Modern China’s Treaty-port Economy in Institutional Perspective

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The eight empirical studies presented in this volume illustrate the complex relationship of institutional change and higher efficiency economic performance within the historical context of modern China. Together they suggest what an institutional approach can offer in assessing China’s long-term economic development.¹ These studies also suggest how the discourse on institution and performance can be informed by the specific China case study.

In this introductory essay, we offer an analytical framework under which the empirical studies are organized so as to address the above-mentioned issues. We draw first on John King Fairbank’s classical account of the treaty-port system and an extended conceptualization of this historical phenomenon, which leads to the notion of a form of regional economy in modern China that we refer to as the treaty-port economy. Following that we outline the rise of the treaty-port economy based on the well-documented context of China’s economic development from the mid-nineteenth to the early decades of the twentieth century. The third section contextualizes the institutional framework of Douglass C. North in light of the Chinese treaty-port economy. The final two sections give a brief account of each empirical case and organized them under the two

¹ Naturally it does not mean that every contributor to this volume shares the same institutional concerns. Rather, the diverse approaches of their individual research agendas on the modern Chinese economy converge in a mutually reinforced institutional conceptualization that constitutes the main task of this introductory essay.
themes of performance under institutional change and of dynamics in institutional change. The chapter then concludes with theoretical reflections that arise from the themes and empirical studies presented in this book.

1. The Advent of the Treaty-port System

1.1 The Genesis and Evolution of the Treaty-port System

The advent of the treaty-port system in China began with the Opium War and the Treaty of Nanjing in 1842. The series of treaties signed between China and various foreign powers during the nineteenth and early twentieth century were unprecedented in Chinese history. John King Fairbank and other scholars have meticulously detailed the evolutionary process of this political structure over the past four decades. This system did not start to decline until the 1930s and was not formally abolished until 1943, primarily as a result of the new China policy formed by Great Britain and the United States in the Second World War (Kirby 2000:179-204). The core component of this system was a group of treaty ports, whose number increased from five in 1842 to ninety-two by 1917 (Feuerwerker 1983:129). In his final synthesis of this treaty-port structure, Fairbank provides a succinct account of its common institutional features as outlined in the following sections (Fairbank 1992:201-5).

The treaty port was typically an urban setting, known as a concession or settlement, which was inhabited primarily by foreigners, and an ever-growing population of Chinese nationals. The concessions were normally located adjacent to or within a major city and most often in close proximity to a waterway for ease of transport. The treaty port was regulated and governed by a consul, or by individuals with similar diplomatic standing. Foreign establishments such as clubs, churches, and racecourses were prominent features of the concessions. In certain major treaty ports such as Guangzhou, Xiamen, and Fuzhou landed foreign garrisons protected the concessions, and in other cases foreign gunboats regularly patrolled the neighboring waters. Extraterritoriality granted by the treaties enabled foreign nationals to avoid being subject to Chinese civil or criminal law. Instead they were answerable to the laws of their respective countries. In certain larger concessions such as Shanghai the treaty-port legal system was so pervasive that even Chinese nationals could be tried in that system (Mühlhahn 2007:191-93). There was a high concentration of foreign business interests in these enclaves, originally focused in trading, but after the 1890s, expanding into areas of direct investment in sectors such as industry and finance. The businesses in treaty ports were first dominated by the foreign taipans and their Chinese compradors. Again following the 1890s, there were increasingly more Chinese business interests either independently run or managed in collaboration with foreign businesses. On the one hand, these concessions witnessed immense pockets of wealth and prosperity; on the other they were characterized by crowds of cheap manual labors (coolies) and the poor. The treaties imposed a fixed, low tariff on China that was implemented through the Chinese Maritime Customs Service. This organization was led by expatriates whose branch offices operated in most treaty ports. In this way, the customs service maintained control over foreign trade. It is important to note that the aforementioned treaty-port institution was not engineered by a single
architect with a rational design. Rather it was the product of successive generations of foreign diplomats who, with the best interest of their individual countries in mind, gradually shaped a structure either by force or by negotiation. The most-favored-nation clause in these treaties allowed each foreign power to share whatever privileges other powers might receive, which resulted in a considerable amount of consistency in the evolution of the treaty-port system (Fairbank 1968:257-75; 1978:Chap.5; 1983:20-27; Feuerwerker 1983:128-207). In short, the system provided internationalization, urbanization, and industrialization to an urban population on Chinese soil under a politically and legally stable environment, which proved conducive to a large-scale industrialized market economy characterized by heavy investment.

China entered into these disastrous international treaties primarily as the result of military defeats or due to its inferior international position. Although these treaties were signed as international treaties, the agreements were perceived by the Chinese as being highly inequitable. And as Chinese nationalism emerged at the turn of the last century and quickly evolved into a major political and social force in Chinese society, the treaty ports increasingly became a symbol of national humiliation and Western imperialism. Despite the specter of imperialism, the treaty-port system was, as Fairbank demonstrated, the single most important means by which China came into contact with the outside world from the nineteenth century. It therefore also accounted for many new developments in modern China. Whether they were intended or not, these consequences demand more scrutiny, and it is the economic aspect of these consequences that comprises the focus of the eight studies in this book.

1.2 The Treaty-port System and Treaty-port Economy

While the descriptive notion of the treaty-port system has benefited immensely from the excellent scholarship of Fairbank and others, there have been relatively few examinations of the treaty-port economy per se. The term “treaty port” has been used historically as a synonym for the modern economic sector, the treaty-port urban economic sector, or the industrialized sector (Bergère 1989b). All of these usages imply that it was only under the treaty-port system within the Chinese treaty-port sectors where one could observe significant economic modernization, as measured by the growth of internationalization, urbanization, and industrialization—the three key indicators of modern Western economic performance. However, there is certainly more potential in the theoretical implications of the term treaty-port economy, and it is in this new context of potential implications that the current volume organizes its empirical cases, thereby illustrating a broader theme that transcends local details.

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2 See the contemporary debate on the issue of extraterritoriality in Woodhead (1929). For more recent work on the inequitable treaties, in particular on the backdrop of nationalism, see Wang Jianlang (2000), Li Yumin (2005), and Dong Wang (2005).

3 What we deal with in this volume are primarily new institutions that impacted the economy rather than the old issue of modernity versus tradition. See Cohen (1997; 2003) for his landmark criticism of Eurocentrism in both modernization theory and modern/tradition approaches in American scholarship on modern China.
First, what is meant by a treaty-port economy? On the surface, it appears to indicate an economy that was centered at a treaty port. But this generic definition is too simplistic for our purposes as every treaty port necessarily contained an economy, and there was often a great disparity between the economic fortunes of the various treaty ports and their respective economies. Certain of these economies performed well based on the standards of Western economic performance, while others remained in a stagnant and preindustrial state. What are of most interest to us in this study are those treaty-port economies that supported modern businesses, industries, and urbanization. In this sense we are primarily speaking about treaty-port economies that were highly internationalized, industrialized, and urbanized. In the 1910s, there were perhaps no more than twenty out of ninety-two treaty-port economies that would have met these guidelines. Barely four decades earlier, in the midst of the Self-Strengthening Movement, even Shanghai did not satisfy these standards, not to mention other treaty ports, some of which had already come into being for over a few decades. It means that a historical treaty port by itself does not necessarily develop a “treaty-port economy,” as the term is defined here.

Our second meaning refers to the spatial scope of the economy. When we mention a particular economy, we often imply some spatial connotation in order to qualify its scope for measurement. Without exception, when we refer to a treaty-port economy that has a city (treaty port) as its center, it contains a spatial dimension. G. William Skinner described China’s economy as the aggregate of many interrelated and multilayered regional and local economies (Skinner 1977b). The treaty-port economy can also be viewed as an economy with a spatial context that is centered at the treaty port (a central place), which subsequently spilled over economically into the neighboring territories. To the extent that there was a considerable degree of economic integration between the outlying areas and their center (treaty port), together they can be conceived of as an identifiable economy, even with varying degrees of integration within the spatial unit, radiating from its core to the periphery.

Furthermore, the boundaries of these economies were never fixed. Often they did not follow administrative boundaries and first and foremost were defined on economic terms. Prosperous treaty-port economies often appeared to have been expansive and pervasive. This geographically expansive nature of the treaty-port economy leads to our third and somewhat paradoxical meaning. While economic integration took place in an increasingly expanded hinterland of a treaty-port economy, it does not imply that the institutional structure of the treaty-port system followed this expansion. In the more powerful treaty-port economies, the enforcement characteristics of its institutions should have been proportionally stronger at the core than in the peripheries. Related to this, the cities or villages outside of the treaty-defined jurisdiction of extraterritoriality should have contained a diminishing order of enforcement in regards to the institutional matrix.

Finally, from an economic viewpoint we may venture conceptually to extract key components from the previous description of the treaty-port economy, i.e., the treaty port itself and its inherent imperialist elements. What then remains are forms of internationalization, urbanization, and industrialization under a politically and legally stable environment. These
suggest the existence of—sovereignty issues aside—a “treaty-port economy” without a treaty port. Few examples of this existed in the context of modern China though the Beijing economy of the 1910s and 1920s comes close to this notion.

Within the confines of Beijing there was a certain degree of political stability and established rule of law. Despite the successive civil wars among the Beiyang warlords, relatively little actual fighting occurred in the urban areas of Beijing, other than the occasional looting. Foreign garrisons were stationed in the heart of the city after the Boxer Rebellion for the purpose of guarding the diplomatic community. The city was effectively regulated by its Gendarmeries and New Police force (Dray-Novey 2007), and it contained an emerging modern industrial and commercial sector as in Shanghai. Although its scale and output could not match that of the latter city, Beijing did house the largest number of modern banks in China prior to the late 1920s. Modern businesses in Beijing also grew to the extent that an increasingly assertive Chinese Chamber of Commerce gradually took shape and began to perform functions not dissimilar to its counterparts in Shanghai and other treaty ports (Strand 1989). The highly efficient Chinese Maritime Customs Service actually established its headquarters in Beijing. The central judiciary of the Republican government in Beijing was committed to legal reform and, together with the Ministry of Justice, made every effort to enhance the overall quality of civil litigation and the enforcement of the judicial decisions on commercial litigations (Xu 2008). Based on these factors it is possible to view Beijing’s economy as an abstract notion of the treaty-port economy.

Another treaty-port economy that fits within this conceptual context is Hong Kong, for which the only issue would be sovereignty. After the level of abstraction allows the removal of the components of the treaty port and sovereignty, it is conceivable that Hong Kong, Kowloon, and the New Territories—along with the adjacent Guangdong counties—constituted an increasingly integrated regional economy in the early decades of the twentieth century. Of the empirical studies presented here, Chapters 7 and 8 deal specifically with this treaty-port type of regional economy.

One final point that requires clarification is the exact usage of the term treaty-port economy in this volume. When it is used to refer to a particular treaty-port economy, such as the Shanghai treaty-port economy, or with the connotation of referring to a treaty-port economy centered in an unspecified single treaty port or a cluster of hierarchal treaty ports, its meaning is confined to a single economic entity. However, at times the term may be used more generically to refer to the treaty-port economy as a whole, which represents the aggregate of all the treaty-port economies. The different connotations of these two usages will manifest themselves in the context of further discussion.

2. The Emergence of the Treaty-port Economy

2.1 Performance Converging with Industrialized Economies

Hamashita (1989) gives a succinct account of the workings of the Maritime Customs Service in the treaty ports.
Although the treaty-port economy never constituted more than ten percent of the GNP of the entire country, it is well documented that it developed slightly faster than other regions of the country and began to gain real momentum beginning in the 1890s, achieving its most rapid growth throughout the 1920s and 1930s. Thomas Rawski’s (1989:70) research finds that the annual growth of the manufacturing sector of this economy from 1912 to 1936 grew at an estimated 8.1 percent, which compares comfortably with other advanced and industrializing countries such as Japan (8.8) and the United States (2.8). Light industries such as textiles, flour milling, cigarettes, and matches were especially robust economic sectors, and although there were important foreign interests, an increasingly large segment of Chinese investments and enterprises started to play a vital role in this sector. Output from this “enclave industrialization” established markets both overseas and across China (Naughton 2007:43-45). Rhoads Murphey’s landmark study (1974) describes the treaty ports and their influence on China’s modernization through the opening up of these cities to international trade. According to Rhoads Murphey, the treaty ports “increased stimulus of commercial production for export” by developing “concentrated commercial structure” and witnessed the outstanding growth of modern industries such as cotton textiles (Murphey 1974:51-57). However, Murphey was skeptical of the overall effect of the treaty-port system on the Chinese agrarian economy (p.39). Chapter 2 revisits this growth trend as a result of internationalization.

The 1920s Depression significantly impacted China as a whole and the treaty-port economy in particular because of its high degree of internationalization. The hardest hit areas were in the exports and imports sector. Bergère (1989b) points out that amid the post-war depression in 1921 to 1923, Chinese foreign trade declined, yet its modern industries, concentrated in the treaty-port economies, continued to expand in terms of capital investment and output. From 1931-36, Myers (1989) has shown that the decline in foreign trade was bolstered by the expansion in domestic trade. Although the agricultural annual growth rate contracted by 0.02 percent, manufacturing and services, mainly concentrated in the treaty-port economies, expanded at rates of 2.11 and 1.55 percent respectively, which contributed to an annual GDP rate of 1.55 percent amid the negative repercussions of the Depression, the outflow of silver, and a decline in wholesale and factor pricing. These points demonstrate the resilience and adaptability of the treaty-port economy in withstanding the fluctuations of international markets.

Treaty-port economies driven by light industries also expanded into a larger section of the outlying rural areas. As growth typically came from light industries such as textiles and flourmills, there was an amazing amount of potential for Chinese entrepreneurs to tap into their local social networks and to develop commercial links with the agricultural production households. This assisted them in diversifying not only the production line but also the supply of raw and semi-processed materials that were used in mechanized assembly-line production in the urban factories. In this regard, Chinese entrepreneurs had an edge over their foreign competitors.

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5 For a succinct reassessment of the scholarship on and complex estimates of Republican agricultural growth, see Brandt (2000).
Chapter 2 describes this rural spillover effect in the Lower Yangzi Delta region and Chapters 4 and 5 provide examples of the cotton textile industry as well as the wheat and rice flour industries. Chapter 6 explores the rationality and consequences of agricultural household behavior within the context of a set of factor markets in an area of Jiangsu province that made possible the spillover effect of the treaty-port economy.

2.2 Negotiated Convergence of Models and Practices

How was modern economic performance accomplished in the treaty-port economy? It is likely that the host of interlocking factors in the enclaves were not created specifically with the kind of treaty-port economy we discussed here in mind. First and foremost among these factors was technology transfer, which constituted a necessary condition for modern industrialization as embodied in machinery-driven factory production. Technology transfer enabled lower transformation cost, standardized output, and increased manufacturing efficiency. This transfer grew from a combination of experience learned from foreign factories in the treaty ports, and from direct observation, participation, and education abroad in Japan and various Western countries beginning in the late 1890s. However, technology transfer even took place during the Self-Strengthening Movement in the 1870s and 1880s, but during this movement, the transfer did not generate the type of economic performance witnessed in the early twentieth century of the treaty-port economy.

Secondly, beginning in the 1900s managerial experience and corporate governance became key components of this knowledge transfer. A wide range of new business models and practices developed in the West, beginning with the Industrial Revolution and the advent of the capitalist market, were injected into the millennium-old traditional Chinese business model. Of most importance, these models were actively promoted and articulated by businessmen, government officials, and influential intellectuals.

This leads to the third factor: The implantation of the corporate model into the Chinese business world (see Chapters 8 and 9) in the early twentieth century. One of the major issues involved in the adoption of the corporate model, as outlined in the next section and in more detail in Chapter 9, was how to significantly enhance Chinese business and large-scale industrial organizations so that they could compete with the foreign enterprises. Many Chinese at the time apparently believed that a corporate model was necessary to promote impersonal investment and a broader capital market in order for Chinese businesses to tap into the required financial support. Finally, Cochran (1980; 2000) has shown the complex interplay—marked by a combination of rivalry, collaboration, and knowledge transfer—between Chinese and foreign business interests in the modern economic sector, or, in our context, the treaty-port economy, as well as between the traditional Chinese model (network) and Western model (corporation). The hybrid convergence of Chinese and Western (Japanese as well) business institutions and practices generated a remarkable outcome. How these institutions can be conceptualized for more systematic interpretation is the task of the next section.
3. The Institutional Matrix of the Treaty-port Economy

3.1 The Northian Framework in Chinese History

In order to better understand the interplay between institutions and economic performance in historical as well as modern societies, Douglass C. North articulated a conceptual construct (North 1991; 1995; 2005) that became the foundation for the Historical New Institutional Economics (Harris 2003). While there are a number of successful applications of the Northian framework in various historical contexts (Alston, Eggertsson and North 1996; Greif 2006), its influence on Chinese history or Chinese economic history has not been as readily apparent. This volume attempts to contextualize this framework in the case of the treaty-port economy. But to begin with, it is imperative to outline the key structure of the Northian framework, in particular that which is most relevant to our study.

In North’s conceptual construct, *institution* is a category of abstract implication broadly defined as “the rules of the game in a society,” and is differentiated from a more specific usage of the term *organization*, referring to such social entities formed within the given institutional matrix of a social environment (North 1991:3-4, 73-74). In a nutshell, the Northian framework postulates an institutional matrix for any market economy. There are three key factors that constitute this matrix: a) formal institutions such as the legal system and other official regulatory infrastructures that constrain transactional behavior; b) informal institutions such as codes of conduct and social patterns that also restrain transactional behavior; and c) their enforcement characteristics. It is the interwoven nature of these three factors that affects the economy’s transaction cost. North defines transaction cost as the expenses necessarily implied in market transactions, such as measurement cost, agreement (contract) enforcement cost, and the cost of maintaining property rights, among others.

When an economy’s transaction cost is reduced in a significant way, new opportunities for higher profit margins arise, as do the incentives for entrepreneurs to seize upon such opportunities. This process generates dynamics of growth, which in turn improves economic performance. The most efficient way to reduce transaction cost

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6 There are only a few examples of this and none published prior to 2000. So (2000) has explicitly incorporated the Northian framework with the spatial approach of G. William Skinner to create an analytical framework for the interpretation of a premodern Chinese maritime economy in the southern part of Fujian from the tenth to the fourteenth century. See also Buoye (2000). Note the warnings about the misuse and abuse of Western legal categories such as civil law, property rights, and contracts in scholarship on China by Scogin (1994), Zelin (2004a), and Ocko (2004).

7 For further explanation of these categories and terminologies of New Institutional Economics, see Powell and DiMaggio (1991) and Ménard and Shirley (2008). For discussion of the cultural dimension of institutions, see Meyer and Scott (1992); Scott, Meyer and Associates (1994); and Brinton and Nee (1998), especially the account of the sources of the new scholarship on institutionalism in sociology and economics by Victor Nee (Nee 1998:1-16). Articles collected in Nee and Swedberg (2005) give an excellent overview of the diverse meanings of institution in the social sciences, in particular that which is applied in the economic sociology of capitalism.
with a perpetuated and significant impact is to alter major market institutions—so-called institutional change. Institutional change can occur in all three aspects—formal institutions, informal institutions, and enforcement characteristics. The more aspects of the matrix that are affected by change, the greater impact the institutional change will have on transaction cost and economic performance. To account for the West’s modern economic success since the Industrial Revolution, North further argues that the pattern of institutional change underscores the enormous dynamism behind the growth, in particular the development of the rule of law for third-party impartiality within the formal institutional dimension, which enables widespread impersonal investment in large-scale business ventures. This in turn is a necessary condition for large-scale investment in the manufacturing industrialization sector to take full advantage of modern science and technology. The remaining issue is how and why institutions change, ultimately resulting in higher efficiency. The Northian framework is built on an assumption of the culturally bounded rationality of entrepreneurs who seek to maximize profit by deliberately maneuvering to alter the institutional matrix to their advantage. As the matrix shifts through the effort of the agents of change, others follow in its wake and momentum builds, resulting in the overall upward performance of the economy.

How might this framework be illustrated in a Chinese treaty-port economy? We have already outlined the remarkable economic growth achieved in the treaty-port economy through the first few decades of the twentieth century. So the question then becomes: How did it happen? Numerous supply and demand factors are at work, given the economy’s internationalized background. For instance, the relative prices of the factor and demand markets link the modern production sector of the treaty-port economy with the overseas markets of advanced countries such as the Western powers and Japan. But to account for this performance, which was sustained for decades, even through the financial turmoil of the postwar years and the Depression, relative prices in supply and demand alone may not be adequate explanation. It is useful also to look at the institutional dimension of the story. In the following subsections we will relate salient developments of the treaty-port economy in light of the three key factors of the Northian framework so as to illustrate the institutional change that took place concurrently with the economy’s expansion.

3.2 Formal Institutions and Their Enforcement Characteristics

A legal framework is the major formal institution in a treaty-port economy, which includes a dispute settlement structure, property rights defining ownership, a regulatory framework for business firm organization, and contract law to regulate transactions between owners of exchanged items. One of the basic features of the treaty-port system was its Western legal framework. This was used as a powerful argument for any Western power to justify the imposition of unequal treaties on China. Treaty ports were created based on the belief that Chinese law was too backward and incompetent to render fair and just trials and dispute

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settlement for foreigners on Chinese soil, which ultimately led to the aforementioned extraterritoriality. Extraterritoriality was embodied in and implemented through exactly such a treaty-port system. In the Shanghai concessions there were locally formed municipal courts, but in other treaty ports that lacked a structured court system autonomous from the Chinese local judiciary, adjudicating mechanisms were managed by the local foreign consuls. Treaty-port economies generally contained a formal judicial infrastructure where commercial disputes could be adjudicated, usually applying Western commercial laws. This legal system was generally regarded by both foreigners and influential Chinese as more fairly implemented and efficiently enforced than the Chinese national legal system (Stephens 1992). In major treaty ports such as Shanghai there could be found not only well-established court systems but also a legal professional community included both foreign and Chinese practitioners. The professional standard of legal practice in these major cities was reasonably high (Xu 2001). As the legal framework in the treaty ports primarily followed that of the Western powers, it converged with the broader legal institutions in the Western business world. Under this broader Western legal framework, private property rights were more clearly defined and protected than under Chinese imperial law. This fits well with the Northian theoretical underpinnings of lower transaction cost, clearer property rights, and improved contract enforcement, all under a theoretically more impartial third-party legal system of adjudication. As the only possible way to achieve economic growth at the turn of the twentieth century was to follow the pattern of Western industrialization and large-scale investment in mass production—such as in Meiji Japan—it is understandable that the treaty-port economy possessed exactly this very same institutional matrix that had been constructed for the purpose of profit maximization. This precise structure and its underlying maximization code of conduct became more prevalent in the Western business world after Adam Smith.

However, a crucial distinction remains between the legal system of a treaty-port economy and that of the rule of law in Western societies. It is common sense that the liberal ideal of the rule of law cannot be realized without the separation of powers among the executive, legislative and judiciary. But under the treaty-port system, the judicial apparatus was always a component of colonial or semi-colonial rule, which by nature bore little resemblance to the separation of powers in a democratic constitutional order (Weingast 1997). Adjudication by consuls in a concession demonstrated no institutional autonomy of judicial decision. Nor could the more professional Shanghai Mixed Court claim to be independent from the interference of the foreign diplomatic community in China, as well as in their home-country foreign affairs offices. In this sense, the efficient legal system was hardly a representation of the Western liberal ideal of the rule of law, even though it did serve certain Chinese and foreign business interests, and does account for the economic performance from an institutional perspective.

Under the legal framework of the treaty-port economy, apart from the legal enforcement of contracts and the legal protection of private property with better defined property rights, a

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9 A voluminous amount of literature is available on this topic. For its implication on the Chinese legal system, see Peerenboom (2002) and Xu (2008).
significant new institution was the Western-style corporation, or joint-stock company with limited liability. Chapters 8 and 9 further elucidate the impact of this institutional implantation into the legal system in Hong Kong from 1865 and in China from 1904. Suffice it to say that this institution was seen by many contemporaries as a crucial force that would shape the competitiveness of Chinese businesses to the extent that it would determine the outcome of competition between Chinese and foreign enterprises. It represented the model of modern business that cherished expansionism and scale of economy for profit maximization. It also enabled impersonal investment and professional management (some referred to it as scientific management at the time), which set the foundation for the development of the stock markets and a new sector of financial and capital markets in China at the turn of the twentieth century.

Whether the corporate model and the stock and financial markets would work depended largely on the support of a service industry of law and accountancy that needed to be highly professional and self-regulated. In the treaty-port economy, these professional services were first supported by foreign lawyers and accountants employed by foreign companies, but from the turn of the century there were an increasing number of Chinese practitioners. Again supply and demand was concentrated in major treaty ports such as Shanghai (Xu 2001).

In short, with more efficient governance in place, these treaty-port economies not only had their own established court systems and law enforcement, but also enjoyed a better supply of the professional services that were crucial for the enforcement of a formal infrastructure that facilitated Western-style economic growth, especially in terms of scale and industrialization.

### 3.3 Informal Institutions and Their Enforcement Characteristics

It is simple enough to understand why Western business communities operating in a Chinese treaty-port economy thought it necessary to bring abroad informal institutions and mindsets from their home countries. Their innate sense of superiority under the veil of imperialism, as well as their missionary zeal to save the unenlightened world was incorporated seamlessly into the treaty-port style of quasi-rule of law. However, all of this was new to China, and the Chinese response is a more complicated story. Is it possible to identify new mindsets and informal institutions in the Chinese communities within the treaty ports, especially in the segments engaged in modern businesses and industries?

Long before the turn of the twentieth century there were influential veins of criticism of traditional Chinese culture and its institutions by the Chinese themselves. This momentum reached new heights after the 1911 Revolution, which expanded into the anti-traditionalism and anti-Confucianism of the 1910s and the May Fourth Movement (Chow 1967; Lin 1979; F. Wang 2006). This sentiment was especially strong and effectively disseminated in the treaty-port urban areas. Familial and business ethics that had intermingled for centuries in the market economy of late imperial China suddenly encountered internal challenges. These traditional modes of behavior were controversial in the society at large and they lost much of their market influence under this wave of anti-traditionalism.
New values also emerged in urban areas and soon became dominant ideologies, including nationalism and social Darwinism, which were highly pervasive in the intellectual communities (F. Wang 2008). Chinese merchants were immersed in these new values and ideals in their daily urban lives through the mass media and educational system. The notion that China might be facing the extinction of not only its sovereign state but also its nation, or race, was particularly widespread. This fear of extinction soon translated into a movement to strengthen and save China by bolstering its industry and economy, which was enthusiastically promoted by eminent intellectuals, government officials, and the business sector (See Chapter 9 by So and Lee). This movement created a new series of business ethics and an increasingly more positive view of merchants in Chinese society that had been established as far back as the twelfth and thirteenth centuries (So 2000), though it became much more prevalent by the sixteenth century (Y. Yu 2004). Imbuing business enterprises with such a high moral order of importance in Chinese society was a decidedly new invention. The business community was afforded an assertive new identity and could now claim that their actions were in the best interest of the public good, while at the same time removing the traditional embarrassment of maximizing self-interest. Only the legal framework now restricted the desire for profit.

This idea of profit maximization, so crucial to the entrepreneurship of modern and Western-style market economies, was not entirely absent from Chinese history (Brook 1998), but it was certainly now operating at an unprecedented level of social endorsement. Championed by the current Western, hence modern, knowledge of business and economics, most notably by the turn of the last century, profit maximization fit well with the ever-popular Chinese belief in social Darwinism and its natural principle of survival of the fittest (Kwok 1965; Pusey 1983; F. Wang 2008). In the business community, social Darwinism as applied to the market seemed to make sound sense. Furthermore, Western urbanism and its associated rich cultural milieu in the late nineteenth and early twentieth centuries also affected Chinese urban cultural change in treaty-port cities, particularly in Shanghai (Yeh 1997; 2000; 2007; Esherick 2000; Cochran, Strand and Yeh 2007). Recent studies have our understanding of the consumerism in these cities (Bergére 1989a; Cochran 2006; Gerth 2003; Dikötter 2007). It is therefore not surprising to see the profit-maximization mindset unleashed from its previous informal institutional constraints on market behavior in Chinese society. These new business ethics were in line with nature, hence scientific, and were purported to be the business model of modernity. It’s little wonder then that it was most evident in Shanghai, where, as observed by Leo Ou-fan Lee (1999), Chinese modernity began.

Following the emergence of this new treaty-port economy mindset, business mechanisms began to witness more widespread qualitative change. The traditional network and familial bonds, which used to hold a traditional business firm together internally and facilitate its transactions with other firms and individuals externally, began to give way to more legalistic organizational order and transactions. Although traditional ties remained important, Chinese entrepreneurs now had more options at their disposal. The new social fabric evolved into new networks, such as membership in social or jockey clubs, Christian churches, as alumni from modern schools (in
particular those run by missionaries), professional associations, and so on. Of these various groups the single most significant informal business institution to emerge in modern China was perhaps the Chamber of Commerce, which sprang up in major treaty ports and before long in most Chinese cities with significant commercial activity. There is already a substantial amount of literature on this institution and what needs to be highlighted here is the fact that this institution enjoyed unprecedented autonomy from governmental authority in the cities with treaty-port economies, whether or not the Chambers were actually located in treaty ports. The clearest example of this phenomenon can be found in the Beijing Chamber of Commerce in the 1920s. In Chapter 9, the institution’s role in shaping the second legislation of company law in China is noted.

These informal institutions soon became viable options for the Chinese business community. They provided new opportunities and at the same time also created behavioral constraints through implanted codes of conduct and virtue. To this we must add the notion of individualism, and its accompanying sense of right (Wang 1991:chap.9), which went hand in hand with the principle of an individual’s legal rights and the range of commercial laws that evolved to render protection to these entitlements.

At the time, the missionary schools provided the best form of modern education, and thus the best chance for upward mobility to increasingly more people in China. This was evident first in the treaty-port economies and eventually penetrated into the adjacent cities and outlying rural areas, as well as into the interior provinces. This system produced a major supply of new forms of native manpower with the skills and technological knowledge necessary to support the demands of a modern economy. The zeal for modernity together with the attraction of greater income may well account for the prosperity of this educational sector, and the missionary school model was often imitated by the national schools (H. Li 1997).

The treaty-port economy witnessed a wide range of interlocking new informal institutions and mindsets with a greater deal of dynamism than in other parts of China. The enforcement characteristics of these institutions made the treaty-port economy the center of gravity for economic modernity.

3.4 Institutional Change in the Treaty-port Economy

The institutional matrix of the treaty-port economy witnessed enormous changes both in the formal regulatory domain as well as in the underlying informal social fabric and mindset. They were also enmeshed and mutually reinforced in the unique urban settings created by the treaties. The newly emerged institutional matrix served to lower transaction costs and increased efficiency for the treaty-port economy as a whole. The concept of survival of the fittest and the controlled flow of the non-productive population in these enclaves ensured continued efficiency. It is no surprise that China’s modernized economy and its financial and industrial sectors
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appeared only in the treaty ports. There is a logical link between the remarkable performance of the Chinese treaty-port economy and its new institutional matrix.\textsuperscript{10}

Now we will contextualize the final issue of the Northian framework in terms of China: the matter of institutional change. The treaty-port economy and its institutional matrix provide a good case study for the theory. The agents of change for the establishment of the treaty-port system first and foremost came from the foreign diplomats, who developed the system over three successive generations without concerted effort or a starting blueprint. The system came into being largely as an evolutionary process. However, the diplomats often reacted to and addressed pressures and demands from entrepreneurs from their respective home countries. In this case the agents of change must also include the latter. Chapter 8 highlights the fact that for several decades the Hong Kong Companies Ordinance only attracted the registration of foreign ventures—no Chinese enterprises. This scenario of institutional change by agents of change who have an economic interest, attests to the theoretical postulation of the Northian framework.

The Chinese entrepreneurs are a more complicated case. Were they also agents of change? Before the 1890s, most Chinese involved in the treaty-port economy were compradors hired by foreign employers. Some might have had limited influence on their foreign taipans, but they could hardly be seen as agents of any real change or importance within the institutional matrix, either in the formal or informal domain. Beginning in the 1890s, different groups of Chinese entrepreneurs began to emerge in the treaty-port economy, and they eventually played a crucial role in the 1920s and 1930s. The first class of entrepreneur was originally from the segment of compradors—either comprador-turned entrepreneurs or second or third generation compradors. They were familiar with the system and had a solid international background and network. Their political and social influence in the treaty ports allowed them to shape the formal and informal institutions. The second type of Chinese entrepreneur evolved from the migrant-returnees. This group consisted of individuals who had migrated to foreign countries, most notably the United States and Australia, in the latter decades of the nineteenth century. While abroad they learned new business methods, accumulated significant wealth through hard work, and then eventually returned to China because of unfavorable legislation introduced in the 1880s in those foreign countries. Chapter 8 gives examples of these migrant-returnees in Hong Kong. These returnees had an even more developed international network and first-hand knowledge of the foreign powers and their societies, as compared to the compradors. Their local networks were also well maintained, which gave them a considerable advantage in tapping resources back home. With firsthand experience of participatory politics in Western countries, they also tended to be more assertive in fighting for their interests and rights. They soon became an important force of change in a number of institutions. The third group of entrepreneurs belonged to the Chinese merchants who had no comprador or international background, but who were invested with the business vision to see the myriad opportunities of the treaty-port economy. Engaging with the treaty-port economy was simply an investment strategy. The institutions of the treaty-port

\textsuperscript{10} So (2000) has discussed at length this logical link between institutional change and economic performance in the regional economy of premodern maritime China.
economy were not entirely within their control, but they were subject to their negotiations. From the 1910s, they constituted a majority of the newly emerging informal business institutions, for example, the Chambers of Commerce. By this time they also had formed the majority in the Chinese business communities in every treaty-port economy. Their role as agents of change varied but became increasingly crucial. Within the Northian framework, these various Chinese entrepreneurs were the postulated agents of change who could alter the matrix out of personal economic interest.

The last source of change came from individuals not engaged directly in business. These included Chinese who had converted to a Western life style and value system—either through education, travel, immigration, or religion. Some had been influenced by the new cultural movements advocated by influential intellectuals and the ever-expanding mass media. A good deal of this was initiated by people—both Chinese and foreigners—who had little concern for personal economic interest. Their active role in shaping the new institutions were driven more by altruism than profit maximization. To these we must add those who embraced nationalism and held the view that it was imperative for the sake of national salvation to compete successfully with foreign enterprises in the business world, which was reflected in the indices of industrialization, urbanization, and internationalization. They also abandoned the traditional legal and business cultures and fully embraced the Western legal and business system as a model of modernity and a worthwhile national goal. The unintended consequence of their zealous social missions turned out to be favorable for profit maximization. But regardless of intention, their noble efforts did help enhance the informal institutions that promoted Western-style modern economic growth in the treaty-port economy.

There were of course exceptions to this, such as the Marxists and others on the left who were not in favor of the treaty-port economy, which was seen as nothing but an exploitative product of Western capitalism and imperialism. One intriguing example is the institution of lawyers. Alison Conner has detailed the negative image of lawyers in left-wing movies of the 1920s and 1930s (Conner 2007). It is fair to say that not all Chinese intellectuals were receptive to profit maximization and its related informal institutions, and ultimately to Western capitalism itself. However, the anti-lawyer backlash in Chinese society was not significant enough to hinder the trend up through the 1930s, and lawyers certainly held even more power within the treaty ports. The issue of disparity and the disadvantageous position of rural farmers engaged in contractual borrowing as it is linked to the treaty-port economy are touched upon in Chapter 5.

We now will briefly outline the eight empirical cases presented in this volume in light of the current framework. The cases will be grouped into two categories: Five dealing with performance in the context of institutional change, and the other three with institutional change and its dynamics.

4. Performance of the Treaty-port Economy under Institutional Change: Five Cases

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11 For information on Marxism and the labor movements in modern China, see Dirlik (1999) and Perry (1993).
Chapter 2 (Ma) begins by presenting a new quantitative account of the economic growth in the Lower Yangzi Delta region with Shanghai’s industrialization of the 1880s to the 1930s as a backdrop; he next narrates the urban-based municipal institutional change that transpired in the city for the same period. Ma argues in this chapter for the significant impact of the infrastructure and foreign elements—ranging from business networks to various forms of expertise in every aspect of urban life—on the economic performance of the city under the treaty-port system. In the Far East the city was transformed into a modern metropolis. But it was the autonomous status of these enclaves that unleashed the immense Chinese dynamism of the market economy in a modern sense. A conducive environment for modernity was created in the treaty-port concessions that was unmatched by anywhere else in China. In this way Shanghai generated not only new and unprecedented commercial wealth but also a rich milieu of cultural transplantation and innovation, in which was embedded the new business ethos of profit maximization. Ma also pinpoints the paradoxical phenomenon that although the treaty-port system opened up abundant new economic opportunities to Chinese entrepreneurs who took advantage of this new institutional matrix, and subsequently did extremely well in the business world, the safe havens largely denied them greater political participation in their municipal self-governance; he then concludes with the fact that while Western institutional implants resulted in rapid economic growth in terms of industrialization and GDP indexes, economic development in modern China must still be observed in terms of the political economy rather than as pure market force.

Shiroyama provides in Chapter 3 a detailed narrative of the Shanghai real estate boom in the early twentieth century against the related institutional change. This chapter discusses how and why Shanghai’s wealth grew in a well-constructed real estate market. These urban markets made it possible for private and public individuals to expand their personal or public wealth. In some foreign settlements, such as Shanghai, land was leased, based on a complex contractual basis between Chinese landowners and foreign tenants. This institutional framework for land property evolved over time within the treaty-port urban governance structure. Major instruments are discussed at length to illustrate how the new institutions helped secure the property rights. This development induced a dynamism in the Shanghai real estate market that engaged Chinese and foreigners in a complex form of landownership and tenancy. The institutional framework for the better protection of individual property rights in Shanghai also generated a prosperous real estate dealership business. This Shanghai real estate boom no doubt supported the remarkable growth of a financial and capital market related to the mortgage industry, equity loans on landed property, and business lending on landed collateral by modern banks. It also promoted large-scale investment vital to modern businesses.

The third example (Chapter 4) concerns the divergent paths of the rice and wheat flour industries and the related institutional change. From 1900 to 1936, rice and flour markets both expanded but the former saw a proliferation of market agents without vertical integration as a result of the constraints of local customs, i.e., informal institutions. In contrast, the wheat flour trade, unconstrained by local customs, expanded its production capacity, which motivated firms in Shanghai to undertake institutional change, signifying vertical integration between production,
purchasing, and distribution. The vertical model of organization, which was conducive for large-scale investment, mechanization, the application of new technology, and widespread marketing and retailing networks catering for mass consumption, was far better facilitated by the new institutional frameworks that emerged in treaty ports such as Shanghai, e.g., corporate law and the capital market. Through this contrastive study of two trades that linked agrarian production to the urban markets of mass consumption, the correlation between institutional change and productivity and performance becomes discernible. Through the cases of rice and flour, it is also apparent that the treaty-port economy was able to achieve economic integration with rural regions beyond the boundaries of the treaty ports.

In Chapter 5 (Yip), Wei County in Shangdong province illustrates the economic integration taking place between the treaty-port economy and the local economies, which thereby changed the way local cotton textile production was conducted in institutional terms. Wei County experienced major economic transformations in the 1920s and early 1930s up until the outbreak of war. Treaty-port economic forces from Tianjin and other treaty ports, through both Chinese (and later Japanese) merchants, penetrated the highly stagnant structure of native cloth weaving, which was extremely resistant to the more efficient mechanized technology of handloom weaving, which assisted in relegating it to a household cottage industry. Yip has documented this structure and its path of change following the advent of new institutions such as the putting-out system. This system enabled more successful merchants to make use of the contractual interlocking production pattern described in Chapter 5, which raised productivity and lowered their transaction and transformation costs per unit of marketed output. All of this transpired amidst the expanding influence of the treaty-port economy in terms of institutional change, the construction of a transportation infrastructure, and financial penetration into this rural county. Regardless of who gained the upper hand in the Wei County market, the Chinese or Japanese, the result was a flourishing native cotton textile industry that was able to compete with both the modern cotton textile factories in the treaty ports and with manufactured textiles imported from overseas.

By the 1920s, the larger treaty ports had integrated with the economies of their neighboring counties. Making use of a set of village-level social surveys conducted in 1929, 1936, and 1948, Chapter 6 (Kung, Lee, and Bai) describes the integration process between Shanghai and nearby Wuxi County of Jiangsu province land and labor markets developed in the latter county. Here, the village family income rose by almost fifty percent during the 1930s, signifying a substantial increase in crop output, manufactured silk, and associated services. Market integration with Shanghai accounted for this remarkable financial improvement, but more importantly the new market opportunities were now available to women, many of whom were also finding more employment opportunities in Shanghai. The expanding treaty-port economy created an urban labor market, skilled and unskilled, of service industries and manufacturing. Off-farm wage employment in the villages and townships, which prospered as a spillover of Shanghai’s prosperity, also attracted ample labor forces, although it emerged without a “transformative growth” breakthrough in the Wuxi agrarian economy. As the authors observed,
there were signs of an early “green revolution,” as the Wuxi local economy slowly adapted to become a high-yield, surplus-marketed agrarian system based on sustained commercialization and industrialization with the help of experimental public sericulture institutes that were transferring technologies to rural areas. The authors argue against the notion that the county experienced any type of involution or underdevelopment. The chapter confirms the economic rationality of the village households in Wuxi in response to the opportunities created by the treaty-port economy.

5. Dynamics in Institutional Change: Three Cases

In Chapter 7 Matsubara provides a succinct account of the complex traditional landed property rights and land transactions in Qing China, with a focus on the New Territories to the north of Hong Kong Island, which had been leased to Britain for ninety-nine years by the Qing Government in 1898. He explores in detail the potential confusion in the traditional mode of land ownership transactions, in particular those that allowed for the differentiation between surface and subsoil rights, and contextualizes this issue in the detailed court cases from the New Territories. Matsubara highlights the strong association of the legal aspect of property rights transactions with the social, religious, and political relationship between the parties concerned. This prevented absolute ownership from developing in the modern sense. In spite of the fact that the state might have preferred it because of the reduced amount of litigation, it simply was not conducive to market-driven land transactions. His conclusion is that while there were both detrimental and compatible elements in traditional land property rights, as far as the market was concerned, for both private parties and the Qing Government, the market had never been a primary consideration. This was the local situation prior to the end of the nineteenth century. After the New Territories became part of the treaty-port economy of Hong Kong, the local institutions of land property were bound to change. As Matsubara cites in this chapter, the British colonial government had established a Land Court to handle disputes in the New Territories and introduced the institution of Crown Land, where land ownership had to be clearly registered with the colonial government as leased crown land. This effectively altered the traditional institution and eliminated the surface and subsoil ownership differentiation.

Business organizations are crucial in an expanding market economy. In Chapter 8 Stephanie Chung explores the interplay between the traditional institution of the tong in Guangdong and Hong Kong and the newly implanted corporation legalized under British company ordinance beginning in the 1860s. The process, as she demonstrates through copious details of business cases and lawsuits, was far from being the straightforward and linear transplantation of Western legality resulting in Chinese adaptation and economic prosperity. The Chinese firms showed little interest in this new mode of corporate governance, which required registration with the government and the more transparent disclosure of a firm’s assets and ownership. The Chinese firms preferred the ambiguity of their grey legal status in cross-border economic activities. The situation changed when the Guangdong military government attempted to introduce land registration in 1923, which ignored ambiguous land claims. The subsequent
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Official auctioning of confiscated public lands triggered a real estate market boom. Meanwhile, the Hong Kong courts began to develop common law rules at the turn of the century that repealed the legal status of the ambiguous corporate institutions in traditional Chinese business models. These political and economic changes in Guangdong and Hong Kong led to the noticeable increase of Chinese firms migrating to and registering in Hong Kong. Again, Chung illustrates through cases that the Chinese merchants engaged in Hong Kong corporate law were not operating in a homogeneous fashion. Some merchants had considerable overseas experiences, primarily the migrant-returnees, who were actively exploiting the corporate institutions in their best interest. There were also merchants with far less overseas experiences, who perceived the new institution strictly in terms of a strong traditional vision. Clashes of understanding concerning the new institution were inevitable and the outcomes often were not entirely decided by the court in accordance with the letter of the law because of the complex social and political networks at work. In any event, the treaty-port legal framework regarding business organizations did open up new business opportunities and modes of conduct for the Chinese merchants in the Hong Kong treaty-port economy.

The final empirical case concerns the development of corporate law in China from a legal historical perspective. One of the most influential economic institutions implanted from the West to modern China is, as mentioned previously, the corporation, or joint-stock company with limited liability. This was a decidedly exogenous implant with no Chinese roots, and the foundation of modern large-scale firms—so-called capitalist business operations within the modern financial and capital market. It induced and made possible capital formation that was vital for technology-driven modern industries in China. The importance of the corporation was echoed in the writings of influential Chinese intellectuals cum officials at the turn of the last century, including Wu Tingfang, Liang Qichao, and Zhang Jian, among others. In this chapter So and Lee trace the legislative evolution of three succeeding Chinese company law regimes from 1904 to 1929, examining the regulatory framework of each with a focus on the legal provisions that define the rights and duties of directors and shareholders. The chapter seeks to illustrate that there were clear intentions on each occasion to improve the law so as to promote the corporation model. The task was complex as a fine balance was required between the protection of the directors (or businessmen)—so that they would adopt this model instead of more conventional forms such as private companies or partnerships—and the protection of shareholders (large and small investors alike) who were supposed to invest on an impersonal basis and whose interest could only be protected by corporate law. After detailed discussions of the agents of change, the models they adopted, and the complex legislative process for each time that the law was enacted and reenacted, So and Lee conclude that while, as Kirby observed, there was no large-scale adoption of the corporate model in the Chinese business world, two points become clear: that successive regimes had taken this legislation seriously, placing it among their top legislative priorities, in an attempt to make the law more effective; and that the formal institutional enforcement characteristics in China were not robust enough to compel Chinese merchants to opt for the legal-based corporate model. From this conclusion, it may be inferred that a majority of
Chinese companies incorporated in the 1920s and 1930s were situated in or near the treaty-port economies where enforcement was strongest. This statement seems to corroborate the findings in Chapter 8, but it will have to be substantiated with further empirical studies.

6. Concluding Remarks

It was remarked on previously that a logical link exists between the remarkable performance of the Chinese treaty-port economy and its new institutional matrix. Can this link be established firmly as a cause-and-effect relationship, or a statistically correlated relationship based on direct evidence. In order to establish a consequential and causal relationship, or any correlation between the two, we must sketch in the details of at least certain select enterprises. These details must include any major decisions of structural change in the context of the trajectory of institutional change for the individual institutions, both formal and informal, in each and every treaty-port economy. Does that level of knowledge exist? Or is there an adequate amount of information for the creation of such knowledge? Despite remarkable advancements in our understanding of modern China and a recent revival of interest in this field, a considerable gap remains in our present ability to substantiate whatever conclusions we might reach at this preliminary stage. The empirical studies in this volume serve to provide a few qualitative and quantitative cases with discernable links. These links are then meant to generate more constructive and reflective debate rather than to provide conclusive answers. Further studies taken from a much larger pool of cases might be able to effectively substantiate certain claims or conclusions, but that is beyond the scope of the present volume.

When China first engaged with the treaty-port system, evolving along a line of internationalization, urbanization, and industrialization by, in part, imitating the West, it was inevitable that its economy would become increasingly sensitive to the impact of international market fluctuations. China’s treaty-port economy was tied closely to the global economy, and it shared in both the international market’s prosperity and plight. However, as noted earlier, because the treaty-port economy represented only a small portion of China’s economy as a whole, both in terms of space and total output, China was able to absorb the impact of international market fluctuations remarkably well. The fact that the global financial melt-down that began in mid-2008 has not yet significantly reduced China’s growth rate seems to suggest a recurring pattern in terms of China’s involvement in the world economy since the early twentieth century. On the other hand, the recent globalization of China also implies problems of equality and disparity in the distribution of opportunities and prosperity among different social groups and communities, between urban and rural areas, and between coastal and inland China. These current criticisms of globalization and capitalism are also valid for the treaty-port economy. But the treaty-port system was not developed with equality, social justice, or human rights in mind. Rather it was constructed for the privileges of foreigners on Chinese soil. The treaty-port economy was never intended to be a response to inequality, disparity, or injustice. It was created primarily for market, competition, and growth.

12 See Dirlik (1994; 1997).
The third reflection deals with a comparison between the treaty-port economy and the special economic zones created in the 1980s and 1990s. Special economic zones were first designed in 1979 to operate in designated territories in China with special economic and institutional (legal) settings that were allowed to utilize new innovations, attracting foreign investment, and experimenting with Western-style economic organizations, while China embarked on a course of economic modernization under an open door national policy (Wall 1991; Pak 1997). Shenzhen was the first special economic zone, established along a rundown border town situated adjacent to Hong Kong’s New Territories. Since then it has become a vibrant industrial and commercial city with millions of residents and a high per capita GDP (Wu 1999).

Are these special economic zone economies a shadow of the treaty-port economy? There is no issue of sovereignty in this case. Special economic zones have always operated under Chinese sovereignty. Their institutional framework, including the legal system, differs from that of other areas of China in terms of being more conducive to foreign investment and internationalization (Naughton 2007:chap. 17). In this sense, there is a similarity between the special economic zone economy and the treaty-port economy. Regarding the formal institutional enforcement in the Western sense of legality, there might be more differences than similarities; but in terms of lacking the separation of powers and a democratic constitutional order as the basis for the rule of law, the two do not diverge from each other all that much. In any event, the treaty-port economy induced China on the path of economic modernization, but it also generated enormous change within institutions and the overall business culture, in particular in terms of profit maximization. Until the late 1990s, special economic zones had not created a comparable impact, but a belief in maximization had already swept across China. The privileges of special economic zones have since been made available to more Chinese territories, making the institutional matrix in these zones not quite as special anymore. They also have lost their historical importance within the formidable rise of major international metropolises such as Shanghai, Guangzhou, and Beijing. Much of the institutional change borrowed from the West, reinvented, and tested earlier in these special economic zones has since been transplanted into other regions of China, including the three aforementioned metropolitan areas. In this sense, the special economic zone as an institutional matrix still plays a role similar to that of the treaty-port economy in early twentieth-century China. Both provided the impetus for market-related institutional change that was conducive to China’s remarkable economic growth, and both were also based largely on privilege and disparity. In any event, both became platforms where China reconnected itself with the global economy and its various institutions.

Finally, it is imperative to reflect on the state’s role in the development of China’s market economy, and perhaps more tangentially to political economy in a theoretical sense. Albert Feuerwerker (1984) held that the state of late imperial China did little to generate modern economic development, which was awaiting a modern state to engage in the necessary infrastructure building. This is in line with the established literature on economic theories in New

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13 For a succinct account of China’s economic reform since 1978 as a backdrop for the role of the special economic zones, see Naughton (1995 and 2007).
Institutional Economics (North 2005), and also in the work of Alfred Chandler (1977; 1990), who postulated the complex vertical organizational structure of capitalist corporations, backed with the necessary legal and political framework—witnessed first in America and Western Europe in the late nineteenth and early twentieth centuries—as a necessary condition of modern economic development; and Neil Fligstein (2005) who emphasized the vital role of the state in providing a necessary regulatory and legal framework for the functioning of modern economic development, to cite just a couple of examples. On the contrary, Madeleine Zelin (2004a/b; 2005; 2009; and Zelin, Ocko and Gardella 2004) has demonstrated a more constructive facet of the Chinese state in late imperial China, which together with the private sector, created a market institutional infrastructure that might be more conducive to modern economic development than previously believed. This also accounts for the continuity of many features in Chinese business practices into the twentieth-century when the wholesale introduction of Western-style business institutions took place in China. Kenneth Pomeranz (2000) represented another positive reassessment of China’s traditional economic performance up to 1800, just before its encounter with the British in the Opium War. This is echoed by recent works on Chinese companies in the 2000s (Nee 2005; Milhaupt and Pistor 2008: 125-48), which find that Western-style law has little determinant effect on the outcome of Chinese economic performance at the corporate level. Alan Schwarz (2007) even argues that under close scrutiny modern contract law may be irrelevant to economic life amidst the advent of a modernized Chinese economy; while Barry Naughton has adopted a more positive narrative of the Chinese traditional economy as a backdrop for his recent account of China’s outstanding current economic growth (Naughton 2007: 34-42).

If this emerging scholarship on traditional Chinese economy withstands future counter criticism from adherents to the former mainstream narrative, we will need to reflect further on the role that the treaty-port economy played in the transformation of the Chinese economy from the second half of the nineteenth century. This volume seeks to show the complexity of this issue and suggests that it is over simplistic to ask whether the treaty-port economy, built upon this system, came into being in China as an invading villain or angel. The Chinese response to the related institutional change, as reflected in various features of economic performance, might in fact matter more than previously perceived. If so, then the broader issue of state and economic development will need to take more seriously the not always rational human factors embedded in the cultural and linguistic environments that are often the basis for individual and market behavior.

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14 For the meticulous arguments by Pomeranz and his colleagues, see Wong (1997); Lee and Wang (1999); and in particular Pomeranz’s recent argument based on the role of the state and land markets from imperial to Republican China (Pomeranz 2008).
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