

Chapter 5

Conclusion

The focus of this research is to use the IPR cases in China and US measures as documented in the Special 301 Report as a catalyst to examine how the different leadership style of Bush and Obama. It can be seen that measures employed by both the Obama and the Bush administration falls within the subtler policies under the perspective of neo mercantilism. In order to find the answer to the research question, not only measures from both administrations are examined, but also both presidents using Greenstein's *qualities that shape presidential performance*, James Barber's *presidential characteristics*, Martha Cottam et al *select individual characteristics of a leader*, and Thomas Preston's typology. In addition the composition of the congress will also be explained to aid in the analysis.

Five cases were summarized in chapter 2 that involves the US in both the Bush and Obama administration. The cases described in the case study were all documented in the US own Special 301 Report, split into Bush and Obama's administration respectively. Two cases during the Bush administration was described, namely China's inadequate IPR protection, where China did not manage to utilize further judicial measures on many IPR related cases in the country and China's restriction on trading rights of certain audiovisual products which was deemed as the cause of high optical piracy in the country. Three cases during the Obama administration was described namely; China's problematic innovation policies in the form of circular 618 and ICT rules for banks; alleged

theft of trade secrets outlined in Mandiant's report and the deficiency of its Anti-Unfair Competition Law; and widespread online piracy on music and audiovisual products and the rise of media boxes.

The third chapter elaborates the differences between the Bush and Obama administration, firstly by listing the composition of Democrats and Republicans in the congress during each administration. The Congress was favorable to Bush due to Republican Domination persists in two congressional periods even though the Republican lost its dominance in the final congressional period. Obama however, only enjoys democratic dominance in one congressional period, paving way for a total Democratic domination. Two subsequent periods afterwards would be a split in power between the Democrat controlled senate and Republican controlled House of Representatives and the final congressional period was a total republican domination.

Under the active-positive, *Director-Maverick* Bush, the US invokes strong pressure utilizing the WTO Dispute Settlement Understanding. While both in regards of China's inadequate IPR protection and trading rights restriction of audiovisual products the US does employ bilateral measures mainly through the JCCT and the Strategic Economic Dialogue. In the end, the administration decides to file a request for consultation under the WTO DSU. This grants a deterrent effect in the form of the DSU own retaliation and compliance clause. This is mainly driven by characteristics of Bush's leadership style, encapsulates in two typologies. His active-positive trait led him to aim for results, and the WTO DSU is a surefire way to do so. Him being a *Director-Maverick* by closing off the

White House with a tight inner circle, while also being decisive and insisting on his policy vision led him to choose a high pressure option.

Under Obama, an active-negative president and an *Administrator-Navigator*, the US weakened its pressure towards China by only utilizing bilateral measures. In regards of problematic innovation policies, China's alleged theft of trade secrets, and widespread online piracy of audiovisual products, the US utilized bilateral measures in the form of dialogue between two states mainly through the JCCT and one MOU in regards of trade in films. While this line of dialogue led the US to secure further commitments from China, the US did not utilize the WTO DSU. This despite the fact that China's string of innovation policies and theft of trade secrets has a possibility of being a violation of TRIPS, the same as the case of China's inadequate IPR protection which Bush administration brought to the WTO Dispute Settlement Body. The administration also ended the WTO dispute settlement case initiated during the Bush administration by signing an MOU with China in regards of trade on important films. Further examination of the MOU reveals that the MOU diminished the deterrent effect caused by the DSU retaliatory and compliance clause. This Weakened pressure mainly due to Obama's restrained approach in foreign policy, a distortion due to his active negative disposition. A split congress that requires him to compromise while still emphasizing his legalist perspective shows his trait as an *Administration*; however his legalist perspective also shows his less decisive foreign policy, a trait of a *Navigator*.

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