advantages of individual countries, may lead to overconcentration and overspecialisation in cultural production, as well as control of certain cultural products and services. Cultural trade restrictions instead allow individual states, especially those having less or no comparative advantages in cultural production, to educate their citizens what is culturally correct and to protect their own cultural industries that may still be at their infant stage for not only cultural but also economic reasons (Nielsen, 1979, p. 450). In addition, Vlassis (2016) has contended that international trade in cultural goods could raise economic, political and identity-related concerns of the importing countries. First, the import of foreign films may affect the domestic film industry in terms of employment and growth. The extent to which the domestic film industry is affected, or threatened, however, varies country by country. Second, films can be regarded as a means by which values and certain identities are transmitted, and they are the source of soft power that can be used by the exporting countries to exert political power internationally. In this context, film import inevitably would be of political concern for countries of film import. Finally, the identity-related concern is connected to the cultural dominance of a foreign country, or certain foreign countries. A good example is the dominance of Hollywood films in the international film market and their cultural influence on other countries.

In the actual global trade in goods, in which cultural goods are included, WTO and its institutional predecessor General Agreement on Tariffs and Trade (GATT) have played an important role since the Second World War (WWII). GATT came into existence after WWII as a provisional agreement with an objective to liberalise trade and open up domestic market by eliminating trade discrimination as well as reducing trade barriers (both tariffs and non-tariff barriers), which laid the foundations of WTO. The aforementioned objective was gradually advanced through various negotiation rounds, during which GATT/WTO members made concessions and established rules to which they would be committed afterwards (Burri, 2014). The issue of trade and culture, or more precisely 'trade versus culture', was especially at the centre of dispute in the Uruguay Round (1986–1993). Such trade versus culture dispute between the United States (pro-trade country) and Canada and the European Communities, with France at the forefront (pro-culture countries), centred on the concern of cultural identity and trade in Television programmes and films to the extent that "the term 'culture' became synonymous with the word 'audiovisual'" (Footer and Graber, 2000, p. 119; Schéré, 2017, p. 565). The tension between trade and culture in cross-border trade in audiovisual products and services— films in particular, appeared already in the 1920s when film production and distribution proved to be more tradable than other cultural products (e.g., books, newspapers and magazines) in the international context in that films were able to reach a wider audience beyond national boundaries. In view of both economic and cultural impacts of the Hollywood film production, many European governments at that time imposed numerical and screen quotas[5] on Hollywood film import in order to protect their domestic film industries. Such protective measures by the European government were critically opposed by the US government. A compromise solution to the first wave of trade versus culture conflicts could be seen in the *Special Provision relating to Cinematograph Films* (Article IV) of GATT that "If any contracting party establishes or maintains internal quantitative regulations relating to exposed cinematograph films, such regulations shall take the form of screen quotas", i.e., any quantitative restrictions other than screen quotas are prohibited under *General Elimination of Quantitative Restrictions* (Article XI) of GATT (Burri, 2014; Schéré, 2017).

In the Uruguay Round, another wave of trade versus culture conflicts was initiated by cultural exception ('*exception culturelle*') doctrine invoked by Canada and European Communities, with France the most prominent nation. Recognising the fundamental differences in culture (in terms of languages, values and beliefs), Canada and the European Communities fought against the inclusion of audiovisual media (as cultural

[5] Numerical quotas refer to a quantitative limit put upon the number of films imported, whereas screen quotas refer to the screen time required to be shared between foreign and domestic films (Footer and Graber, 2000, p. 117).

goods) into the new regime of WTO in order to preserve 'cultural identity' (Footer and Graber, 2000; Graber, 2006). The United States, as the apparent prominent opponent, was strongly opposed to cultural exception, be it within the overall WTO framework or limited to the audiovisual industries. For the United States, the cultural exception doctrine was no more than a disguised protectionism of domestic audiovisual industries, considering that it is difficult to define 'national' and 'culture' (Burri, 2014, p. 483). The cultural exception doctrine eventually did not succeed in the negotiations since cultural goods and services are not distinguished from other goods and services and are still subject to the law of the WTO. Nonetheless, a compromise could be seen in the General Agreement on Trade in Services (GATS), a WTO treaty regulating trade in services. The GATS framework adopted a 'positive list' approach enabling individual WTO members to decide the service sectors that they are willing to make commitments in terms of market access (Article XVI of GATS) and national treatment (Article XVII of GATS), as well as allowing them to exempt measures of national cultural policy from the most-favoured-nation (MFN) obligations[6]. Compared with GATT that applies to all goods and prohibits quantitative restrictions unless justified under the *General Exceptions* (Article XX of GATT), GATS presents a relatively less aggressive framework in terms of market liberalisation (Burri, 2014; Graber, 2006). Under the GATS framework, the commitments made by WTO members also mark the fundamental differences between pro-culture and pro-trade countries. For example, many WTO members (e.g., European Communities, Canada and Switzerland) did not make any commitments in the audiovisual sector so that they would be able to maintain their existing measures of cultural policy (Graber, 2006). In contrast, among 19 WTO members who made commitments in audiovisual services, the United States and the Central African Republic were the only two countries making commitments in all six sub-categories of audiovisual services[7] with regard to market access and national treatment (Footer and Graber, 2000).

[6] MFN and national treatment are two important principles within GATT. The former requires that whatever benefits a WTO member grants to any of other WTO member for exporting, such benefits must be granted to all WTO members; the later requires a WTO member to provide equal treatment to domestic and imported products, trade and investment alike (i.e., imported products shall not be treated less favourably than domestic products).

[7] These six sub-categories of audiovisual services are: (1) motion picture and video tape production and distribution; (2) motion picture and projection services; (3) radio and television services; (4) radio television transmission services; (5) sound recording; and (6) others.

3 Methodology

In order to address the aforementioned research questions, this thesis primarily consults secondary data from diverse sources. In the Theoretical Background section addressing and identifying the qualities of films that make international trade in them controversial and difficult, I consulted the existing literature on films as economic (e.g., Sedgwick and Pokorny, 2004) and cultural (e.g., Hamza, 2016) commodities, as well as the controversies of international trade in films for theatrical release arising in WTO and its institutional predecessor GATT. The literature on the aforementioned issue was primarily obtained from peer-reviewed journals to ensure reliability of the information.

The second and third research questions are concerned with films for theatrical release excluding other distribution channels of films (e.g., video on demand or Blue-ray/DVD releases) and with the Chinese film market excluding Hong Kong and Macau, as Hong Kong and Macau belong to the Special Administrative Regions of China and enjoy the highest degree of autonomy under the sovereignty of China, including the capital and legal systems. China's policies associated with film industry and film market therefore do not apply in these regions. Concerning the (economic) opportunity of the Chinese film market, three aspects will be discussed, namely box office revenue, number of admission tickets, as well as the number of screens. According to Richeri (2016), the number of screens is a precondition for the resulting performance and potential growth in admissions and box office revenue. The data on the aforementioned three aspects will be primarily collected from National Bureau of Statistics of China (NBS; http://www.stats.gov.cn/english/) and European Audiovisual Observatory (EAO; https://www.obs.coe.int). The NBS is an agency operating directly under the State Council of the People's Republic of China and in charge of statistics and economic accounting in China. The EAO is a research centre founded by the European Union in charge of collecting and distributing information about the audiovisual industries in Europe. The EAO has published *FOCUS* annually since 2003 that primarily deals with world film market trends.

Regarding the institutional barriers to the Chinese film market, the existing literature on restrictive measures imposed by the Chinese government on foreign film import as well as on the available modes of foreign film import will be consulted. Again, this thesis tried to obtain information from reliable resources (e.g., peer-review journals, official

WTO reports, relatively authoritative sources of entertainment news including *Variety* and *Hollywood Reporter*) to ensure that the discussion on the topics at issue is valid and not misleading. Additionally, in the sections associated with restrictive measures imposed by the Chinese government, this thesis refers to two pieces of Chinese legislation governing content censorship, namely *Regulations on the Administration of Movies* and *Film Industry Promotion Law of the People's Republic of China*, as well as one Chinese legislation governing Sino-Foreign Co-production, namely *The Provisions on the Administration on Chinese-Foreign Cooperative Production of Films* (2017 Amendment). These three pieces of Chinese legislation are obtained from the Chinalawinfo database (http://www.lawinfochina.com), a database established by Peking University in association with the Legal Information Center of the Peking University and providing bilingual versions (i.e., Simplified Chinese and English) of a wide range of Chinese legislation. The use of Chinalawinfo database is intended to ensure the accuracy and consistency of the English translations of Chinese legislation.

4 The Chinese Film Market

As discussed in the Theoretical Background section, filmmakers have the economic rationale to distribute their films internationally to overcome issues of high development costs and insufficient home market. The dual nature of films as both commercial and cultural goods, nonetheless, sometimes makes such international distribution difficult. The extent of economic or monetary benefits and difficulties that filmmakers will have when exporting their films internationally differs by countries. Focusing on China, this section intends to identify potential opportunities offered by the Chinese film market which attracts foreign filmmakers, as well as to identify those barriers imposed by the Chinese government that make foreign film import difficult.

4.1 Opportunities

The economic opportunity offered by the Chinese film market is perhaps the most appealing to foreign filmmakers who seek economic return for their films. This section will discuss the economic opportunity of the Chinese film market in three aspects as suggested by Richeri (2016): (1) box office revenue; (2) number of admission tickets;

and (3) the number of screens. Similar information from the Finnish film market is also used for comparison. Data on the Finnish and Chinese film markets between 2014 and 2017 are shown in Table 1 and Table 2, respectively.

Table 1. Movie screens, admissions and gross box office revenue in Finland, 2014–2017

	2014	**2015**	**2016**	**2017**
Number of Movie Screens (Unit)	294	311	312	332
Number of Admissions (Million)	7,3	8,7	8,8	8,8
Gross Box Office Revenue (Million EUR)	71,8	89	91,1	98,5

Source: Finnish Film Association

Table 2. Movie screens, admissions and gross box office revenue in China, 2014–2017

	2014	**2015**	**2016**	**2017**
Number of Movie Screens (Unit) *(a)*	23 600	31 600	41 129	50 776
Number of Admissions (Million) *(b)*	830	1 260	1 370	1 620
Gross Box Office Revenue (Million RMB) *(a)*	29 639	44 069	49 283	55 911
Chinese films	16 155	27 136	28 747	30 104
Imported/foreign films	13 484	16 933	20 536	25 807

Source: (a) NBS; (b) EAO (2018)

As Table 1 shows, the film market in Finland has experienced a steady growth from 2014 to 2017: the number of movie screens increased from 294 units to 332 units by 12,93 per cent; the number of admissions increased from 7,3 million to 8,8 million by 20,55 per cent; and gross box office revenue increased from EUR 71,8 million to EUR 98,5 million by 37,19 per cent. Such growth in the Chinese film market, by contrast, was in greater scale from 2014 to 2017 (as Table 2 shows): the number of movie screens increased from 23 600 units to 50 776 units by 115,15 per cent; the number of admissions increased from 830 million to 1 620 million by 95,18 per cent; and the gross box office revenue increased from RMB 29 639 million to RMB 55 911 million by 88,64 per cent. In the year 2017 alone, the number of movie screens as well as the gross box office revenue in the Chinese market, thanks to its huge population and the resulting demand, were almost 153 and 75[8] times, respectively, more than those in the Finnish market.

If analysing closely the gross box office revenue in China, two general observations can be made. First, in terms of the box office revenue between domestic Chinese films and imported foreign films, imported foreign films have accounted for approximately 40 per cent of the annual gross box office revenue between 2014 and 2017 in the Chinese market (as Figure 3 shows). In other words, foreign films, despite the Chinese government's efforts in growing domestic film industry while restricting foreign film imports (which will be discussed in details later), are still competitive and of great economic potential once their entry into the Chinese film market is granted and secured.

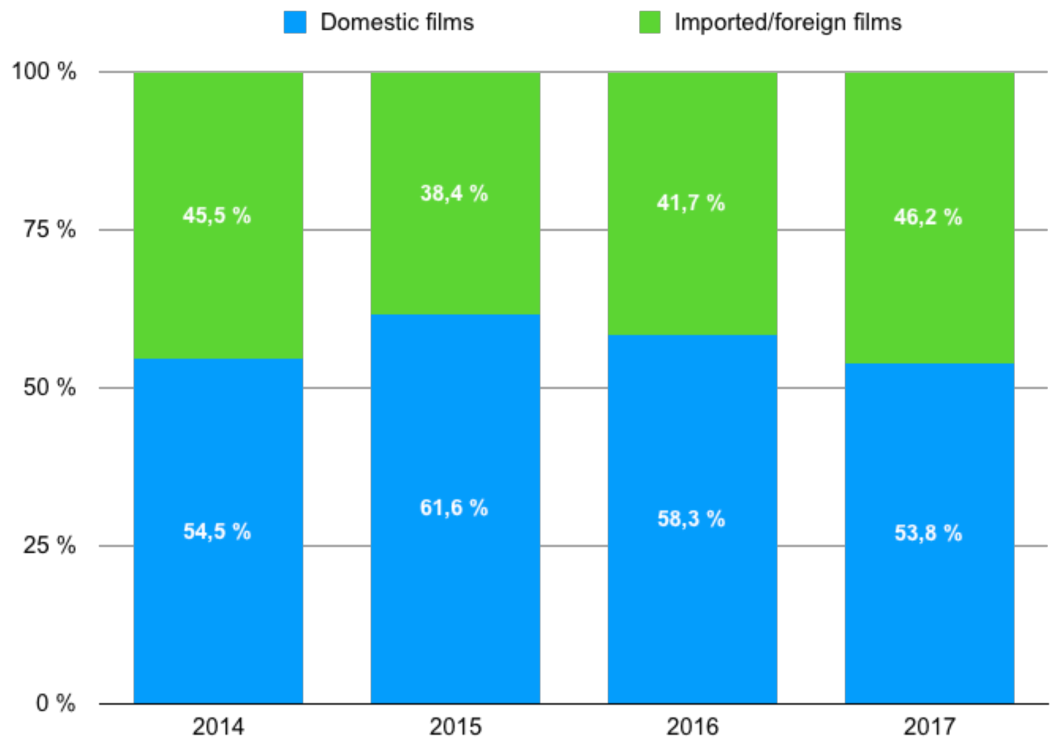

Figure 3. Chinese box office revenue by origin (in percentage), 2014–2017 (*source: National Bureau of Statistics of China*).

[8] The comparison of the gross box office revenue between China and Finland is based on the average 2017 EUR-RMB exchange rate provided by the European Central Bank (ECB), which is 1 EUR = 7,6290 RMB.

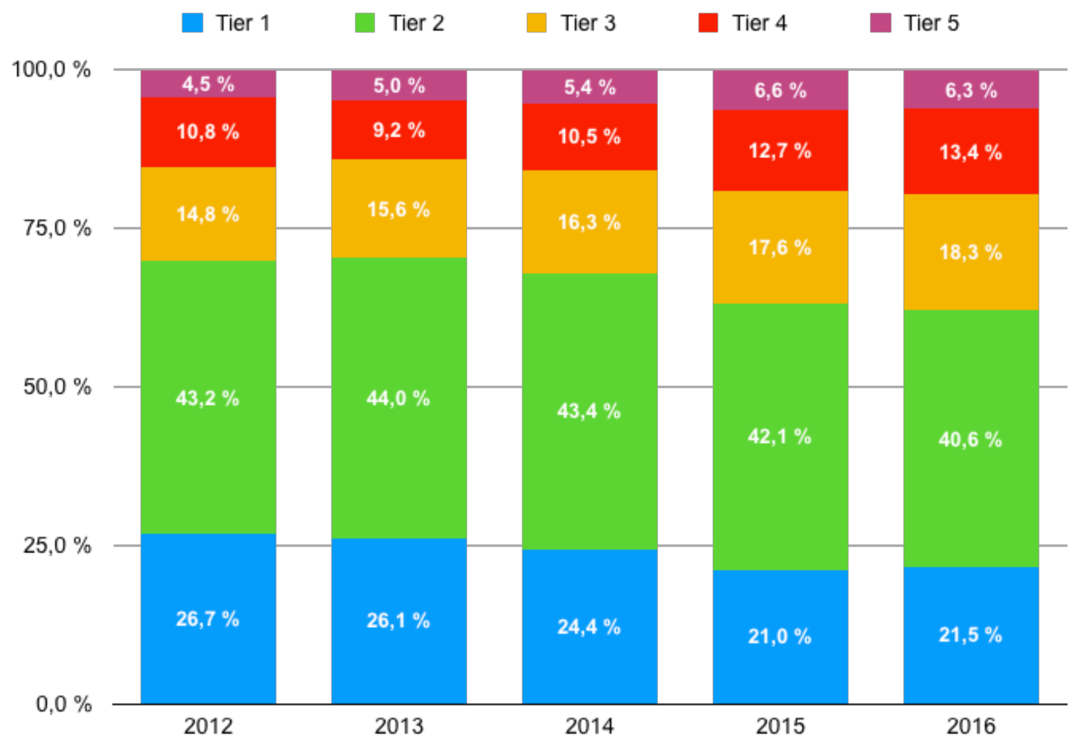

Figure 4. Chinese box office revenue by city tier (in percentage), 2012–2016 (MPAA, 2017).

The second observation is concerned with the contribution of cities in different tiers[9] to the gross box office revenue in China. It can be seen in Figure 4 above that, while the box office revenue in tier-one and tier-two cities has collectively accounted for the majority of the gross Chinese box office revenue with a decline (from 70,1 per cent in 2013 to 62,1 per cent in 2016), the collective contribution of annual box office revenue in tier-three, tier-four, and tier-five cities has grown slowly. Similar growth pattern is also observed by Zhang and Li (2018) that the major centres of film consumption in China have shifted to tier-two or tier-three cities. Such growth in those cities, according to Zhang and Li (2018), is associated with the booming economy of a given city. It can therefore be expected that the gross box office revenue in China is likely to grow further if the pattern of increase in film consumption led by booming economy continues in the relatively less developed cities in China. The growth of the Chinese film market in the past few years has made China the largest film market in terms of the number of admissions and annual gross box office revenue. The expected growth in

[9] There is no official definition of the tier system and the division of all Chinese cities into tier may differ on the basis of GDP, politics, or population. In the MPAA (2017) report, tier-one cities are defined as the cities that are large in population (over 15 million) and high in GDP (over USD 300 million) whereas tier-five cities are defined as the cities that have the least population and GDP.

the upcoming future, along with China's positive economic indicators, implies that China will continue to be an appealing film market for foreign filmmakers.

4.2 Barriers

The notion of cultural and creative industries (CCIs) has emerged in China relatively later (during 2000s) than in the Western countries (during 1990s). In China, CCIs are generally used by the Chinese government to refer to those industries associated with design (e.g., fashion, software, and product), business services, as well as R&D intensive and intellectual property. Within the CCIs, the creative industries are considered to entail less ideological and more commercial elements, whereas the cultural industries are generally considered to involve ideological values that the Chinese government would like to promote or protect (Shan, 2014). The film industry, as part of the cultural industries, has been subject to stringent governmental control, in terms of production, distribution and exhibition. As discussed in section 4.1 above, the Chinese film market may look appealing to foreign filmmakers due to its economic potential. Nonetheless, before achieving the economic goals, foreign filmmakers have to overcome various hurdles imposed by various Chinese authorities. Such hurdles can be seen as a result of the complex nature of films, or the film industry in general, under the social context of China (Li and Song, 2015). Therefore, before discussing in details about the barriers to foreign film imports, I will briefly discuss the historical background of the Chinese film industry/market.

4.2.1 Historical overview

China has had a long history of controlling its cultural industries as well as its film industry. The degree of control, however, varies in different eras alongside the development of China as a country. China's cultural policy during the socialist period (1949–1976) was characterized as an "engineer model" (Keane and Zhang, 2008, p. 5), in which the state, considering itself as the sole owner of cultural resources, directly intervened and controlled the cultural sector. Moreover, given the embedded ideological and political messages within culture, all cultural activities, from production to dissemination, were invested by and centrally undertaken by the state and state-owned institutions. The purpose of such centralised and strict management of culture was to make sure that the Chinese culture as a whole was in line with the needs of the Chinese Communist Party (and therefore the Nation), whereas the needs of Chinese citizens for culture were secondary (Shan, 2014). In the socialist period, films were commonly used as the means of political propaganda and ideological control by the Chinese government. Not only was the production of films monopolised by a small number of state-owned film studios located in large and politically important cities (e.g., Beijing, Shanghai, Changchun, Xi'an, Wuhan, Huhhot and Urumuchi), but the distribution and exhibition of films were also tightly managed by governmental authorities (Zhang and Li, 2018; Xiao, 2013). What kind of films could be, or should be, produced and afterwards exhibited to the citizens was grounded on the then political and ideological considerations of the Chinese government. A commercial market for films at that particular period of time was prohibited and non-existent (Zhang and Li, 2018). In Sedgwick's (2000) terms, films produced during this era could not be seen as a form of commodity, as their existence did not owe to the market.

The aforementioned tight and direct control over and intervention in cultural activities was loosened starting from the late 1970s, largely due to the reform and opening up policy with an emphasis on economic reconstruction and modernisation pursued by the Chinese government. On the one hand, the central government withdrew its role as the key investor as well as provider of cultural products and services to its citizens. On the other hand, the economic aspects of culture or cultural goods gained their importance. Such importance could be found, for example, in the *Report on Establishing Statistics of Tertiary Industry* published by the National Bureau of Statistics in 1985 that culture and broadcasting (i.e., radio and television) were identified as the tertiary industry along with education, scientific research, public health, sports and social welfare, and were included as one of the statistical categories due to their "industrial characteristics" (Keane, 2007, p. 67, as cited in White and Xu, 2012, p. 250). Meanwhile, the film industry was redefined under the broader cultural sector. The role of films as an instrument by which the central government used to propagandize ideological thinking also became blurred. In addition, the control over film production became less strict, which could be seen from the increasing number of film production companies established at the national level by state-level authorities regulating film production and exhibition, as well as at the regional level by local governments during this era (Aranburu, 2017; Zhang and Li, 2018).

Early 1990s marked another significant transition of the cultural industry towards marketisation when the construction of a new model of a socialist market economy was proposed in the 14th National Congress of the Communist Party of China (CPC). In 1992, the modern concept of “cultural industries” was mentioned and further deployed as a policy category in the 10th Five-Year Plan (2001–2015). In the 16th National Congress of the CPC in 2002, culture was distinguished between public “cultural undertakings” (*wenhua shiye*, i.e., cultural service providers supported by the state) and commercial “cultural industry” (*wenhua chanye*) (Shan, 2014; White and Xu, 2012). During this period, the film industry also experienced a major transition. In spite of the loosening control by the state over the number of film production studios, the film industry in the late 1980s showed a continuous decline rather than growth. Such decline was contributed by both internal and external factors. Internally, a lack of investment in the construction and renovation of facilities of domestic movie theatres, along with the increasing popularity of alternative entertainment options (e.g., television), made the consumption of films less appealing to the general public. Externally, the entry to the WTO also exposed China’s domestic film industry to greater competition in the international market. In view of the declining film industry, the State Administration of Radio, Film and Television (SARFT) and the Ministry of Culture decided to implement a series of reform in the film industry in 2002, including: (1) the introduction of the shareholding system to the state-owned film production companies and the encouragement of private capital/investment in establishing new film production companies; and (2) the introduction of a new cinema chain system as a replacement for the state-controlled film release system (Zhang and Li, 2018, p. 120). Such reform transformed film production companies and movie theatres into market entities responsible for their own operations and profits rather than relying on state management and investment, which further made the Chinese film industry more market-oriented.

It should be mentioned however that the seemingly market-oriented cultural policy and increasing importance of culture as economic generator do not eliminate the Chinese government’s concerns regarding the political and ideological elements of culture. According to Li and Song (2015), modern cultural industry in China is characterised by the simultaneous presence of “economic pragmatism” and “political dogmatism” (p. 363). While economic pragmatism pursued by the Chinese government has led to a more prosperous cultural industry, in terms of production and revenue, the cultural industry has been continuously subject to political or ideological correctness (e.g., enterprises in the cultural sector in principle can produce and provide any cultural products/services for the consumers as long as these products/services do not violate or contradict state policies [Shan, 2014]). Although some cultural sectors (e.g., video and computer games) that are more technical and less content-centred tend to be more developed due to less governmental control and intervention, other sectors heavily relying on content (e.g., books and films) are still subject to stringent governmental control over politically sensitive content (Chen, 2013; Li and Song, 2015). The following sections are therefore designed to identify and comprehensively discuss the control of the Chinese government, in the form of restrictive measures, over foreign film imports.

4.2.2 Barriers before film entry

4.2.2.1 Censorship regime

The historical overview of China’s cultural industries shows that the development of cultural industries has become a vital component of China’s national strategy and the Chinese government has gradually facilitated the commercialisation of cultural industries. Nevertheless, potential ideological and political content carried by cultural products, including films, is still of the central concern of the Chinese Communist Party and therefore the Chinese government. Content censorship therefore plays an important role in the importation, production, distribution and exhibition of films. Such content censorship, or censorship regime, is implemented via a network of governmental institutions that monitor and enforce policies associated with content censorship.

Figure 5 below shows the complexity of the film censorship regime in which the Chinese Communist Party and the Chinese central government are involved. The review or the censorship of film content is made possible by the centralised distribution via the *China Film Group Corporation*. The China Film Group Corporation, since its foundation in 1979, has been China’s monopolistic state-owned enterprise (SOE) in charge of film distribution throughout the country, as well as film import and export operations. Two key subsidiaries of the China Film Group are the *China Film Import and Export Corporation* and the *China Film Distribution and Exhibition Corporation*. The former is the sole enterprise authorised by the Chinese government to import and export films, whereas the latter, along with its regional subsidiaries, holds the majority of movie theatres in China, and is in charge of dictating contractual terms, play dates, admission prices and other film exhibition-related issues (Grimm, 2015; Wang, 2003). It should be mentioned that the *Huaxia Film Distribution Company*, established in 2003, is now the second largest film distributor in China. The Huaxia Film Distribution Company , however, is also a SOE and authorised to distribute foreign films only. In other words, it does not have the power to import foreign films (Grimm, 2015).

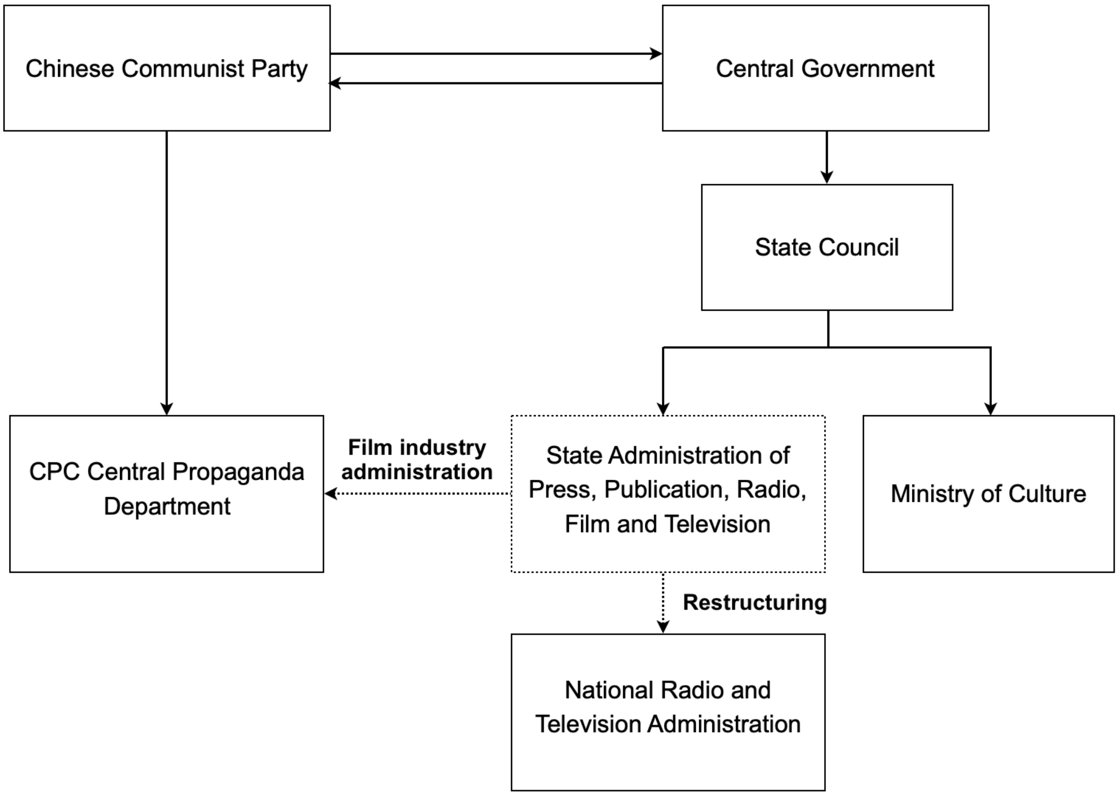

Figure 5. Regulatory bodies involved in the Chinese film industry (modified from Wang [2003, p. 62])

Superior to the aforementioned SOEs are the *Ministry of Culture* and the *State Administration of Press, Publication, Radio, Film and Television* (SAPPRFT). The Ministry of Culture is in charge of monitoring the import and distribution businesses regarding home videos, which falls outside the scope of this thesis. In contrast, SAPPRFT is the key governmental authority governing and censoring films, both domestic and foreign, for theatrical release. In addition to the film industry, SAPPRFT is in charge of the press, publishing, radio and television industries, as well as the SOEs operating in those industries. The power of both governmental agencies in the censorship regime lies in their authority to grant as well as to revoke licenses for foreign films intended to be distributed in China. The highest body in the censorship regime of China is the *CPC Central Propaganda Department,* an internal division directly responsible to the Chinese Communist Party. The CPC Central Propaganda Department is responsible for constantly monitoring content of publications, media and films to ensure that none of these publications, media and films whose content is inconsistent with the Chinese Communist Party's political ideologies is distributed within China (Grimm, 2015).

It should be mentioned however that SAPPRFT has been restructured into National Radio and Television Administration in 2018, which operates directly under the State Council, and whose key responsibility is to monitor and supervise those SOEs operating in the radio and television sectors. The administration of the film industry previously under SAPPRFT has now been assigned to the CPC Central Propaganda Department. Some of the key duties of the CPC Central Propaganda on film regulation after the organisational restructuring include guiding film production, distribution and exhibition, reviewing/censoring film content, as well as supervising co-production, import and export of films.[10] Such restructuring may imply a tighter control over the film industry by the Chinese government and an even more stringent censorship on those foreign films intending to enter the Chinese market (Song, 2018).

4.2.2.1.1 Regulations governing film censorship

The legislation concerning China's censorship regime of its cultural industries is primarily composed of prohibitive norms that are vague in nature. In the case of film censorship in China, all films, regardless of domestic- or foreign-produced films, are regulated by the *Regulations on the Administration of Movies*[11]*,* which took effect in 2002. This set of regulations specifies the film regulatory authority, or the *movie examination institution* as used in the Regulations (Article 24, emphasis added):

> The State applies a movie examination system.

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[10] 中国电影网/China Film (2018). 今天起，电影管理工作划入中共中央宣传部/From now on, the adminitration of film industry will be assinged to CPC Central Propaganda Department. Last accessed 24 May 2019: https://www.chinafilm.com/xyfx/4136.jhtml.

[11] 电影管理条例.

> Films which have not been examined and adopted by the movie examination institution of the *administrative department for radio, film and television* under the State Council (hereinafter referred to as "*the movie examination institution*") shall not be distributed, projected, imported or exported.

It should be reiterated however that the movie examination institution is no longer the administrative department for radio, film and television under the State Council. The movie examination institution, as mentioned earlier, has gone through a series of restructuring over the years from the administrative department for radio, film and television and the subsequent State Administration of Press, Publication, Radio, Film and Television to currently National Radio and Television Administration. The task of film censorship has been taken over by the CPC Central Propaganda Department directly under the Chinese Communist Party.

Moreover, the Regulations on the Administration of Movies also provide an enumerated list of content prohibited by the Chinese government from being shown in any domestic and foreign films (Article 25):

> (1) that which defies the basic principles determined in the Constitution;
> (2) that which endangers the unity of the nation, sovereignty or territorial integrity;
> (3) that which divulges secrets of the State, endangers national security or damages the honor or benefits of the State;
> (4) that which incites the nation hatred or discrimination, undermines the solidarity of the nations or infringes upon national customs and habits;
> (5) that which propagates evil cults or superstition;
> (6) that which disturbs the public order or destroys the public stability;
> (7) that which propagates obscenity, gambling, violence or instigates crimes;
> (8) that which insults or slanders others, or infringes upon the lawful rights and interests of others;
> (9) that which endangers public ethics or the fine folk cultural traditions;
> (10) Other contents prohibited by laws, regulations or provisions of the State.
> The technical quality of movies shall be in conformity to the State standards.

In addition to the Regulations on the Administration of Movies, *Film Industry Promotion Law of the People's Republic of China*[12] (hereafter "Film Industry Promotion Law"), effected in 2017, is another set of regulations relevant to the censorship regime of the

[12] 中华人民共和国电影产业促进法.

Chinese film industry. Content forbidden for all films distributed and screened in theatres within China is listed in the Article 16, including:

(1) any content violating the basic principles as established in the Constitution or instigating resistance to or disruption of the implementation of the Constitution, laws, and administrative regulations;

(2) any content jeopardizing China's unity, sovereign, or territorial integrity, leaking national secrets, endangering national security, damaging China's dignity, honor, and interests, or advocating terrorism or extremism;

(3) any content defaming fine national cultural traditions, instigating ethnic hate or discrimination, infringing upon ethnic customs and habits, distorting national history or national historical figures, hurting national sentiments, or undermining national solidarity;

(4) any content instigating the disruption of the religious policies of the state or propagating cults or superstition;

(5) any content jeopardizing social ethics, disrupting the public order, undermining social stability, advocating obscenity, gambling, or drug abuse, highlighting violence or terror, instigating crimes or teaching methods for committing crimes;

(6) any content infringing upon the lawful rights and interests of minors or damaging the physical and mental health of minors;

(7) any content insulting or defaming others, disseminating others' privacy, or infringing upon the lawful rights and interests of others; and

(8) any other content as prohibited by the laws and administrative regulations.

In the context of foreign film entries *at the border*, Regulations on the Administration of Movies will be more relevant than the Film Industry Promotion Law in the sense that the former governs the “production, *import*, export, distribution and projection, etc. of the films inside the territory” (Article 2 of Regulations on the Administration of Movies, emphasis added), whereas the latter film activities including the screenwriting, shooting, distribution and projection within the territory (Article 2 of Film Industry Promotion Law). When analysed closely, it can be seen that the particular article dealing with film content censorship in both set of regulations is rather similar, with Article 16 of the Film Industry Promotion Law containing relatively more information with regard to the criteria of film censorship. For example, Article 16 (5) of the Film Industry Promotion Law, corresponding to Article 25 (6) and Article 25 (7) of the Regulations on the Administration of Movies, forbids any content that instigates crimes, and that involves teaching methods for committing crimes. Article 36 of the Film Industry Promotion Law, in particular, provides a list of content promoted by the

Chinese government, which may give some insights into the content preferred by the film regulatory authority and therefore more likely to receive censorship approval. Such film content includes:

(1) major theme films spreading outstanding traditional Chinese culture and advocating socialist core values;
(2) films promoting the growth of the minors;
(3) films showing artistic innovation and promoting artistic advancement;
(4) films propelling the development of science and education causes and the popularization of science and technology;
(5) other films conforming to the state support policies.

Generally speaking, foreign film entries are primarily governed by the Regulations on the Administration of Movies. The Film Industry Promotion Law however may advance foreign filmmakers' understanding of the Chinese censorship regime in terms of the content forbidden and promoted by the Chinese government, thereby overcoming the hurdle of film content censorship when exporting films into the Chinese market.

4.2.2.1.2 The opaqueness of censorship regime

The censorship regime in China has long been criticized for its arbitrariness and opaqueness. Despite the Chinese government's efforts in providing better information in the aforementioned sets of regulations, those listed criteria seem non-exclusive (which could be seen in Article 25 (10) and Article 16 (8) in Regulations on the Administration of Movies and Film Industry Promotion Law, respectively) and lacking legal predictability (e.g., Geltzer, 2016/17; Grimm, 2015; He, 2017). One good example is *Despicable 1* (2010), along with its sequel *Despicable 2* (2013), both of which were blocked at the border and were therefore unqualified for theatrical release in China. One potential reason for this was the minion characters bearing likeness to the then Chinese leader Jiang Zemin (cf. the rejection of the 2018 film *Christopher Robin* due to the resemblance between Winnie the Pooh and Xi Jingping). Another reason was concerned with their box office performance—they might not perform well in the Chinese market and their entry to the Chinese market was therefore denied (Grimm, 2015). Both reasons, nonetheless, were mere speculations and could not be found in the aforementioned set of regulations; the actual reason for the rejection remains unclear.

In some occasions, the listed criteria are interpreted broadly by the film regulatory authority when reviewing foreign films. Films containing time travel elements, for instance, are more likely to be stopped at the border for the reason of disrespect of history (Geltzer, 2016/17), which can be seen in the rejection of *Back to the Future* (1984) and *Bill and Ted's Excellent Adventure* (1989). More specifically, traveling in time implies escaping from the current time, i.e., the time under the ruling of the Chinese Communist Party. This particular genre of films may be regarded as a vehicle to criticise the current government and are more likely to be banned by the film regulatory authority (Grimm, 2015). Such opaqueness of the censorship regime inevitably poses uncertainties to foreign filmmakers as it is difficult for them to expect whether their films intended for entry into the Chinese market will be approved and if so, based on which criteria.

4.2.2.2 Import quota

In addition to strict content censorship, the Chinese government also imposes quantitative restrictions on foreign film import in an attempt to protect its domestic film industry as well as local cinema market (Song, 2018). At the moment, the Chinese government currently allows 34 foreign films on the revenue sharing basis to be imported and screened in China every year, and 14 out of these foreign films must be screened in a three-dimensional (3D) or image-maximum (IMAX) format. As

Table **3** shows, import quota for films imported on revenue sharing basis has increased slightly since 1994, from mere 10 foreign films annually, relaxed to 20 foreign films annual in preparation for its WTO entry, to current 34 foreign films annually. In addition, current annual quota for foreign films imported on a flat fee basis is between 30 and 40 (Lang and Frater, 2018; Song 2018).

Table 3. China's foreign film import quota

Modes of import	1994	2001 (WTO Entry)	2012–
Revenue Sharing	10 foreign films p.a.	20 foreign films p.a.	34 foreign films p.a.
Flat Fee		30 to 40 foreign films p.a.	

(*source: Lang and Frater, 2018; Song, 2018*)

It should be mentioned that the actual number of foreign film quota for both revenue sharing and flat fee systems may exhibit some flexibility. In 2016, for example, the Chinese government allowed a record 39 and 51 foreign films to be imported and screened in China on revenue sharing and flat fee basis, respectively (Papish, 2017). The aforementioned increase in import quota is considered ‘negligible’ (He, 2017, p. 90), if compared to the number of Chinese films exporting to, for instance, the US and Canada in 2013, which was 659 in total. Revenue sharing and flat fee systems, nonetheless, are still the two key modes of foreign film import into the Chinese market and have different economic implications for foreign filmmakers. These two import systems will be discussed later in the thesis.

4.2.2.3 Blackout period and short notice window

Additional barriers for foreign films to enter the Chinese film market are blackout period and short notice window. Blackout period is an unwritten policy referred to a stretch of typically six to eight weeks during which only very few foreign films will be allowed to screened in the domestic Chinese theatres (Cain, 2015). In 2012, SARFT, the then film regulatory authority, closed the domestic screens to all foreign films between June and August. Domestic screens were allocated instead to domestically produced films, so that domestic Chinese films would face less competition from foreign films, especially Hollywood blockbusters, and minimum 50 per cent of annual box office revenue could be achieved (Cain, 2015; Geltzer, 2016/17). Blackout periods are assumed to be more likely to occur during the Chinese New Year holidays, May Day holidays, between mid-

July to mid-August (school summer break) and the second half of December (Lang and Frater, 2018).

With regard to short notice window, it refers to the situation where foreign filmmakers usually would not know whether their films are granted entry and screening permit until four to six weeks prior the release date. While the release date of respective foreign films is still subject to the control of Chinese authorities, such short notice window inevitability constrains the ability of foreign filmmakers from engaging in marketing campaigns, which may detrimentally affect the performance and the resulting profitability of a given foreign film in the Chinese market (Song, 2018).

The aforementioned barriers show that the Chinese government plays the role of a gatekeeper in foreign film import deciding ‘what’, ‘how many’, ‘when’ to import, all of which inevitably make the entry of foreign films into the Chinese film market difficult and extremely competitive already at the Chinese border.

4.2.3 Barriers after film entry: ‘Special circumstances’

A foreign film whose content passed the censorship, whose entry has been secured, whose theatrical release has been scheduled, and which has been already screened in the Chinese theatres, may still be halted or even pulled from the market by the film regulatory authority under ‘special circumstances’ as indicated in the Article 42 of the Regulations on the Administration of Movies (emphasis added):

> No one is allowed to distribute or project a film until he/it has obtained in accordance with the law the “License for Public Projection of Films” issued by the administrative department for radio, movie and television under the State Council.
>
> With respect to a film for which the “License for Public Projection of Films” has been obtained, the administrative department for radio, film and television under the State Council may, under *special circumstances*, make a decision on ceasing the distribution or projection or, prohibiting distribution or projection before the amendment; with respect to a film which is decided to be distributed or projected after the amendment, if the copyright owner refuses to amend it, the administrative department for radio, film and television under the State Council shall decide to cease the distribution or projection of the film.

> The movie distribution entities and movie projection entities shall execute the decisions made by the administrative department for radio, movie and television under the State Council on ceasing the distribution or projection.

But what exactly are these *special circumstances*? According to He (2017), participants in the production of a film might be one of these special circumstances, as seen in the television broadcasting industry. For example, if an actor of a film is involved in a scandal, the film, regardless if it has already been screened in the theatres, might be halted by the Chinese authorities until scenes containing the actor in question have been removed. These special circumstances could still have something to do with the content. One good example is *Django Unchained* (2012). This film was scheduled for theatrical release in China in 2013 after certain changes (e.g., making those scenes with blood less vivid) but was halted and subsequently pulled from the market on the day of its first screening in China. It was speculated that the violence and nudity featured in the film might still be of the central concern despite the fact that the then film regulatory authority had given the film a green light to enter and screen in the Chinese theatres. The film, after having undergone *ex post* modifications to scenes containing violence and nudity as requested by the Chinese authorities, was eventually re-released in the Chinese theatres three weeks after its scheduled theatrical release (Grimm, 2015). Foreign films might also be pulled from the market in favour or in protection of domestic Chinese productions. *Avatar* (2009), for instance, was pulled from the Chinese theatres after its three weeks of rather successful theatrical screening in China in January 2010. The reason behind it was to support and boost the theatrical performance of the domestically produced film *Confucius* (2010) (Berry, 2013).

The aforementioned examples show that foreign films, even after their entry to the Chinese market, are still subject to the risk of being halted or removed from distribution or screening under *special circumstances*, the exact content of which is often unclear and full of speculation due to a lack of additional governmental documents dealing with or providing definition of the so-called ‘special circumstances’. Article 42 of the Regulation on the Administration of Movies inevitably leaves broad room for interpretation by the film regulatory authority governing foreign films after their entry to the Chinese market.

4.2.4 US-China WTO dispute

China—Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products (hereafter *China—Publications and Audiovisual Products*) is considered to be a landmark WTO case dealing the issues of importation and distribution of content/cultural products in China. It is also an important case that reshaped China's policies associated with foreign film imports. It is therefore of the interest of this thesis to provide a brief discussion concerning this landmark WTO case as well as its influence on the Chinese policies associated with foreign film import.

In April 2007, the United States filed a complaint before WTO alleging that China failed to comply with its obligations under the Accession Protocol by "not allowing all Chinese enterprises and all foreign enterprises and individuals to have the right to import into the customs territories of China the following products (collectively, the 'Products'): films for theatrical release, publications (e.g., books, magazines, newspapers and electronic publications) audiovisual home entertainment products (e.g., video cassettes and DVDs), and sound recording."[13] According to China's WTO Accession Protocol, China shall, within three years of accession (i.e., by 11 December 2004), "progressively liberalise" the Chinese market and provide "all enterprises" the right to trade in goods unless specifically exempted; moreover, with regard to the right to trade in China, all foreign enterprises and individuals shall be treated "no less favourabl[y]" than enterprises and individuals in China[14] (Mangin, 2010, p. 285). Instead of complying with its WTO accession commitments, the Chinese government, at the time of the dispute, reserved, to designated wholly or partially SOEs, the right to import films for theatrical release, audiovisual home entertainment products, sound recordings and publications, none of which were included in the list of products reserved for State trading[15]. Such restrictive measures by the Chinese government were therefore in violation of its National Treatment obligation under Article III:4 of GATT.

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[13] Request for the Establishment of a Panel by the United States. WT/DS363/5 (11 October 2007).

[14] Para. 5.1 and 5.2 of Accession of the People's Republic of China. WT/L/432 (23 November 2001).

[15] Products reserved for State trading are listed in Annex 2A of the Accession Protocol that involved 84 products for importation and 134 products for exportation. These 84 products reserved for State trading fall under the categories of grain, vegetable oil, sugar, tobacco, processed oil, chemical and cotton (Qin, 2011, pp. 274–275).

In response to the United States' allegations, China made two major arguments. First, among the content products involved, films for theatrical release do not count as 'goods' but 'services', as (1) "[films] are exploited through a series of services"; (2) "the commercial value of films for theatrical release lies in the revenue generated by these services"; and (3) "the delivery materials containing the content of films are mere accessories of such services and have no commercial value of their own."[16] Films for theatrical release therefore fell outside the scope of its GATT accession commitments. Second, China justified its importation measures by invoking Article XX(a) of GATT, i.e., the "public morals" exception. Emphasising the influence of cultural goods (i.e., films for theatrical release, reading materials, AVHE and sound recordings in the case of *China—Publications and Audiovisual Products*) on social and moral values, China argued that its importation measures, i.e., reserving the right to import cultural goods to selected SOEs, are "necessary" to protect public morals as such measures are designed to apply content review in an effective and efficient manner. Furthermore, only the selected SOEs have an appropriate organisational structure, appropriate geographical coverage, as well as a reliable, competent and capable personnel to properly perform content review in fulfilment of the objective pursued, that is, the prohibition of cultural products with inappropriate content.[17]

Counter to China's arguments, the United States firstly argued that "the vast majority of goods are commercially exploited through a series of associated services" and that all goods, if the definition of films for theatrical release defended by China were true, would be virtually transformed into services. The presence of Article III:10 and Article IV of GATT dealing with cinematographic films further confirms that films for theatrical release are goods rather than services[18] (Pauwelyn, 2010). With regard to the "public morals" exception invoked by China in defence of importation measures, the United States did not challenge whether China's measures were measures to protect public morals, but the 'means' chosen by the Chinese government to achieve the pursued objective. For that, the United States proposed a less restrictive alternative that China could have established an in-house government agency responsible for content review,

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[16] Appellate Body Report, *China–Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products.* WT/DS363/AB/R (21 December 2009) (hereafter, "AB Report").

[17] Report of the Panel, *China–Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products.* WT/DS363/R (12 August 2009) (hereafter, "Panel Report").

[18] AB Report.

which would contribute to the same results with relatively less restrictive effects on trade in cultural goods[19] (Chen, 2013; Qin, 2011).

After taking into consideration the arguments by China and the United States, as well as Panel's finding, the Appellate Body (AB) firstly maintained that a product can have goods and service components, both of which are not mutually exclusive and are subject to both GATT and GATS (Mangin, 2010; Pauwelyn, 2010). In the case of films for theatrical release, the AB concluded that a film contains a goods component to the extent that the film, or content of the film, is carried on certain physical material (e.g., a film reel). As a result, any measures affecting trade in films would inevitably affect trade in goods, which therefore fell under the scope of GATT (Pauwelyn, 2010, p. 9).[20] Having said that, the AB, along with the Panel, further concluded that the measures imposed by China, in terms of prohibiting non-SOEs from engaging in the importation of cultural goods (i.e., films for theatrical release, publications in both paper and electronic formats, audiovisual home entertainment products and sound recording in this case) as well as foreign entities from engaging in the distribution of the aforementioned cultural goods within Chinese territory, were in violation of WTO law. More importantly, the WTO judiciary, upholding the findings by the AB and Panel, confirmed that such restrictive measures by China on the right to import are inconsistent with its accession commitments (i.e., progressively liberalising trading rights). The WTO judiciary also rejected China's "public morals" justification for its restrictive measures given that there are reasonably available alternatives (Qin, 2011).

The WTO decisions on the *China–Publications and Audiovisual Products* led China to review its measures regarding the importation of cultural goods. In March 2012, China notified the WTO that it had followed the WTO recommendations and rulings by making amendments to those regulations on cultural products in question. Notably, most amendments were made to legislation regulating the publications and audiovisual products. Such amendments include, for instance, that anyone intending to establish an entity importing publications or audiovisual products requires a business license checked and issued by the competent department under the State Council; otherwise, no entities or individuals are allowed to engage in the importation of publications or audiovisual products[21] (Chen, 2013, p. 79). With respect to films for theatrical release,

[19] Panel Report.
[20] AB Report.
[21] Article 41 of Regulations on the Administration of Publication (2011 Revision); Article 27 of Regulations on the Administration of Audio and Video Products (2011 Revision).

China nonetheless did not make amendments to relevant regulations. Instead, China signed a Memorandum of Understanding (MOU) with the United States in the Joint Communication on 11 May 2012. In this MOU, China agreed to allow additional 14 films in enhanced format (e.g., 3D and IMAX) on top of its existing 20-film quota to be imported on a revenue sharing basis, and allow all Chinese enterprises other than SOEs to apply for and be granted a license to distribute imported films. Additionally, China and the United States will discuss further the key MOU elements associated with films for theatrical release after five years[22] (i.e., 2017). It should be mentioned however that the aforementioned MOU elements have only been partially implemented in the sense that China does allow 20 films along with 14 films in enhanced format to be imported on a revenue sharing basis annually, yet the distribution of foreign films on revenue sharing basis has still been limited to the Chinese state-owned duopolies. Since then, the measures on the importation and distribution of films for theatrical release have not been discussed further and therefore remain the status quo.

4.3 Available film entry modes

Under the aforementioned circumstances of tight governmental control, foreign filmmakers are allowed to enter the Chinese market in three ways, namely revenue sharing entry, flat fee entry and co-production.

4.3.1 Revenue sharing entry

Foreign filmmakers whose films have passed the content censorship might be able to enter the Chinese market on a revenue sharing basis, meaning that they will be able to receive certain percentage of gross box office revenue in China. Revenue sharing entry to the Chinese market is made through the China Film Group Corporation based on certain criteria, and subsequently distributed either by China Film Group Corporation or Huaxia Film Distribution Company. The criteria could be seen in the import of *The Fugitive* (1993), the first foreign film granted revenue sharing entry to China in 1994. *The Fugitive*, along with other 9 foreign films granted revenue sharing entry at that time, in principle “reflec[ed]t the finest global cultural achievements and represent the

[22] Joint Communication from China and the United States, *China–Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products*. WT/DS363/19 (11 May 2012).

latest artistic and technological accomplishment in contemporary world cinema" (Tian, 1994, p. 1; as cited in Wang, 2007). An article by Variety (2007) summarising China's film import policy also provided general principles deciding the import of foreign films—they have to be excellent in quality (in terms of intellectual and artistic merit and technical excellence) and more likely to be popular among the Chinese audience. The aforementioned criteria or principles regarding the selection of foreign films to be imported on a revenue sharing basis, according to Wu Mengchen, former President of China Film Group Corporation, implied the economic rationale, as the foreign films imported and distributed by the China Film Group Corporation could influence the financial well-being of the SOE, as well as the personnel employed in the film industry across China (Wang, 2007). Such economic concern has led to the preference for blockbuster films produced by major Hollywood studios (Papish, 2017).

The key issue of concern especially for foreign filmmakers in the revenue sharing entry is the "percentage" of the gross Chinese box office revenue allocated to the foreign filmmakers. Prior to the *China–Publications and Audiovisual Products* case filed by the United States at the WTO, the percentage of revenue shared by foreign filmmakers was merely 13 to 15 per cent. An MOU agreed by the Chinese government in 2012 as a response to *China–Publications and Audiovisual Products* has increased the box office revenue allocated to foreign filmmakers to 25 per cent. Additionally, local taxes, duties and expenses will fall under the responsibility of the Chinese side, that is, Chinese SOEs in charge of distributing foreign films[23]. The revenue percentage agreed in the MOU indicates that the majority of gross box office revenue, despite the increase, will still remain in China, mostly going to Chinese distributors and exhibitors, with a small fraction (8,5 per cent) of the gross box office revenue being taxed by the Chinese government (Grimm, 2015; Richeri, 2016).

4.3.2 Flat fee entry

Flat fee entry is an entry mode where local Chinese distributors negotiate a flat fee, or fixed price, with foreign filmmakers for local rights in China. In other words, foreign filmmakers will not receive any fraction of the box office revenue except the fixed price as negotiated with local Chinese distributors (Richeri, 2016). It should be mentioned however that local Chinese distributors do not have the authority to import foreign films. All foreign films to be imported on a flat fee basis will have to be submitted firstly to the

[23] *Ibid*.

China Film Group Corporation for import approval of foreign films before local film distributors can distribute foreign films within China under the name of either China Film Group Corporation or Huaxia Film Distribution Company. In this case, local film distributors are the entities dealing the actual distribution of those films entering on a flat fee basis, whereas China Film Group Corporation and Huaxia Film Distribution Company are the chief distributor in name only and they charge approximately 25 per cent of the box office revenue. The remaining box office revenue after taxation goes to local distributors and exhibitors.[24]

As mentioned earlier, Chinese government permits approximately 30 to 40 foreign films to be imported on a flat fee basis. This quota is often granted to those foreign films that were not chosen as revenue sharing imports. Local Chinese film distributors also actively seek foreign films for flat fee entry at international film festivals. Different from revenue sharing entries that are mostly granted to major Hollywood studios, quota for flat fee entry is reserved for films produced in countries other than the United States (i.e., Hollywood). For instance, foreign films granted flat fee entry to the Chinese market between 2015 and 2016 included *I am Dragon* (2015) from Russia, *Assassination* (2015) from South Korea, *The Little Prince* (2015) from France and *PK* (2015) from India (Papish, 2017).

Under the flat fee system, the price of buying out the rights of foreign films is rarely high, mostly ranging from thousand to ten thousand US dollars.[25] The foreign film received the highest buyout price was *Resident Evil: The Final Chapter* (2016) with a record buyout price of USD 7 million. The *Resident Evil* film, due to its successful opening week performance in China, also became the first flat fee film shared a fraction of gross box office revenue in China once its box office revenue in China surpassed RMB 500 million, giving birth to an alternative flat fee-revenue sharing hybrid entry (Dresden, 2018; Papish, 2017). In other words, foreign films imported on a flat fee basis may have the opportunity to share a fraction of box office revenue in China if they are proved to be economically successful in the Chinese market and pass certain box office revenue threshold.

[24] 甘敏中/Cain, R. (2012). 中国的电影发行系统是怎样运行的 (第一部分)/How film distribution system is run in China (Part 1). Last accessed 27 July 2019: http://www.chinagoabroad.com/zh/commentary/11586.

[25] *Ibid.*

4.3.3 Co-production

Finally, co-production, another alternative for foreign filmmakers to gain access to the Chinese film market, refers to those films that are produced through a cooperative arrangement between a Chinese and a foreign film production firms (Montgometry, 2004). Co-production has been a common practice in the recent decade and such cooperative arrangement can often be seen between Chinese production firms and their counterparts in Asia (including Hong Kong and Taiwan) and in Europe, whereas Sino-US film co-production has shown a notable increase since 2012 (Peng, 2016; Su, 2017). In 2016, for example, permits issued by the then film regulatory authority (i.e., SAPPRFT) for film co-production hit the record number—89, an increase of 11 per cent over the 2015 Figure (Schwankert, 2017). The popularity of co-production in the recent decade has been partially attributed to the Chinese government's advocating Sino-foreign film co-production as a strategy to enhance its soft power via transfer of knowledge specific to filmmaking, including know-how, financing, marketing, and so on. For foreign counterparts, engaging in film co-production with Chinese film production firms is relatively market- or economic-driven—they can gain access to wider Chinese film market with seemingly less barriers than choosing the other two entry modes (Peng, 2016; Richeri, 2016; Su, 2017).

Film co-production, although appearing to be beneficial for both Chinese partners, or the Chinese government, and foreign filmmakers, may entail some hidden traps for foreign parties. One of the traps derives from the 'understanding' of co-production (Su, 2017, p. 484). Foreign filmmakers may engage in Sino-foreign film co-production for the sake of preferential treatment as domestically produced films, meaning that these co-produced films will not be subject to import quota nor blackout period, and foreign filmmakers are likely to earn more than 25 per cent of the total box office revenue (Richeri, 2016; Su, 2017). There are, as a matter of fact, three types of co-production, namely joint production, assisted production and entrusted production, clearly defined in *China International Film Co-Production Handbook*[26] updated in 2017 and *The Provisions on the Administration on Chinese-Foreign Cooperative Production of Films* (2017 Amendment)[27] (hereafter '*the Provisions*'). The aforementioned preferential treatment applies only to joint production—"the way of production by which the Chinese and foreign parties *jointly* contribute capitals (including funds, labor or kinds), produce

[26] 中外合拍影片简明手册与问答.

[27] 中外合作摄制电影片管理规定 (2017 修正).

films and share interest and risks"[28]. Assisted production—"the way of production by which the foreign party contributes capital, the Chinese party provides with considerations such *assistance* as equipment, apparatuses, sites and labor, and the films is done in China"[29], and entrusted production—"the way of production by which the foreign party *entrusts* the Chinese party to do films *on behalf of it*"[30], still have to go through import formalities and do not enjoy preferential treatment as domestic Chinese films. In other words, if a given film perceived, or considered, as a co-production by foreign filmmakers does not qualify as a joint production as delineated in the *Provisions*, the given film will still be subject to all restrictive measures on foreign films before and after film entry, and foreign filmmakers will not be able to earn more than 25-per cent margin as intended (Su, 2017).

Moreover, co-produced films, as with other legitimately produced films in China, are subject to content censorship delineated in the *Regulations on the Administration of Movies*[31]. However, such content censorship imposed on co-produced films occurs not only in the pre-production phase but also in the post production phase. In practice, all co-produced films require pre-production approval from the responsible film regulatory authority before the actual film production or filming takes place, as well as post-production approval from the same authority before these films can be legally distributed within China. In addition, as argued earlier, film content review is processed in a non-transparent manner and the film regulatory authority has the power to stop a film co-production project at any stage by denying content review approval, which inevitably poses economic risks to parties involved in Sino-foreign film co-production (Montgometry, 2004; Richeri, 2016).

Another concern that might arise in Sino-foreign co-production is the appealingness of the resulting film to the audience outside China. All co-produced films, in order to be recognized as a joint production, are required not only to follow the content regulations listed in the *Regulations on the Administration of Movies*, but also to fulfill the following criteria: (1) no less than 20 per cent of investment from the Chinese partner; (2) one-

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[28] Article 5(1), *The Provisions on the Administration on Chinese-Foreign Cooperative Production of Films* (2017 Amendment) (emphasis added).

[29] Article 5(2), *ibid* (emphasis added).

[30] Article 5(3), *ibid* (emphasis added).

[31] Article 1 of the *Provisions on the Administration on Chinese-Foreign Cooperative Production of Films* (2017 Amendment) also explicitly reads "These provisions are formulated in accordance with the *Regulation on the Administration of Movies* …".

third or more of the leading cast must be Chinese; and (3) there must be a Chinese theme or elements (Miao, 2016; as cited in Su, 2017, p. 485). These criteria have been added by SAPPRFT, the then film regulatory authority, to prevent foreign film producers, especially Hollywood producers, from enjoying preferential treatment granted to joint production with very limited “Chinese elements” (Su, 2017). As a matter of fact, stringent film content review in China has already resulted in domestic film producers’ choosing relatively safe topics (e.g., history, fantasies or wuxia) to avoid domestic controversies while complying with state regulations, which in turn may make Chinese films less appealing to the wider global audience (Lovric, 2018). Content review along with the inclusion of Chinese themes or elements may also put foreign co-production partners in a similar situation. A good example is *The Great Wall* (2016), a China-US co-production directed by the renowned Chinese director Zhang Yimou as well as featuring Hollywood superstars (e.g., Matt Damon) and popular Chinese actors (e.g., Jing Tian). This film also included “Chinese elements”—e.g., the Great Wall. Despite all these efforts in directing, casting, screenwriting, etc., *The Great Wall* did not perform well financially in the Chinese and American markets, nor seemed to appeal to the international market (Su, 2017). There were, of course, some other issues contributing to the failure of *The Great Wall*, such as “whitewashing” or “redwashing” conflicts between Hollywood and Chinese film production systems (Su, 2017, p. 487), or language and cultural differences (Peng, 2016, pp. 305–306). All these issues would inevitably add more uncertainties to the functionality and the resulting viability of a Sino-foreign co-production.

5 Discussion

5.1 Complicated nature of films

China, after its accession to WTO, has been a major market force in international trade, which can be seen from the fact that China was ranked first and second in exports and imports of goods[32], respectively. In addition to its increasing influence on the world economy, China also has the world’s largest population—approximately one-fifth of the world’s population. Such large population, along with the economic expansion to less developed cities, makes China a promising country of a large group of potential

[32] World Trade Organization, Trade Profile: China, last accessed 22 August 2019: http://stat.wto.org/CountryProfile/WSDBCountryPFView.aspx?Country=CN.

consumers with increased or improved purchasing power (Mangin, 2010). For foreign filmmakers who have the economic rationale to distribute their films at international scale, China is no doubt a go-to country for economic return on their ever-increasing costs throughout the process of film production. Despite the economic rationale of filmmakers and China's promising consumer market, the dual nature of films—as economic commodities and cultural goods—has made international trade in films controversial and difficult, which could already be seen in a series of negotiations within the WTO regime between the United States which pays more attention to the economic aspects of films, and European communities which pay more attention to the cultural aspects of films. Such controversy and difficulty are especially the case in China, as reflected in the restrictive measures by the Chinese government on foreign film import for ideological and economic reasons. Ideologically, the current censorship regime in China, partially as a result of the propagandist nature of films in China in the past, aims to ensure that the ideological and political elements embedded in films do not, and will not, disrupt the unity or integrity of the Chinese society as a whole. Economically, the restrictive measures of import quota, blackout period and perhaps the 'special circumstances' could be seen as an effort by the Chinese government to protect its domestic productions from competition of foreign productions, especially Hollywood productions, as well as to facilitate the industrial development of its domestic film industry.

5.2 Unbreakable censorship regime

Considering imports of foreign films in China, the United States has played an important role in opening up Chinese film market. In the landmark *China—Publications and Audiovisual Products* case, the United States, the plaintiff, seemed to successfully reshape some of China's film import policies, such as the increase in foreign film import as well as the increase in revenue-sharing percentage for foreign filmmakers. It should be reiterated however that this landmark case did not directly address the issue of content censorship but the 'means' by which the objective—censoring film content deemed inappropriate—is achieved. This could be seen in the process of dispute settlement that the United States did not challenge the necessity of content censorship to protect public morals but the availability of less restrictive measures, and the Panel also took a rather broad view of “public morals” set in the *US—Gambling* case[33] that “[member nations] should be given some scope to define and apply for themselves the concepts of ‘public morals’…in their respective territories, according their own systems and scales of values.”[34]

This unchallenged content censorship, compared with other restrictive measures on film import, therefore remains the biggest and the most difficult hurdle for foreign filmmakers to overcome. On the one hand, content censorship determines whether a given foreign film is allowed to enter the Chinese film market. Current legislation governing content censorship of foreign films—i.e., *Regulations on the Administration of Movies*—provides, nonetheless, a vague list of prohibited content allowing film regulatory authority to make broad interpretation and to remove a given film from the market under ‘special circumstances’. In addition, the process of content review has been criticised for its opaqueness. Such vague list of prohibited content and opaque process of content review make Chinese censorship lacking legal predictability, which inevitably poses great challenges to foreign filmmakers. On the other hand, content censorship requires foreign filmmakers to modify or delete certain scenes that are considered inappropriate by the film regulatory authority, which can incur additional costs to foreign filmmakers. The recent restructuring of film regulatory authority from SAPPRFT to the CPC Central Propaganda Department also implies a more stringent, rather than loosened, policy concerning film censorship (Song, 2018), and therefore an even more unbreakable censorship regime in China.

5.3 Revenue sharing, flat fee or co-production?

Under the restrictive access condition of the Chinese film market, with the Chinese government acting as a prominent gatekeeper, revenue sharing, flat fee and Sino-Foreign co-production are currently three modes of entry available for foreign filmmakers. Given the economic rationale of foreign filmmakers, the revenue sharing system allows foreign filmmakers to receive maximum 25 per cent of gross Chinese box office revenue with Chinese distributors bearing the costs of all prints, advertisement and other costs such as local taxes. Nonetheless, content censorship may add costs incurred by modifying film content to foreign filmmakers, and blackout

[33] United States—Measures Affecting the Cross-Border Supply of Gambling and Betting Services.

[34] Panel Report.

period and short notice window may hinder foreign filmmakers from achieving the economic potential of a given film in the Chinese market.

In the flat fee system, in contrast, foreign filmmakers are not entitled to a fraction of gross Chinese box office revenue but a fixed price agreed with the Chinese distributor. Films imported on a flat fee basis are subject to content censorship, but not blackout period nor short notice window, as Chinese distributors will have the full control of the films after their entry into the Chinese market. Although a hybrid system combining revenue sharing and flat fee systems has been noticed, for example, in the import of *Resident Evil: The Final Chapter* (2016), such a hybrid system happens only when the box office of a given foreign film in China has exceeded a certain threshold, and the exact percentage of revenue to be shared by the foreign filmmakers remains unknown.

If considering potential economic return of a foreign film in China, film entry by Sino-Foreign co-production appears to be a more viable option than revenue sharing and flat fee systems, as foreign filmmakers are entitled to receive more than 25 per cent of box office revenue in China and the co-produced film is subject to preferential treatment as domestically produced film. Such preferential treatment, nonetheless, does not include content censorship as all films, whether they are foreign or domestically produced, are subject to content censorship in China. As a matter of fact, films under Sino-Foreign co-production need to be submitted to the film regulatory authority for approval both before and after the production. In addition, Sino-Foreign co-production may entail hidden uncertainties for foreign partners, such as the uncertainty concerning a given film co-produced by a Chinese and foreign film production films will be recognised as a Sino-Foreign co-production, therefore enjoying preferential treatment. The stringent control on film content—the inclusion of Chinese themes or Chinese elements along with prohibited content listed in the *Regulations on the Administration of Movies* in the case of Sino-Foreign co-production—may have a negative effect throughout the process of film production and could make the resulting film more appealing to the Chinese market but less appealing at an international scale.

The aforementioned economic potential, barriers and additional risks involved in revenue sharing, flat fee and co-production systems are summarised in Table 4.

Table 4. Summary of film entry modes

	Economic potential	Barriers before entry			Barrier after entry	Additional costs/risks
		Content censorship	Import quota	Short notice window & blackout period	'Special circumstances'	
Flat Fee	• Fixed price as negotiated with Chinese distributors • No fraction of the gross box office revenue in China unless the performance exceeds certain threshold	**YES** (censorship before entry)	**YES** (30–40 per year)	**YES** (but do not affect foreign filmmakers)	**YES** (but do not affect foreign filmmakers)	• Additional costs incurred by the modification of certain scenes deemed inappropriate
Revenue Sharing	• Maximum 25% of gross box office revenue in China	**YES** (censorship before entry)	**YES** (34 per year)	**YES**	**YES**	• Additional costs incurred by the modification of certain scenes deemed inappropriate
Sino-Foreign Co-production	• More than 25% of gross box office revenue in China	**YES** (pre- and post-production censorship)	**NO**	**NO**	**YES**	• Preferential treatment as Chinese domestic film only applies to films recognised as joint production by film regulatory authority • Content censorship and required Chinese element could make films less appealing to market outside China

6 Conclusion

The purpose of this thesis has been to examine films for theatrical release and their entry to the Chinese market by asking the following questions:

(1) What are the characteristics of films that make them controversial in international trade?;

(2) What are the (economic) opportunities?; and

(3) What are the (institutional) barriers to the Chinese film market before and after film entry?

As this thesis shows, films for theatrical release can be seen as both carriers of price (i.e., economic/monetary aspect) and carriers of culture (i.e., cultural/ideological aspect). While the economic/monetary aspect of films is one of the key drivers to the international trade in films not only for return on investment in film production but also for profitability, the cultural/ideological aspect of films often makes trade in films across border controversial and difficult, as witnessed in the ‘trade versus culture’ disputes in WTO negotiations.

In the context of Chinese film market, the cultural/ideological aspect of films seems to be of a greater concern to the Chinese government, as films were previously used as a propaganda tool promoting those ideologies pursued by the Chinese Communist Party and therefore the Chinese government. While the recent economic growth in China is undeniable and its growing film market, in terms of theatrical infrastructure, number of admissions and the resulting gross box office revenue, makes China a promising country for non-Chinese filmmakers to pursue their economic return, the Chinese government is undoubtedly a prominent institutional gatekeeper which imposes various restrictive measures on foreign film import. Among all the restrictive barriers identified in this thesis, content censorship plays a crucial role, as it serves not only as a before-entry barrier determining whether a given foreign film is allowed to enter the Chinese film market, and/or whether modifications of certain scenes within films are required before entry, but also as an after-entry barrier enabling film regulatory authority to remove a given foreign film from Chinese theatres under ‘special circumstances’. Moreover, the current modes of foreign film entry, namely revenue sharing entry, flat fee entry and co-production, are all subject to content censorship. Such content censorship, according to the findings of this thesis, shows no sign of loosening but strengthening, which can make it more difficult for foreign filmmakers to enter the Chinese film market regardless of which entry mode chosen. It is therefore recommended that filmmakers take a comprehensive look into economic potential, barriers before and after film entry, as well as additional costs/risks, before engaging in any of the three film entry modes.

6.1 Limitations

This thesis, focusing on the opportunities of and barriers to foreign film entry into the Chinese film market, has primarily two limitations. Firstly, the ‘Chinese film market’ here does not include Hong Kong nor Macau due to the fact that both belong to the Special Administrative Region of China and may have different legislation and policies associated with the film industry of respective regions. The observations and discussions in this thesis therefore cannot be applied to Hong Kong and Macau. Second, this thesis concerns ‘films for theatrical release’ only, and thus foreign films imported in other formats, such as Blue-ray, DVD or online streaming/video on demand, have not been discussed. Considering that foreign films imported to China in the aforementioned formats might be governed by different governmental authorities (e.g., Ministry of Culture) and regulated by a different set of rules, they are worthy of a comprehensive study in the future.

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