

UNIVERSITY OF OXFORD

CHINESE-BRITISH COMMERCIAL CONFLICTS IN SHANGHAI
AND THE COLLAPSE OF THE MERCHANT-CONTROL SYSTEM
IN LATE QING CHINA, 1860-1906

A DISSERTATION SUBMITTED TO THE FACULTY OF ORIENTAL
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Abstract

During the 1860s, Chinese merchants reestablished their commercial organizations which are recorded as Guilds (*hanghui* 行會) in the sources compiled under the guidance of the Qing local government officials. From the decade until the end of the 1880s, English sources emphasized the solidarity of the commercial organizations of Chinese merchants and their superiority to the British mercantile community in the commercial conflicts in which they were engaged.

However, from the 1890s, English sources ceased to complain the strength of the commercial organizations of Chinese merchants, and, at the same time, Chinese sources emphasized the existence of a crisis in which Chinese merchants were losing their solidarity. Moreover, the Qing local government officials endeavoured to maintain their control over the commercial organizations of Chinese merchants, an attempt which led to the birth of Chinese chambers of commerce in the early twentieth century.

Former studies, which dealt with the superiority of the Chinese merchants' organizations to the British mercantile firms in the 1860s and the 1870s, or the birth of the Chinese bourgeoisie and the activities of their commercial organizations in the early twentieth century, have not been able to reveal what happened in the commercial organizations of the Chinese merchants during the late nineteenth century.

The solidarity of the Chinese merchant organizations was maintained by the rule that no one could claim the privilege of doing business without paying the *Lijin* 釐金 tax imposed upon it, and the collapse of their solidarity began with when some Chinese compradors and merchants found it possible to do their business without keeping this rule by means of cooperating British mercantile firms, who enjoyed key privi-

leges under the Treaties as regards non-payment of the *Lijin* tax and investment on the basis of limited liability.

By intensively analyzing three commercial conflicts between prominent Chinese merchant organizations and British mercantile firms that took place in Shanghai between the end of the 1870s and the end of the 1880s, this study reveals how, and under what conditions some Chinese compradors and merchants could do their business without observing the afore-mentioned rule governing the Chinese merchants' organizations, what happened when British mercantile people became aware what their compradors or cooperative Chinese merchants had doing behind their back, and how these developments contributed to the end of the old-style merchant class, and the beginning of a bourgeoisie. By bringing these facts to the surface for analysis, this study shows a little known aspect of the Chinese society and tries on the basis to re-evaluate an aspect of concept of "China's response to the Western impact."

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Abbreviations

CIMC: China Imperial Maritime Customs

CIMCSS: China Imperial Maritime Customs Service Series

DFZZ: Dongfang zazhi 東方雜誌

FO: Great Britain Foreign Office

GXCDHL: Guangxu chao donghualu 光緒朝東華錄

JMA-MLB: Jardine Matheson Archives, Miscellaneous Letter Book

JMA-PCLB: Jardine Matheson Archives, Press Copy Letter Book

JMA-UC: Jardine Matheson Archives, Unbound Correspondences

LKYYJ: Liu Kunyi yiji 劉坤一遺集

NCH: North-China Herald

QJWJSL: Qingji Waijiao Shiliao 清季外交史料

SB: Shenbao 申報

TEA 1888: *China Imperial Maritime Customs II Special Series: No. 11. Tea, 1888, published by order of The Inspector General of Customs* (Shanghai: Kelly & Walsh, 1889)

YQCG: Yuqi cungao 愚齊存稿

ZWXGQJ: Zhangwen xianggong quanji 張文襄公全集

Chinese words are transcribed into *pinyin* system except those which Chinese characters cannot be identified or those quoted in the original sources or their titles.

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Introduction

Many Chinese economic historians have pointed out the importance of merchants' groups since the late Ming period. In order to reveal the historical character of Chinese merchants' groups, they have studied the roles of merchants' groups in Chinese economy and society from various viewpoints such as migration, national finance, or market structure. Strong influence from the common view of former prominent studies of Chinese merchants' groups has led them to regard the formation of merchants' groups of the same local origin or profession as the most typical feature of Chinese merchant organizations.¹

However, such an assumption has overlooked the *bona fide* historical character of the Chinese merchant organizations. The formation of merchants' groups of the same local origin or profession did not always signal the development of their commercial organizations. A Chinese merchants' group could develop its commercial organization and intensify its solidarity if it acquired some institutional privilege to ensure its right to carry on transactions in a commodity. But, when the commodity the merchants' group dealt lost popularity in the market or the institutional privilege was no longer effective enough to protect their right to transaction in the commodity, its commercial organization started to decline. For instance, the Shanxi merchants' and Huizhou merchants' groups in late Ming and early Qing period could develop their commercial organizations because they were permitted to monopolize the sales of salt and food to the northern territories by *Kaizhongfa* 開中法 system or the salt produced in the Liang Huai 兩淮 districts.²

As these two well known examples suggest, the growth and decline of the commercial organization of a merchants' group were closely related

¹. Golas (1977); Du (1983); Li (1983).

². Fujii (1953-54); Terada (1972).

to the effect of the institutional privilege it was granted. Just as iron filings changes their shape each time when they are attracted by a magnet, the scale and the strength of commercial organizations of Chinese merchants' groups were determined by how far the institutional privilege they were granted was effective. Until the late nineteenth century, it was only the dynastic government that granted merchants' groups with such institutional privileges.

The typical institutional privilege granted to Chinese merchants' groups was the collection of supplementary tax imposed upon the privilege of dealing commodities they transacted. Using the institutional privilege as fully as possible, leaders of merchants' groups could wield strong power not only to secure their privilege of dealing particular commodities but also to maintain their commercial organizations. If a non-member of a merchants' group attempted to carry out sales of the commodity in which the merchants' group dealt without their permission, leaders of the merchants' group could exclude him from such selling by refusing to receive the indirect tax from him. At the same time, by granting institutional privilege to prominent merchants' groups, the dynastic government could ensure its income from supplementary tax. On the whole, the dynastic government and prominent merchants' groups were closely tied with each other by the fiscal system.³

In the case of the lower and the middle Yangzi valley in the post Taiping rebellion era, the institutional privilege granted to merchants' groups was the collection of the supplementary tax called *Lijin* 釐金 tax on behalf of the Qing local bureaucrats.⁴ By collecting the *Lijin* tax

³. Mann (1987). On the case study of the relationship between local bureaucrats and merchant groups through the local fiscal policy in the early nineteenth century Sichuan, see Yamamoto (1992).

⁴. Luo (1937): 111-117. As Luo indicated in his book, there were many types and names of the *Lijin* tax. In this study, I use the term *Lijin* tax as the term which represented the whole kinds of supplementary tax collected by the Qing local governments through the merchant groups.

only from the members and paying it to the local governments, leaders of merchants' groups could maintain their commercial organizations. Meanwhile, for Chinese traders with small-scale capital, it meant that they could not carry on their business activities unless they paid the *Lijin* tax to the leaders of the merchants' groups to which they belonged.

Although many merchants' groups were granted with the institutional privilege of collecting the *Lijin* tax on behalf of the Qing local governments, no merchants' group could satisfactorily develop or maintain concrete commercial organization of this traditional kind in the post Taiping era. Instead, leaders of prominent Chinese merchants' groups (*hanghui* 行會) lost their authority to organize Chinese merchants and had to reorganize them through Chinese chambers of commerce (*shanghui* 商會) in the early twentieth century.

Former studies have failed to perceive the whole course of the above process precisely. Studies of commercial history in the post-Taiping rebellion era have only emphasized the control power of prominent merchants' groups over the national market and their superiority to Western mercantile firms in China. These studies have overlooked the fact that the power of the prominent Chinese merchants' groups was entirely based upon the right of collecting the *Lijin* tax on behalf of the Qing local bureaucrats.⁵ The control power of the prominent Chinese merchants' groups over numerous merchants did not last long. From the end of the 1880s, they could not maintain concrete commercial organizations. The Qing government officials, who noticed this trend after the Sino-Japanese war, tried to stop the collapse of the commercial organizations of Chinese merchants by establishing *guandu shangban*

⁵ Miyata (1981); Peng (1983), (1988); Rowe (1984). Miyata misunderstood the formation of Chinese chambers of commerce in the early twentieth century, thinking that they resulted in the development of Chinese merchants' groups.

官督商辦 firms and Commercial Affairs Bureaux (*Shangwuju* 商務局). Nonetheless, none of their attempts succeeded. Therefore, they had to organize Chinese chambers of commerce, which started in Shanghai with the famous memorial of Sheng Xuanhuai 盛宣懷 written in 1903 after the Mackay treaty.

Meanwhile, many studies concerning the Chinese bourgeoisie and their political activities through the Chinese chambers of commerce in the early twentieth century have not solved the above question, either. Since these studies have only relied upon the apparent facts recorded in the available sources, they have neither been able to reveal the reason why prominent Chinese merchants' groups lost power to maintain their commercial organizations from the end of the 1880s nor to describe the process whereby the failures of *guandu shangban* 官督商辦 firms and Commercial Affairs Bureaux resulted in the organization of Chinese chambers of commerce in the early twentieth century.⁶ They can at best refer to its historical background in the development of capitalism or the political crisis after the Sino-Japanese war.⁷ As a result, a blank has been left in the 1880s and the 1890s in Chinese mercantile history. Only the recent works by Soda Saburo 曾田三郎 and Hokari Hiroyuki 帆狩浩之 have emphasized the importance of filling in the blank, and the close relation between the weakening of prominent Chinese merchant organizations and the emergence of Chinese chambers of commerce.⁸ However, their works failed to fill in the blank as their attempts depend only upon the facts discoverable in the Chinese sources. In order

⁶. Coble Jr. (1980): 13-27; Bergère (1983): 721-729; (1986): 13-60; Fewsmith (1985): 13-45. Among many studies of commercial history of post Sino-Japanese war era, only Hatano (1961) and Chan (1977) referred to the failures of *guandu shangban* firms and Commercial Affairs Bureaux. However, since they could not have access to *Shenbao* issued in the 1890s, their researches were insufficient.

⁷. Chan (1977); Ding (1983); Kurahashi (1976a), (1976b); Lü (1990), (1991); Rinbara (1988); Shen (1986); Soda (1975); Wang (1987); Xu (1983), (1986), (1989), (1991); Xu and Qian (1991); Zhu (1984), (1987a), (1987b), (1989), (1990), (1991).

⁸. Soda (1991), (1992); Hokari (1994a): 67-68; (1994b): 1-3.

to fill in this blank in the mercantile history of late Qing China, historians should consult not only the Chinese sources but also the English sources.

Based upon the above history of commerce in the late-Qing period, the first theme of this study is to reveal the reasons why the Chinese merchants' group lost their power to maintain concrete commercial organizations after the 1890s, which resulted in the emergence of Chinese chambers of commerce in the early twentieth century. Because of the relevant sources available, it is mainly focused upon the commercial history in Shanghai, the centre of China's foreign trade.

A minor reason for the decline of prominent Chinese merchants' groups and for their loss of the power to maintain concrete commercial organizations was that the Qing central government deprived the Swatow opium merchants' group of the right of collecting the *Lijin* tax. Nonetheless, as it will be shown in Chapter 4, this was an exceptional case.

The major reason was the repeated attempts by British mercantile firms to undermine the power of prominent Chinese merchants' groups. Since the 1860s, they had fought against prominent Chinese merchants' groups, who controlled over the production or sales systems of silk cocoons, raw silk, tea, and Indian opium, so that they themselves could control the production and the sales systems of these commodities. In a highly commercialized economy, those who can control the production and the sales system of a commodity can ensure their commercial profit. The prominent merchants' groups that lost their power due to these reasons were the Hankou tea merchant organization which consisted of various local merchants' groups, and the Shanghai merchants' groups from Zhejiang and Guangdong provinces who monopolized the produc-

tion and sales of silk cocoon, raw silk, tea, and the sales of Indian opium.

The *sine qua non* for British mercantile firms to control the production and the sales system of a commodity in the late Qing period was to organize the sales network of cooperative Chinese merchants' groups. It must therefore be asked, under what conditions could British mercantile firms freely organize and coordinate the sales network of such cooperative Chinese merchants' groups? When and how did they find it? And once British mercantile firms were aware of it, what took place as a result of it? The second theme of this study is directed at answering these questions.

As it is shown in Chapter 1, the first reason for the commercial conflicts between British mercantile firms and the prominent Chinese merchants' groups was the lack of mutual trust between the two from the latter half of the 1860s to the end of the 1880s. During the 1860s, the Qing local governments rebuilt the mercantile and handicraft guild organizations in order to reestablish their control over the Chinese economy through them.⁹ The Qing local governments and the leaders of the Chinese merchants groups relied upon each other for maintaining their control power. For the Qing local governments, the commercial organizations of Chinese merchants based upon the mercantile groups of the same local origin or profession were an indispensable device for collecting the *Lijin* tax; on the other hand, for the leaders of the prominent Chinese merchants' groups, the Qing local governments were crucially important patrons who granted them the effective means to maintain their commercial organizations.

As the liaison between the Qing local governments and the leaders of prominent Chinese merchants' groups intensified, prominent Chinese

⁹. Peng (1983).

merchants' groups had so strong a power over the inland market that they could exclude British mercantile firms and their Chinese agents called "compradors" from the inland market. In consequence, British mercantile firms had no choice but to deal only with the members of prominent Chinese mercantile organizations within the treaty ports.

What was more unfortunate for British mercantile firms was that several civil cases after the economic crisis of 1866 and 1883 revealed the ambiguous legal status and responsibility of a Chinese comprador. Seeing the judgements of the relevant civil cases, both British mercantile firms and Chinese merchants were aware that neither their commercial opponents nor the guarantor of a comprador could be obliged to compensate them for the debt of a comprador bankrupted due to these reasons.¹⁰ In consequence, as all the civil cases completed their hearings by the end of 1887, not only British but also Chinese mercantile people did not trust Chinese compradors as they had done before. Considering the distrust of British and Chinese mercantile people towards Chinese compradors, Chapter 2 tries to solve the unsolved questions in silk-trade history during the 1880s. It reveals the reason why the Qing local bureaucrats prohibited native silk filatures in Shanghai though they encouraged establishment of them in Guangdong province.¹¹

The second reason for the commercial conflicts between British mercantile firms and prominent Chinese merchants' groups was the decline of the Chinese tea and silk export trade and of the import trade in Indian opium due to the competition with Indian tea, European and Japanese silk, and native opium. Confronted with these unfavourable conditions, British mercantile firms tried to control the production or

¹⁰. Fully detailed accounts of these civil cases and analysis of them are available in Motono (1990), (1992a).

¹¹. Former major studies of silk-trade history which have referred to the question are Eng (1986); Hatano (1961) Chapter 4; Li (1981); and Suzuki (1960), (1992): 317-342.

the sales systems of these commodities in China so that they could secure their sales profit from the latter half of the 1870s onwards. Their attempts inevitably gave rise to commercial conflicts with the prominent Chinese merchants' groups. The analysis of the commercial conflicts from Chapter 2 to Chapter 4 concludes that British mercantile firms could not control the production or the sales systems of these major commodities unless they could undermine the solidarity of the commercial organizations of the prominent Chinese merchants' groups by making use of the cooperative Chinese merchants' groups.

However, so far this is a theory only considering the benefit of British mercantile firms. British mercantile firms were at first entirely unaware that they could organize a cooperative Chinese merchants' group. Obsessed with the hostility to the prominent Chinese merchants' groups and a distrust in their compradors, they could never imagine such an idea as controlling cooperative Chinese merchants' groups as if they might treat puppets. Similarly it was impossible for them to shatter the commercial organizations of prominent Chinese merchants' groups by themselves. All they could seek for was an effective way to protect their own capital and sales profit from the claims made by Chinese creditors and from exploitation by the *Lijin* tax bureaucrats.

Until they noticed the importance of organizing cooperative Chinese merchants' groups at the end of the 1880s, they had overlooked the institutionally subversive aspect of the Chinese merchants' group who cooperated with foreign silk filatures by purchasing dried cocoons in Jiangsu province. Therefore, even when a rare chance presented itself with the collapse of the Swatow opium merchants organization in 1885, they did not organize a cooperative Chinese merchants' group to control the Indian opium sales in Shanghai. In consequence, they failed to gain control over the production and sales system of dried cocoons, raw silk,

and Indian opium. Furthermore, as is shown in Chapter 3, the lack of organizing cooperative Chinese merchants' groups in addition to their distrust of Chinese compradors were the crucial causes why the decline of the Chinese tea export to Britain became inevitable, a development that has not been fully accounted for by former studies.¹²

Only by coincidence did British mercantile firms become aware of the importance of undermining the commercial organizations of prominent Chinese merchants' groups with another type of commercial organizations of the cooperative Chinese merchants' groups. As was recognized from the 1890s, the effective way for British mercantile firms to organize a cooperative Chinese merchants group was to protect their property from bankruptcy and to emancipate them from the *Lijin* tax with legal privileges stipulated in the "unequal" treaties. The legal privileges for doing so were the one-half-duty (*zikou banshui* 子口半稅) privilege and the extraterritoriality of the foreign settlements in Shanghai. Although a former study has pointed out that the protection of the sales profit of Chinese merchants could be feasible by selling outward transit-passes (*san lian dan* 三聯單) to them, and has studied the negotiations between the Qing officials and British diplomats for settling the issue in the 1860s, it has not, however, revealed its hazardous effect on the commercial organizations of the prominent Chinese merchants' groups because it deals with this problem only from the viewpoint of diplomatic history.¹³

On the other hand, no study has revealed what was the method of protecting the property of Chinese merchants who cooperated British the mercantile firms. The protection of the property of cooperative Chinese merchants was feasible by introducing the limited liability of

¹². Major studies of the tea trade are Hatano (1961) Chapter 2; Shigeta (1975) Chapter 4; Gardella (1976a), (1976b), (1986); Chen (1982); and Rowe (1984) Chapter 4.

¹³. Dean (1974).

the shareholders in a British company or factory. The introduction of limited liability was realized by extending the British Joint Company Act to the international settlement of Shanghai. Because of the Act, even if a British factory or a company whose stock Chinese and British merchants had purchased fell into liquidation, they did not need to pay the debt beyond the amount they had invested; in other words, it meant that they could evade the loss of all of their property even though they lost the capital they had invested in the bankrupted factory or company.

It was the Shanghai branch of Jardine Matheson & Co. that first succeeded in organizing cooperative Chinese merchants' group with the above two methods when they reestablished the Ewo Filature in 1882. However, as it should be emphasized again, the English partners of Jardine Matheson & Co. did so only to protect their own capital and sales profit in case the Ewo Filature fell into liquidation. They did not notice that these methods had such subsidiary effects as protecting the property and the sales profit of the cooperative Chinese merchants, and thereby in the long run undermining the commercial organization of the prominent Chinese merchants' groups.

By contrast, prominent Chinese merchants' group were immediately aware that the increase in the numbers of the Chinese merchants who were attracted to the Ewo Filature for sharing the one-half-duty privilege with their Western business partners, could undermine their commercial organization. It was the directors (*dongshi* 董事) of the Shanghai Silk Guild, one of the prominent Zhejiang merchants groups, that proposed to the Qing local governments that they should prohibit the commercial activities of foreign filatures in Shanghai, including the Ewo Filature, and their cooperative Chinese merchants' groups. In order to prevent the growth of the Chinese merchants' groups cooperating with the foreign filatures but without making Western merchants notice

the subsidiary effect of the one-half-duty privilege on the prominent Chinese merchants organizations, their intervention had an aspect of disinformation.

However, the two institutional privileges British mercantile firms could grant did not always attract cooperative Chinese merchants' groups. The limited liability could protect the property of Chinese merchants only on the condition that they invested in a British factory or company established within the international settlement in Shanghai; it could not protect their property when they tried to invest their capital in the tea-growing and -producing industry in interior districts. On the contrary, the outward transit-pass privilege could protect the sales profit of the cooperative Chinese merchants so long as they purchased native products in the interior districts and brought them into the foreign settlements through the *Lijin* tax stations; it had no effect of attracting cooperative Chinese merchants if British mercantile firms transacted tea or Indian opium directly with Chinese dealers in the foreign settlements in Shanghai and Hankou.

In addition to these two themes, the third theme of this study is to reveal the historical character of the Chinese society where native merchants could not develop and maintain their concrete commercial organizations without depending upon some sort of institutional privilege. The secret hidden behind the above phenomenon was that the Chinese society lacked any legal system or institution to protect the property and the profit of Chinese merchants. Instead, there was only some sort of quasi-legal system or institution of such a nature as to secure the right of doing business in return for paying tax. The reason why not only the Qing government but also British mercantile firms could be the patron of Chinese merchants' groups was not because of their power or wealth. Anyone could be the patron of Chinese merchants' groups as long as he

could grant some sort of institutional privilege to protect their right of doing business. As it will be shown in Chapter 4, even a drunken British clerk could be a sort of patron of some Chinese opium merchants.

Because of the lack of a legal system or institution capable of protecting property or profit, Chinese merchants' groups in the lower-Yangtze region did not invest their capital in any type of producing activity except that of British mercantile firms within the International Settlement in Shanghai. Only in the field of the sales business could they develop their commercial organizations. Based upon the above interpretation, Chapter 5 and Chapter 6 will reveal the reason why the Qing government failed to maintain their control over the prominent Chinese merchants' groups in the post Sino-Japanese war era. It was the consequence of the impact on Chinese society of the commercial organization based on the protection of the property and the profit of Chinese merchants, in return for cooperating with British mercantile firms, where previously there had been only a commercial organization based on the protecting the right of doing sales business in return for paying the tax, underpinned by the relationship between the Qing local governments and the prominent Chinese merchants' groups.

When British mercantile firms saw that the cooperative Chinese merchants attracted to them in return for getting the outward transit-passes revolted against the order of the Qing local governments in 1888, they became aware the value of the institutional privilege they could grant to cooperative Chinese merchants. By providing many more outward transit-passes to cooperative Chinese merchants, they started to undermine the liaison between the prominent Chinese merchants' groups and the Qing local governments. Seeing this situation, other foreign mercantile firms started to imitate this during the 1890s.

On the contrary, since the Qing government officials did not easily notice the importance of protecting the property and the profit of Chinese merchants, they failed to maintain the organizations of prominent Chinese merchants groups with *guandu shangban* firms or Commercial Affairs Bureaux. Only at the time when they established the system of Chinese chambers of commerce supervised by the Ministry of Commerce (*shangbu* 商部) so that they could maintain the commercial organizations of Chinese merchants' groups in the early twentieth century, were they aware the importance of protecting the property and the profit of Chinese merchants. However, their attempts ended in failure because of the falling status of the Ministry of Commerce and the postponement of putting the bankruptcy code into effect until 1911.

By studying the process outlined above, this study tries to reconsider the concept of "China's response to the Western impact" from the viewpoint of the mechanism of commercial organization in Chinese society.

Chapter 1

Historical Circumstance, 1860-1887

Diplomatic Negotiation on the Lijin Tax, 1860-61

After the Arrow war, the Chinese-British relationship was authorized by modern treaty system. However, the treaty relationship was the product of compromise between the two countries. While Qing China still considered the British presence in the country was not so dangerous for them because the Britain was a Maritime country, the British government assumed that it could include China in the periphery of her informal imperial network.¹ For the British side, the establishment of the treaty relationship was merely a provisional one with the Qing central government, because the Taipings still occupied the greater part of the middle and lower Yangtze valley where most of tea and raw silk was produced. In order to open these occupied districts for British merchants, British diplomats had to secure the safety of British merchants and permission to trade from the Taiping authorities. During February and March 1861, Admiral James Hope and Harry Parkes succeeded in obtaining an agreement with the Taiping authorities that secured permission to trade, and the safety and even extraterritoriality of British merchants within their territory.²

The news that Britain had established trading relationships with the Taipings aroused uneasiness and suspicion on the part of the Qing government. They feared the British might support the rebels by providing them with arms and ammunition or by paying them duties. In order to exercise surveillance over British merchants who entered into the Taiping territory and to secure potential revenue, the Qing central government

1. Dean (1974): 12.

2. Ibid., 32-34.

promulgated the "Provisional Regulations for British Trade in the Yangtze River."

According to these regulations, when British merchants were to depart from Shanghai to Zhenjiang or upriver ports for trade, they had to pay duty on their imported goods to the Shanghai customs and to carry a "river pass" issued upon application made by the British consul on their behalf. Moreover, they had to carry a special "arms certificate" to prove the retention of the arms and ammunition aboard their vessels. At Zhenjiang, a vessel's river pass, arms certificate, Shanghai port clearance, and the ship itself were all examined both by the custom authorities and the British consuls there before they were permitted to go to upriver ports, such as Jiujiang or Hankou. Contrariwise, when the British merchants were to leave the inland ports for Shanghai with native products, they had to deposit a port clearance, a passenger list, and a manifest of their outward cargo with the consuls for inspection, and then to undergo the same inspection as they did when they had come from Shanghai.³

After the "Provisional Regulations for British Trade in the Yangtze River" came into effect, the collection of transit dues and duties from foreign vessels were gathered either in Shanghai or Zhenjiang. This caused complaints against the transit dues from the British merchants. Ever since the 1840s, British merchants had been complaining about the collection of the inland transit duties on imported foreign goods or native products in the inland market because it raised the sales prices of imported foreign goods and the purchasing prices of native goods to be exported.⁴

Since the British government had failed to fix the rate of transit dues in the treaty of Nanjing, they tried to do it again in the treaty of Tianjin, and succeeded in specifying that the rate should be one half of the import and

³. Ibid., 38-39.

⁴. Fairbank (1953): 299-301; Dean (1974): 42.

export duties, which were 5% *ad valorem* according to Article 28 of the treaty (hereafter Article 28) and Rule 7 of the Rules of Trade (hereafter Rule 7) (see Appendix). However, the fixed rate of transit dues, known as one-half-duty (*zikou banshui* 子口半稅), caused two complaints from British merchants because of the contradiction between Article 28 and Rule 7.

Article 28 allowed British merchants to pay transit dues by paying one-half-duty or by paying transit dues at native customs while they were transporting their import goods. Since the amount of transit dues charged under the latter form of payment was cheaper than the one-half-duty, British merchants claimed the right of choosing the two options, though Rule 7 clearly required the payment of one-half-duty alone.

The more important problem was whether the *Lijin* tax was included into the category of "transit dues" or not. The British side considered the *Lijin* tax should be included into the category of the transit dues because Article 28 stipulated that "a [transit duty] certificate shall be issued, which shall exempt the goods from all further inland charges whatsoever." On the other hand, the Qing government officials, who had to secure the *Lijin* tax revenue to meet the military expenses of the local authorities, interpreted the "all further inland charges" as only meaning transit dues. Therefore, they claimed the foreign goods were liable to the *Lijin* tax after they had arrived at the inland destination for further distribution.⁵ Since the Qing local authorities continued to levy the *Lijin* tax on imported foreign goods immediately after they arrived at the inland destination, the levy of the *Lijin* tax on imported foreign goods was one of the greatest commercial issues between China and British mercantile people until the twentieth century. Besides the above complaints, there were

⁵. Ibid., 42-45. The full detail of the transit-pass system, see Luo (1936): 92-109.

other disputes, such as coastal trade or smuggling, concerning the trade in the Yangtze districts.⁶

In order to settle these disputes, negotiations were held between the Zongli Yamen, the British Legation, the Board of Revenue, the Chinese Imperial Maritime Customs, and the French envoy in the summer of 1861. During the negotiations, the discussants referred to another dispute over Article 28 and Rule 7, which related to the payment of transit dues, including the *Lijin* tax, on export goods.

The dispute consisted of two aspects. The first aspect was the discrepancy in interpreting Rule 7 between the Zongli Yamen and the British Legation. The Zongli Yamen argued that British merchants could not export native produce without paying transit dues because Rule 7 stipulated that "permission to export produce, which cannot be proved to have paid its transit dues, will be refused by the customs until the transit dues shall have been paid." On the other hand, Frederick Bruce, the British minister, refused the above interpretation. He claimed that Rule 7 did not bind British merchants to pay all charges on native goods, the ownership of which was still belonged to the Chinese. Although Bruce intended to put pressure on the Zongli Yamen to abandon the idea that British merchants took responsibility to pay the whole of the transit dues on native goods by claiming so, his claim had the contrary effect. The Qing government officials judged from his claim that British merchants had no right to oppose any charge on native goods, which were in the hands of the Chinese. As in the case of transit-dues, they levied the *Lijin* tax upon native goods before they were sold to British merchants.

The second aspect was the illegal sales of the transit duty certificate, which was later designated as "an outward transit-pass (*san lian dan* 三聯單)," by British merchants to Chinese merchants who wanted to

⁶. Dean (1974): 47-60.

avoid paying transit dues and the *Lijin* tax. Because of the prevalence of this malpractice, the Zongli Yamen claimed that damage was done to the revenues of the Qing provincial and the central governments. As a protection against the illegal sales of outward transit-passes, Bruce recommended the idea that British merchants should guarantee the payment of the transit dues, including the *Lijin* tax, levied upon the native produces they purchased and transported from the interior districts to the treaty ports.⁷

Prince Kung 恭親王 wrote down a set of 16 regulations based upon the agreements reached in the negotiations and proposed them to Bruce on 21 September 1861. With regard to the transit-due questions, Prince Kung accepted the option of paying the transit dues either by paying them at native customs, or by a one-half-duty at the Maritime Customs, as had been claimed by British merchants. Bruce accepted this proposal on the condition that the option should be applied to all the treaty ports, regardless of whether they were sea ports or river ports. As a result, British merchants who imported foreign goods had first of all to pay import duty, and then to pay either one-half-duty at the same time, or all the transit dues at the inland customs barriers they encountered as they carried the imported goods into the interior districts. However, this arrangement did not emancipate the import goods from the *Lijin* tax after the ownership was transferred to Chinese.

With regard to the protection against the illegal sales of outward transit-passes, Prince Kung required that British merchants should present the native produce they had purchased to the nearest transit-dues barrier for inspection and certification, and then carry their goods to the treaty port. Arriving at the barrier nearest to the treaty port, the British

⁷. Ibid., 64-65.

merchants were required to pay the one-half-duty, and were then allowed to enter the treaty port.⁸

Nonetheless, the proposed arrangement of paying the one-half-duty on the export goods was not feasible because it assumed that the British merchants themselves proceeded into the interior districts. In fact, British merchants had been used to advancing large sums of money to Chinese agents for purchasing tea and silk in the interior districts since the 1840s because they were ignorant of the native language and commercial customs in the interior districts.⁹

Basing himself upon Article 13 of the treaty of Tianjin, (see Appendix) which prohibited the Qing government from restricting British subjects from employing Chinese subjects, Bruce opposed this arrangement. Instead, he counterproposed that all British merchants and their native agents should guarantee the payment of one-half-duty at the port of destination by entering their names, firm names, and particulars of the goods as evidence. As a practical arrangement for the guarantee, Bruce proposed that the declaration should be made on a written form which would be issued to British merchants and their native agents by the Maritime Customs at all treaty ports only on the request of a British consul on behalf of the merchants.¹⁰ Since Bruce's counterproposal was accepted by Prince Kung, it was decided that the outward and inward transit-pass (Exemption Certificate) be issued by the Maritime Customs as of 4 November, 1861.¹¹ As a result of the negotiation, the co-existence of the *Lijin* tax system, and the outward transit-pass system started, which be-

⁸. Ibid., 73.

⁹. Hao (1970): 75-83. *id.*, (1986): 174-182, 185-188.

¹⁰. Dean (1974): 72-74.

¹¹. CIRCULAR No. 8 of 1861 (First Series): Transit Dues Exemption Certificates, Coast Trade Duty, Yangtze Trade, enclosing four sets of Rules regarding, 4, November, 1864, *CIMCSS. No. 69* vol. 1, 6-11.

came the key factor of the Chinese-British commercial conflicts in the 1880s.

The Lijin Tax as an Institutional Privilege

What was the real meaning of the above diplomatic negotiation? For those who assumed that capital and profit were the only crucial factors to determine production and transaction activities, the negotiation might have seemed to be a controversy over the definition at what phase a sort of indirect tax called *Lijin* should be allowed to impose upon imported goods or native produce, and how to collect it.

However, such an assumption would be completely wrong. The *Lijin* tax was anything but a present-day form of indirect tax, the rate of which is calculated according to the prices of commodities. It was rather a levy imposed on the privilege of Chinese merchants to monopolize some kind of business, or to perform some kind of commercial service. According to the *Shina Keizai Zensho* 支那經濟全書, the reports of investigations by the Japanese in the early twentieth century, the *Lijin* tax bureau (*yaliyu* 牙厘局) or county magistrates collected the *Lijin* tax from wholesalers (*yahang* 牙行) in return for permitting them to carry on commercial activities.¹² It also recorded an example of the system of collecting the *Lijin* tax from prominent-silk-dealing merchants in Shanghai that worked as follows:

Some guildhalls have the service of collecting the *Lijin* tax on behalf of their members. For instance, in the case of the silk-goods trade from Suzhou to Shanghai, since it takes quite a few days [for completing the transportation] and requires very complicated procedures [for inspecting goods] if a Chinese silk merchant honestly undergoes the inspection and pays the *Lijin* tax at passing each station, the directors (*dongshi* 董事) of silk merchant guildhall, who represent the whole membership of the guildhall, negotiate with the general director (*zongban* 總辦) of the *Lijin* tax bureau to estimate the total amount of the *Lijin* tax which is to be imposed on the silk

¹². *Shina Keizai Zensho* vol. 7; 221.

goods transported by them from Suzhou to Shanghai. Because of this system, the directors of the silk merchant guildhall can collect the amount of the *Lijin* tax correctly, . . . and the *Lijin* tax bureau issues permission to the directors for doing so because they can expect the income of a certain amount of the tax without inspecting each goods by themselves and worrying about illegal evasion. They let permitted ships, which set up a special flag, pass the *Lijin* tax bureau freely. They also calculate the average price of [a commodity] over a certain number of years so as to impose a certain amount of the *Lijin* tax on it, and collect the *Lijin* tax from the directors of a merchant guildhall the members of which deal with the commodity without inspecting the ships at the *Lijin* tax bureau. . . ¹³

After they had acquired the right to carry on business from the Qing local bureaucrats in return for paying the *Lijin* tax, the wholesalers (*yahang* 牙行) aided travelling merchants (*keshang* 客商) in many ways. They arranged transactions and the transportation of goods, provided travelling merchants with accommodation or godowns, and received the payment for goods on behalf of them.¹⁴ Although the writer of this part of "*Shina Keizai Zensho*" might have supposed that the payment of the *Lijin* tax by wholesale merchants on behalf of travelling merchants was one of their commercial services, it should not be regarded as so. The dealing merchants apparently collected the *Lijin* tax from travelling merchants as a reward for providing them with above commercial services. In other words, travelling merchants could not have the right of receiving the above services from anyone without paying the *Lijin* tax.

The above relationship between the Qing local bureaucrats and Chinese merchants indicates that the *Lijin* tax should be regarded as an "institutional privilege" granted by the Qing local governments to the leaders of prominent Chinese merchants' groups to maintain their commercial organizations, which was recorded as guilds in the Western language sources. For the Qing local governments, prominent Chinese merchants'

¹³. Ibid. vol. 2; 602-603.

¹⁴. Ibid. vol. 7; 224-229.

groups were indispensable organizations for collecting the *Lijin* tax; whereas the *Lijin* tax was indispensable for the leaders of the prominent Chinese merchants' groups to maintain their commercial organizations. The close relationship the social role between the Qing local governments and prominent Chinese merchants' groups recorded as "guilds" originated in the late-imperial period.

The peculiar character of prominent Chinese merchants' groups recorded as guilds was the strict limitation of their membership to the same local origin. It is thought to be the historical product of the development of long-distance trade and migration of traveling merchants (*keshang* 客商) who gradually became resident dealing merchants (*zuogu* 坐賈) in a commercial city since the late sixteenth century. In order to live and seek for success in a place where the customs, the life-style, or even language were different from their native area, the outside merchants had to cooperate with each other when facing the outside world. As a group of resident merchants from the same local origin grew up to be a prominent group, they used to build a guildhall (*huiguan* 會館) in order to aid the newcomers from their native district, who came to enter business or to take the civil-service examinations. Thus, the growth of a prominent Chinese merchants' group in a commercial city meant the development of a network of prominent urban merchants, bureaucrats, and local gentries of the same local origin.¹⁵ In the case of Shanghai, since it was located in the centre of coastal trade and the commercial production well developed in its hinterland, the commercial organizations of the prominent Chinese merchants' groups developed since the 17th century.¹⁶

Prominent Chinese merchants' groups controlled the sources of supply, the transportation network for delivery, and concealed any knowledge or

¹⁵. Golas (1977): 557-564; Li Hua (1983): 101-107.

¹⁶. Mann (1974): 73-96; Du (1983): 144-164.

information about their trade so that outsiders could not compete with them effectively. The control of commerce, transportation and information by prominent Chinese merchants' groups had two social effects. First of all, by regulating the quality of the service or commodities they dealt with, it secured the social welfare and certain profits for the members. At the same time, it minimized the competition not only with non-members but also among the members. In order to make their control effective, leaders of the prominent Chinese merchants' groups forced their members to respect complicated disciplines, which included the standardization of scales or weights, and the highest and the lowest limit of wages.¹⁷ By doing so, prominent Chinese merchants' groups had preserved the profit of their members, the quality of commodities, services, and even wages.

Since the control of commerce and handicraft industry by the prominent Chinese merchants' groups was so effective in maintaining the social order, the Qing local authorities encouraged to rebuild the control over commerce, handicraft industry, and workers by prominent Chinese merchants' groups. In the case of Shanghai, twenty-four of the total twenty-seven "guild organizations (*hanghui* 行會)" were recorded to be built after the suppression of the Taiping rebellion.¹⁸ They were allowed to control not only the prices, quality and quantity of commodities they produced and sold, but also the distribution of raw materials and wages of workers.¹⁹ The most attractive "institutional privilege" bestowed on them by the Qing local authorities was the right of collecting the *Lijin* tax from the privilege of dealing with the commodities whose distribution they monopolized.²⁰ Owing to the "institutional privilege," prominent Chinese merchants' groups succeeded in controlling commerce and handicraft in-

17. Golas (1977): 569-572.

18. Peng Zeyi (1983): 180.

19. Ibid., 194-204.

20. Ibid., 209-210.

dustry in the interior districts. They could exclude British merchants and their native agents from the sales of export and import goods in the interior districts.

British mercantile firms and diplomats did not admit that the *Lijin* tax was collected from merchants in return for granting the privilege of doing business or receiving protection and other services on their commercial activity. Assuming that economic activities were carried out only by circulating capital in order to gain more profit, they overlooked the economic principle in the Chinese society. From their viewpoints, the *Lijin* tax was nothing but a duty which was not clearly defined in any treaty articles. Therefore, British diplomats persistently claimed that British mercantile firms should be permitted to carry on trade without paying the *Lijin* tax once they paid the one-half-duty. On the other hand, for the Qing local governments and the leaders of the prominent Chinese merchants' groups, the claim of the British side was beyond their comprehension. Since their economic rule was that no one could claim the privilege of doing business without paying the *Lijin* tax imposed on it, they were unable to understand why British merchants and diplomats claimed to carry on trade without paying the *Lijin* tax.

The diplomatic negotiation on the *Lijin* tax from 1860 to 1861 was a process between two parties whose socio-economic principles were totally different, but who reached agreement by mutual compromise. Nonetheless, even though the British and the Chinese diplomats reached an agreement on form of words, it was impossible in practice for British mercantile firms to deal confidently with prominent Chinese merchants' groups safely as long as their economic principles were different. As will be shown from Chapter 2 to Chapter 4, British mercantile firms inevitably ignited conflicts with the prominent Chinese merchants' groups which dealt with silk, tea, and Indian opium, from the end of the 1870s.

Because of these conflicts, valuable information on the prominent Chinese merchants' groups, which dealt with the major trading goods, became available in the Western-language sources. The recorded profiles of these groups are as follows:

(1) Shanghai Silk Guild (*Shanghai Siye Huiguan* 上海絲業會館)

This was constituted by 27 Zhejiang silk merchants who dealt with most of the silk imported into Shanghai. The Shanghai Silk Guild was originally established as the Silk and Tea Guild (*sicha gongsuo* 絲茶公所) in cooperation with the Shanghai Tea Guild in 1855. However, because of differences in commercial practices from the Tea Guild, and the growth of the silk trade, the silk merchants became independent in 1860. The independence of the Silk Guild was the outcome of an order from the Zhejiang Governor-General, Wang Youling 王有齡 to collect an inland tax from the silk merchants (*sijuan* 絲捐) for the military budget needed to suppress the Taiping rebellion. Taking advantage of the duty of paying the *Lijin* tax, the Silk Guild succeeded in obtaining the right to collect the funds to build their own guild hall and support a welfare policy for their members.²¹ As will be shown later, the Silk Guild took the leadership of Chinese merchants during the 1860s and became the major commercial group opposing the Shanghai British merchants in the conflict over the conduct of the export trade up until the beginning of the 1880s.

(2) Shanghai Tea Guild (*Shanghai chaye gongsuo* 上海茶業公所 or *Shanghai huacha huiguan* 上海華茶會館) and Hankou Tea Guilds (*Hankou chaye gongsuo* 漢口茶業公所)

Shanghai Tea Guild was an organization of Guangdong merchants, who had changed the pattern of black tea trade in Hunan province from export to central Asia to export to the West in the 1840s. They stopped

²¹. Negishi (1951): 243-250; Miyata (1981): 84.

their activities for the time being in 1860 when the Taipings attacked Shanghai. In order to eliminate unfair transactions and confusion, however, Shanghai Tea Guild was rebuilt in 1868 under the leadership of such prominent compradors and tea merchants as Xu Run 徐潤 and Tang Jingxing 唐景星. The Tea Guild was as influential in Chinese commercial society as the Silk Guild. Their power was based upon the "institutional privilege" of collecting the *Lijin* tax from the trading tea merchants. By refusing to accept the *Lijin* tax from those merchants they did not like, they could arbitrarily frame anyone as "an illegal merchant" and exclude him from the tea business. The leaders of the Shanghai Tea Guild had close connections with the leaders of the Hankou Tea Guild which was established in the same year.²²

In contrast to the Shanghai Tea Guild, the origin of the Hankou Tea Guild was uncertain. Since it consisted of the tea merchants from six provinces, it was also called "Six Guilds."²³ However, there is a discrepancy on the names of the six provinces in the sources. While the advertisement of the *North-China Herald* recorded the Hankou Tea Guild consisted of Guangdong, Jiangxi, Hunan, Hubei, Zhejiang and Jiangsu, and Anhui teamen's guilds, British consular archives recorded them as Guangdong, Shansi, Hunan, Hubei, Jiangxi, and Anhui.²⁴ As it will be shown in Chapter 3, the Tea Guilds in Shanghai and Hankou cooperated with each other in the conflict with the British merchants in the early 1880s.²⁵

(3) The Swatow Opium Guild in Shanghai (*Shanghai Chaohui Huiguan* 上海潮惠會館)

²². Ibid., 82, 84-85; Shigeta (1975); Takahashi (1973): 26-30.

²³. Rowe (1984): 137.

²⁴. "Notification: The Six Tea Guilds of Hankou (Advertisement)," *NCH*, Jan. 24, 31, Feb. 7, 1883; FO 228/864 Allen to Walsham No. 13, May 12, 1888. Rowe suspected the reason for the discrepancy was the result in the participation of merchants from more than the original six provinces in the Hankou Tea Guild without changing the original names (Rowe [1984]: 137).

²⁵. See Chapter 3, 126-134.

Being different from the silk and tea guilds in Shanghai and Hankou, Western language sources recorded more specific information about this organization because British merchants, T. W. Duff and D. M. David, sued them in the Mixed Court in Shanghai for the breach of the treaty articles stipulating "free trade" in 1879.²⁶

According to these sources and Chinese documents, "the Swatow Opium Guild" were the commercial organizations of the Guangdong merchants who immigrated from Chaoyang 潮陽 and Huilai 惠來 counties in Chaozhou 潮州 district. They monopolized the opium trade in Shanghai and Zhenjiang, the centres for this trade in central China. Although the organization was originally a social welfare organization for the 20,000 or 30,000 members from the above-mentioned counties in Shanghai, two or three hundred members, who were led by about thirty directors and secretaries, were engaged in the opium trade. They succeeded in obtaining the monopoly over the opium trade from 1863 to 1865. After that time, the organization of the Chaozhou sugar merchants turned into the facade of the opium merchants.²⁷

Just like the Shanghai Silk Guild and the Shanghai Tea Guild, their monopoly relied crucially on the right of collecting the *Lijin* tax on sugar and opium which they obtained in 1866. In order to make the privilege of collecting the *Lijin* tax on opium effective, they employed many opium runners (*xunding* 巡丁). The opium runners arrested the smugglers and confiscated the smuggled opium. Moreover, by keeping foreign opium importers under surveillance, they could find native opium merchants who attempted to effect transactions directly with foreign merchants.

²⁶. On the full detailed course of this case, see Motono (1988).

²⁷. "A Few Words on the Action of the Swatow Guild etc.: Fairplay," *NCH*, Feb. 21, 1879, 176; "The Swatow Opium Guild: Merchant," *ibid.*, May 13, 1879, 469-470; "The Swatow Opium Guild Case," *ibid.*, Sep. 23, 1879, 289-290; Oct. 17, 1879, 388; *Shanghai Beiku Ziliao Xuanji*, 上海碑刻資料選輯: 325-326; FO 228/633 Arthur Davenport to Thomas F. Wade, No. 51 of 1879, Nov. 25, 1879.

Because of the activities of the opium runners, the Swatow Opium Guild could supervise the whole opium trade. If some native merchants, regardless of whether or not they were members or non-members of the Swatow Opium Guild, attempted to deal directly with foreign merchants without reporting the sales to them, they were immediately arrested as "smugglers" and excluded from the opium trade because the Swatow Opium Guild refused to receive the *Lijin* tax from such "smugglers."²⁸

The monopoly of the opium trade by the prominent Swatow merchants were strengthened after 1876 because the British Parliament refused to ratify the Chefoo convention, which stipulated that the Imperial Maritime Customs would collect the whole of the transit dues and the *Lijin* tax upon foreign opium from Chinese merchants at the same time as they collected import duty from foreign merchants.

The Conflicts over a Stable Settlement System, 1861-75

As the liaison between the Qing local governments and prominent Chinese merchants' groups was being reinforced owing to the "institutional privilege" of collecting the *Lijin* tax, Chinese wholesalers could develop their commercial organizations. At the same time, they could dominate the major share of tea and silk in the inland districts from the end of the 1860s. In consequence, British mercantile houses and their native agents were excluded from the inland districts. They had no choice except to do business with the Chinese wholesalers within treaty ports.²⁹

In contrast to the development of prominent Chinese merchants' groups and their liaison with the Qing local governments, the relationship between British merchants and Chinese merchants turned from bad to worse. The reason for the worsening relationship between them was the

²⁸. "The Swatow Opium Guild: Merchant," *NCH*, May 13, 1879, 469-470; "The Swatow Opium Guild Case," *ibid.*, Oct. 17, 1879, 385; FO 228/658 Arthur Davenport to Thomas F. Wade, No. 2, Jan. 13, 1880; FO 228/985 Chinese No. 1 of 1880.

²⁹. Miyata (1981), 78-86.

arbitrary private business activities of their native agents called "compradors." Just as nowadays Chinese historians differ in their views on the historical role of Chinese "compradors," debating whether they should be regarded as the "cat's-paw of the imperialist aggressors"³⁰ or as the "bridge between East and West,"³¹ contemporary British mercantile people and diplomats were embarrassed as to how they should define the legal character of their native agents or dealers with whom they dealt.

According to the classification by the British consul in Shanghai, Charles A. Winchester, a Chinese employee who lived on the premises of a foreign merchant and received a salary from him was defined as a "servant"; a Chinese employee who was nominally the servant of a foreign merchant but in reality did a general brokerage business on his master's account was regarded as a "middleman"; and a Chinese merchant who did a large independent business on his own account was a broker.³² Ordinarily, historians have regarded those who belonged to the category of "middlemen" as the compradors. In actual fact, since a "comprador" might choose his legal status as between being the "servant," "middleman," or "broker" of a foreign merchant in each transaction, so as to obtain more profit or commission without his employers, the ambiguity of his legal status caused confusion between his Chinese clients and his foreign employers when an economic crisis broke out.

The mysterious character of a Chinese comprador can be easily accounted for by considering the fact that the privilege of doing business was prior to the protection of property and profit in the Chinese society. Since there was no legal institution to protect sales profit of each merchant, the comprador of a British mercantile firm had the privilege of protecting his commercial profit from the collection of the *Lijin* tax, be-

³⁰. Huang (1964) (1965); Nie (1979); Huang *et al.* (1982).

³¹. Hao (1970), (1986).

³². FO 228/432 Charles A. Winchester to Rutherford Alcock, No. 7, January 31, 1867.

cause he could legally use transit-passes on transactions not only for his employers but also for his own sake.

Moreover, whether he did business for his employers or for his own sake, compradors could carry out on a larger scale of sales in credit than he could only using his own credit. Since Chinese merchants always regarded him as a "servant" of wealthy Western mercantile firms, they supposed that his Western employers would guarantee his debt even if he were bankrupted. In other words, Chinese merchants regarded British mercantile firms as the surety of the compradors, whereas British mercantile firms strongly denied this to be so.

Another reason why a Chinese comprador could arbitrarily change his legal status between each transaction was the unstable credit system governing the export and import trade in China. Until the 1880s, China was the world's largest tea- and silk-producing country. Because of the famous tea-clipper race and the lack of a telegraphic link between China and Britain, the merchant who could bring the first crop of tea and silk to London in each season could earn large profits. Therefore, British merchants in China had to compete with each other in order to purchase the new crop of tea or silk as soon as possible. However, because of their ignorance of the native language or commercial customs in the interior districts, they had to rely upon their native agents or Chinese dealers in treaty ports to purchase tea and silk in the inland producing districts. The transactions with these native agents or dealers used to be sales in cash. This custom, known as the "up-country purchase system," had developed in Shanghai and Fuzhou since the 1840s.³³

On the other hand, British merchants could not easily sell Manchester cotton goods or Indian opium in as great quantities as they had expected. As the well known "Mitchell report" made clear and recent studies have

³³. Hao (1970): 75-83; (1986): 174-182, 185-188.

pointed out, the reasons for the unpopularity of Manchester cotton goods in Chinese society were the relatively self-sufficient nature of the Chinese economy, the competitive native cotton-goods industry, and the demand structure of the Chinese economy in the late-nineteenth century. While the Chinese common people demanded a thick durable cotton cloth made from native raw cotton with a short fibre, the British cotton industry supplied a thin, flimsy cloth made from American or Egyptian raw cotton with a long fibre.³⁴ In addition, as the cultivation and sales of native opium increased and its quality was improved, Chinese opium consumers preferred to purchase native opium to Indian opium because native opium were cheaper and not so strong as Indian opium.³⁵

Because of the unpopularity or limited demand for British cotton goods and Indian opium, Chinese dealers could not easily collect the prices of British cotton goods or Indian opium from native retailers when they purchased a large amount of these imported goods at one time. Accordingly, Chinese dealers did not accept the wholesale trade in these goods with British merchants unless the transaction was carried out by sales in credit.

The credit purchase of imported goods by the Chinese dealers was carried out by means of payment of native bank drafts (*zhuangpiao* 莊票) drawn in their favour, which were issued even before the Chinese dealers had paid sycee to native banks (*qianzhuang* 錢莊). Although the usance of the native bank drafts was ordinarily ten days, it took far more days to convert them into cash in the 1860s.

Since the native banks had capital as limited to such small amounts as five to ten thousand taels, they often could not afford to effect the settlement of all the native bank drafts they had issued when the Chinese dealers delayed payment in cash. In order to avoid the bankruptcy of the na

³⁴. Pelcovits (1948, rpt. 1969): 15-17; Eto (1956); Tanaka (1967); Kawakatsu (1981), (1984).

³⁵. Niimura (1979): 175-188; Lin (1980): 426-430.

Figure 1-1A: The Credit System in Shanghai under ordinary Conditions

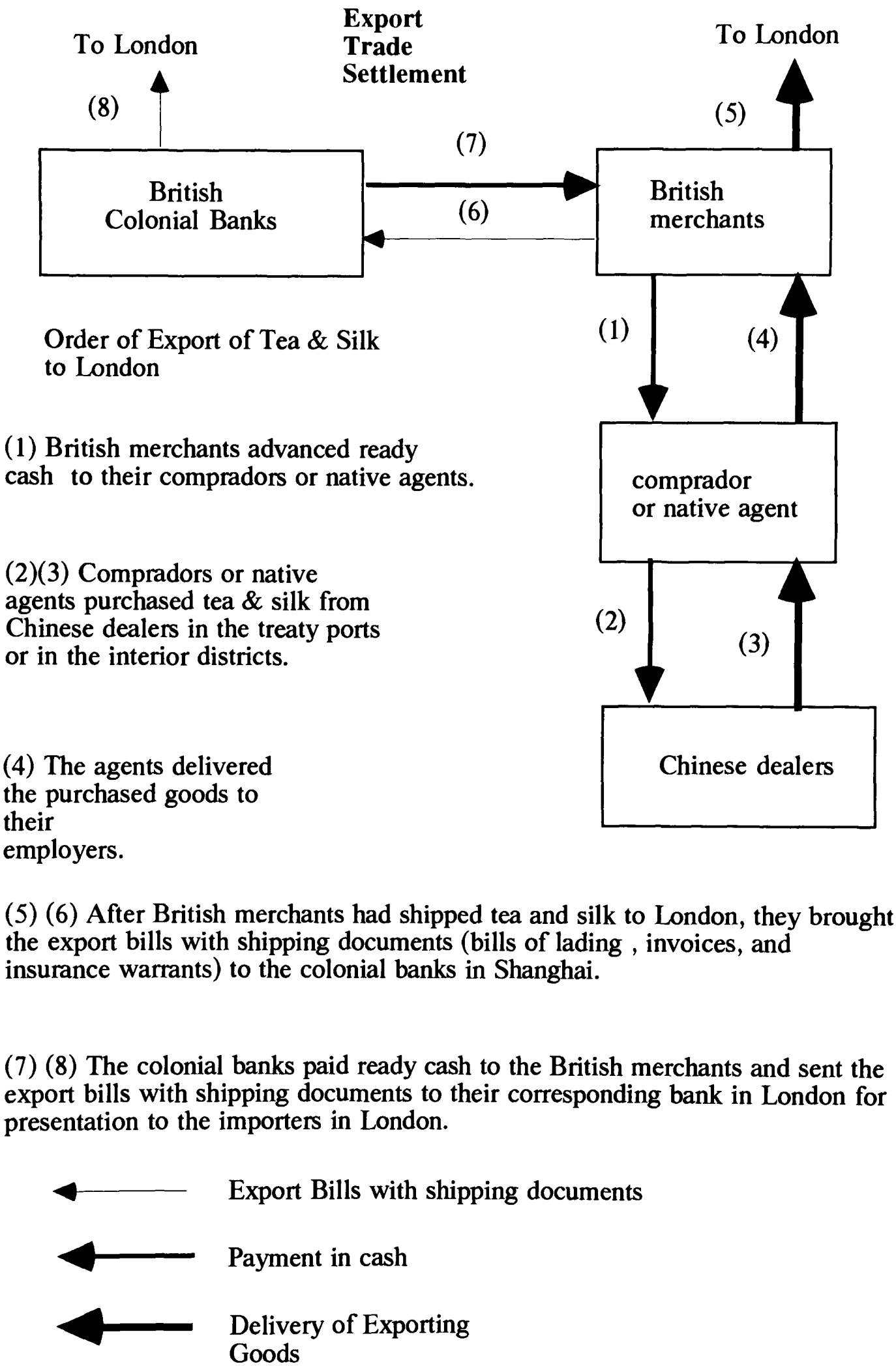
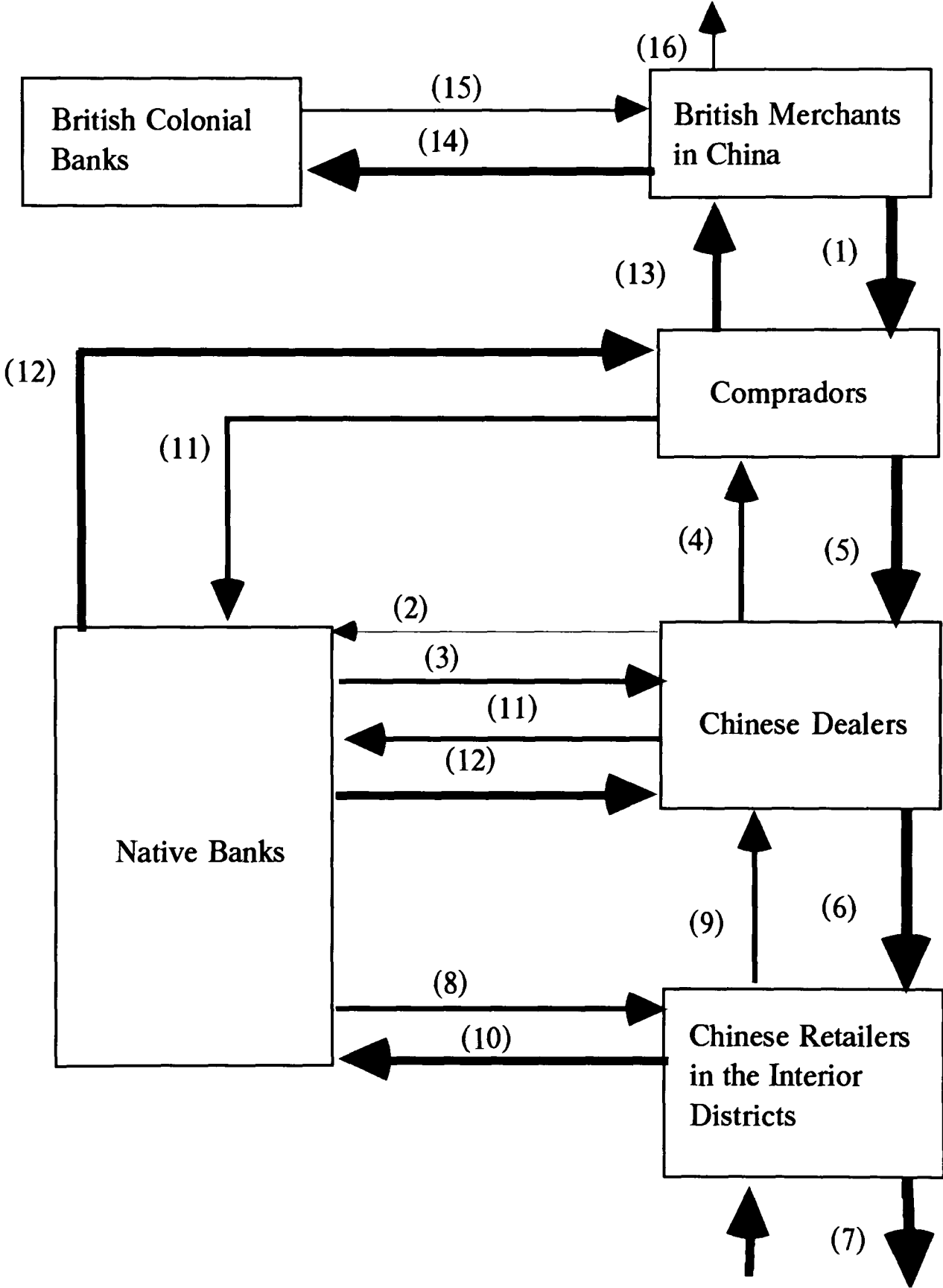
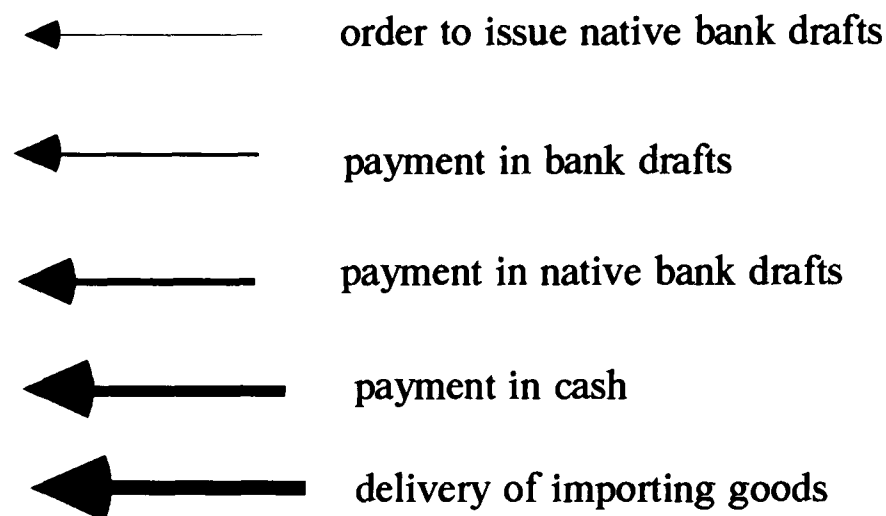


Figure 1-1B
The Credit System in Shanghai under Ordinary Conditions
Import Trade Settlement





(1) British merchants direct their compradors to sell imported Manchester goods or Indian opium.

(2) (3) (4) After the sales have been contracted, the Chinese dealers order native banks to issue native bank drafts and they pass these to the comprador.

(5) (6) (7) While the comprador is waiting for the payment of the native bank drafts in due course, the imported goods are delivered from him to the Chinese retailers through the dealers.

(8) (9) Just as with the sales between the Chinese dealers and the compradors, the sales between the Chinese dealers and the retailers were effected by means of credit. The retailers ordered native banks to issue native bank drafts and passed them to the Chinese dealers.

(10) From three months to six months after delivery, Chinese retailers received the payment for the imported goods in ready cash and paid it to the native banks as in settlement of the native bank drafts.

(11) (12) About the same time, Chinese dealers and compradors presented the native bank drafts they had received from the retailers or dealers to the native banks for the payment in ready cash.

(13) (14) Compradors delivered the payment for the imported goods to the British merchants, and the British merchants purchased Bank Drafts from colonial banks for overseas remittance.

(15) (16) The Bank Drafts were issued to the British merchants and sent to the overseas shippers as the payment for the imported goods.

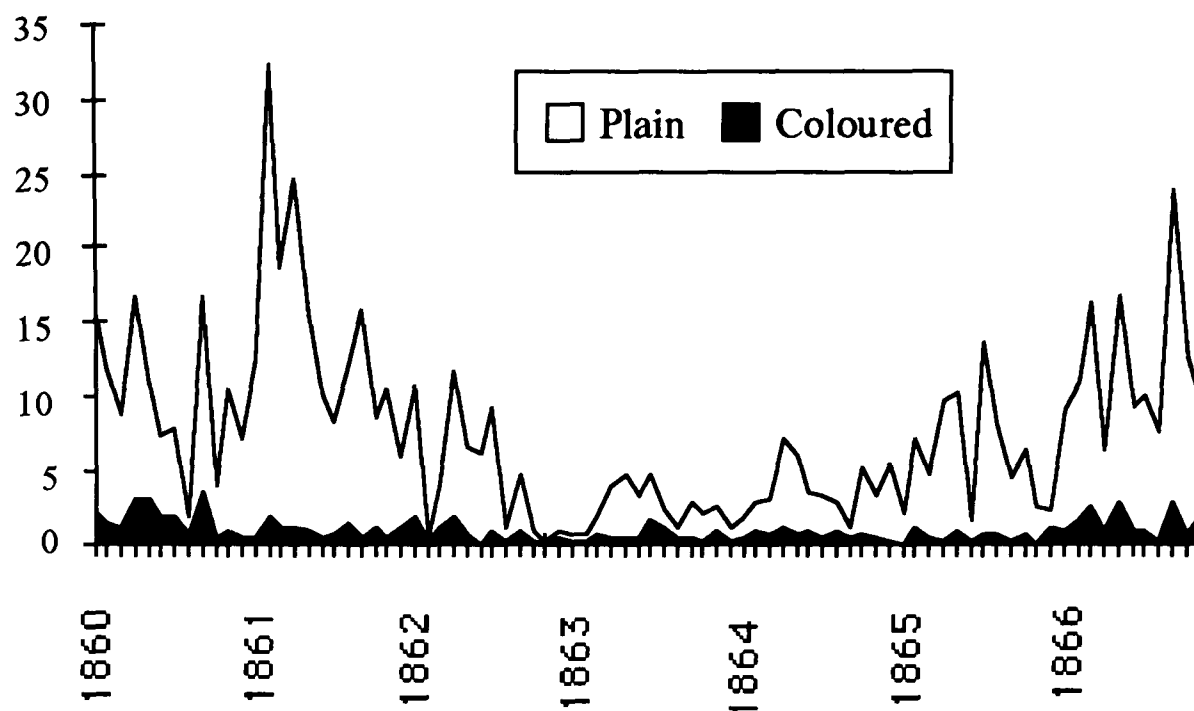
tive banks, therefore, British merchants were required to present the native bank drafts they had received from Chinese dealers, in payment for imported goods little by little. Such a task was impossible for British merchants because it needed personal connections with native bankers. In order to carry out the sales of import goods on credit safely, British merchants had therefore to rely upon their "compradors."³⁶

Because of their role, the compradors were in the crucial position in the transactions between British merchants and the Chinese dealers. As shown in Figure 1-1, they held the position to control the circulation both of cash and of native bank drafts, both of which were indispensable for trade activities. Although the role of the compradors was so important, their legal obligation and responsibility for the debt to their foreign employers or to their Chinese clients had not yet been clearly defined. It turned out to be a cause of a serious dispute between British merchants and the Chinese dealers in the 1860s when the trade boom and the expansion of the credit system in China took place.

The boom started with the oversupply of British cotton piece goods from 1860 to 1861 as British cotton manufactures feared the depression due to the oversupply in India (see Figure 1-2). Nonetheless, the imported cotton goods could not be sold easily in China because of the turmoil caused by the Taiping rebellion. British merchants had to sell the immense stock to the Chinese dealers through their compradors by means of sales on credit. In consequence, the compradors held a corresponding amount in native bank drafts paid to them by the Chinese dealers for the British cotton piece goods. Since the native banks had already issued too great an amount of drafts for them to convert into cash by March 1863,

³⁶. Motono (1984): 40-42.

Figure 1-2: Import of British Cotton Goods in Shanghai (in million yards)



Source: *British Parliamentary Papers 1867, lxviii: Commercial Reports from Her Majesty's Consuls in China, Japan, and Siam: for the Years 1865 and 1866, 98-99.*

the compradors had no choice except to use them as the payment for the purchase of the goods for export.³⁷

Like the import trade, the export trade enjoyed a great boom in the early 1860s. Because of the blockade of the southern ports by the U. S. Navy, the Lancashire cotton industry, whose supply of raw cotton was entirely from the southern states, suffered a serious shortage of raw cotton. They eagerly demanded raw cotton produced in other areas, such as Egypt, India, and China. In spite of being unsuitable for thin flimsy British cotton cloth on account of its short fibre,³⁸ even Chinese raw cotton was exported to Britain in substantial quantity from 1862 to 1864 (see Table 1-1).

Table 1-1: The Total Export of Raw Cotton from Shanghai to Great Britain

Year	Piculs	lb.
1864	321,848	42,913,000
1865	99,128	13,217,066
1866	25,476.29	3,396,838

Source: *British Parliamentary Papers 1867, lxviii, Commercial Reports from Her Majesty's Consuls in China, Japan, and Siam: for the Years 1865 and 1866, 106.*

³⁷. Ibid., 39-44.

³⁸. Kawakatsu (1984): 1-33.

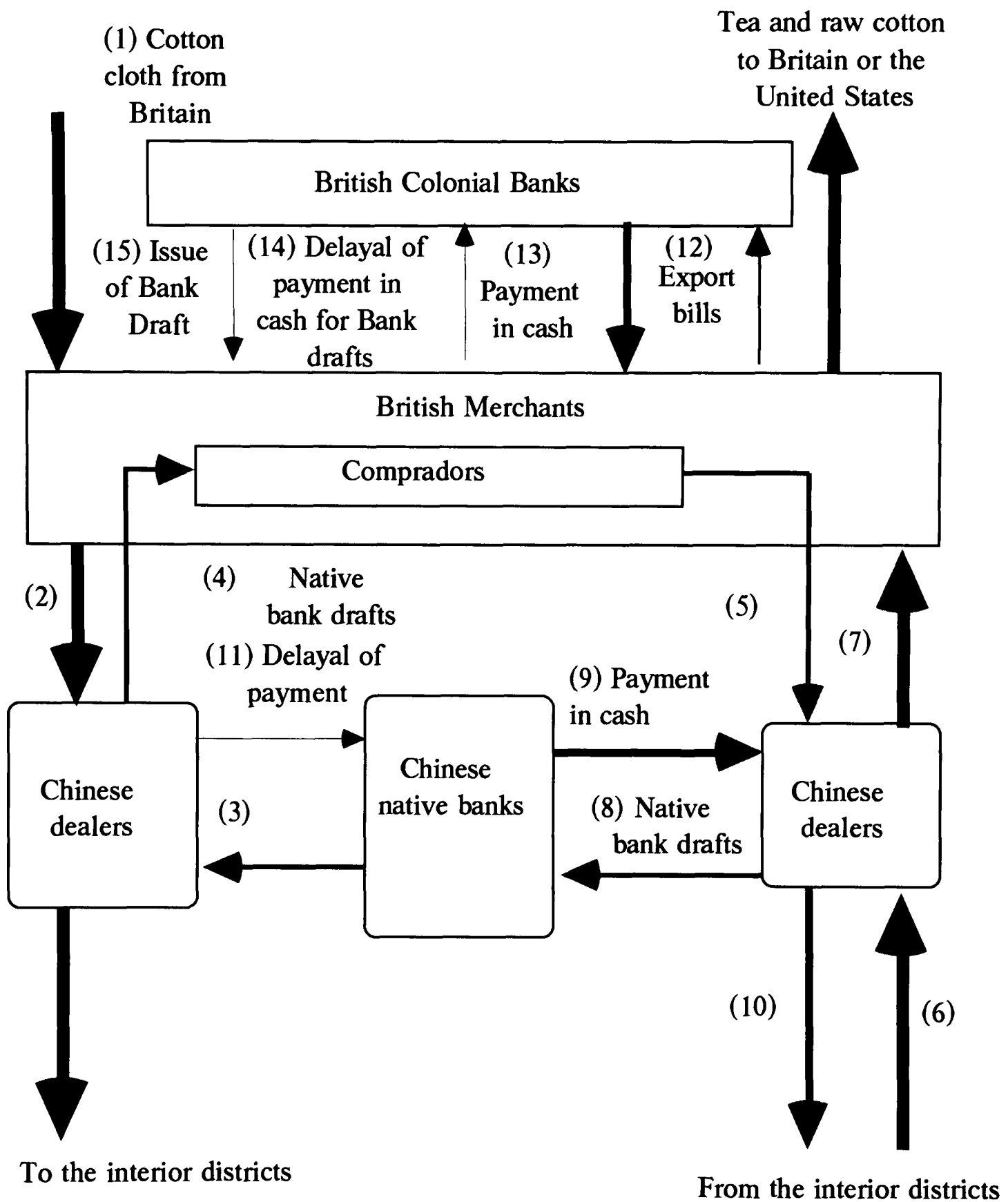
The compradors, taking advantage of the export boom, started to carry out their private business without the permission of their employers. By paying with the native bank orders received from the Chinese cotton goods dealers, they bought raw cotton for export on speculation.³⁹ Although the export boom of raw cotton was over in 1865, they could continue the private business with the native bank drafts. As the oversupply of British cotton piece goods reappeared after 1865, the number of native bank orders issued increased again.

Moreover, since the boom in exports to America shifted the major export goods from raw cotton to tea in 1865, the credit system in China expanded to an extraordinary degree. As a result of this, almost all transactions between British merchants and the Chinese dealers were carried out on credit. Since the native bank drafts received from the Chinese dealers were spent by the compradors for their private business, British merchants could not collect the cash for the imported goods from the inland market. The only source of the cash left was colonial banks in China. As long as the banks could afford to purchase documentary bills drawn against tea and silk exported, British merchants could obtain cash from them.

However, such an expanded condition of the credit system as existed at that time could not last for long. As shown in Figure 1-3, the sycee was at most circulated between the colonial banks and the British merchants. Under the conditions of an expanded credit system, the more cash British merchants paid for the purchase of raw cotton or tea, the less amount of cash returned to the banks through the sales of bank drafts. It was obvious that the expanded credit system that had arisen from the trade boom must collapse when the colonial banks could not purchase the export bills any more, and the collapse actually broke out in November 1866. Because of

³⁹. Motono (1984): 42.

Figure 1-3: The Credit System in Shanghai at the Economic Crisis of 1866



(1) British cotton manufacturing companies consigned British merchants in China to sell huge amount of cotton cloth between 1860 to 1862.

(2) British merchants in China had to sell the imported cotton cloth on sales in credit through their compradors.

(3) When Chinese dealers purchased the imported cotton cloth, they asked Chinese native banks to issue native bank drafts before they paid cash to them.

(4) They passed the native bank orders at the delivery of the imported cotton cloth.

(5) (6) (7) Meanwhile, taking advantage of the raw cotton and tea export trade boom, compradors purchased these products with the native bank orders they received as the payment for the sales of the imported cotton cloth without consulting their employers.

(8) (9) (10) The Chinese dealers, who sold raw cotton and tea to British merchants through their compradors, changed the native bank drafts into ready cash so that they complete the payment to native traders who brought raw cotton and tea from the interior districts.

(11) On the other hand, since the huge amount of the imported British cotton cloth could not sell easily, the Chinese dealers who purchased them by sales on credit, could not get the prices of them in cash from native traders in the interior districts. Their payment for the native bank drafts on cash delayed, in consequence, native banks had to pay for the native bank drafts they issued with the stock of their own capital. Since they had issued a much greater quantity of drafts than their capital, the native banks sooner or later could not meet the request of the payment for the native bank drafts.

(12) (13) (14) (15) Similarly, colonial exchange banks could not receive the payment in cash for Bank drafts which were to be sent to Britain as the payment for the imported cotton cloth, because British merchants could not receive the prices of the cotton cloth in cash due to the private business by the compradors described in (5) (6) (7). Since the income of cash into colonial banks stopped but the payment for export bills continued, colonial exchange banks eventually had to stop payment for the export bills, which caused the financial panic of 1866.

the financial panic in Shanghai, five colonial banks out of eleven and forty-one native banks fell into bankruptcy.⁴⁰

It was at the economic crisis that British merchants became aware what their compradors had been doing behind their back. They tried to restrict the commercial activities of the compradors and to define their legal obligation and responsibility to the employers. What made them decide to do so was a civil case, "E-kee v. Jardine, Matheson & Co." This case started on December 1866 with the bankruptcy of the Ewo China bank, which had been established and managed together by Jardine, Matheson & Co. and their comprador in their Shanghai branch. Just before the bankruptcy, forty-seven Chinese silk dealers who had sold silk to Jardine, Matheson & Co. through their comprador called E-kee requested him and his employer to pay for the silk. Although Jardine, Matheson & Co. paid them in two sheets of native bank drafts drawn against the Ewo China Bank, these drafts could not be converted into cash because of the bankruptcy of the Ewo China bank and E-kee himself. In consequence, E-kee and the Chinese dealers claimed that Jardine, Matheson & Co. had the responsibility to pay them in cash because the principal of the silk transaction was Jardine, Matheson & Co. On the contrary, Jardine, Matheson & Co., who denied their claim, insisted that E-kee had the responsibility for the payment because the principal of the transaction was E-kee.

The crucial point of the case was how to define the role of E-kee. If he was regarded as a servant or an employee of Jardine, Matheson & Co., his commercial activity was considered to be that of his employer, and Jardine, Matheson & Co. had the responsibility to pay the money for the silk; on the other hand, if he was judged to be a middleman or a broker, E-kee himself had the responsibility to do so.

⁴⁰. Ibid., 43-49.

In view of the way in which the case was developing in the court, it was apparent that Jardine, Matheson & Co. must have won if the chief judge had given the judgement. However, just after the proceeding was to terminate on March 29, 1867, Jardine, Matheson & Co. suddenly compromised with E-kee and the Chinese dealers on the condition that they would convert the two native bank drafts drawn against the Ewo China Bank if E-kee and the Chinese dealers agreed to withdraw their plaint. As a result, Jardine, Matheson & Co. had to pay large amount of money as large as Tls. 80,000 to E-kee's creditors.⁴¹ This experience had a grave influence on the Shanghai branch of Jardine, Matheson & Co. After this time, they distrusted Chinese compradors and attempted to minimize the loss resulting from the activities of their compradors behind their back, which was a decisive factor to consider in their activities from the end of the 1870s.

It was Charles A. Winchester, a British consul in Shanghai, who persuaded the Shanghai branch of Jardine, Matheson & Co. to compromise with E-kee and the Chinese dealers. He had been investigating what was the common reason for the commercial conflicts between British merchants and the Chinese merchants that had broken out just after the economic crisis of 1866. After analyzing several typical civil cases including "E-kee v. Jardine, Matheson & Co.," he concluded that the crucial cause was the ambiguity of the legal obligation and responsibility of the compradors. The trouble was that a comprador could change his legal status in each transaction because he was used to carrying out his business without arranging the meeting of the seller and the buyer. Therefore, neither British merchants nor the Chinese dealers could know whether the man with whom they were dealing was a "servant" of a British merchants, or a "middleman," or an independent "broker". If a comprador fell

⁴¹. "The 'Silk Case'," *NCH*, Apr. 8, 1867, 3.

into bankruptcy or absconded without completing a business contract, British merchants and the Chinese dealers were left in conflict with each other concerning how to deal with the debt arising from the contract.

In order to prevent similiar civil cases arising in the future, Winchester proposed in January 1867 that all compradors must be registered in an organization supervised by the Shanghai General Chamber of Commerce and "the major Chinese merchant guilds". While the Shanghai General Chamber of Commerce agreed with his proposal, the Shanghai Silk Guild and the Shanghai Daotai 道台 (Intendant of Su-Song-Tai Circuit) did not.

Since compradors could use the one-half-duty privilege of their Western employers for their own business, they were not bound to the economic principle of Chinese merchants that no one could claim the privilege of doing business without paying the *Lijin* tax imposed on it. Because of the privilege, there were many Chinese merchants who wanted to be compradors of Western mercantile firms even though they belonged to the Shanghai Silk Guild. If the proposed comprador registration system had been realized, many Chinese merchants must have been under the control of the Shanghai General Chamber of Commerce because they wanted to be registered as compradors. The Shanghai Silk Guild and the Shanghai Daotai must have regarded the proposed comprador registration system as the device to undermine the cohesion of commercial organizations administered by them in the long run.

Therefore, the Shanghai Silk Guild arbitrarily set the following four rules for the silk trade in order to avoid troubles with British merchants caused by the commercial activities of the compradors on June 5, 1867.⁴²

(1) It has hitherto been the custom for linguists attached to the *Hongs* of Silk brokers, through which silk is sold to foreign *Hongs*, before the

⁴². Motono (1990): 12-30.

commencement of each new silk season, after finding securities to apply to the Customs Bank for a stamped [blank] book [of forms in which is entered every transaction] in order to ensure that the duties are properly paid. For the prevention of confusion, and to specialize the responsibility, those who do not apply for the stamped books through the guild, and all unattached linguists, are forbidden to purvey silk to foreigners as brokers.

(2) The basis of commerce between Chinese and Foreigners, being good faith; and public feeling having of late undergone a change, native merchants desired that the trade should be altered to a ready-money system. As, however, the amount of money required by such an arrangement is very large, and the matters connected with deciding the quality and weight are somewhat complicated, it is feared that this course would be inconvenient even to the most respectable merchants. A certain amount of delay must be conceded to the foreigner if he is forced to obtain advance on the silk he buys. It is now proposed as a safeguard to both parties to make it imperative that the price of silk is to be paid before the departure of the mail steamer.

(3) As therefore the ready money system is impossible, it is determined that when the silk has been weighed and the price calculated, the Foreign *hong* shall be applied to for a note giving full particulars of the goods and fixing the date of payment, which date must be before the departure of the mail steamer. This note is to be handed over by the linguist to the silkman for him to hold till the payment is due.

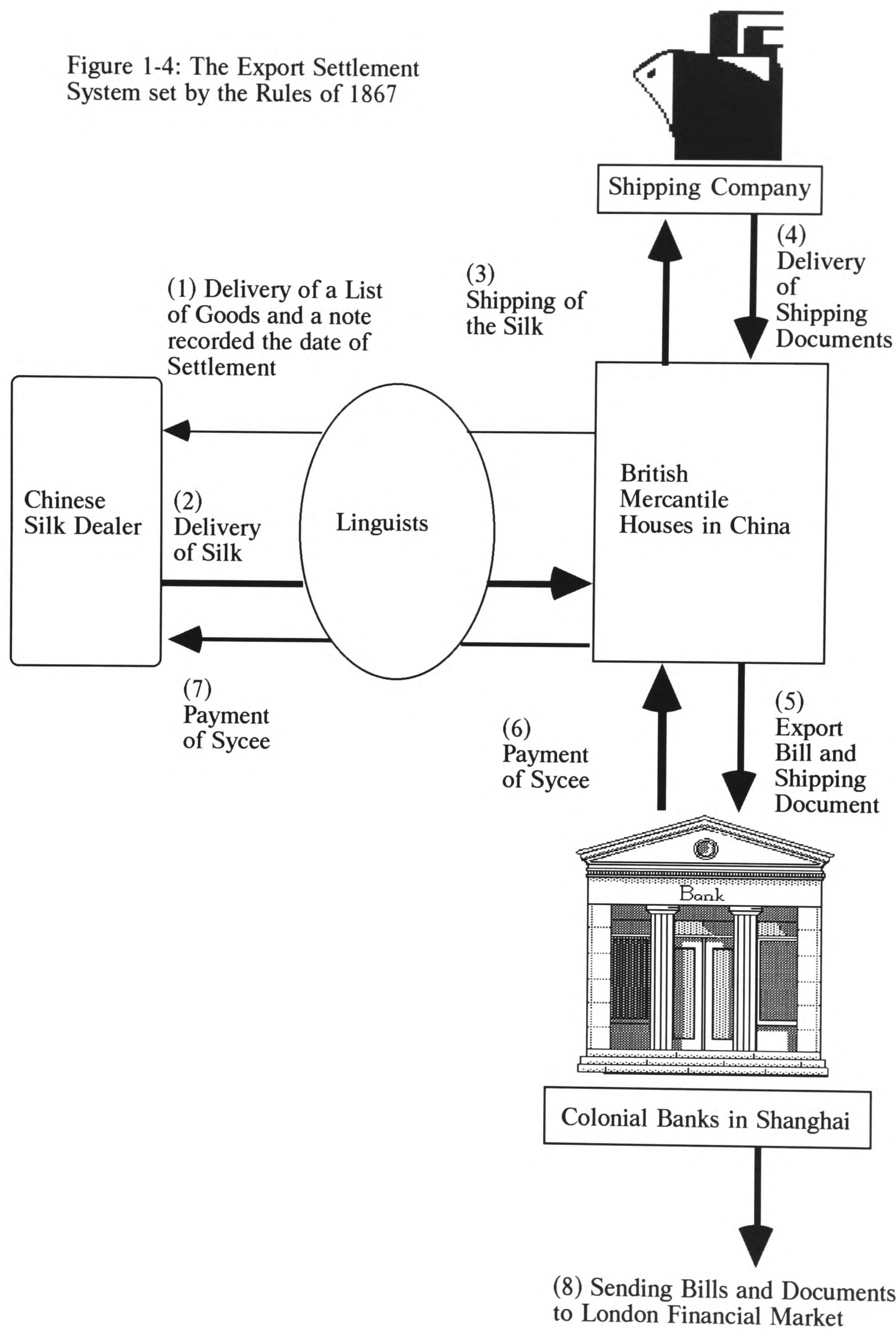
(4) Silk sold to a foreign merchant even after being weighed, packed and stowed on board the steamer, shall not be treated as his property before the payment comes due, or if the price has not been paid in full, and if news arrives from abroad that the Foreign *hong* has failed, application shall be made to the consulate to have the silk returned to the original owners.⁴³

The new set of the rules regulated the order of the silk trade as shown in Figure 1-4. Rule 1 stipulated that the silk trade in treaty ports be monopolized by the Chinese silk dealers and the commercial activities of British merchants be contained within the treaty ports.⁴⁴ Moreover, because of the following three rules, British merchants fell into a dilemma.

⁴³. "The Silk Trade," *NCH*, June 15, 1867, 107.

⁴⁴. Nevertheless, this rule did not seem to be effective. As is shown in Chapter 2, in the case of Jardine, Matheson & Co., they sent their comprador or Western silk inspector to the inland producing districts, such as Wuxi, even after the 1880s.

Figure 1-4: The Export Settlement System set by the Rules of 1867



Rule 2 compelled them pay the price of silk to the Chinese dealers before the departure of a mail ship. In order to get the price of silk, British merchants were required to sell export bills to colonial banks with shipping documents, such as bills of lading, invoices, and insurance warrants. However, since bills of lading could not be delivered to them from the shipping company until after the shipping of the silk was completed, it frequently happened that the shipping was not completed until the day when the mailing ship departed. In consequence, bills of lading were often passed to British merchants late in the evening after the banks had closed.

It was therefore extremely difficult for British merchants to pay the price of silk to the Chinese silk dealers before the departure of a mailing ship.⁴⁵ Naturally, in order to abolish the set of silk trade rules, British merchants asked Consul Winchester to request the Shanghai Daotai, Ying Baoshi 應寶時, to suppress the Shanghai Silk Guild. But the Daotai never accepted their request.

Thus, British merchants were forced to carry out the export business under the difficulty caused by the new set of silk trade rules for nearly ten years. This process can be thought as the first conflict between British merchants and the Chinese mercantile people.

The counter-attack by the British merchants against the prominent Chinese merchants' groups broke out after China's export trade was affected by the "Traffic Revolution": the opening of the Suez Canal in 1869 and that of the telegraph between Hongkong, Shanghai and London on April 18, 1870. Because of these innovations in international transportation and communication, tea and silk glutted the European market by 1872, and this led to the financial panic of 1873 in Shanghai.⁴⁶

45. "The Silk Trade," *NCH*, June 15, 1867, 105.

46. Sargent (1907): 201-202; Motono (1986): 81-89.

The opening of the Suez Canal shortened the voyage between China and London from 120 days to 55-60 days. Moreover, since only steamships, which could transport much more tea than sailing ships, could pass through the Suez Canal, the rate of insurance and freight charges became much cheaper than before. As a result, as shown in Table 1-2, the tea clipper race was out of date and the amount of tea exported *via* the Suez Canal increased remarkably in the first half of the 1870s.

Table 1-2: Amount of Chinese Tea Exported via the Suez Canal (million lb.)

Season	1872-73	1873-74	1874-75	1875-76
via Canal	82	102	114	128
via Cape	63	36	42	22
Total	145	138	156	150

Source: *North-China Herald*, Jan. 27, 1876, 67.

Table 1-3: Amount of Stocks of Chinese Tea in London (lb.)

Year	Stock of Tea	Stocks of Congou
1871	90,000,000	56,000,000
1872	80,000,000	53,000,000
1873	71,500,000	43,000,000
1874	61,000,000	36,000,000
1875	58,000,000	32,000,000

Source: *North-China Herald*, Jan. 27, 1876, 66.

The increase due to faster, safer, and cheaper transportation required the traders in Britain and China to adjust to the new conditions until the middle of the 1870s. First of all, tea merchants in London no longer needed to hold so much stock as the amount of consumption for six to twelve months. As a result of this, as shown in Table 1-3, they reduced their stock in 1875 to less than two thirds of that in 1871 not only for Congou tea, the most popular variety, but for all their Chinese teas.

Unfortunately, however, the amount of tea exported from China continued to increase as China got over the economic crisis of 1866, the prices on the London market fell and the British merchants in China who had bought tea at high prices suffered great losses in 1872. Although the demand for Chinese black tea in Britain was reduced at this time, the overall export of Chinese black tea still continued its prosperity until the end of the 1880s mainly owing to the demand from Russia.⁴⁷

Meanwhile, the opening of the telegraph had a major effect on the silk trade. Through the telegraph, British merchants in China exported silk by a new type of sales system called the "to arrive" system. In the terms of F. O. B., a purchaser had to pay the freight charge and to bear the risk for exported goods until they arrived at the port of destination; according to the "to arrive" system, he could avoid both of them. Therefore, it was now easy for the purchaser in Europe to order British merchants in China to send shipments simply by informing them by telegram that the order had been sold in the London market.

Table 1-4: Total Amount of Silk Exported from China (bales)

Season	Amount
1866-67	28,171
1867-68	41,439
1868-69	46,609
1869-70	42,829
1870-71	33,609
1871-72	49,820
1872-73	55,952

Source: *North-China Herald*, Jan. 22, 1874, 60.

The increase of orders from the overseas market and the high prices in the local market due to the short supply enabled the production of silk to

47. Sargent (1907): 214-217; Shigeta (1975): 243-246.

recover. In 1874, the level of production reached that of 1858 before the devastation by the Taipings.⁴⁸ With the recovery from the havoc of the Taiping rebellion, the amount of silk exported from Shanghai increased by 7% or 8% per annum as shown in Table 1-4.

However, as the sales on "to arrive" system increased and the price of silk in China became higher, its quality deteriorated, because the peasants in the producing districts reeled silk hurriedly and carelessly in order to keep up with the rush of orders. In addition to the higher price and the deteriorated quality, the demand for Chinese silk was seriously diminished by the Franco-Prussian War. In consequence it was so difficult to sell Chinese silk in London and the European continent that the shipping of silk by the "to arrive" system ceased in 1873.⁴⁹

Because of the oversupply and the decline of prices in the European markets, British merchants changed their attitude to the Chinese merchants. In the season of 1873, they even refused to buy tea and silk if they found the prices were higher than the previous season or the quality was inferior to the products in the previous season. In response to this change in the British merchants' attitude, the Chinese merchants and peasants refused to sell the products, which delayed the opening of the 1873 sales season. Because of this delay, many native banks in Shanghai, which had advanced money to the Chinese merchants to purchase the new crop of silk, failed to recover their loans and this caused a financial panic in September. The panic ruined more than 40 Chinese dealers and 20 native banks.

The Shanghai Silk Guild and Tea Guild feared the change in the British merchants' attitude. According to the trade rules promulgated by the Shanghai Silk Guild in 1867, British merchants could take delivery of

⁴⁸. Sargent (1907): 217.

⁴⁹. Motono (1986): 84-87.

tea and silk before they made payment. Moreover, since they could learn by telegraph that firms abroad would fall bankrupt or that the overseas market conjuncture was worsening, they could abandon their contracts with Chinese merchants before payment. On the other hand, since Chinese merchants could not obtain this vital information from abroad in advance, they would suffer great losses. In order to avoid the situation described above, Shanghai Silk Guild and Tea Guild demanded that British merchants effect the sales in cash, or pay for the sales in advance, so changing the rules of trade.

The Silk Guild presented a new set of rules that consisted of three articles, Article 1 of which was as follows:

(1) In all silk transactions it is desirable that the price should be paid up in cash in order to avoid losses that might accrue, and therefore we, the dealers, have decided that in future when silk is being sold to any foreign firm on the entry first being made in the Books it must be clearly laid down that on the delivery of the silk at the Hong it must be at once weighed, and then the account made out on the spot, then when the money has been paid the duty receipt will be given up so that the goods can be exported. Should the silk on arrival at the foreign hong not be weighed, nor the account made out, nor the price paid: or should the said hong be unable to pay, or should there be any other embarrassments of any kind the silk shall be returned to its owners and the foreign firm shall have no powers to detain it on any pretence.⁵⁰

British merchants did not accept the claims by the prominent Chinese merchants' groups. Since they had to mortgage the delivered tea and silk before they sold the bills of exchange to colonial banks to get cash according to the rules of trade in 1867, it was impossible for them to pay for tea and silk as soon as they were delivered or weighed. They rebutted the prominent Chinese merchants' groups. First of all, they emphasized that they had not brought about any commercial disaster to Chinese merchants due to the payment after delivery of tea and silk. On the contrary, it was

⁵⁰. FO 228/524 Inclosure No. 1 in Mr. Consul Medhurst's No. 44 of June 23, 1873. The Tea Guild made a similar set of rules that consisted of eight articles, which are recorded in FO 228/524 Mr. Consul Medhurst's No. 44 of June 23.

the Chinese merchants who had harmed British merchants by their adulteration or false packing of tea and silk. Furthermore, they demanded Chinese merchants pay cash before delivery on import goods because they had no way of knowing the amount of credit available to the Chinese merchants, who ordered native banks to issue native bank drafts. Finally they emphasized that the Chinese claim that foreign merchants could avoid commercial risk by using the telegraph was a groundless fear.⁵¹

With support from the British Consul, W. H. Medhurst, they succeeded in shattering the new rules; by pointing out the three articles of the "unequal" treaties which stipulated the principle of free trade, Consul Medhurst claimed that the new rules set by the Silk Guild and the Tea Guild violated these treaty articles and requested the Shanghai Daotai, Shen Bingchen to declare void the plan of the two guilds.⁵²

However, the members of the above-two Chinese merchants' groups made another attack on the British merchants in 1875. The second attack was made because they were angered at the judgements by the Mixed Court and the Shanghai Daotai in a case, "Overbeck & Co. v. *Huian* native bank 惠安錢莊, and a comprador of Pustan & Co." This case started when a comprador of Overbeck & Co., *Chen Litang* 陳麗堂, stole two native bank orders drawn for *Yongde* 永德 and *Huian* 惠安 native banks in December 1873. After he had these native bank orders cashed by *Hengyi* 恆益 native bank and a comprador of Pustan & Co., he absconded. When Overbeck & Co. became aware this, they instructed the *Yongde* and *Huian* native banks not to accept the stolen drafts and brought proceedings against the *Hengyi* native bank and the comprador of Pustan & Co. in the Mixed Court to retrieve the stolen orders.

⁵¹. Motono (1986): 91-94.

⁵². The articles quoted by Medhurst were the three as follows: (1) Act five of the Treaty of Nanjing between China and Britain; (2) Act eleven of the Treaty of Tianjin between China and Britain; (3) Article fourteen of the Treaty of Tianjin between China and France. The English and French text of these articles are recorded in Appendix.

Although the Mixed Court proposed a compromise by dividing the loss brought about by the stolen drafts between the parties, none of the parties agreed with it and the matter was taken to the Shanghai Daotai. The parties accepted the Daotai's decision that the parties should deposit the amount of the stolen native banks drafts until Chen Litang was arrested. However, the native bankers were angered at the judgement of the Mixed Court because it undermined their established custom that not the holder but the order itself should be subject to inquiry ("*Ren piao bu ren ren* 認票不認人"). In order to make the Shanghai General Chamber of Commerce, the organization of Western merchants in Shanghai, recognize the established custom, they stopped issuing native bank drafts and succeeded in pressing the Western merchants to accept this in 1874.

After they saw that British merchants could not resist the native banks if the latter threatened to stop issuing native bank orders, which were indispensable for transactions in imported goods between the Chinese dealers and British merchants, they once again announced that they would not sell the products unless British merchants bought them by sales in cash or the sales in advance during the sales season of 1875.⁵³

Probably because of fearing that the members of the Silk and the Tea Guild might suggest native banks stop issuing native bank orders, the British merchants had no choice except to accept their announcement. With help from the colonial banks, they compromised with the guilds and as a result, a new order of the silk trade was made as follows:

- (1) The foreign merchant is first to contact a colonial bank to buy a bill of exchange for the silk to be exported before he actually makes the purchase from a Chinese dealer.
- (2) The colonial bank is to pay the foreign merchant the amount due on the bill when the bank receives the warehouse warrant of the silk obtained by the foreign merchant from the Chinese silk dealer.

⁵³. Motono (1986): 95-98.

(3) The Chinese silk dealer is to give the bill of lading to the foreign merchant after the dealer receives payment.⁵⁴

Although no relevant record is available, it is apparent the tea trade must have been carried out according to a similar rule. Only by keeping to the order of delivery as above, could British merchants and the Chinese dealers avoid further conflicts.

Thus, the territories and the roles of the prominent Chinese merchants' groups and the British merchants were settled. It could be regarded as a sort of "containment system." While the former virtually controlled the production and the sales of the export and import goods in the inland market, the latter, being contained within the major treaty ports, such as Shanghai, were forced to act as if they were the agents of the Chinese dealers.

The End of Conflicts for the Settlement System, 1876-87

After the revision of the export trade system, British merchants ceased to conflict with the Chinese merchants by the end of the 1870s. It was not because they were content to live in the "containment system" but because the demand for Chinese tea, silk and Indian opium diminished owing to the rivalry with Indian tea and European and Japanese silk or the drought and famine in north China. The influence from the rivalry became apparent because it put to the end of the boom of trade started from 1879 by the economic crisis of 1883.⁵⁵

British merchants became aware that the export trade of tea and silk could no longer be so profitable as before. Even though they would compromise with the Chinese dealers by arranging a new sales system, they could not conceal that the Chinese tea and silk no longer held superior positions in the world market. As the influence of the "Traffic

⁵⁴. This order is the paraphrase of the content of "絲市新規," SB, July 19, 1875.

⁵⁵. Sargent (1907): 203-204; Murphey (1977): 208-209.

Revolution” in the 1870s became apparent, the prices and the sales amount of Chinese tea and silk were not determined in the market in China but on the London market. At the beginning of the season of 1879, the prices of silk in Shanghai rose highly and many chests of silk were sent from inland districts.

Actually, however, this sudden boom in the silk trade had been arranged by an unknown French mercantile house in Shanghai and some large dealing companies in Europe. In order to raise the silk prices in Europe, they had spread about the false information that the silk crop in Europe was half that of the previous year. When the Chinese merchants realized the information was false, the prices of silk fell rapidly and they made great losses on account of their holding large amounts of silk. This depressed condition continued until the British merchants restarted the purchase of the unsold silk in November.⁵⁶

Meanwhile, the tea trade for London increased from the latter half of the season of 1879. Since the total quantity of black tea imported into London from abroad had decreased from 56 million pounds in the year up to July 1878 to 38 million pounds up to the same month of 1879, the stock had decreased from 51.7 million pounds up to July 1878 to 33.6 million pound as of the same month in 1879.⁵⁷ As a result, the prices of tea in London market now rose by 33%, and the amount exported from China to London increased so greatly that the stock accumulated in London rose to 83.5 million pound as of the end of April 1880, when the tea boom ended.⁵⁸

The tea export boom was accelerated by the British colonial banks in China because they shortened the usance of export bills on London from

⁵⁶. "絲市可憐," *SB*, June 11, 1879; "絲斤市價辦," *ibid.*, Nov. 15, 1879; "總述本年上洋市面," *ibid.*, Jan. 31, 1880.

⁵⁷. "茶市近情," *SB*, Sep. 26, 1879.

⁵⁸. "英京茶市," *SB*, Oct. 31, 1879; "The Tea Trade," *NCH*, July 13, 1880, 29.

6 months to 4 months at the beginning of the season of 1879. The shortening of usance required the tea importers in London to sell their tea sooner than before. Seeing the rapid increase of the imported amount of tea in London, both British merchants in China and the importers in London feared the coming of a glut on the London tea market. If the glut took place before the importers in London finished the sales, they could not meet the payment for the export bills as they fell due. For fear of the above risk, British merchants in China hurriedly shipped Chinese tea to London and sold the export bills on the tea in order to collect the money as soon as possible.⁵⁹

The above two developments meant that Chinese products were no longer the mainstays of the tea and silk markets of the world. In addition to the "Traffic Revolution," the increase of Indian black teas, Japanese green teas, and European and Japanese silk, all of which were superior in quality and cheaper in price, reduced the demand for Chinese teas and silks.

In the case of the tea trade, the emergence of Indian black tea changed the taste of the Western tea consumers. They liked the strong Indian teas better than Chinese teas.⁶⁰ Chinese tea became merely the substitutes for Indian teas only if the supply of the rival commodities was curtailed in the European market. In consequence, according to *Shenbao*, the ratio of the share between Chinese tea and Indian tea changed from 8 : 2 to 5 : 5 in the overseas market during the decade from 1869 to 1878.⁶¹ This tendency continued in the season of 1880 when the total amount of tea consumed in London decreased from the 1879 level by 2.5 million pounds. While the consumption of Chinese tea fell off 10.5 million pounds, that of Indian tea increased by 8 million pounds in the year.

59. "匯票改期," *SB*, Mar. 15, 1879; "茶市續音," *ibid.*, July 21, 1879.

60. Chapter 3, 141.

61. "茶業可危," *SB*, Dec. 2, 1881.

However, British merchants in China attributed the cause of unpopularity of Chinese tea to the backwardness of Chinese tea industry.⁶² What justified their action were the adulteration and false packing which started to prevail from the season of 1879. In order to obtain more profits during the short boom, Chinese dealers sold adulterated tea mixed with inferior leaves or dyed with indigo, and deteriorated silk mixed with sugar, to British merchants.⁶³ Furthermore, by spreading about false information about the tea crop which underestimated the amount of crop before the tea market was opened, they caused fierce competition in purchasing tea among British merchants so that they could sell adulterated tea without being subjected to careful testing of the quality.⁶⁴ Although the warnings against the malpractices above were repeated by the articles in *Shenbao* when the foreign trade started to decline again in the season of 1881, they had no effect.⁶⁵

The adulteration, and false packing, of tea and silk also had ill-effects on the financial market in Shanghai. First of all, it undermined the export settlement system of 1875. Since the season of 1875, the export trade of tea and silk between the British merchants and the Chinese dealers had been carried out by sales in cash advanced by the colonial banks on the warehouse warrants of the goods. However, from the season of 1880, the British merchants delayed the payment to the Chinese dealers by giving them promissory notes. When the promissory notes fell due, they further delayed the payment until they had a full stock in hand so that they could

⁶². "The Tea Trade." *NCH*, Apr. 29, 1881, 409-410. This article attributed the superiority of Indian tea in quality and price to the efficient cultivation, firing, packing of the tea leaf in the plantation system and the railway transportation. Moreover, it pointed out that "until foreigners could supervise the packing of the leaf in China as they did in India, the produce of the latter country would continue to have an unfair advantage." As is shown in Chapter 3, the supervision of the production of Chinese tea would be the official claim of the British merchants in the 1880s.

⁶³. "Adulterated Tea." *NCH*, Apr. 17, 1880, 329-330; "The Silk Trade: Silk Inspector." *NCH*, May 25, 1880, 460.

⁶⁴. "The Tea Trade." *NCH*, May 20, 1881, 477.

⁶⁵. "論整頓絲茶兩市," *SB*, Feb. 6, 1881; "論整頓茶業之法," *ibid.*, Dec. 4, 1881; "論絲茶二業整頓難儀," *ibid.* Dec. 17, 1881; "茶市消息," *ibid.*, May 12, 1882.

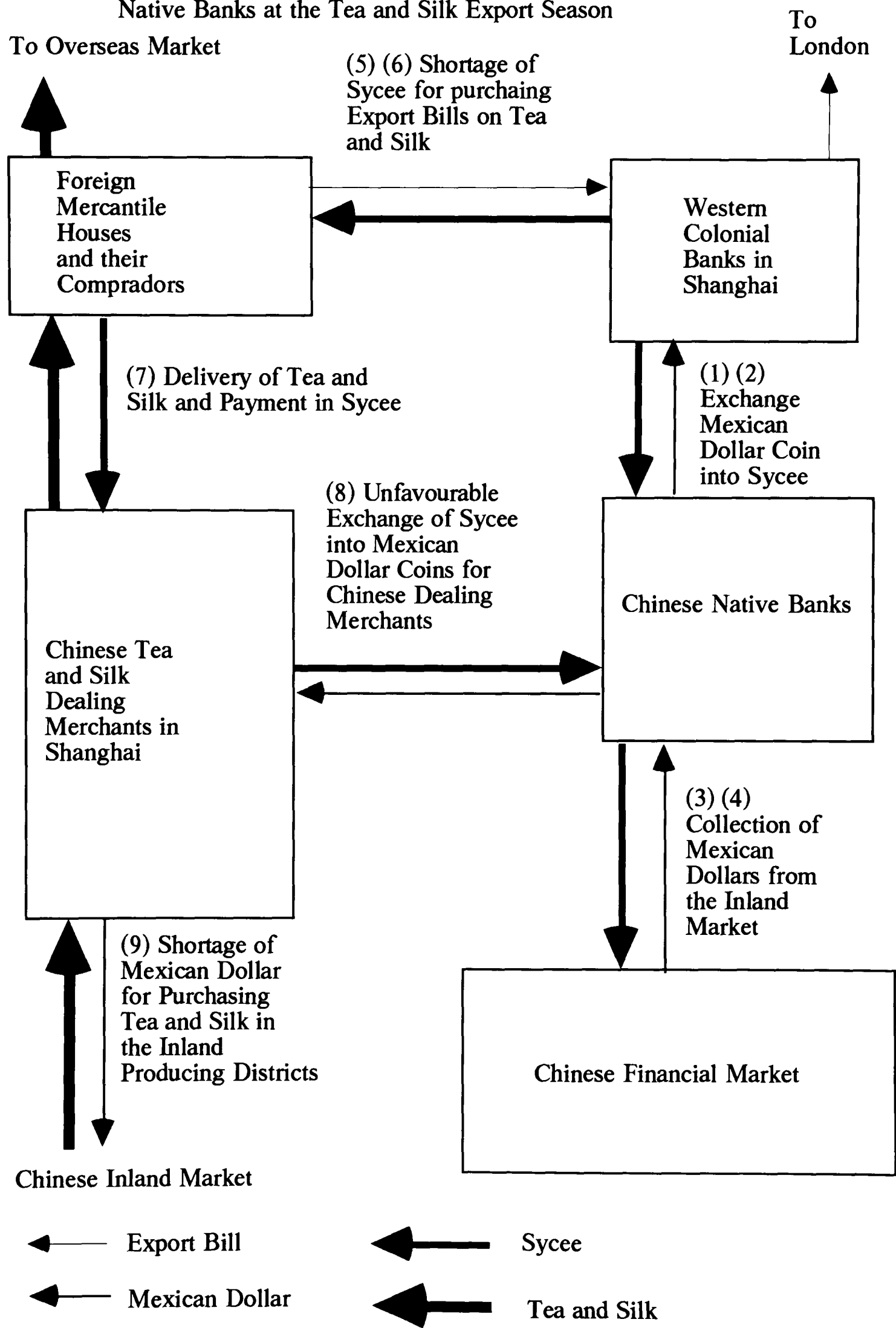
lower the prices of the products in China and raise them abroad. Just as British merchants in China were quite ignorant of the situation of the interior districts, Chinese dealers were quite ignorant of the overseas market.⁶⁶ Confronted with the unpopularity of Chinese tea and silk in the overseas market, they seemed not to know how to respond to it. Despite their victory in altering the export settlement system in 1875, they could not help yielding to the arbitrary breach of it by British merchants.

A more important influence on the Shanghai financial market was the change in the pattern of currency circulation in the export season. Hitherto the rates of interest for sycee and silver dollar coins used to rise during the export season because of the high demand in the financial market. Sycee was the medium of colonial banks for advancing against export bills drawn by British merchants; whereas dollar coins were the medium of payment for tea and silk in the inland market.

Taking advantage of the different roles played by sycee and dollar coins, the Chinese native banks succeeded in obtaining much interest (see Figure 1-5). (1) (2): At the beginning of the export season, they saved silver dollar coins as much as possible, and exchanged them into sycee in the colonial banks. (3) (4): Then they collected dollar coins from the financial market by buying them in with their stock of sycee. After native banks had repeated the above operation for many times, sycee was withdrawn from the colonial banks and flown into the inland market or stocked by the native banks. (5) (6): Colonial banks accordingly suffered from the shortage of sycee stock for advancing against the export bills on tea and silk. (7) (8) (9): On the other hand, while colonial banks increased their stock of silver dollar coins as the result of the above operation by

⁶⁶. "Mercantile Enterprise by the Chinese: M." *NCH*, Sep. 11, 1880, 240.

Figure 1-5: Currency Operation of Chinese Native Banks at the Tea and Silk Export Season



the native banks, the interior districts suffered the shortage of silver dollar coins for the payment for tea or silk.

Repeating the above described operation, native banks raised the rates of interest for loans of sycee and dollar coins higher than those indicated by the natural market condition. If the native banks reversed the above operation at the moment when the rates of interest had reached the summit, they could get much profit with ease. On the contrary, colonial banks, Chinese merchants, and the peasants, who suffered the shortage of the medium for exchange, and the high rate of interest, had great losses. This operation became an outstanding phenomenon in the Shanghai financial market since the season of 1872 but it ceased after 1877 for a while because of the depression of the export trade.⁶⁷

With the revival of the export trade, these currency operations by the native banks appeared again. When the price of sycee and dollar coins rose up due to the false information circulated in the season of 1879, some large Chinese merchants and native bankers in Shanghai and Suzhou withdrew so great an amount of sycee and dollar coins until the next year that even the silver transactions between native banks, which had been carried out by settlements in cash, had to be carried out by settlements in credit with a premium. Since the silk boom in the season of 1879 did not last for a long time, the merchants and native bankers not only failed to get the profit but also prolonged the depression by withdrawing sycee and dollar coins.⁶⁸ Despite frequent warnings and prohibitions from 1879 to 1881, the Qing local authorities in Shanghai and Suzhou could not eliminate this malpractice.⁶⁹

⁶⁷. Motono (1987): 13-31.

⁶⁸. "論銀洋漲跌," *SB*, June 10, 1879; "銀洋拆息驟漲有關市面說," *ibid.*, Nov. 18, 1879; "論買頭空頭," *ibid.*, Nov. 28, 1879; "論銀洋市風," *ibid.*, Jan. 3, 1880; "銀市短缺," *ibid.*, Jan. 14, 1880.

⁶⁹. "禁止賣買空票示," *SB*, Aug. 25, 1879; "嚴禁買空賣空示," *ibid.*, Feb. 5, 1880; "整頓錢市," "禁毀洋銀," *ibid.*, Nov. 30, 1880; "錢業稟批" *ibid.*, Dec. 29, 1880; "整頓錢市示," *ibid.*, Aug. 12, 1881; "申禁賣空買空示," *ibid.*, Aug. 23, 1881; "奉札諭禁錢業空盤示," *ibid.*, Aug. 25, 1881.

Now that it was difficult to get profit from the currency operation after the short boom from 1879 to 1880, native bankers found a new way of acquiring interest. They melted the dollar coins they had saved into sycee and held it until the rate of interest rose again at the opening of the raw cotton and rice trading season of 1880.⁷⁰ In consequence, the depression prevailed over to Hangzhou and Ningbo by February of 1881.⁷¹ At the same time, in combination with some unidentified colonial banks, they affected the import trade of the British merchants through the withdrawal of much amount of sycee from the circulation. It was at this time that British mercantile people noticed what native bankers had been doing behind their back. Since the currency operations by native bankers led the financial activities by British colonial banks in China into difficulties, the *North-China Herald* described the operation and its economic effect as follows:

During the past week our money market has been in an anomalous condition; interest among the native bankers having ranged at high rates, while sterling exchange has fallen one penny per tael, or nearly one-and-a-half per cent. As there is no scarcity of sycee, but on the contrary an ample supply in the hands of both foreign and Chinese bankers, the advance in the rates of interest has been due solely to the action of Chinese speculators in money [sycee] and Mexican dollars. In order to bring about a fictitious scarcity of money, these persons effected arrangements with some of their own financiers and some of the foreign exchange banks, by which seventeen lacs of taels of sycee were, what we may call, withdrawn from circulation in the native money market. Of that amount the foreign banks withdraw ten lacs, and the Chinese the balance; the ring of speculators paying interest at the rate of six per cent. per annum, at all events to the exchange banks. . . The exchange banks did not undertake not to use the money for which they receive six per annum in their dealings with foreign merchants, but that none of it should be lent out to Chinese. The effect of this rates of interest among natives were about thirty per cent. per annum for some days...Importers have been unable to get the goods which they had sold, paid for, at contract dates; and at the same time they have found it

70. "鎔洋鑄寶," *SB*, Aug. 19, 1880; "論銀市," *ibid.*, Oct. 29, 1880; "勸勿把持市面說," *ibid.*, Nov. 6, 1880.

71. "年市清淡," *SB*, Feb. 21, 1881; "寧郡錢業," *ibid.*, Feb. 23, 1881.

difficult, if not impossible, to make further sales. Chinese dealers were unable to effect clearances of goods, while some of their own bankers who were locking up their funds were compelled to borrow at from twenty-five to thirty per cent. per annum in order to fulfill their engagements.⁷²

Meanwhile, native bankers found it difficult to carry out the currency operations in the season of 1882 because of the decline of the export trade and a new facility of investments: the stock exchange of British and Chinese local companies and mines. The investments in stocks of these companies became popular from the season of 1881.⁷³ Since large sums in the saving accounts in native banks was withdrawn from the market because of the currency operations and the new type of investments, they suffered a shortage of funds at the beginning of the silk trade season when much demand for silk in Europe was expected. As a result, they had to rely upon the Shanxi bankers and the call loan from British colonial banks called "chop loans," to continue their currency speculation.⁷⁴

Meanwhile, Chinese merchants, who were angered at the ill-effects of the currency operation, warned the native banks by publishing an opinion advertisement in *Shenbao* from June 21 to 25.⁷⁵ However, according to an advertisement of an anonymous correspondent published in *Shenbao* from June 22 to 26 in reply to the above protest advertisement, the stringency of the bullion situation was not only brought about by the currency operation. It revealed that more than 300 thousand taels out of 2,170 thousand taels of sycee had been withdrawn from the local native money market and removed to Hankou, Tianjin or Japan, so there remained approximately 1,870 thousand taels of sycee and only 500 thousand

⁷². "Our Money Market," *NCH*, July 15, 1881, 45.

⁷³. "Facilities for Investments," *NCH*, May 13, 1881, 457-458.

⁷⁴. "Our Money Supply," *NCH*, Apr. 28, 1882, 445-446; "The Position of Silk," *NCH*, May 5, 1882, 469-470; "Retrospect of 1882-Metals, Miscellaneous Articles and Share Market," *NCH*, Jan. 10, 1883, 34-35. "論錢業敗壞之由," *SB*, Nov. 7, 1883; On the analysis of the stock exchange boom in 1882, see Suzuki, (1992): 330-334.

⁷⁵. "勸平銀洋兩息," *SB*, (Advertisement) June 21-25, 1882.

Mexican dollars within the native money market in Shanghai.⁷⁶ Comparing these figures with those in Table 1-5, it is apparent that the amount of sycee withdrawn was only 5% of the total amount of sycee held in Shanghai during the year. However, since only one third of the sycee and less than 8.3% of the total dollar coins were owned by the native bankers, the effect of the withdrawal was insupportable and spread to local ports. For instance, Fuzhou suffered a shortage of silver bullion because the Fujian merchants in Shanghai collected silver from the Fuzhou market in order to sell it at a high price in Shanghai.⁷⁷ The shortage of silver bullion and the depression of the market continued in the next season because of the bad crop of silk and raw cotton due to the long rains and floods in the Middle and Lower Yangtze River regions, the effect from the military tension between Japan and Korea (Im-ô-byon 壬午變) and the good harvest of higher quality silk and the depression in Europe.⁷⁸

Table 1-5: Bullion Imports and Exports in Shanghai during the Year of 1882

	Imports into Shanghai	Exports from Shanghai	The Balance for Shanghai
Sycee (Shanghai Tael)	23,908,944	17,884,084	6,024,860
Mexican Dollars	18,471,967	12,427,371	6,044,596
Gold (Shanghai Tael)	1,325,086	881,715	443,371

Source: FO 228/729 The Despatch of P. J. Hughes to T. G. Grosvenor, No. 35, Mar. 29, 1883.

Furthermore, since many local Chinese companies and mines, which had collected a large amount of silver by selling stocks in 1882, failed to pay enough dividends because of their poor management, the prices on the stock exchanges of Chinese local companies and mines fell, and the

76. "勸平銀洋息辦," *SB*, (Advertisement) June 22-26, 1882.

77. "福州近事," *SB*, Oct. 25, 1882.

78. "攘利有害市面說," *SB*, Oct. 30, 1882; "疊倒巨款," *ibid.*, Jan. 12, 1883; "論錢莊放帳," *ibid.*, Feb. 1, 1883; "論本埠時景," *ibid.*, June 22, 1883; "綢業減色," *ibid.*, Nov. 20, 1883; "Retrospect of 1882-Piece Goods-," *NCH*, Jan. 10, 1883, 32-34; "The Silk Trade and Silk Prospects," *ibid.*, May 25, 1883, 573-574; "The Depression of Trade and Its Causes," *ibid.*, Nov. 14, 1883, 545-546.

bankruptcies of Chinese companies and merchants increased rapidly from June 1883.⁷⁹ This tendency was accelerated as the Shanxi exchange bankers (*piaohao* 票號) and British colonial banks suspended loans to native bankers for fear of war breaking out between China and France in November.⁸⁰ As a result, a financial panic broke out in December from the bankruptcy of the *Dexin* 德馨 and *Fukang* 阜康 native banks in Hangzhou.⁸¹ As the panic spread over the major cities in China, the credit system in China collapsed, and commerce and finance did not function until the beginning of the season of 1884.⁸²

The financial panic of 1883 completely shattered the trust of British and Chinese merchants towards compradors. It was reflected in a series of three civil cases between David Sassoon Sons & Co. and their comprador or his Chinese clients, the proceedings concerning which took place from 1884 to 1887.⁸³

The first two civil cases, "Wong Gan-ying v. David Sassoon Sons & Co." and "Wu Yu-shan v. David Sassoon Sons & Co.," arose from the bankruptcy of Hoo Mei-pin, who was a comprador of the Tianjin branch of the defendant. Until he fell into bankruptcy in November 1883, Hoo had been dealing with the sales of Indian opium to Chinese opium dealers and the purchase of gold bullion from other Chinese merchants on behalf of David Sassoon Sons & Co. The transactions between Hoo and Chinese gold bullion merchants had been carried out by sales on credit with native bank drafts he had received from the opium dealers. Since the native bank drafts they received from Hoo had not been converted into cash due to the

79. "股分長跌無常說," *SB*, June 3, 1883; "中國股分極宜整頓說," *ibid.*, Oct. 21, 1883; "論買賣股票之弊," *ibid.*, Nov. 1, 1883; "論中國公司難," *ibid.*, Nov. 4, 1883; "股票問答," *ibid.*, Nov. 5, 1883; "中西公司異同說," *ibid.*, Dec. 25, 1883.

80. "整頓錢業說," *SB* Oct. 24, 1883; "論滬市衰象," *ibid.*, Dec. 6, 1883.

81. "市景可畏," *SB*, Dec. 3, 1883; "市面日緊," *ibid.*, Dec. 15, 1883.

82. "Commercial Prospects," *NCH*, Apr. 9, 1884, 399-400. On the Financial panic of 1883, see Hamashita (1974): 26-34; Suzuki (1992): 330-333; Zhang (1983); Liu (1983): 94-102; and Hao (1986): 323-334.

83. The courses of the three civil cases and their social background are analyzed in Motono (1992a).

financial panic of 1883, the two plaintiffs, who were the creditors of Hoo Mei-pin, sued David Sassoon Sons & Co. to pay the frozen debt.

Just as in the civil case, "E-kee v. Jardine, Matheson & Co.," the two civil cases focused upon the problem of whether a comprador was an employee of British merchants or an independent broker. If Hoo Mei-pin was defined as an employee of David Sassoon Sons & Co., the defendant, had the responsibility for paying his frozen debt to the plaintiffs.

The judgements on the two civil cases by the Shanghai Supreme Court were quite opposite. At the judgement of the case, "Wong Gan-ying v. David Sassoon Sons & Co.," the Chief Judge followed the interpretation of the legal status of a comprador established by "Swatow Opium Guild Case" in 1880.⁸⁴ He concluded that Hoo Mei-pin ought to be regarded as an employee of the defendant. It meant that David Sassoon Sons & Co. had to pay the frozen debt of their bankrupted comprador.

However, this judgement caused serious indignation in the Western mercantile community in China. Although few documents clearly recorded so, the indignation of the Western mercantile community in all probability affected the Shanghai Supreme Court. Therefore, at the judgement of the case "Wu Yu-shan v. David Sassoon Sons & Co.," the Chief Judge abandoned his former view. Without directly referring to the definition of the legal status of a comprador, he denied that the evidences of the plaintiff side could bind the defendant to pay the frozen debt of Hoo Mei-pin. By doing so, he judged that a comprador was not an employee of a foreign merchant but an independent broker without directly referring to the legal status of a comprador.

In spite of indirect expression, the judgement of the case, "Wu Yu-shan v. David Sassoon Sons & Co.," was epoch-making. It could be a good excuse for Western merchants in China to refuse payment any frozen debts

⁸⁴. The courses of the civil case is analyzed in Motono (1988).

arising from their comprador's private business. At the same time, however, it shattered the supposition of the Chinese merchants that Western merchants were the *de facto* surety of Chinese compradors. Even if they requested the Western merchants to pay the frozen debts of their compradors, their requests could never be accepted. Therefore, however rich and credible compradors might appear, Chinese merchants no longer trusted the compradors.

Meanwhile, the new definition of the legal status of a comprador also shattered the credibility of a comprador among the Western merchants. This appeared in the judgement of the third civil case, "David Sassoon Sons & Co. v. Fan Desheng 范德盛 and Chen Yintang 陳蔭堂." Chen was an comprador of the Shanghai branch of David Sassoon Sons & Co., and Fan was his surety. When Chen fell into bankruptcy in 1883, he left a debt of Tls. 12,602.38 owing to the company, and the company demanded that Fan pay the debt with the other account of opium.

Although the Mixed Court in Shanghai ordered Fan to pay the debt, Fan did not submit to the judgement for two reasons. Firstly, Chen had not received his salary, which amounted to Tls. 5,000, from the plaintiff since October 1880. Moreover, Chen had paid back Tls. 12,500 of the loss to the plaintiff between 1868 and 1873, which had been promised to be paid back by the plaintiff when he retired. Whatever the definition of the legal status of a comprador by the British side was, he was an employee of Western merchants according to the definition of the Chinese side. Therefore, Fan requested the debt should be set off with these debts. Furthermore, according to the surety contract form between Fan, Chen, and David Sassoon Sons & Co., Fan bound himself to bring about settlement of any debt, but he himself did not have the responsibility to pay the debt on behalf of Chen. Considering Fan's appeal, Shao Youlian, who was the Shanghai Daotai then, supported Fan. He concluded that David

Sassoon Sons & Co. should reduce their claim to Tls. 6,000 so that Chen could afford to pay. He also claimed that Fan had to provide the money for Chen only in the case of Chen being unable to afford it.

Despite the strong pressure from the British party, both the Liangjiang Viceroy and the Zongli Yamen did not turn down the Daotai's judgement. Since Section II, clause 3 of the Chefoo Convention (see Appendix) stipulated that a civil case between British subjects and Chinese subjects was to be tried by an official of the defendant's nationality while an official of the plaintiff's nationality merely attended to watch the proceedings in the interests of justice, the British party had no choice but to accept the judgement.

The judgements of the three civil cases brought about contradicting views on the legal status of a comprador. Whereas the Shanghai Supreme Court denied the view that a comprador was an employee of a British merchant, the Shanghai Daotai and the Zongli Yamen were strictly attached to this view. As a result, when a Chinese dealer sued a British merchant in the Mixed Court and appealed to the Shanghai Supreme Court for the payment of the frozen debt of a comprador of a British merchant, his claim was dismissed because the Supreme Court did not regard a comprador as an employee of a British merchant, the British merchant was emancipated of any responsibility to pay the frozen debt to the plaintiff on behalf of his comprador.

On the other hand, if a British merchant sued his comprador in the Mixed Court in order to collect his debt to the employer, he could not collect the debt because the Mixed Court Magistrate held to the view that a comprador was an employee of a British merchant, and was ordered to set off the frozen debt against the comprador's liability to him. Since the Chefoo Convention stipulated that a case between Chinese and British subjects was to be tried by an official of the defendant's nationality, such

contradictory viewpoints to the legal status of comprador coexisted. When the proceedings of these three civil cases and the following diplomatic negotiation were over in 1887, neither British nor Chinese merchants trusted Chinese compradors.

Such were the historical circumstances in which the commercial conflicts between British mercantile firms in Shanghai and the prominent Chinese merchants' groups arose after the end of the 1870s. While they were endeavouring to minimize the losses that had resulted in the arbitrary activities of their compradors behind their back from 1867 to 1887, British mercantile firms became gradually aware that they could no longer obtain as much profit in silk, tea, and the opium trade as before due to the tough competition of rival goods. They were required to improve the quality of Chinese tea and silk, and to reduce the sales price of these goods and that of Indian opium.

However, the situation seemed to be desperately unfavourable for them to do so. Since the economic crisis of 1866, they had lost trust in their compradors, who ought to have been their most reliable assistants. In addition to establishing a stable settlement system so that they could safely deal with Chinese silk- and tea-dealing merchants' groups without relying on their compradors, they had taken every opportunity to deny the employment relationship with their compradors because they could not supervise the activities of these compradors in the interior districts. Whether their denial was legalized or not, however, they had to rely upon the compradors to carry on business in the interior districts. This had the subsidiary effect that not only British mercantile firms but also Chinese merchants did not trust Chinese compradors. British mercantile firms in Shanghai had only with the assistance by the faithless compradors with which to confront with the prominent Chinese merchants' organizations.

In contrast to the relationship of distrust between British mercantile firms and their compradors, prominent Chinese merchants' groups could maintain the cohesion of their members owing to the economic principle that no one could claim the privilege of doing business without paying the *Lijin* tax imposed upon it. In addition, they could expect support from the Qing local governments.

Because of ignorance of the economic principle underlying the Chinese society, British mercantile firms did not know what they should do to undermine the cohesive organizations of prominent Chinese merchants' groups. Moreover, since they were not aware that the crucial reason why Chinese merchants wanted to be compradors was to protect their sales profit, they did not know how to control their compradors as they desired.

Therefore, as will be shown from Chapter 2 to Chapter 4, British mercantile firms could at most take every opportunity to challenge the prominent Chinese merchants' groups in order to get secure their profits from sales.

Chapter 2

Foreign Silk Filature Conflict, 1877-85

The Fuyang Incident, 1877-78

After experiencing a short boom from 1879 and the economic crisis of 1883, British merchants in Shanghai became aware that as long as modern industry and the stock market remained undeveloped, the revival of the tea and silk trade was the *sine qua non* for the recovery of the Chinese export economy. Moreover, since China had to compete with India, Japan, France, and Italy in her major export trade, they realized the need to make every effort to revive the popularity of Chinese tea and silk so that they could retain their profits and the shares of these two export trades in the world market.

In the case of the silk trade, their response was an attempt to improve the native silk industry that started in the 1870s. From that time, raw silk, which was produced in the Jiangnan area, and exported from Shanghai, was losing its popularity in the European market due to the low quality.¹ The main cause of the low quality of Jiangnan raw silk was the lack of technology for killing the pupae of silkworms. Although some methods of killing the pupae, such as steaming, sunning, or soaking in a salt, had been recorded in a Yuan period manual and in the 1799 gazetteer of Meizhou 眉州 in Sichuan,² these methods seemed not to have been widely prevalent in the Jiangnan district because of the traditional silk industry system. Since the late Ming period, Jiangnan peasant farmers and their wives had produced raw silk with light reeling machines to sell for paying in cash rents, land tax, and debts to the silk dealers. Because of the small scale of their household industry and low capital investment, they could not afford to buy large amounts of

¹. Suzuki (1992): 291-295.

². Amano (1967): 445-447, 459, 466-467; Shih (1979): 371.

cocoons to store for a long time.³ They had no choice but to reel the silk from the whole fresh cocoons as hurriedly as possible because the moth would break through the cocoon within about ten days.⁴ Consequently, Chinese raw silk had a bad reputation due to unevenness and coarseness.

As long as the Chinese raw silk could be sold for a high price, neither Chinese peasants nor British merchants needed to be concerned about its defects. However, as world market conditions changed in the 1870s, British merchants could no longer obtain sufficient profit from the silk trade without improving the low quality of Chinese raw silk.

The British merchants started to respond to the crisis of the silk trade from the middle of the 1870s. The mercantile firm which took the lead in the activity was the Shanghai branch of Jardine, Matheson & Co. In the 1860s, they had once tried to establish a silk filature using steam machinery in order to produce high quality raw silk at low cost. However, their attempt ended in failure because of the shortage of skilled workers, and particularly, dried cocoons. Actually, these shortages were brought about by the harassment from local gentry, Chinese silk merchants' groups, and the Qing local government.⁵

Seriously considering the failure in the 1860s, they deliberately planned to avoid the same mistakes. What they especially worried was a civil case like "E-kee v. Jardine, Matheson & Co." of 1867, which made them pay Tls. 80,000 to the creditors of their bankrupted comprador.⁶ As it is shown in Table 2-1, the Tls. 80,000 was so huge amount of

³. Saeki and Tanaka (1955): 243-256; Saeki (1961): 229; Tanaka (1961): 84-89; Shih (1968 translated. 1976): 29.

⁴. Elvin (1975): 88; Shih (1979): 370. Even if this primitive technology had been known, it appeared to have had no effect in improving the quality of Chinese raw silk; because the methods of killing pupae by heat damaged the luster of the silk reeled from the cocoon. See Elvin (1975): 88-89 and Li (1981): 26.

⁵. Brown (1979); Ishii (1983); Furuta (1984): 75.

⁶. See Chapter 1, 41.

money that even the total amount of capital account and property account of the reestablished Ewo Filature was nearly the half of it.

Experiencing the civil case, English partners of the Shanghai branch of Jardine, Matheson & Co. were aware the danger of depending upon their compradors to carry out every commercial activity, particularly purchasing cocoons and raw silk in the interior districts. Before the judgement of the civil case, "Wu Yu-shan v. David Sassoon Sons & Co." of 1884, compradors were defined as employees of Western mercantile firms even by the Shanghai Supreme Court. Therefore, Chinese merchants who transacted with Chinese compradors took it for granted that their foreign employers were their *de facto* sureties. It meant that the Shanghai branch of Jardine, Matheson & Co. had the responsibility to guarantee the whole debt of their comprador whether it was caused by the business on their behalf or the compradors' private one.

The best way for Jardine, Matheson & Co. to purchase cocoons in the silk producing districts without taking such responsibility was to supervise purchasing activities by a reliable European staff. It was M. Buissonnet, a French silk specialist, that did the task in the Jiangnan silk producing districts. Their activity seemed to have started from the season of 1875.⁷

Besides the Shanghai branch of Jardine, Matheson & Co., the cocoon purchasing activities by the British merchants in Zhejiang district seemed to have started in the early 1870s.⁸ According to a vivid description by W. D. Spence, who was a translator of the British Consulate, the pattern of their purchasing activity was as follows:

The general nature of the cocoon trade as carried on by British merchants [*i.e.*, Jardine, Matheson & Co.] in Chehkiang [Zhejiang]: It extends for a period, from first to last, of about twenty days in the

7. "Industrial Enterprise in China," *NCH*, Apr. 1, 1875, 301-302.

8. Hata (1981): 534-537.

fourth moon. Cocoons are brought fresh, and are dried on the spot to enable them to stand the voyage to Shanghai. The drying is a delicate operation requiring skill, and British merchants deem it so important that they employ agents to superintend it in order to minimize the risk of loss. These agents are sent to Chehkiang [Zhejiang] in the third moon not [to] open hongs but to hire, for a week or two, the use of premises for (*sic*) the drying of the cocoons. They could not be dried in boats and therefore house accommodation had to be procured for a short time. So soon as the Chinese agents have made these preparations they write to Shanghai to their employers the British firms there stating how many piculs they are able to buy, whereupon the merchants apply for Transit Passes. These are sent up and under them the cocoons are shipped to Shanghai. The premises, temporarily occupied, are then quitted.⁹

The cocoon purchasing activities by the British merchants in the silk producing districts obviously presented a threat to the Qing local governments, local gentry, and the Shanghai Silk Guild. After they had succeeded in suppressing the Taiping rebellion, the Qing local governments encouraged the silk industry in the Jiangnan area to restore the devastation of the area. Although the level of sericulture and re-reeling technology that prevailed in the Jiangnan area was so primitive that the Qing local government officials, local gentry, and the Shanghai Silk Guild failed to bring about any noteworthy revival of the silk export trade, they nonetheless succeeded in reestablishing their control over the silk-producing districts. Their control over the silk industry could not have been realized without the collection of the *Lijin* tax on raw silk and cocoons by the members of the Shanghai Silk Guild.¹⁰ By endorsing the right of collecting the *Lijin* tax to the leaders of the silk and cocoon brokers' groups, the Qing local governments could not only control the silk-producing districts but also secure the *Lijin* tax revenue.¹¹

⁹. FO 228/615 Enclosure No. 7 in Mr. Davenport's No. 35 of 15 July, 1878.

¹⁰. Zhang (1960): 130-132; Kobayashi (1967): 284-290; Tajiri (1977), (1979); Shih (1968 translated 1976): 22-28; Eng (1986): 110.

¹¹. Shih (1968 translated 1976): 22-28; Eng (1986): 110.

However, the British merchants and their native assistants could purchase silk cocoons without paying the *Lijin* tax, because they could use outward transit-passes. If peasant farmers were attracted to the British merchants and their native assistants, who had the privilege of emancipating the *Lijin* tax with the outward transit-passes, they would increasingly sell fresh cocoons directly to the foreign cocoon hong instead of to the members of the Shanghai Silk Guild. This would inevitably undermine the control over the Jiangnan silk industry exercised by the Qing local government officials, local gentry, and the Shanghai Silk Guild. Therefore, they did not permit the cocoon purchasing activities by the British merchants and their native assistants in the silk producing districts.

In the 1860s when John Major, the manager of Jardine, Matheson & Co.'s Ewo Silk Filature (hereafter Ewo Filature), attempted to purchase large amounts of fresh cocoons directly from peasants in the silk producing districts in Zhejiang province and dried them for sending to Ewo Filature in Shanghai, the Chinese silk merchants' group and the Qing local bureaucrats regarded his attempt as a great threat to their control over the silk industry. They therefore persistently interfered with the cocoon purchasing activities by Jardine, Matheson & Co. in the local districts.¹²

In the 1870s, their hostile attitude to the cocoon purchases by the British merchants and their native assistants in the silk producing districts remained unchanged. Local gentry complained of the bad smell caused at drying cocoon hong.¹³ A more serious challenge to the activities of the British merchants and their native assistants was based on

¹² Ishii (1983): 99-100.

¹³ "勸止烘繭," *SB*, July 23, 1874.

the grounds that they breached Article 28 and Rule 7 of the Tariff Rules.

According to Article 28 of the Treaty of Tianjin and Rule 7 of the Tariff Rules attached to the treaty, British merchants were allowed to bring down native products from inland districts to the treaty ports for shipment without paying further inland taxation at every *Lijin* tax barrier once they had paid one-half of the export duty (*zikou banshui* 子口半稅). A full settlement was made when they paid this sum, up to such time as they were charged the export duty to the Imperial Maritime Customs at the treaty ports. The procedure of exempting the inland taxation required a certificate called "outward transit-pass (*san lian dan* 三聯單 or *san lian bao dan* 三聯報單)," which was issued by the Daotai in each circuit at the request of the British merchants.

Originally outward transit-passes were effective only on the products to be exported. After 1876, British merchants applied this privilege to all products even those not for export. This resulted from the failure of the Chefoo convention, which prohibited the abuse of this privilege in Clause 4, Section 3 (see Appendix), being put into effect. Taking advantage of this legal loophole, they used to sell outward transit-passes to Chinese merchants, who could then purchase native products without paying the *Lijin* tax on them.¹⁴ At that stage, they did not notice the subsidiary effect of the sales of outward transit-passes on the solidarity of the commercial organization of Chinese silk merchants.

¹⁴. FO 228/592 Enclosure in Mr. Davenport's No. 57 of 1877: Shanghai General Chamber of Commerce, "Letter on the Chefoo Convention to the Chamber's London Committee, Shanghai, June 15, 1877," 4. In this letter, Shanghai General Chamber of Commerce claimed the following three remedies to eradicate the abuse effectively:

- 1st.- A clear understanding between the Governments as to the rights and privileges conveyed and obligations imposed by Article 28 of the Treaty of Tianjin.
- 2nd.- A revision of Rule 7 so as to adapt it to give complete effect to Article 28.
- 3rd.- An authoritative declaration by the Imperial Government to make the rule binding upon the provincial officials.

Meanwhile the Chinese side immediately noticed the dangerous effect of the sales of outward transit-passes on the commercial organizations of Chinese merchants. They tried to put the Chinese agents of British mercantile firms under their economic principle. As a justification for it, the Qing government started to regard the *Lijin* tax system as a *de facto* duty in 1876. By doing so, they intended not to allow Western diplomats intervene the collection of the *Lijin* tax. It was Robert Hart that carried out the whole arrangement. In answering a request from the Zongli Yamen, he submitted proposals for the "better regulation of commercial relations," which was stipulated in the Chefoo Convention, on January 23, 1876. In his proposals, Hart emphasized that China had the right to levy any tax on any commodities, and summarized the interpretation of Article 28 and Rule 7 in conformity with the view of the Qing government side at the negotiation of 1861.¹⁵ Two years later, he sent it to the Chinese ministers abroad together with his views on other questions, such as extraterritoriality, the most favoured nation clause, and the missionary question.¹⁶

Interference according to the above policy by the Qing local government officials with the commercial activity of the native agents of Jardine, Matheson & Co. took place on one day of May in 1877 at Lingqiao zhen 靈橋鎮 in Fuyang county 富陽縣 in Zhejiang province. The Fuyang county magistrate, Liao Xicheng 廖希誠, arrested two Chinese agents of the company and confiscated 240 piculs of cocoons, which were to be shipped to Arle's (*sic*) Dufour & Co. in Lyon after drying.¹⁷

¹⁵. Morse (1910-1918) vol. 2, 305, 452-454.

¹⁶. Enclosure of Circular No. 512 (Second Series) in *CIMCSS* No. 69 vol. 1, 624-625.

¹⁷. The Chinese characters of the "lingqiao zhen" and the name of the county magistrate are identified in *Guangxu Fuyang xianzhi* 光緒富陽縣志 vols. 2 and 3. The local gazette recorded the name of "lingqiao zhen" as "lingqiao bu 靈橋埠" or "lingchun bu 靈椿埠."

Just after receiving the report of the incident from Buissonet, the Shanghai branch of Jardine, Matheson & Co. asked Arthur Davenport, who was the British Consul in Shanghai, to intervene through the Shanghai Daotai, Zhu Lansheng 褚蘭生, with regard to this arrest and confiscation.¹⁸ In spite of the consul's immediate intervention, it took six days until the agents and the cocoons were released. In consequence, more than half of the 240 piculs of cocoons were found to have been damaged during the period of confiscation.¹⁹ Jardine, Matheson & Co. was eventually forced to export 755 bales of cocoons of degenerated quality to Lyon.²⁰ Moreover, the two Chinese agents were forced to pay 70 dollars for good treatment while held in the county prison and 500 dollars as *luodijuan* 落地捐, a sort of inland tax imposed on the native produce.²¹

At first, Jardine, Matheson & Co. claimed compensation from the Fuyang county magistrate for the damaged cocoons, which was estimated at about 7,000 dollars, and demanded that he pay them back the "*luodijuan*," which should have been imposed upon the peasants who produced native goods. The evidence for the claim regarding the facts were as follows: the whole cocoons were purchased on the account of the company and under the protection of the [Outward] Transit-pass; and that the hiring of a house for drying and storing the cocoons called "*Yihe jianhang* 怡和繭行," which was ordered to close seven days after the arrest of the Chinese agents, was sanctioned by the county magistrate himself.

18. "Jardine, Matheson & Co. to Arthur Davenport," May 24, 1877, *JMA-PCLB* c43/1; "Jardine, Matheson & Co. to Arle's (sic) Dufour & Co.," June 9, 1877 *JMA-MLB* c46/23.

19. "Jardine Matheson, & Co. to Arthur Davenport," June 4, 1877, *JMA-PCLB* c43/1.

20. "Jardine Matheson, & Co. to Arle's (sic) Dufour & Co.," July 7, 1877, *JMA-MLB* c46/23.

21. FO 228/594 "Inclosure in Mr. Davenport's No. 95 of Nov. 19, 1877: Mr. Spence's Intelligence Report." The "*luodijuan*," which was originated from 1861 in Guangdong province was a sort of inland tax imposed upon the producers of native goods before they were sold to buyers. See He Lie (1972): 165. As it was revealed later by the negotiation between Spence and Mei Qizhao, the refusal of the payment of the *luodijuan* by the two agents was the real reason of the intervention.

Based upon the above two facts, F. B. Johnson, who was the partner of the Shanghai branch of Jardine, Matheson & Co., denied the claims that they intended to deprive the Chinese sericulturists of the profit of cocoon trade and their landed property.²² The investigation of the incident was carried out for a week by W. D. Spence and a certain Chinese sub-prefect called Zhang on behalf of the Shanghai Daotai at the Mixed Court with the attendance of a certain Mr. Ward of Jardine, Matheson & Co. In spite of the thorough proceeding, Jardine, Matheson & Co. abandoned the claim for compensation because of F. B. Johnson's political decision. He feared that further serious interference or prevention upon the cocoon purchase on the next season might be made by the Chinese local magistrates if they stuck to the claim.²³

Even though Jardine, Matheson & Co. gave up their claim for a political reasons, British diplomats did not abandon their concern towards the case easily. Their reaction to this incident was in a far more serious manner than Jardine, Matheson & Co. For fear of further interference from the Chinese side, Consul Davenport reminded the Governor-General of Zhejiang, Mei Qizhao 梅啓照, of the right of foreigners to trade in the interior districts when he sent the Chinese translations of the complete evidences of this incident.²⁴

However, his warning had no effect and more serious interference arose in the next season. On April 21, 1878, the Shanghai Daotai, Zhu Lansheng, informed Davenport that the Central *Lijin* Office of Zhejiang (*Zhejiang yali zongju* 浙江牙釐總局) had advised all the silk hongts in each silk producing district to establish a government cocoon hong

²². "Jardine, Matheson & Co. to Arle's (sic) Dufour & Co.," June 9, 1877 *JMA-MLB* c46/23; "F. B. Johnson to Arthur Davenport," July 12, 13, 1877, *JMA-PCLB* c43/1; FO 228/594 "Inclosure in Mr. Davenport's No. 95 of Nov. 19, 1877."

²³. "Jardine, Matheson & Co. to Arle's (sic) Dufour & Co.," July 7, 1877, *JMA-MLB* c46/23; FO 228/594 Inclosure in Mr. Davenport's No. 95 of Nov. 19, 1877 The plausible name of the sub-prefect called Zhang was not recorded in *Minguo Shanghai xian xuzhi* 民國上海縣續志.

²⁴. *Ibid.*

which monopolized all the purchases and sales of cocoons in order to prevent "the conspiracy of a certain petty merchants or brokers of selling the cocoons mixed with rusties or inferior ones." Zhu Daotai requested Davenport to inform British merchants that they must go to the government cocoon hong to purchase cocoons in the future.²⁵

A serious reason though it might seem, it was a fake because no loss of any British merchants was reported to be brought about by spoiled or adulterated cocoons at that time. It was obviously a scheme of the Qing local authorities to prevent the agents of Jardine, Matheson & Co. from purchasing cocoons in the silk-producing districts using outward transit-passes.²⁶ As an evidence of that, Zhu Daotai refused to issue 82 outward transit-passes applied by Jardine, Matheson & Co. in that season for the reason that too many outward transit-passes were applied for without mentioning the names of districts where cocoons were purchased, the routes to the purchasing districts, and the names of purchasers who would bring the outward transit-passes.²⁷

Although Davenport fiercely protested against the refusal by claiming that the reasons were unfounded, the Daotai at first refused to issue the outward transit-passes and to meet with W. D. Spence in order to negotiate the matter.²⁸ Davenport eventually succeeded in forcing the Daotai to issue the outward transit-passes to Jardine, Matheson & Co. in accor-

²⁵. FO 228/615 Enclosure No. 1 in Mr. Davenport's No. 35, April 21, 1878.

²⁶. FO 228/615 Arthur Davenport to Hugh Fraser, No. 35, July 15, 1878.

²⁷. FO 228/615 Enclosure No. 2 in Mr. Davenport's No. 35, May 3, 1878. Zhu Daotai obviously suspected that Jardine, Matheson & Co. had been selling the outward transit-passes issued for them to the Chinese merchants. Actually, Jardine, Matheson & Co. had sold some of their outward transit-passes for purchasing native produce to the Chinese merchants in the season of 1877. This could be proved by comparing the intelligence report by W. D. Spence on this incident and one of the notes by British Consul, Arthur Davenport, to the Shanghai Daotai, Zhu Lansheng, in 1878. In his intelligence report, Spence recorded that Jardine, Matheson applied for 127 outward transit-passes for purchasing cocoons and received them (FO 228/594 Inclosure in Mr. Davenport's No. 95 of Nov. 19, 1877); on the other hand, Davenport recorded that the number of outward transit-passes issued to Jardine, Matheson & Co. was 72 in one of his notes to the Daotai in the next year (FO 228/615 Enclosure No. 3 in Mr. Davenport's No. 35, May 4, 1878). The 55 outward transit-passes, accrued from the discrepancy between the two reports, seemed to have been sold to Chinese merchants.

²⁸. FO 228/615 Enclosures No. 3 and 4 in Mr. Davenport's No. 35 of July 15, 1878.

dance with the treaty articles which stipulated free trade in China, but the scheme of establishing a government cocoon hong was not abandoned.²⁹ He accordingly decided to approach the Governor-General of Zhejiang and demand that the scheme of a government cocoon hong be abandoned.³⁰ In order to negotiate this problem, he sent W. D. Spence to Hangzhou.

The meeting between Spence and Mei was held on May 11, 1878.³¹ At this meeting, Mei disclosed the reason for prohibiting the cocoon purchasing activities by the agents of Jardine, Matheson & Co.: the rapid decrease of the inland tax revenue from silk trade. According to him, since it had fallen off by Tls. 500,000 in 1877 as compared with that of 1876, they planned to raise the inland tax on silk by 3 dollars per bale from that year. As a justification for the prohibition, he mentioned Article 9 of the Chinese-British Treaty of Tianjin which stipulated the rights of British subjects to travel in the inland districts for business (see Appendix). Sticking to the text of the article rigidly, Mei insisted that British merchants had no right to open hong for purchasing cocoons.

Spence rebutted his interpretation by claiming that British merchants had no intention of opening hong in the inland districts but hiring premises for only half a month in order to dry cocoons. Mei ignored this point and simply stated that the cocoons should be dried by the

²⁹. FO 228/615 Enclosure No. 5 in Mr. Davenport's No. 35 May 11, 1878. The articles of the Treaties which stipulated the rule of the free trade were: Article 5 of Chinese-British Treaty of Nanjing; Article 15 of Chinese-American Treaty of Wangxia; Article 9 of Chinese-French Treaty of Huangpu; Article 14 of Chinese-French Treaty of Tianjin.

³⁰. FO 228/615 Enclosure No. 6 in Mr. Davenport's No. 35, May 15, 1878; FO 228/965 Shanghai Chinese No. 23 of 1878. According to this despatch, "certain officials of Hangzhou" were likely to establish steam filatures there and planned to give a certificate to one Chen Jiemei 陳介眉 to act as their agent to monopolize the whole cocoon trade at Xiashi zhen 硤石鎮, Yuanhua zhen 袁花鎮, Chang'an zhen 長安鎮, Haining county 海寧縣, and Fuyang county 富陽縣. From his information, it was apparent that the opposition to the activities of Jardine, Matheson & Co. was carried out by the Chinese silk merchants supported by the Qing government officials. However, according to an article in *Shenbao* six years later, his scheme was quite unpopular among the local society in Hangzhou and after he was ordered to change his position, the machinery in the government filatures was sold to a certain Shanghai silk merchants ("論浙省創設製造局," *SB*, Dec. 27, 1884).

³¹. The only record of the meeting was FO 228/615 Enclosure No. 7 in Mr. Davenport's No. 35 of 15 July, 1878.

Chinese, and that the officials had the right to superintend the cocoon trade. Confronted with his unyielding attitude, Spence warned him that the scheme of the government cocoon hong by the Central *Lijin* Office of Zhejiang was nothing but the establishment of a monopoly, which was clearly against various articles of treaties. Being reminded of the forces of the treaty clauses, Mei reluctantly promised to abandon the scheme of the government cocoon hong and admitted British merchants to hire premises for drying cocoons in the producing districts.

However, in return for this admission, he insisted that *luodijuan* on cocoons, must be paid by British merchants on behalf of the Chinese peasants. Spence opposed his request on the ground that Article 28 of the treaty of Tianjin and Rule 7 of the tariff rules of the treaty did not require British merchants to pay any duty or tax upon the native produce they bought other than export duty until the moment of shipment. But, after seeing Mei denied the British merchants' right to hire premises for drying cocoons according to his own interpretation of Article 9 of the same treaty again, Spence finally agreed with his request.

Thus, as the result of a personal agreement between Spence and Mei Qizhao, British merchants were allowed to hire houses in the inland districts for purchasing and drying cocoons in the producing districts on the condition that they paid *luodijuan* on behalf of the sellers of cocoons. The negotiation between Spence and Mei accorded with the diplomatic negotiation for settling the *Lijin* tax question from 1860 to 1861. Although Mei claimed the rapid decrease of the *Lijin* tax from silk trade as the nominal reason for prohibiting the cocoon purchase by the Chinese agents of Jardine, Matheson & Co., his real intention was to make the British party accept the economic principle that no one could claim the privilege of doing business without paying the *Lijin* tax im-

posed on it. For Mei, such an idea as "free trade" seemed to be a very strange economic principle.

Just like Mei could not understand the idea of "free trade," Spence could not understand the economic rule hidden behind the *Lijin* tax system. He never agreed that British merchants had the obligation to pay the *Lijin* tax after they paid the one-half-duty. The system of collecting the *luodijuan* on cocoons from Chinese peasants was the product of the compromise between Mei and Spence. Since Chinese peasants included the *luodijuan* into the price of cocoons when they sold them to British merchants, British merchants were already the *de facto* payers of the *luodijuan* on cocoons. Meanwhile, since the *luodijuan* on cocoons was directly collected from Chinese peasants instead of British merchants, British diplomats had no excuse to oppose this system.

However, the above agreement was only a personal and verbal promise which was valid so far as Davenport, Spence, and Mei Qizhao were in their posts. Once they left their positions, the promise was forgotten by their successors, and it would turn into major issue later on.

The Limited Liability Question, 1878-81

The interference by the Qing local bureaucrats in Fuyang county frightened the Shanghai branch of Jardine, Matheson & Co. Since they were unaware the economic principle of the Chinese society, they misunderstood that the supervision by Buissonet over the cocoon purchase in the Zhejiang silk producing districts was the primary reason for the intervention in Fuyang county. Although the Chinese side merely tried to put their native agents supervised by Buissonet under their control with the economic principle of the Chinese mercantile society, the Shanghai branch of Jardine, Matheson & Co. misunderstood that sending Buissonet to Fuyang county was the reason for the intervention.

They again thought that they could not do anything in China without relying upon their compradors or cooperative Chinese. Just as they needed help from Chinese merchants to reestablish the Ewo Filature, so Chinese needed their help to set up a European-style silk industry in Shanghai. While the Qing local officials were interfering with the cocoon purchase by the native assistants of Jardine, Matheson & Co. in Fuyang county, an unidentified Chinese who "was desirous of making a trial in reeling cocoons after the European System" asked the Shanghai branch information about "the cost of 10 basines (*sic*) and requisite machinery." Therefore, they asked the head office in Hongkong to inform them how much it cost to manage a silk filature with 10 basines (*sic*), and the difference between the necessary machines manufactured in Guangdong and those in Europe.³²

Since no other letter in Jardine Matheson archives clearly recorded the reply from the Hongkong head office, it is impossible to know further information about the relation between the Shanghai branch and the unidentified Chinese. Nonetheless, there existed some Chinese who wanted to set up an European style silk filature as a joint enterprise with the Shanghai branch of Jardine, Matheson & Co. As an evidence, W. Paterson, who was a partner of Shanghai branch, informed that a Chinese called "Tee San" was quite eager to have connection with the Ewo Filature. According to him, Tee San proposed to invest Tls. 3,000.³³ As is shown later, "Tee San" played a key role not only in the reestablishment of the Ewo Filature but also in building a new type of commercial connection with the landlords in the Jiangsu silk-producing districts. They must have seen the development of silk filatures in

32. "Jardine, Matheson & Co. in Shanghai to Jardine, Matheson & Co. in Hongkong," July 3, 1877, *JMA-UC* B7/37, Letter 418.

33. "W. Paterson to F. B. Johnson," *JMA-PCLB* c41/6 Sept. 13, 1881.

Guangdong.³⁴ Probably because of the lack of relevant information, technology, or sufficient capital, they asked the Shanghai branch of Jardine, Matheson & Co. for help in return for cooperation with reestablishing the Ewo Filature.

However, the Shanghai branch of Jardine, Matheson & Co. could not easily trust such Chinese at that stage. They worried that the seemingly cooperative Chinese might force them guarantee huge amount of frozen debt by bankruptcy. Although they themselves were quite aware that the cooperation with some Chinese was indispensable, they could not entirely trust such Chinese.

Since there was no legal system to enable them to avoid the responsibility of paying the frozen debt on behalf of the compradors at that stage, they had to make some device to minimize such a risk. What they took advantage of was the opinion of Western mercantile people in Shanghai which requested the introduction of the Western system of commercial law into the International Settlements in Shanghai.

It was the *North-China Herald* that first pointed out the lack of a modern commercial law system in China. At the end of the editorial article published in August 3, 1878, it emphasized that modern commercial system would bring about good effect upon not only a British merchant but also a Chinese merchant because it would "protect his earnings, and his mercantile associations were respected."³⁵

According to the article, due to a lack of effective commercial law system, British enterprises could not compete effectively with the Qing government officials, who sought to monopolize the whole of profitable industry in their hands. Moreover, the ownership of land and the succession of property were entirely affected by old established customs,

³⁴. With regard to the development of silk filature in Guangdong, see Suzuki (1960).

³⁵. "The Stagnation and Distress in China," *NCH*, Aug. 3, 1878, 101-102.

and affairs between buyers and sellers in different nationalities lay at the mercy of Chinese magistrates according to their own interest and "prejudice" because there was no commercial code in China.

Since the early records concerning the commercial law question are missing, it is impossible to reveal how far the article of the *North-China Herald* influenced the British government. However, British diplomats and legal specialists were ordered to investigate the necessity of establishing commercial codes in China and to find out if there were any problems in it from 1879. Since the Qing government had obviously no desire to set up modern commercial law system by themselves, they had to settle this problem by extending the provisions of the English Joint Stock Company Act to the International Settlement of Shanghai by an Order in Council.³⁶

According to the remaining records, the investigation started with an inquiry by the chief justice of the British Supreme Court in Shanghai, George French. On November 20, 1879, he ordered an acting registrar, H. S. Wilkinson, to obtain the opinions of prominent British barristers and solicitors in Shanghai as to whether a measure for the incorporation, regulation, and winding up of British trading companies and other associations was practically needed by the British community in China.³⁷

Although all the British legal specialists emphasized the necessity of this legal provision in their replies, some of them did point out two problems that could arise from the viewpoint of private international law. First of all, if a British joint stock company in China, which was formed with limited liability according to the English Joint Stock

³⁶. According to FO 228/622 A. Davenport to Thomas F. Wade, No. 93, Sept. 11, 1879, some correspondences concerning the Registration of Companies in China were sent to Wade. However, no corroborating records were available in FO 228 nor FO 881.

³⁷. FO 881/4263 "Despatch from Sir T. Wade respecting the proposed Order in Council for the Registration of Companies in China; Inclosure 2 of FO 881/4263: Mr. Hannen to Mr. Wilkinson, Nov. 26, 1879.

Company Act, fell into liquidation, it would seriously effect the relationship between the British community and the Chinese shareholders and creditors because of their ignorance of the limited liability of the shareholders and the directors.³⁸ Secondly, the British Courts of Law in China did not have jurisdiction over non-British subjects regardless of whether they might be Europeans or Chinese, just as the Courts of Law in England did not have it over foreign shareholders in English Companies who were not residents in England.³⁹ They suggested that it might be more convenient if the Treaty Powers cooperate with each other to frame the common regulations for the incorporation and winding up of trading companies, and to obtain the assent of the Qing government in order to bind Chinese shareholders.⁴⁰

The common concern of the above questions was whether limited liability, which the British community in China needed badly, could be legally effective there. As evidence of that, 33 major British mercantile houses and banks, led by Jardine, Matheson & Co., sent a letter to F. B. Forbes, who was the Chairman of the Shanghai General Chamber of Commerce, to request the extension of the provisions of the English Joint Stock Companies Acts to Shanghai.⁴¹

Meanwhile, American companies led by Russell & Co. made a similar petition to the American minister in Beijing.⁴² According to Arthur Davenport, since the liability of the shareholders remained completely undefined, there had been an insurmountable obstacle to the establish-

³⁸. Ibid.

³⁹. Inclosure 4 of FO 881/4263: Mr. Drummond to Chief Justice French, Dec. 31, 1879.

⁴⁰. Inclosure 1 of FO 881/4263: Chief Justice French to Sir T. Wade, March 23, 1880; Inclosure 17 of FO 881/4263: Mr. Robinson to Mr. Wilkinson, Nov. 21, 1879.

⁴¹. Inclosure 12 of FO 881/4263: Messrs. Jardine, Matheson & Co., and others to the Chairman of the Shanghai General Chamber of Commerce, December 6, 1879. Their letter was sent to Thomas Wade through Forbes and Arthur Davenport, the British Consul in Shanghai (Inclosure 13 of FO 881/4263: Mr. Forbes to Messrs. Jardine, Matheson, and Co. and others, Dec. 12, 1879; FO 228/633 Arthur Davenport to Thomas F. Wade, No. 62, Dec. 22, 1879).

⁴². Inclosure 11 of FO 881/4263: Messrs. Russell and Co. to Mr. Davis, Dec. 5, 1879.

ment of companies and association because the proprietors of which would be obliged to risk sums larger than their paid-up capitals. Therefore, under these circumstances, there was a very general desire among the British community that greater facilities for doing business might be afforded to them.⁴³

In response to the petition from the British companies in Shanghai, the British government seriously considered the possibility of extending the provisions of the English Joint Stock Company Act to Shanghai in 1880. They ordered Francis S. Reilly, who was a parliamentary draftsman and a secretary to the commission of inquiry into law and practice of bankruptcy, to consider the two problems raised by the British legal specialists in Shanghai.⁴⁴ He reported the following proposals as remedies for them. First of all, as for the ignorance of the Chinese shareholders about the term, "limited liability," Reilly optimistically remarked that it was not a difficult problem because the Chinese would soon understand the meaning of it as they have already had the habit of becoming shareholders in British Companies.

With regard to the jurisdiction over non-British shareholders (regardless of whether they were Europeans or Chinese), he proposed two arrangements. Firstly, he insisted on allowing non-British shareholders to submit themselves to the jurisdiction of the British Court in Shanghai since they could be regarded as British shareholders by becoming shareholders of British overseas joint stock companies. Otherwise, in order to avoid the difficulty of the legal question, he suggested each British company make all the shares or the shares allotted to non-British shareholders be fully paid-up shares or the nominal capital

⁴³. FO 228/633 Arthur Davenport to Thomas F. Wade, No. 65, Dec. 23, 1879. Similar request was written in the *North-China Herald* ("The Chamber of Commerce and Limited Liability Association," *NCH*, Mar. 18, 1880, 232).

⁴⁴. For the career of Reilly, see Frederic Boase ed., *Modern English Biography Vol. III* (Frank Cass & Co. Ltd. 1965), 105.

which were issued in proportions from time to time. Based upon these proposals, he strongly turned down the idea of joint framing of regulations concerning joint stock companies with other Treaty Powers and to obtain the assent of the Qing government of it. By pointing out the variety of the commercial laws of Treaty Powers, he insisted that such an arrangement was far less necessary and efficient than the sole extension of the provisions of the English Joint Stock Company Act.⁴⁵

On the contrary, Henry James, Farrer Herschell, and J. Parker Deane, who were the law officers of the Crown, opposed his proposals. For fear of extending the privilege of extraterritoriality to non-British people, including Chinese shareholders and creditors, they argued that a law to protect the rights and liabilities of persons resident overseas, regardless of whether they were British or not, was more important than the privilege of extraterritorial jurisdiction of the British subjects in China. They proposed that the companies in Shanghai which could be protected by limited liability under the English Joint Company Act should be restricted to those companies founded and managed exclusively by British subjects.⁴⁶

However, Reilly shattered their insistence by pointing out that the English Joint Company Act could be easily extended to China because there was no compatible registration system in China.⁴⁷ Thus, the British government decided to establish a registration system of public companies in the British Supreme Court in Shanghai in June, 1881.⁴⁸ This decision was welcomed in the British community in Shanghai. Under the protection of the English Joint Stock Company Act, which se-

⁴⁵. FO 881/4355 Mr. Reilly to Earl Granville, Aug. 28, 1880.

⁴⁶. FO 881/4545 Papers respecting proposed Order in Council for the Registration of Public Companies in China, No. 1: The Law Officers of the Crown and Dr. Deane to Earl Granville, Feb. 16, 1881.

⁴⁷. Inclosure in No. 3 of FO 881/4545, Companies in China, Memorandum referred to in Mr. Reilly's Letter of this date.

⁴⁸. "The Registration of Companies in Shanghai," *NCH*, June 24, 1881, 593-594.

cured the limited liability of the shareholders regardless of whether they were British or Chinese, the Shanghai branch of Jardine, Matheson & Co. could embark on reestablishing Ewo silk filature as the joint enterprise with cooperative Chinese.

Table 2-1: List of Chinese Shareholders of Ewo Steam Silk Filature and Its Property Account in 1882

Date	Name		Amount (Sycee)
February 1882	Property a/c		11,061.34
March 1882	Capital a/c	Number of shares	
	Nien How	5	5,000
	Yang Wee cha	5	5,000
	Hung Wo	5	5,000
	Te San	5	5,000
	Koo Yung chang	5	5,000
April 1882	Sun Kiew	3	3,000
	Sow E Kee	1	1,000
Altogether		29	40,061.34

Source: Ewo Steam Silk Filature Account Book (JMA A7/553).

The list of Chinese shareholders of Ewo Filature recorded in its account book (see Table 2-1) clearly revealed why the British mercantile community in Shanghai led by Jardine, Matheson & Co. needed the English Joint Stock Company Act so badly.⁴⁹ The small numbers of shares the seven shareholders undertook, and such a high price of each share as Tls. 1,000 clearly indicated that Ewo Filature was nothing but a Chinese *hegu* style firm 合股企業.⁵⁰ Ordinary, each shareholder of a *hegu* style firm had the unlimited liability. They had the responsibility to guarantee the whole debt of the firm in proportion to the amount of the shares they undertook. If a shareholder could not afford to guarantee the debt with his investment and property, the remaining shareholders had the obligation to pay the debt on his behalf until the whole debt was set off.⁵¹ It meant that the shareholders of a *hegu* style firm might

⁴⁹. The original English Joint Company Act was put into effort in 1844. Although it was revised in 1862 and again after for several times, the basic structure of the English Joint Company Act was completed in the version of 1862. Therefore, the numbers of section of the Act was based upon the one revised in 1862.

⁵⁰. The price of each share of Chinese *guandu shangban* joint stock companies was at most Tls. 250 in 1882 (see Suzuki [1992]: 320).

⁵¹. Negishi (1943): 13, 166-190.

lose not only the shares they undertook but also their whole property if their enterprise fell into liquidation. Therefore, ordinary *hegu* style firms tended to avoid carrying out production activity because it required much capital and many years to collect it; instead, they preferred the sales activity because it needed less capital and fewer time to collect it.

The extension of the English Joint Company Act into the International Settlement in Shanghai changed the situation of a *hegu* style firm established within it. As Section 6 to 9, and 38 of the English Joint Company Act of 1862 stipulated (see Appendix), any seven or more persons associated for any lawful purpose could be regarded as an incorporated company with limited liability. That was the reason why Ewo Filature had seven Chinese shareholders.

Once it was registered as a public company limited in the British Supreme Court in Shanghai, the shareholders of the Ewo Filature did not need to take the responsibility of guaranteeing the debt of the firm which was more than the amount of the shares the investors had subscribed.⁵² It also meant that the Shanghai branch of Jardine, Matheson & Co. were not obliged to guarantee any debt of the seven Chinese shareholders beyond what they had compensated with the amount of the shares they had subscribed. Only in this way could the Shanghai branch of Jardine, Matheson & Co. avoid the danger of arising a case similar to that of "E-kee v. Jardine, Matheson & Co."

Because of the introduction of limited liability, not only British but also Chinese who cooperated with them could preserve their property even when their enterprise fell into bankruptcy so long as it was established within the International Settlement of Shanghai and registered as

⁵². Formal registration form or memorandum of association of Ewo Steam Silk Filature was not available in Jardine Matheson Archives.

a company limited in the British Supreme Court in Shanghai. However, few people were aware the importance of the introduction of "limited liability" at that moment.

Steam Silk Filature Question, 1881-82

Just after the British government decided to introduce limited liability by extending the English Joint Company Act into the International Settlement in Shanghai, Iveson & Co. and the Shanghai branch of Jardine, Matheson & Co. started to prepare establishing European style steam filatures in Shanghai. Their preparation was stimulated by the success of the filature of their American rival, Russell & Co. The filature of Russell & Co., which had started its operation from the season of 1878, was the largest filature in Shanghai and was reported to have earned Tls. 20,000 a year equally during the following two seasons (See Table 2-2).⁵³

Table 2-2: Gross Amount of Raw Silk Produced by Foreign Filatures in Shanghai since their Establishment

Name of the Foreign Filatures	Amount of Raw Silk Produced (lb.)	Average Amount of Raw Silk Produced per month (lb.)
Russell & Co. (started from June 1879)	126,930.	2,350.56
Iveson & Co.(started from January 16, 1882)	61,407.	2,558.63
Jardine, Matheson & Co. (started from February 1, 1883)	16,800.	1,400.00
Together	205,137.	

Source: FO 228/759 "P. J. Hughes to Harry S. Parkes, No. 23," 23rd February, 1884⁵⁴

Among the seven Chinese shareholders mentioned in Table 2-1, it was "Tesan" that played the most active role in reestablishing and managing Ewo Filature. His real name was Xu Hongkui 徐鴻逵. Since his courtesy name was "Dishan 棣山," he appeared as "Tesan," "Tee San," or

⁵³. "W. Paterson to F. B. Johnson," Sept. 13, 1881, *JMA-PCLB* c41/6.
⁵⁴. Comparing with Table 2-3, the amount of raw silk produced in the table was apparently the gross amount of each filature since the establishment of them.

"Tah Sung," in Jardine Matheson Archives. According to the memoir by his son, Xu Lingyun 徐凌雲, Xu Hongkui was born in Haining county 海寧縣 of Zhejiang province. He started his career as a shroff in a native bank in his native county. After immigrating to Shanghai during the Taiping rebellion, he learnt the silk-dealing business and English while he worked in a Dacheng 大成 silk dealing house (*sizhan* 絲棧). He opened his own silk dealing house called "Yicheng 怡成" after he became independent, and made a great success of it. His relationship with Jardine, Matheson & Co. started from the time when Xu had worked as a linguist (*tongshi* 通事; *tongci* 通詞) in Dacheng silk dealing house. Since he had already established close connections with many Western and Chinese merchants, he was immediately elected as one of the three management directors of the Ewo Filature when he shared the business with Jardine, Matheson & Co.⁵⁵

His first task was to find a suitable piece of land for erecting the Ewo Filature in Xujiahui (*i.e.* Zicawei) 徐家匯 and to purchase it. He seemed to have started this task in September 1881. Two months later he purchased the land including the land of E. Major, who was one of the owners of the Chinese newspaper, *Shenbao*.⁵⁶ According to Xu Lingyun's memoir, the premise he purchased for building Ewo Filature was sited in *Xinzha dawangmiao* 新閘大王廟 (known as *Dawangmiao* 大王廟 on the opposite side of *Jiangyuan nong* 醬園弄 near the *Xinzha* bridge 新閘橋).⁵⁷

Besides the selection and the purchase of the suitable land, he had to find Chinese proprietors to invest Ewo Filature because the Shanghai branch of Jardine, Matheson & Co. could not at that time afford to in-

⁵⁵. Xu (1987): 36. The other two management directors of the Ewo Filature were Robert Inglis and another Chinese comprador, Li Guojie 李國杰.

⁵⁶. "W. Paterson to F. B. Johnson," *JMA-PCLB*, c41/6, Sept. 13, 16, 28, Oct. 11, Nov. 15, 21, Dec. 20, 1881.

⁵⁷. Xu (1987): 38.

vest further capital other than to purchase the land. Although no information remains in the general correspondence and the press-copy letter book files of Jardine, Matheson Archives concerning the process how Xu found Chinese shareholders, it is not likely to have been an easy task because the names of the shareholders, which is shown in Table 2-1, were recorded in the pages of March and April 1882 of the account book of Ewo Filature, six months after Xu had started to look for suitable premise. If Xu Hongkui had not been able to find six Chinese shareholders, the Shanghai branch of Jardine, Matheson & Co. could not have reestablished the Ewo Filature as a registered company limited. It meant for E. Major that he might not have received the payment for selling his land to Jardine, Matheson & Co. from Xu.

In the editorial article on February 5, 1882, *Shenbao* emphasized the necessity of improving silk production system by erecting steam machinery silk filatures under the protection and the leadership by the Qing government officials.⁵⁸ As Suzuki Tomoo 鈴木智夫 pointed out, this article regarded steam machinery filatures as if they had an almighty power to overcome the inferior quality and high cost of Chinese raw silk, while it neglected the unfavourable facts that producing high-quality raw silk needed modern machinery and many skilled workers, and that both of them required capital and a long time of training and practice but the output of steam-machinery filatures would by no means be much enough.⁵⁹ However, judging the situation, the article should be regarded as a sort of advertisement designed to attract Chinese proprietors to the Ewo Filature.

Furthermore, Xu Hongkui had to prepare dried cocoons for the Ewo Filature. The places where he purchased cocoons were recorded in the

58. "機器繅絲說," *SB*, Feb. 5, 1882.

59. Suzuki (1992): 308-312.

account book of Ewo Filature. As Table 2-3 indicated, he purchased silk cocoons only in Jiangsu province, especially Wuxi 無錫 county.⁶⁰ For fear of arousing further interference by the Qing local government officials, Xu and the Shanghai branch of Jardine, Matheson & Co. apparently avoided purchasing cocoons in Zhejiang province.

Table 2-3: The Places where Xu Hongkui purchased Silk Cocoons and the Amount of Sycee he spent for it from 1882 to 1883 (Tls.).

Date	Place	Sycee	Date	Place	Sycee
			June 1883	Ha Kong	6,000
				Que (?)	
June, 1882	Woosie [Wuxi]	6,000	June 1883	Woosie [Wuxi]	11,000
June, 1882	Laeyang [Liyang]	3,000	June 1883	Laeyang [Liyang]	4,000
June, 1882	Eu Hong Low [Yixing?]	10,000	June 1883	Eu Hong Low [Yixing?]	9,000

Source: Ewo Steam Silk Filature Account Book (JMA A7/553).

Another reason why Xu preferred Wuxi and Liyang counties was that the landlords of the silk-producing districts in these counties produced dried cocoons by themselves since the end of the 1870s. It was Xu Shou 徐壽, a native specialist in the silk industry, who disseminated the technology of producing dried cocoons in Wuxi and neighbouring districts.⁶¹ As long as Xu Hongkui purchased dried cocoons from the landlords in the Jiangsu silk-producing districts, he did not need to hire premises to produce dried cocoons, and could thereby avoid provoking trouble similar to the Fuyang incident.

On the other hand, dealing with Xu Hongkui brought about benefits for the landlords of the Jiangsu silk-producing districts. Since Xu was a comprador of Jardine, Matheson & Co., he could use outward transit-passes, which emancipated him from paying the *Lijin* tax when purchasing dried cocoons. As long as they cooperated with Xu Hongkui or

60. As will be shown later, some names of the places recorded in the account book of the Ewo Filature cannot be identified in the Chinese characters. Therefore, these names are quoted as they were written in the account book.

61. Suzuki (1992): 336.

other compradors in purchasing fresh cocoons and drying them, the Jiangsu landlords could also protect their sales profit from the *Lijin* tax with the outward transit-passes Xu Hongkui used. Since the "luodijuan" on cocoons was not collected in Jiangsu province, the use of outward transit-passes seemed to be a very attractive privilege for the landlords in the silk producing districts. The names of the Jiangsu landlords who transacted with Xu Hongkui are unknown except for the prominent landlords and gentry in Wuxi. According to Xu Lingyun's memoir, these were Yang Yifang 楊宜芳, Xue Nanming 薛南溟, Gao Longtai 高隆泰, Sun Xifan 孫錫藩, and Sun Xizhai 孫錫齋.⁶²

Among the five landlords and gentry, it is only Xue Nanming whose relationship with Xu Hongkui can be confirmed by other Chinese sources. He was a son of Xue Fucheng 薛福成, a famous secretary of Li Hongzhang.⁶³ It was he that opened the first dry cocoon dealing house in Wuxi, which was called "*Qijun jianhang* 其均繭行." In Wuxi, any Chinese merchants who had capital to purchase cocoons tended to use the names of foreign merchants regardless of he was British or French. Among the Chinese merchants, Xue Nanming had such close connections with the local officials that he could suppress anyone who opposed him through his political connections.⁶⁴

Besides Xu Hongkui, Huang Zongxian 黃宗憲, who was a comprador of Iveson & Co., started to purchase cocoons in Wuxi and Changzhou 常州 districts from 1882. Huang opened cocoon dealing hong in these districts with the Chinese name of Iveson & Co. (*Gonghe yanghang* 公和洋行). His main cooperator was Xu Daosun 許稻蓀, who was a very influential landlord in Henglin 橫林 district.⁶⁵ Furthermore,

⁶². Xu (1987): 38.

⁶³. Gao and Yan (1987): 24, 44.

⁶⁴. 無錫開化鄉志 寺觀廟社六

⁶⁵. Gao and Yan (1987): 40-41; Suzuki (1992): 368.

Russell & Co. (*Qichang yanghang* 旗昌洋行) sent their comprador, Gu Mianfu 顧勉夫 to Wuxi districts to open cocoon hong for purchasing fresh cocoons and drying them with Sun Boyu 孫伯瑜, a prominent gentry in Shitangwan 石塘灣 district.⁶⁶

The commercial organization linking the compradors of British and American silk filatures in Shanghai and the landlords and gentry in the Jiangsu silk-producing districts including Xue Nanming Xu Daosun, and Sun Boyu was tied up with outward transit-passes. In other words, the prominent landlords and gentry were apparently attracted to the "institutional privilege" of using outward transit-passes provided by Xu Hongkui, Huang Zongxian, and Gu Mianfu. The emergence of such a commercial organization was obviously the denial of the economic principle in the Chinese society that no one could claim the privilege of doing business without paying the *Lijin* tax imposed on it.

Needless to say, those who feared the success of this commercial organization that consisted of the compradors of British and American mercantile firms in Shanghai and the landlords in the Jiangsu silk-producing districts was the Shanghai Silk Guild. They feared that a growth of the commercial organization tied in with the "institutional privilege" of using outward transit-passes would sooner or later undermine their control over the Jiangnan silk-producing districts.

However, the Shanghai Silk Guild could not openly prohibit the new commercial organization, which was mainly centred between Shanghai and Wuxi. As is pointed out in Chapter 1, since the Shanghai Silk Guild was the commercial organization of Zhejiang merchants, their political influence through personal connection with local officials could not easily refer to Jiangsu province. Moreover, they feared Xue Nanming because his father, Xue Fucheng 薛福成, was the secretary of Li

⁶⁶. Xu (1990): 67.

Hongzhang, China's most powerful politician. They anticipated his revenge using his personal connections with his father and Li Hongzhang if they carelessly interfered with his business. Nonetheless, these were merely minor reasons.

What they worried about most was that their interference with the new commercial organization might make not only foreign merchants in Shanghai but also numerous Chinese merchants notice the effect of the outward transit-pass on the Chinese mercantile community. If Western merchants became aware that Chinese merchants and landlords were attracted to the "institutional privilege" of using outward transit-passes in order to evade paying the *Lijin* tax, they would eagerly distribute them to any Chinese merchants who cooperated with them. Meanwhile, once numerous Chinese merchants became aware that they could carry on business without paying the *Lijin* tax as long as they had outward transit-passes, they would certainly no longer respect the discipline of the prominent Chinese merchants' groups. It would mean the collapse of the order of the Chinese mercantile society.

Since the Shanghai Silk Guild could never openly prohibit the new commercial organization, they tried instead to prevent the growth of foreign filatures in Shanghai. Their first attempt was to decrease the supply of cocoons through the market mechanism. They expected more cocoons would be consumed to produce raw silk in the producing districts rather than sold to the silk filatures once the prices of raw silk had been raised in the inland market. It was Hu Guangyung 胡光墉 who tried to raise the price of the raw silk artificially at that time. Despite the depressed condition in the Chinese and the European market, he purchased a large amount of the new crop of raw silk in the season of 1882 in order to raise the price of it. He himself seemed to expect that the demand must increase after the silk weaving factory by Thomas

Kingsmill & Co. was opened in the year. However, his expectation did not come true. The market condition turned from bad to worse and he suffered a great loss.⁶⁷

Now that it was impossible to prevent the commercial success of the British and American silk filatures through the market mechanism, the Shanghai Silk Guild decided to prohibit steam silk filatures in Shanghai. Therefore, four silk merchants of the Shanghai Silk Guild led by Gao Renhe 高仁和 pleaded with Zuo Zongtang, who was then the Liangjiang viceroy, to prohibit foreign silk filatures and silk weaving mills in Shanghai.⁶⁸

Zuo Zongtang's action started when he received a greeting visit from two British Consuls in Shanghai, P. J. Hughes and C. L. B. Allen on June 8, 1882 at the Jiangnan Arsenal, he politely but clearly expressed his opposition to cocoon purchases by the British merchants. He acknowledged that the local authorities had prevented Huang Zongxian, the comprador of Iveson & Co., from purchasing cocoons in the neighbourhood of Nanjing. The nominal reasons for the obstruction was the insufficient production of cocoons and mulberry trees in the district, and his resolution that the supply of cocoons to the Imperial manufacture which produced the silk for the Qing court should take priority

⁶⁷. "The Position of Silk," *NCH*, May 5, 1882, 469-470; "論桑棉之利," *SB*, June 1, 1882.

⁶⁸. FO 228/705 "Enclosure No. 1 in P. J. Hughes to T. G. Grosvenor, No. 50; FO 228/985 Shanghai Chinese No. 11 of 1882. Although the two surviving despatches in FO 228 recorded the fact that the four silk merchants of the Shanghai Silk Guild pleaded Zuo Zongtang to prohibit the foreign silk filatures in Shanghai and the summary of it, the original letter does not exist in the complete works of Zuo Zongtang (*Zuowen xianggong quanji* 左文襄公全集). Besides their letter, no other relevant letters and dispatches between the Shanghai Silk Guild and Zuo Zongtang concerning the commercial connection between Xu Hongkui and Xue Nanming survived in the complete works of Zuo Zongtang. It only collected the despatches concerning the foreign silk filature question, which have been quoted by previous studies particularly Hatano (1961). By contrast, FO 228 archives recorded the summary or quotation of the so far unknown letters and correspondences between the Shanghai Silk Guild or the local bureaucrats and Zuo Zongtang concerning the foreign silk filature question. Moreover, the surviving records in the complete works of Zuo Zongtang contend only less information than that of FO 228 archives. Although it is impossible to prove it with the surviving written evidences, my hypothesis is that Xue Fucheng and Xue Nanming directed someone to destroy these records after Zuo's death in order to conceal that their silk cocoon business had a subversive effect on the commercial organization of Chinese silk merchants. Because of the above reasons and hypothesis, I do not quote any Chinese sources from the complete works of *Zuo Zongtang* in this study.

over that of the Western merchants.⁶⁹ His remarks indirectly suggested the reason why the Shanghai Silk Guild and the Qing local authorities opposed the British and American silk filatures. The maintenance of commercial organization disciplined with the *Lijin* tax system was far more important for them than the popularity of Chinese silk in the world market.

More than a month later, a correspondence from "*Haishang sanren* 海上散人" denounced the steam silk filatures, claiming that they would decrease the income from the inland tax levied on cocoons and raw silk, cause the woman workers to become morally degenerate by having them reside in Shanghai, and rob the peasants of the profit of reeling.⁷⁰ Following this anonymous correspondence, the Jiangsu Governor-General, Wei Rongguang 衛榮光, ordered the Shanghai Daotai to suspend the foreign steam silk filatures and silk-weaving mills because they would bring havoc to the peasants' life in Jiangsu and Zhejiang provinces.⁷¹ Since British and American merchants were entirely unaware the real reason for the interference by the Qing local government officials, his order caused a sensation in the Western mercantile society in Shanghai because the steam silk filatures were regarded as the most promising enterprises and expected to increase the employment and the export trade.⁷²

The first British company which became the target of the Shanghai local officials was the Shanghai Silk Manufacturing Company (*Youheng Zhichou Gongsi* 有恆織綢公司; *Shanghai Yingshang Zhizao Yangzhuang Chouling Gongsi* 上海英商織造洋莊綢綾公司) which

⁶⁹. FO 228/705 "P. J. Hughes to T. F. Wade, No. 20," June 9, 1882.

⁷⁰. "機器繅絲為害論: 海上散人," *SB*, July 16, 17, 1882. In the article on the following day, the editor of *Shenbao* rebutted the correspondence by claiming that modern filatures had no effect but recovering the profits of the silk trade because it could manufacture the high quality silk with lower cost ("書機器繅絲妨利論後," *SB*, July 18, 1882).

⁷¹. "奉阻繅絲," *SB*, Sept. 15, 1882.

⁷². "The Manufactures of Shanghai," *NCH*, Sept. 15, 1882, 293-294.

was established by the British merchants, J. M. Ringer, A. A. Krauss, Thomas W. Kingsmill, and a Chinese merchant, Hu Xiaosong 胡小松 in August 1882. After collecting capital amounting to 300,000 Shanghai Taels by issuing 3,000 shares which cost 100 taels each, they intended to form a silk manufacturing company in order to produce warp and organzines as well as weave of fine silk goods. However, when the 2,200 shares had been issued and the payment of Chinese shareholders were being deposited in the Hongkong & Shanghai Bank, the local officials intervened. They threatened a prominent native banker in the Shanghai settlement and the Chinese purchasers of land for the factory to return it to the original owners.

The owners of the company consulted Thomas F. Wade when he visited Shanghai on his way back to England, and decided to modify the prospectus of the proposed company by declaring that the products of their factory would only be exported to America, Australia, the Straits Settlement and Europe. Meanwhile, the local authorities applied further pressure. Governor-General Wei, who claimed the production of the brocaded satin by the Shanghai Silk Manufacturing Company would damage the traditional handicraft silk industry in the Jiangsu and Zhejiang districts, ordered Shanghai Daotai, Shao Youlian 邵友濂, to put a stop to the scheme. In consequence, the Chinese magistrate of the Shanghai Mixed Court, Chen Fuxun 陳福勳, sent a letter to the Chinese manager of the company, Hu Xiaosong, telling him to abandon the scheme.⁷³

The British merchants did not succumb to threat. The reason for their unyielding attitude was the fact that the Shanghai Silk Manufacturing

⁷³. FO 228/705 B. C. George Scott to T. G. Grosvenor, No. 43, Oct. 21, 1882; *ibid.*, Enclosures No. 1 and 2 in P. J. Hughes to T. G. Grosvenor, No. 44, non-dated; FO 228/985 Shanghai Chinese No. 6 (?) and 10 of 1882. The Chinese despatch, which should be referred to FO 228/985 Shanghai Chinese No. 6 of 1882 is not recorded in its number.

Company was not the only target of interference by the Shanghai local officials. In fact, the company on which interference had more impact was the cotton-spinning factory jointly planned by an American W. S. Wetmore of Frazer & Co. and a British T. V. Grant of Boyd & Co. The interference provoked anger among the Western society in China because they claimed that the right to establish a manufacturing factory in China, was stipulated in Article 7 of Chinese-French Treaty of Tianjin, Article 6 of Chinese-German Treaty, Article 11 of Chinese-Belgian Treaty, and Article 8 of Chinese-Austro-Hungarian Treaty since 1879.⁷⁴

Moreover, British diplomats noticed that the power of Zuo Zongtang was in decline at that time. About two months after the meeting with Zuo, Consul Hughes reported that Zuo was denounced by Xi Yuan 希元, the Manzhou general in Nanjing, and Huang Tifang 黃體芳, the Jiangsu Literary Chancellor, for his malconduct in official affairs concerning his son. Also he had "the reputation of obstinacy in what he supposed to be his own views" and "unwillingness to listen to the opinions of experienced subordinates, and of dullness of understanding."⁷⁵ Therefore, the Westerners never contemplated to compromise in this negotiation. When the Shanghai Cotton Cloth Mill Company requested the Shanghai Daotai and the Liangjiang Viceroy to prohibit the establishment of the Anglo-American Cotton Yarn Company, the whole body of Western consuls allied with each other to resist the Chinese authorities. The German Consul General, Dr. J. H. Focke, who was the Senior Consul at that time, opened the meeting of consuls on October 12th

⁷⁴. Hatano (1961): 298-304.

⁷⁵. FO 228/705 P. J. Hughes to T. F. Wade, No. 29, August 5, 1882. His unpopularity was probably due to the result of his long stay in the Xinjiang districts to deal with Ili question, and his honesty and outspokenness made it difficult for him to fit into the ways of an effete officialdom in Beijing. By the end of 1882, Zuo was reported to have become a tired and sick man and lost the sight of his left eye (Arthur W. Hummel [1943]: 767). Considering the political situation, however, his bad health could be thought of as the result of the bad relationship with his colleagues.

when he received the proclamation to prohibit the Cotton Yarn Company from the Daotai. The meeting resolved that "it contained an unjustifiable interference with a lawful industrial enterprise started by foreigners" and requested the Daotai to withdraw the proclamation.⁷⁶

On the other hand, the Shanghai local authorities did not yield, either. Claiming the monopoly of the Shanghai Cotton Cloth Mill Company over the cotton industry for 10 years, they persisted in their insistence. In rebutting the request from the Western consuls, Shao Daotai denied the right of the Chinese to buy shares of the Western joint stock companies in China and issued a warrant for the arrest of the comprador of Frazer & Co., Wang Keming 王克明, for complicity with the Taiping rebellion. Since the United States Acting Consul General, Fleming D. Cheshire, refused to countersign the warrant and in consequence the dealing of this incident turned out to be an issue of negotiation between the Minister of the United States and the Zongli Yamen, Wang was so afraid that he dared not to go outside the premises of his employer and stayed under the protection of the United States authorities.⁷⁷

Following the above action, the Qing local government officials aimed at the one of the real targets of interference. Shao Daotai prohibited the steam silk filatures of Iveson & Co. and Russell & Co. on November 10.⁷⁸ As the tension between the Western diplomats and the Chinese local authorities heightened, Thomas Kingsmill & Co. fell into difficulty in capital formation and managing their factory.⁷⁹ Meanwhile, being unaware that what their comprador had done in the Jiangsu silk-producing districts was the real reason for the interference by the Qing

⁷⁶. FO 228/705 P. J. Hughes to T. G. Grosvenor, No. 44, November 2, 1882.

⁷⁷. *Ibid.*; "The Monopoly Question," *NCH*, Nov. 8, 1882, 494-495; "The Fung-t'ai Compradore (*sic*): W. S. Wetmore," *NCH*, Nov. 15, 1882, 537. However, despite the protection of the United States authorities, Wang was arrested with Yu Shaoshan, the comprador of Boyd & Co., later.

⁷⁸. FO 228/705 Enclosure No. 1 in P. J. Hughes to T. G. Grosvenor, No. 50, Nov. 10, 1882; FO 228/985 Shanghai Chinese No. 9; "議禁縲絲," *SB*, Nov. 15, 1882.

⁷⁹. FO 228/705 P. J. Hughes to T. G. Grosvenor, No. 52, Nov. 28, 1882.

local government officials, Jardine, Matheson & Co. decided to delay the opening of their silk filature though most of the requisite machinery had been equipped by the end of December.⁸⁰

The Western consuls maintained their opposition on three accounts. First of all, since these filatures employed hundreds of Chinese, these workers would lose their jobs and means of livelihood if these filatures were forced to close. Secondly, since the foreign silk filatures intended to produce silk only for export, they could never undermine the privilege of the Shanghai Cotton Cloth Mill Company under the patronage of Li Hongzhang because it only produced cotton cloth to compete with imported cotton piece goods. Finally, with regard to the right of Westerners to open manufactures at the open ports, they remained strictly attached to the interpretation that Article 7 of the Chinese-French Treaty of Tianjin, Article 11 of the Chinese-Belgian treaty, and Article 6 of the Chinese-German Treaty expressly conceded the right.⁸¹ *Shenbao* supported the claims by the Western consuls. At first, it published a correspondence from "a Western friend" which emphasized that the modern filatures must effect the rising demand for cocoons and mulberry leaves, which would in turn raise the price of land, and revive the silk export trade.⁸² Commenting on this correspondence, *Shenbao's* editor also insisted that the modern filatures would be of great benefit to the peasants because they would no longer need to re-reel raw silk hurriedly but only to specialize in cultivating harvests and producing cocoons, which must have the effect of increasing the production of co-

⁸⁰. "John Macgregor to F. B. Johnson," Dec. 27, 29, 1882 *JMA-PCLB* c41/6.

⁸¹. FO 228/705 Enclosure No. 2 of P. J. Hughes to T. G. Grosvenor, No. 50, Nov. 21, 1882; FO 228/985 Shanghai Chinese No. 9 of 1882, Nov. 24, 1882. The conflict on the interpretation of the treaties between the Chinese and the Westerners mainly arose from the discrepancy of the meaning of the term "l'industrie" in Article 7 of the Chinese-French Treaty of Tianjin and its Chinese translation. While the French term, which was the official text clearly meant "industry," the Chinese translation (工作), according to the claim by the Qing government, only implied sundry services. See Hatano (1961): 299-301.

⁸². "照譯論縲絲局書," *SB*, Nov. 28, 1882.

coons; and the separation of the cocoon sales and the production of raw silk only damaged the arbitrary power of the Chinese silk brokers and dealers.⁸³

Zuo Zongtang could not make a convincing rebuttal. He could at most mention the privilege of the Shanghai Cotton Cloth Mills Company to monopolize production, the necessity of managing the large number of people engaged in raw silk production with a primitive system, and the lessening of the inland tax as the reasons for the prohibition in his reply.⁸⁴ The consular body refused to receive Zuo's reply and the negotiation between the Western consular body and the Shanghai local authorities under the supervision of Zuo Zongtang ceased.⁸⁵ Further negotiations, it was decided, would be carried on in Beijing.

In fact, Zuo Zongtang and other local government officials seemed to have expected that the British and the American diplomats would transfer the negotiations on the issue from Shanghai to Beijing. Since they anticipated political revenge from Xue Nanming through Xue Fucheng or Li Hongzhang, they had carefully kept Ewo Filature and the commercial connection between Xu Hongkui and Xue Nanming untouched. Moreover, they had prohibited the Anglo-American cotton-spinning factory of Frazer & Co. and Boyd & Co., and the Shanghai Silk Manufacturing Company by claiming the monopoly of the Shanghai Cotton Cloth Mill over the cotton industry for 10 years. Furthermore, following the request from the Shanghai Cotton Cloth Mill Company to prohibit the Anglo-American Cotton Yarn Company, they could pretend

83. "閱西友論縲絲局書後," *SB*, Nov. 30, 1882; "再論機器縲絲," *SB*, Dec. 3, 1882. Due to these campaigns, Shao Youlian warned *Shenbao* that he would order them to close if they "presumed to touch upon political questions any more" ("The Tao-t'ai and the Settlements," *NCH*, Nov. 29, 1882, 582) This threat had an effect because *Shenbao* stopped reporting the silk filature question after 1884. Two years later, moreover, he actually sent Consul Hughes the four rules to frame for the conduct of *Shenbao* and another native newspaper, *Hubao* (FO 228/760 P. J. Hughes to Harry S. Parks No. 77 July 9 of 1884; FO 228/1005 Shanghai No. 47 and 48 of 1884).

84. FO 228/705 Inclosure of P. J. Hughes to T. G. Grosvenor, No. 62, Dec. 10, 1882.

85. FO 228/705 Inclosure of P. J. Hughes to T. G. Grosvenor, No. 62, Dec. 29, 1882.

as if their intervention with the other two foreign filatures was to guard the interest of Li Hongzhang.

Xue Fucheng or Li Hongzhang could not oppose the prohibition of these factories and the steam silk filatures of Russell & Co. and Iveson & Co. because the Shanghai Cotton Cloth Mill was managed by Li Hongzhang's subordinates. In other words, the cotton-spinning factory of Frazer & Co. and Boyd & Co. and the Shanghai Silk Manufacturing Company were merely political scape goats. Moreover, the above action of the Qing local government officials was a silent inquiry of Xue Fucheng whether or not they could also prohibit the Ewo Filature and interfere with the commercial organization linking Xu Hongkui and Xue Nanming.

Receiving the protests from the British and American diplomats instead of Li Hongzhang, Xue Fucheng must have immediately noticed what Zuo Zongtang and other local government officials intended. In his two letters to the Shanghai Daotai, Shao Youlian, he ostensibly praised the interference and the prohibition placed on the Anglo-American cotton-spinning factory, the Shanghai Silk Manufacturing Company, and the steam silk filatures of Russell & Co. and Iveson & Co. by Zuo Zongtang and other local officials. However, his real aim was not at all the same as what the Shanghai Silk Guild and the local government officials expected. In his second letter, he proposed to admit the two steam silk filatures as exceptions⁸⁶, and it was his significant suggestion. By insisting that even the prohibited two filatures should be admitted, he silently warned them not to touch the Ewo Filature and the business relationship between Xu Hongkui and his son.

⁸⁶. "代李伯相復邵觀察," collected in 薛福成 *Yong an wen bieji* 庸齋文別集 vol. 5. His two letters sent to Shao Youlian are recorded with the same title. As I wrote in the text, I quote from the second letter.

The Qing bureaucrats played pantomime politics to such a degree that their British and American audiences could not understand its meaning.

As the result of the order from Xue Fucheng, Zuo Zongtang and the Shanghai local officials admitted the filatures of Iveson & Co. and Russell & Co. as exceptions but prohibited the cotton-spinning factory planned by Wetmore and Grant and the Shanghai Silk Manufacturing Company projected by Thomas Kingsmill & Co., which was officially informed in March 1883.⁸⁷ At the same time, Wang Keming was released after the examination by Shao Daotai with the presence of Cheshire. But he was forced to promise to have nothing to do with the proposed cotton-spinning company and to cancel an agreement for purchasing a piece of ground for the new factory.⁸⁸ After the political solution, the filature of Jardine, Matheson & Co. was allowed to start from January 1883.⁸⁹

However, the political solution by Xue Fucheng was apparently different from what the Shanghai Silk Guild and Shanghai local officials had expected. They were quite unsatisfied with the above result and continued to interfere with the commercial connection between the compradors of the foreign silk filatures and the Jiangsu landlords.

The Cocoon Trade Question, 1883-84

Since they had failed to prohibit the foreign steam silk filatures and could not abolish the outward transit-pass system, the Shanghai Silk Guild and the local government officials in Shanghai and Zhejiang tried to restrict the commercial organization tied in with the "institutional privilege" of using outward transit-passes. With the approval of the

⁸⁷. Suzuki (1992): 330-331. FO 228/729 Inclosure No. 2 of P. J. Hughes to T. G. Grosvenor, No. 22, Feb. 22, 1883.

⁸⁸. FO 228/729 P. J. Hughes to T. G. Grosvenor No. 4, Jan. 8, 1883; "The Fung-t'ai Compradore (sic) Case," *NCH*, Jan. 10, 1883, 35.

⁸⁹. "W. Paterson to F. B. Johnson," Jan. 17, 1883, *JMA-PCLB* c41/6.

Acting Governor of Zhejiang on February 21 1884, the Central *Lijin* Office of Zhejiang issued regulations for the taxation of cocoons which consisted of 8 rules.⁹⁰ Since it was just one day before Zuo Zongtang sent the official notice to the German Senior Consul to permit the existence of the foreign steam silk filatures, it was obvious that Zuo and the Central *Lijin* Office of Zhejiang cooperated with each other to arrange the regulations. Judging from the fact that the Central *Lijin* Office of Zhejiang issued the regulations, it is quite plausible to think that the Shanghai Silk Guild wielded some political influence on them.

So long as the regulation was put into effect only within Zhejiang province, it had little effect on British mercantile firms because their compradors purchased dried cocoons mainly in Jiangsu province. However, probably because of the ignorance about the activities of their compradors, Iveson & Co. and Jardine, Matheson & Co. requested Consul Hughes to put pressure upon the Chinese authorities so that they would withdraw the regulations or compensate the loss due to the regulations.⁹¹ According to the two companies and Consul Hughes, three rules out of the eight rules, which are as follows, were apparently intended to prevent the management of the modern foreign filatures.⁹²

4. . . . Of late years the sale [of cocoons] has largely increased, and the price obtained for them greatly enhanced. As, therefore, . . . arrangements to suit the times must be made in accordance with the real facts by the case. The greater portion of the Cocoons taken by the growers to the Hong, are fresh, and the Superintendents suggest that in future a duty of \$ 4.00 be levied upon every picul [=100 catties] of fresh Cocoons. The Hong must fill up a certificate stating the quantity of fresh Cocoons in their possession; and when dried Cocoons are

⁹⁰. FO 228/985 Shanghai Chinese No. 11 of 1883; FO 228/729 Enclosure No. 3 of P. J. Hughes to T. G. Grosvenor, No. 44. The regulation was reported in the *North-China Herald* two weeks later, (see "The New Likin on Cocoons," *NCH*, Apr. 27, 1883, 449-450; "The Taxation of Cocoons in the Interior," *ibid.*, 466-467).

⁹¹. FO 228/729 Enclosures No. 1 and 8 of P. J. Hughes to T. G. Grosvenor, No. 44, April 11, 1883.

⁹². FO 228/729 Enclosure No. 5 of P. J. Hughes to T. G. Grosvenor, No. 44, April 13, 1883; FO 228/985 Shanghai Chinese No. 12 of 1883. The United States Acting Consul-General sent a similar despatch based upon the request from Russell & Co. (FO 228/729 P. J. Hughes to T. G. Grosvenor, No. 44 April 14, 1883).

about to be transported, they must exchange the Certificate for a Passport, which will be at once issued to them by the Lakin (*sic*) officials. The Passports will contain the quantity of Cocoons to be transported, calculated upon the basis that three catties of fresh Cocoons are to reckon as one catty of dried ones. . . The Cocoon Certificate will then be attached to the counterfoils of the Passports issued, so that both may be delivered up together for examination. If the silk growers themselves dry Cocoons and sell them to the Hong, duty must be collected on them at the same rate, that is \$ 12.00 on every picul of dried Cocoons, for the sake of uniformity and the avoidance of confusion. As a concession to the Hong a remission of 2 1/2 % will be allowed on the duty collected. . .

7. . . . The Superintendents suggest that Cocoon Hong opened [by native agents of foreign merchants] in future must be guaranteed by some wealthy Silk Hong in the neighbourhood, which is also guaranteed. This must be reported to the Likin Office or Barrier in the neighbourhood, which will make enquiry, and report to this office. Upon the issue of a license the Hong will be permitted to open business. Any deficit in the payment of the Likin tax must be made good by the guarantor. Should there be no Silk Hong in the neighbourhood, and the guarantee obtained is only one from a shop in some other line of business, the Cocoon Hong will not be permitted to open. . . Should anyone, falsely representing himself as the Agent of a Foreign Hong, open a Cocoon hong in a market town, . . . the buildings shall be confiscated, and the offender arrested and punished according to law.

8. Most of the Cocoon Hong have drying ovens, respecting which complaints have frequently been made, either as affecting the *Feng-shui* 風水, or as being sources of danger from fire. The erection of ovens is a matter of convenience to the Cocoon dealers, but popular opinion is opposed to them. The Superintendents suggest that before building ovens, the Hong Dealers should consult with the elders and people of the District, when, if there be a unanimous consent, the local authorities shall be addressed on the subject, and if, after official enquiry, no obstacle exists, permission will be granted. But if ovens are built without first asking for official inspection, and without intimation to the Authorities, it will then rest with the Authorities to hold a searching enquiry, when, if there are objections to the ovens, to order them to be closed.⁹³

Consul Hughes criticized the above three rules on three accounts.

First of all, since 16 piculs of fresh cocoons, on which 4 dollars of in-

⁹³. FO 228/729 Enclosure No. 3 of P. J. Hughes to T. G. Grosvenor, No. 44, March 14, 1883; FO 228/985 Shanghai Chinese No. 11 of 1883.

land tax per picul was collected, were required to make one picul of dried cocoon, the whole inland tax upon one picul of dried cocoon must be 64 dollars, though the cost of it was only 20 dollars, and the procedure of collecting it was apparently against the privilege of the outward transit-pass system. Secondly, the guarantee of wealthy silk *hongs* for opening a cocoon *hong* apparently implied the superintendence by the monopoly organization, which was prohibited by the articles of the treaties stipulating the free trade and it was infeasible because the Chinese silk merchants held hostility against the agents of the British and American merchants. Finally, he regarded the term, "fengshui 風水," as entirely superstitious, and claimed that the local authorities easily used it as a reason for intervention.⁹⁴

The reply from Zuo Zongtang and the Central *Lijin* Office of Zhejiang concerning the regulations was sent to Hughes nearly three weeks later. The Central *Lijin* Office justified the raise of the *Lijin* tax on cocoons by pointing out the fact that the inland tax on raw silk had been diminishing by tens of thousands of dollars in each year since the start of the cocoon trade. They also emphasized the necessity to reduce the export amount of dried cocoons in order to secure fresh cocoons for producing raw silk in the inland district. For the same reasons, they justified the guarantee by wealthy Chinese silk *hongs* for the British and American merchants to open a cocoon *hong*. Moreover, they insisted that the rate of inland tax on fresh cocoons, \$ 4 per picul, was by no means excessive for such prosperous trade as that of dried cocoons.

Furthermore, based upon Article 46 of the Chinese-British Treaty of Tianjin which admitted that the Chinese authorities at each port should adopt the means they might judge most proper to prevent the revenue

⁹⁴. FO 228/729 Enclosures No. 1 and 8 of P. J. Hughes to T. G. Grosvenor, No. 44, April 11, 1883; FO 228/985 Enclosure No. 6 in Mr. Hughes' No. 44 of 14th April 1883. The English translation of it, which must be the Enclosure No. 7 of Mr. Hughes' No. 44, is missing.

from fraud or smuggling, they claimed that their decision was legal, and the inland tax on cocoons had nothing to do with the British and American merchants because it was imposed upon the native producers and purchasers. Therefore, the supervision of collecting it by certain native Hongs was by no means a violation of Article 5 of the Chinese-British Treaty of Nanjing. Finally, with regard to the criticism against the superstition of "*fengshui*," they claimed that the foreigners had no right to open hongs or erect ovens in the interior districts.⁹⁵

The above debate could be attributed to the problem whether the native agents of the British and American merchants should respect the economic principle that no one could claim the privilege of doing business without paying the *Lijin* tax when they purchased cocoons from the landlords or not. Also, it was apparent that the Chinese authorities set aside the regulation according to the verbal promise between W. D. Spence and Mei Qizhao.

The British side did not remember the informal promise between W. D. Spence and Mei Qizhao at that time. Consul Hughes protested to the Zhejiang Governor-General, Liu Bingzhang 劉秉璋, of further interference against the native agents of Iveson & Co. by the *Lijin* officials in Linping 臨平縣 county and Yuyao 餘姚縣 county of Shaoxing prefecture. In these counties, the *Lijin* officials demanded the native agents of the company provide a guarantee from the silk Hongs, and the Linping county people had injured their cocoon-drying furnaces. Since Consul Hughes had opposed the regulation from the beginning, he neglected the request from the Chinese authorities but only asked the Governor-

⁹⁵. FO 228/730 Enclosure No. 4 in Consul Hughes' Despatch No. 65 of June 25, 1883, May 3, 1883; FO 228/985 Shanghai Chinese No. 17 of 1883.

General to allow the native agents of Iveson & Co. to carry on their purchasing activities.⁹⁶

Table 2-4: The Export Amount and Value of Cocoons from 1880 to 1882

Year	Amount (Piculs)	Value (Haiguan Tls.)
1880	3,953.99	203,806
1881	2,318.80	162,316
1882	2,878.97	230,320

Source: FO 228/729 P. J. Hughes to T. G. Grosvenor No. 44, April 14, 1883

However, Shao Daotai and Liu Governor-General did not change their attitude. They suspected that the British and American merchants might allow native merchants to evade the higher inland tax on dried cocoons by using outward transit-passes even though they were still unaware the hazardous effect of it on the commercial organizations of Chinese merchants. As evidence of that, the Governor-General pointed out the fact that there had been no application for a outward transit-pass for dried cocoons since March 1882 despite the export of fresh cocoons showing a remarkable increase from February 1880 to March 1882.⁹⁷ Since there had been great amounts of dried cocoon export from 1880 to 1882 as shown in Table 2-4, the influence of illegal sales of outward transit-passes or the false representation for evading the higher inland tax was obvious. Since Xu Hongkui did not go to Zhejiang silk-producing districts in those years, probably Huang Zongxian or Gu Mianfu went to Zhejiang silk producing districts and distributed outward

⁹⁶. FO 228/730 Enclosures No. 1 and 2 in Consul Hughes' Despatch No. 65 of June 25, 1883 April 16, 1883; FO 228/985 Shanghai Chinese No. 14 and 15 of 1883. These dispatches indicated that native agents of Iveson & Co. purchased dried silk cocoon not only Jiangsu but also Zhejiang silk producing districts. However, since the account book of the silk filature of Iveson & Co. is missing, it is impossible to know whether or not the native agents included Huang Zongxian, where and how much dried cocoon they purchased, and how much they paid for it.

⁹⁷. FO 228/730 Enclosures No. 4 and 5 in Consul Hughes' Despatch No. 65 of June 25, 1883; FO 228/985 Shanghai Chinese No. 10 and 18 of 1883. Shao reported that the amount of fresh cocoons exported in February 1880 was not more than 60,000 to 70,000 jin whereas that in March 1882 was more than 240,000 to 250,000 jin.

transit-passes to landlords or Chinese merchants who cooperated with them.

Therefore, when the Central *Lijin* Office of Zhejiang inserted the two rules below in the regulations in order to prevent the British merchants from selling outward transit-passes to Chinese merchants, Consul Hughes could not find any excuse to oppose it. Iveson & Co., and Jardine, Matheson & Co., however, strongly requested him to withdraw these rules.⁹⁸

2. A difference has hitherto existed between Passes for Chinese and those for Foreigners. The latter are Passes in triplicate issued by the Customs to Foreigners with particulars of the goods filled in; the former are obtained by Chinese for the purchase and transport of Cocoons to Shanghai, silk passes being employed with the addition of a stamp shewing whether the Cocoons are large or small. This was for the purpose of distinguishing (between Foreign and native owned goods). The Superintendents suggest that Cocoon Passports in triplicate be also printed for Cocoons sent to the Ports, in order to secure uniformity (in the collection of the tax). Whenever a merchant takes out a Passport, the office or Barrier of origin shall state thereon the designation of the applicant as described on the Transit Pass. This step must not be neglected.

Furthermore the Superintendents will request the Governor of Chekiang to write to the Likin authorities of Soochow and Sungkiang asking them to direct the officials in charge of the north and south Barriers to make a monthly return to the Chekiang Transit Passes received by them, whether borne by Foreign or Native Merchants.

3. With reference to Foreign Transit Passes, it was formerly the custom to receive a despatch from the Taotai at Shanghai stating that one leaf of the Pass, with the quantity of the goods filled in, and sealed, had been issued to the applicant, for inspection and endorsement at the Likin stations en route ; that the second leaf had been sent to the Custom House to be put on record; while the third was retained in the Taotai's Archives. This was the course followed in past years. In 1879 (sic) the Superintendents wrote to the Taotai at Shanghai requesting him to ask the Foreign Consuls to inform Merchants of their nationality, that when in future they went to Chekiang to purchase Cocoons, they must be provided with Transit Passes, and must report the quantity purchased to the Likin office or Barrier. A Passport to

⁹⁸. See note 75 and 76.

cover all the boats (conveying the cargo) must then be applied for, and presented at the Barriers en route for inspection and endorsement. We suggest that all Likin officials be instructed by Circular, that when they meet with any of the above-mentioned Transit Passes for the purchase and transport of Cocoons, the first Barrier, in accordance with instructions, shall insert the quantity of cargo, and affix the seal of the station, retaining one half of the Pass, and returning the other half to the applicant. A Passport shall, at the same time, be issued to cover the cargo. This Passport will indicate the quantity of goods examined at the various Barriers, and must be compared at each Station with the half Transit Pass. Both Passport and Transit must be sealed, whereupon the Boats will be released. Should there be any discrepancy in the weight of the cargo, or should there be no accompanying Passport, the boats and cargo shall be confiscated as provided by Treaty. A report is to be made to the Authorities, who will be requested to investigate the case.⁹⁹

It was at this time that Consul Hughes remembered the Fuyang incident. Being aware that Spence had admitted to Mei Qizhao that the cocoon purchasers would pay the *luodijuan* on the dried cocoons on behalf of the peasant producers, he could no longer force the Chinese side abandon the right to collect the higher inland tax on dried cocoons from native agents of the British and American merchants. All he could do was to demand that local authorities abolish the other rules of the regulation, such as the Passport (*i.e.* outward transit-pass), or the guarantee of a wealthy silk hong.¹⁰⁰

Meanwhile, probably at the suggestion of Consul Hughes, the *North-China Herald* published two leading articles in order to warn Western merchants not to sell outward transit-passes or lend their names to the Chinese merchants in return for commission because it would damage their treaty privileges, and in the long run, have the effect of confining them within the International Settlement.¹⁰¹ These articles clearly indi-

⁹⁹. See note 77. In the despatches exchanged in 1883, both sides misimplied that the Fuyang incident took place in 1879, though it actually took place from 1877 to 1878.

¹⁰⁰. FO 228/730 Enclosure No. 3 in Consul Hughes' Despatch No. 65 of June 25, 1883; FO 228/985 Shanghai Chinese No. 16 of 1883.

¹⁰¹. "The Treaty Question," *NCH*, May 4, 1883, 481-482; May 11, 1883, 509-510. However, as it will be shown in Chapter 5, these leading articles had no effect in diminishing the sales of the outward transit-passes.

cated that Western mercantile community in China was not aware what effect the sales of outward transit-passes or lending their names caused on the commercial organizations administered by Chinese merchants' guilds at that moment.

In the following counter-attack, he succeeded in forcing the Chinese local authorities abolish seven rules out of the eight regulations. However, as it was confirmed by the report from Iveson & Co., the higher tax upon dried cocoons stipulated by Rule 4 was not abolished.¹⁰² Now that it was impossible to abolish the higher inland tax, the British and American merchants had to do something to minimize the damage from it. In July, in order to prevent further damage resulting from lower prices due to competition with each other, Jardine, Matheson & Co. made an arrangement with Russell & Co. and Iveson & Co. to maintain the maximum price level of the dried cocoons.¹⁰³

Meanwhile, the Chinese local authorities did not give up their intention of bringing the commercial organization between the Chinese compradors of the British and American mercantile firms in Shanghai and the landlords in the Jiangsu silk producing districts under their control. In August, Zuo Zongtang and the Songjiang and Shanghai Central *Lijin* Office (*Songhu juanli zongju* 松滬捐釐總局) instructed the north and south Barrier sections to collect the passports issued according to Rule 3 of the former regulations and a half of the outward transit-pass from the cocoon merchants, regardless of their being Chinese or foreigner, and send them back to the Zhejiang Central *Lijin* office every month. By doing so, the Chinese authorities intended to make it impos-

¹⁰². FO 228/730 Enclosures No. 6 and 13 in Consul Hughes' Despatch No. 65 of June 25, 1883, May 23, 1883; *ibid.* P. J. Hughes to T. G. Grosvenor, No. 79, July 17, 1883; FO 228/985 Shanghai Chinese No. 19 of 1883.

¹⁰³. "W. Paterson to F. B. Johnson," July 13, 1883, *JMA-PCLB* c41/7. The specific content of the agreement was not recorded in *JMA*. Nonetheless, the Ewo Filature recorded an immense amount of deficit of Tls. 25,000 by the end of 1883, which had to be settled by sharing Tls. 428.96 per share among the shareholders ("John Keswick to William Keswick," July 29, 1884, *JMA-PCLB* c41/7).

sible to evade the higher inland tax on the dried cocoons by using outward transit-passes.

It was at this moment that the regulations governing cocoon purchase had a real effect on the commercial organization linking the compradors of British and American mercantile firms in Shanghai and the landlords of silk-producing districts. As is shown by the case of Xu Hongkui and Huang Zongxian, the compradors had preferred to purchase dried cocoons in Jiangsu province. However well made the regulations of the Zhejiang Central *Lijin* Office, they had little effect on the commercial connection between the compradors and the Jiangsu landlords because the Shanghai Central *Lijin* Office did nothing even while Zuo Zongtang and the Zhejiang Central *Lijin* Office were eager to put the whole regulations into effect. The only plausible reason for that was that the Shanghai Central *Lijin* Office was scared of the political influence of Xue Nanming. Nevertheless, since the Shanghai Central *Lijin* Office was forced to adopt the regulation, it inevitably brought about serious damage to the above commercial connection.

Following his instructions, Shao Daotai requested Consul Hughes to notify the British merchants that they were required to have not only outward transit-passes but also the special passports which were issued at the barriers within Zhejiang Province for inspecting the goods and collected at the north or south barriers of the same province on September 16.¹⁰⁴ Although Consul Hughes rejected the request by claiming that British subjects should not be bound to any conduct of trade which had not received the sanction of Her Majesty's Minister and the Zongli Yamen,¹⁰⁵ the request was arbitrarily issued again in the next

¹⁰⁴. FO 228/730 Inclosure 1 in Mr. Hughes No. 97 of 25 September 1883, Sept. 16, 1883; FO 228/985 Shanghai Chinese No. 25 of 1883.

¹⁰⁵. FO 228/730 P. J. Hughes to Harry S. Parkes, No. 97, Sept. 25, 1883; *ibid.*, Inclosure 3 in Mr. Hughes No. 97 of 25 September 1883, Sept. 19, 1883; FO 228/985 Shanghai Chinese No. 26 of 1883.

year and came into effect.¹⁰⁶ When the order was issued by the Shanghai Daotai, Consul Hughes asked the two leading silk merchants to investigate whether there was any ill effect on their business. However, because of the depression after the financial panic in December 1883, they regarded the matter as of little importance. The cocoon trade eventually came under the control of the Chinese local authorities.¹⁰⁷

Aftermath, 1884-92

As the result of the conflicts over the question of granting permission to the foreign silk filatures to engage in the cocoon trade, the British and American merchants had to pay the "*luodijuan*" upon the cocoons instead of the peasant cocoon producers even though they used the outward transit-pass. It brought about a dual effect on the commercial connection between Xu Hongkui and Xue Nanmin. First of all, the higher "*luodijuan*" upon cocoons seemed to be a heavy burden for Ewo Filature for the time being. Then, to what extent was the *luodijuan* on cocoon a heavy burden for Ewo Filature and what happened in consequence? The effect of the higher *luodijuan* on the foreign filature can be traced in the account book of Ewo Filature in the Jardine, Matheson Archives.¹⁰⁸

According to Rule 4 and the claims by Iveson & Co. and Jardine, Matheson & Co., 16 piculs of fresh cocoons, each picul of which was charged \$4 of *luodijuan*, were required to produce one picul of dried cocoon. Therefore, \$64 of *luodijuan* were imposed upon each picul of dried cocoon. Since the account book of Ewo Filature records the amount of dried cocoons Xu Hongkui conveyed from the Jiangsu silk

¹⁰⁶. FO 228/759 P. J. Hughes to Harry S. Parkes, No. 60, May 29, 1884; FO 228/985 Shanghai Chinese of No. 12 of 1884; "Cocoons from Chekiang," *NCH*, May 30, 1884, 619; "Cocoons from Kiangsu," *NCH*, July 18, 1884, 70-71.

¹⁰⁷. FO 228/759 P. J. Hughes to Harry S. Parkes, No. 60, May 29, 1884; "The Customs Gazette," *NCH*, Aug. 8, 1884, 145-146.

¹⁰⁸. Ewo Steam Silk Filature Account Book, *JMA* A7/553.

producing districts to Shanghai from 1883 to 1889, we can estimate how much money Ewo Filature was compelled to pay for the *luodijuan* upon the dried cocoons in those seasons and the rate of it in the whole cost of purchasing cocoons as indicated in Table 2-5. It was apparent that the higher *luodijuan* upon the cocoon was a heavy burden for Ewo Filature, particularly in a season such as 1885 when the prices of cocoons were extraordinarily low due to the depression.¹⁰⁹ Probably because of the heavy burden, Ewo Filature could not obtain any profit at least until 1886.¹¹⁰ The higher *luodijuan* obviously forced Ewo Filature into much depressed condition at least until the end of the 1880s.¹¹¹

Although no correspondence in the Jardine Matheson Archives recorded what the English partners of the Shanghai branch thought about the higher "*luodijuan*" upon the cocoons, it was quite likely that they worried about the effect of the higher "*luodijuan*" upon Ewo Filature. In order to reduce the cost for purchasing dried cocoons, they might quite well have ordered Xu Hongkui to make every effort to obtain more dried cocoons for the cost. What happened in consequence was recorded in *Wuxi kaihua xiangzhi* 無錫開化鄉志, a local gazette of Wuxi published in 1916.

According to the local gazette, it was the custom in Wuxi to use the weight called "*simacheng* 四碼稱," which was equal to 16.4 taels of the official weight for weighing grain tribute ("*caofa* 漕砵"), in weighing cocoons at each transaction. However, since the *Qijun jianhang*, the cocoon dealing hong of Xue Nanming, used heavier weight called "*zheng* 貞," which was equal to 18 taels of the official weight for weighing grain tribute, or other heavier weights called "*yuan* 元,"

109. "湖絲減色," *SB*, July 27, 1885; "論本年絲事," *ibid.*, Oct. 13, 1885; "再論今年絲事," *ibid.*, Oct. 15, 1885.

110. Ishii (1979): 25.

111. Eng (1986): 41.

"heng 亨," or "li 利," in weighing cocoons, Wuxi natives gathered to protest the exploitation of cocoons by using these heavy weights. Meanwhile, seven students of *Kaihua wenshe* 開化文社, the school for native literati, attempted to persuade the *Qijun Jianhang* to stop using the heavier weights.

Table 2-5: The Effect of *luodijuan* on the Cocoon Trade of Ewo Filature

Year	Cost of Fresh Cocoons (Tls.)	Cost of Fresh Cocoons (\$)*	Amount of Dried Cocoons Conveyed to Shanghai (piculs)	<i>Luodijuan</i> Imposed upon the Dried Cocoons (\$)**	The Rate of <i>luodijuan</i> in the Total Cost of Cocoons (%)
1883	30,000.00	40,540.54	547.30	35,027.20	86.40
1884	59,722.18	80,729.73	501.81	32,115.84	39.78
1885	71,570.00	96,716.22	965.37	61,783.68	63.88
1886	68,400.00	92,432.43	693.96	44,413.44	48.05
1887	90,000.00	121,621.62	n. a.	n. a.	n. a.
1888	89,629.85	121,235.14	752.09	48,133.76	39.70
1889	155,000.00	209,459.46	1,267.91	81,146.24	38.75

Source: Ishii (1979): 25; Ewo Steam Filature Account Book (*JMA A7/553*).
* The Rate between Taels and Dollars in the Ewo Filature Account Book was set at \$1 = Tls. 0.74.
**The amount of *luodijuan* on dried cocoon is calculated based upon the information of Rule 4. According to it, 16 piculs of fresh cocoon, on each of which \$ 4 of *luodijuan* was imposed, were required to produce one picul of dried cocoon. Therefore, the amount of *luodijuan* on one picul of dried cocoon is \$ 4 * 16 = \$ 64.

Nevertheless, the *Qijun jianhang* and "a linguist of a foreign merchant", requested Fei Dazhong 斐大中, who was the county magistrate then, to suppress the protesters, particularly the seven students. Although Fei Dazhong did not agree with their request because he was the teacher of the seven students in *kaihua wenshe*, the seven students anticipated that the *Qijun jianhang* would never change their attitude unless they had a clear evidence. Therefore, they broke into the *Qijun jianhang* and stole the "zheng" weight, and proved that the *Qijun jianhang* had exploited the native cocoons vendors by weighing cocoons with the heavier weight.

Because of their action, Fei Dazhong had to consult with the Songjiang and Shanghai Central *Lijin* office (*Songhu juanli zongju* 松滬捐釐總局) for the remedy. During the above process, the co-

coon trade was suspended in Xushe 許舍, a town where the *Qijun jianhang* lay. Seeing the situation, "the linguist of a foreign merchant" was aware that he could not reverse the situation in his favour, packed up his clothes and returned to Shanghai.

Table 2-6: The Cocoon Purchase by Xu Hongkui in 1884

Month	Content	Sycee
May	Tesan a/c cocoons	500
	Tesan on Laeyang [Liyang] Purchases	3,700
	Tesan on Laeyang [Liyang] Purchases	7,370
	Tesan for cocoon	2,000
	Draft against cocoons Tangyang [Danyang?]	1,000
	Draft against cocoons Euh Hong Low (?)	1,000
	Draft against cocoons Tangyang [Danyang?]	2,000
	Draft against cocoons Tangyang [Danyang?]	2,000
	Draft against cocoons Tangyang [Danyang?]	5,000
June	Draft against Tangyang [Danyang?]	5,000
	Draft against cocoons Euh Hong Low (?)	5,000
	Draft against cocoons Euh Hong Low (?)	3,000

Source: Ewo Steam Silk Filature Account Book (*JMA A7/553*).

After he had returned to Shanghai, he tried to suppress the seven students through the diplomatic route from the foreign consuls in Shanghai to the new county magistrate, who had succeeded in Fei Dazhong. However, the new county magistrate also turned down the request. Moreover, two years after the incident when he became the county magistrate again, Fei Dazhong ruled that every cocoon dealing hong must use only "*simacheng* 四碼稱" in weighing cocoons and every dealing hong had to have their weight checked and received a permission (*yinhua* 印花) by the county government.¹¹²

112. 無錫開化鄉志 寺觀廟社六 Suzuki (1992): 349-350, 367-368.

The linguist recorded in *Wuxi kaihua xiangzhi* was apparently Xu Hongkui because he had had close relationship with Xue Nanming, and the account book of Ewo Filature recorded the fact that he purchased no cocoons in Wuxi only in 1884 (see Table 2-6).¹¹³ This fact clearly corroborated the fact recorded that the linguist returned to Shanghai while the cocoon trade was being suspended. Worrying about the higher cost of cocoon purchase due to the higher “*luodijuan*,” Xu Hongkui attempted to obtain much more cocoons by weighing with heavier weights. However, his attempt only brought about the riot of sellers and ended in failure.

Table 2-7: Xu Hongkui’s Cocoon Purchase, 1885-1887

	Wuxi	Liyang	Euh Hong Low (?)	Suzhou	Aze (?)	Xujiah ui	Unknown
1885	27,500	8,687.50	25,000	n. a.	n. a.	500	9,882.50
1886	30,000	7,500.00	n. a.	19,000	4,000	500	n. a. -
1887	42,000	27,000.00	n. a.	17,000	n. a.	500	n. a. -

Source: Ewo Steam Silk Filature Account Book (JMA A7/553).

Meanwhile, the higher “*luodijuan*” on cocoons could not break the relationship between Xu Hongkui and Xue Nanming, either. As shown in Table 2-7, their connection resumed in 1885 and continued to grow. When British and American mercantile firms in Shanghai became the *de facto* payers of the “*luodijuan*” upon cocoons, it meant that they had the right of purchasing cocoons in the silk producing districts according the economic principle that no one could claim the right of doing business without paying the *Lijin* tax. The Qing local government officials and Shanghai Silk Guild had no excuse to prohibit the cocoon purchase by the compradors of British and American mercantile firms in the silk

113. Since I failed to access Russell & Co. papers in Baker business library, Harvard, I cannot reveal the commercial activity of Gu Mianfu, the comprador of Russell & Co. in the Jiangsu silk producing districts. However, judging the fact that the Qing local bureaucrats prohibited the silk filatures of Russell & Co. and Iveson & Co. in order to prevent the growth and development of the commercial connection of Huang Zongxian and Gu Mianfu with Wuxi landlords and gentry whereas they kept untouched with the Ewo Silk Filature, fearing Xue Nanming, Huang and Gu had little commercial relationship with Xue Fucheng. If they had had connection with Xue Nanming, the Qing local bureaucrats must have refrained from intervention on the silk filatures of Russell & Co. and Iveson & Co.

producing districts. All they could expect was that British and American merchants kept unaware that the "institutional privilege" of using outward transit-pass could undermine the commercial organization of Chinese merchants.

Thus ended the silk filature conflict caused by the re-establishment of the Ewo Filature. Being unaware of the time issues at stake, the English partners of the Shanghai branch of Jardine, Matheson & Co. invented two "institutional privileges" to attract cooperative Chinese merchant organizations when they re-established the Ewo Filature. First of all, by arranging the introduction of limited liability within the International Settlement in Shanghai, they made it possible to protect the property of Chinese proprietors who had invested Ewo Filature should the enterprise go bankrupt. As a result, as long as a joint enterprise was registered as a limited company with the British Supreme Court in Shanghai, Chinese merchants could secure their property even though the joint enterprise with foreign merchants fell into liquidation and they lost the whole capital they had invested in the joint enterprise.

Secondly, by distributing outward transit-passes through their compradors, they emancipated their compradors and cooperative merchants' groups from the obligation of paying the *Lijin* tax. As long as they were compradors or cooperative merchants' groups of foreign merchants, Chinese merchants could do business without paying the *Lijin* tax and protect their sales profit from the exploitation by the runners of the *Lijin* tax bureaux.

As it will be shown in Chapter 5, these two "institutional privileges" had great effect in contributing to the failure of the factory-establishing movement and the Commercial-Affairs-Bureau policy of the Qing local government officials in the 1890s. However, as of the middle of the 1880s, not only Jardine, Matheson & Co., but also any other foreign

merchants were unaware that they could undermine the solidarity of prominent Chinese merchants' groups by using these two "institutional privileges."

Therefore, when they caused conflicts with the tea merchants' groups and the opium merchants' groups in Shanghai and Hankou about the same time as the silk filature conflict, they could not contrive effective tactics to defeat their commercial opponents, events which are dealt with in Chapter 3 and Chapter 4. The analysis of these conflicts can reveal in what condition British mercantile firms could undermine or nullify the concrete organization of prominent Chinese merchants' groups, and why Chinese merchants could not discipline their organizations without depending upon some kind of "institutional privilege."

Chapter 3

Tea Trade Conflict, 1879-1888

The First Phase of Tea Trade Conflict, 1879-84

When compared with the foreign silk filature conflicts, the conflicts over the tea-weighing system and the controversy about improving the production system of black tea destined for England may be seen to have shaped two contrasts in respect of the relationship between British mercantile firms and Chinese merchants. Within the foreign settlements of Shanghai or Hankou, the "institutional privilege" of using outward transit-passes had no effect in undermining the commercial organizations of Chinese tea merchants; also, in the tea-producing districts, they could not constitute an effective "institutional privilege" to protect the property of Chinese landlords from bankruptcy.

These two facts prove that British mercantile firms had no other "institutional privileges" with which to attract cooperative Chinese merchants than those which they unconsciously invented and which caused the silk filature conflicts. Therefore, they could not defeat Chinese tea merchants' groups but at most repeat futile controversies with them or with the Imperial Maritime Customs. The conflict with the Chinese tea-merchants' groups arose in 1879 over the question of improving the tea weighing system as follows.

Just like silk, Chinese tea had been losing market share in the world market as a result of the competition with the Indian, Ceylonese, and Japanese teas from the end of the 1870s. Faced with this negative trend, British merchants in China were forced to attempt to secure the profit of the tea trade. Since the sales price of Chinese tea was out of Chinese control by the buyers in London after "the Traffic Revolution," the British tea merchants could no longer gain the same level of profit as

they had previously enjoyed. In order to maintain their margin of profit on sales, they had to reduce the purchasing cost of tea. Therefore, British merchants became quite alert to the quality and quantity of tea they purchased from Chinese dealers. Once they found the quality of the tea was inferior to that of the sample, they immediately abandoned the contract and requested compensation from the Chinese dealers. Moreover, by claiming that the weight of tea would be reduced while it was being transported to London, they frequently requested Chinese dealers to pack more tea leaf in a tea chest than stated in the contract. As an explanation, the British tea merchants referred to a custom called the "1 lb. draft," which prevailed in the London market.

The "1 lb. draft" custom meant that 1 lb. of tea leaf should be added without charge to every package of 28 lb.¹ Taking advantage of this custom, British merchants tried to exploit the Chinese merchants by demanding an extra 1 lb. of tea without payment. This malpractice, which had become common in Shanghai and Hankou by the early 1880s, was called "cutting."² Even though the volume was small, the "cutting" custom could ensure a certain profit. For instance, when a British merchant purchased a certain class of tea at Tls. 40 per picul and received it with the extra amount of 5% per lb. by "cutting," he could sell the tea cheaper by about a penny per lb. in London than the buyer who received the same tea without "cutting."³

The prevalence of the "1 lb. draft" custom meant the loss of profit for the Chinese dealers. They did not easily consent to the requests for "cutting" by the British merchants. On the contrary, they frequently tried to get even with the British merchants by delivering tea chests

¹. "Shanghai General Chamber of Commerce- Weighing Tea," *NCH*, Apr. 11, 1878, 373; "The Tea and the Chamber of Commerce: Taster; A Tea-Taster," *ibid.*, May 4, 1878, 464-465.

². Rowe (1984): 132; "The Tea Trade," *ibid.*, Jan. 24, 1883, 81-82.

³. "The Tea Trade," *ibid.*, Nov. 4, 1880, 412.

mixed with dust. In consequence, the tension between the British and the Chinese tea merchants was heightened and resulted in to be the fierce conflicts at the end of the 1870s in Shanghai and Hankou.

In Shanghai, the conflict started with a trivial incident recorded as "a case of frauds," which is recorded as "*dicha an* (低茶案)" in Chinese sources, at the season of 1879.⁴ According to the sources, this case broke out when one British merchant purchased a certain amount of Congou tea at such a price that he could not have collected the cost and profit of the sales unless he sold the tea for no less than 1s. 6d. per lb. in London. Despite two inspections by the British merchant himself, 100 packages of the Congou tea were found to be only broken leaf, which sold, at most for 8d. per lb. in London. After having the adulteration confirmed by other four brokers in London, the British merchant demanded compensate for the loss from the Chinese merchant. Although the Chinese merchant at first agreed to refund a portion of the purchase price to cover the loss, they later clashed over the method of the compensation. Taking advantage of the incident, the British merchant intended to purchase further tea from the Chinese merchant at discount prices until the loss was offset. However, such a way of compensation could by no means be permitted by the Chinese tea-merchants' group. The Shanghai Tea Guild held a meeting and decided not to sell any more tea to the British merchant unless he agreed to pay the normal market price. As a justification for the prohibition, the Tea Guild mentioned that just as the foreign merchants could refuse to compensate for the sales of adulterated cotton piece goods, the Chinese merchants could turn down the request for compensation for the loss from adulterated tea.

4. "A Case of Fraud: Tea Inspector," *ibid.*, Aug. 19, 1879: 190; "低茶案略," *SB*, Aug. 20, 1879. Similar adulteration had been reported since the 1860s in Hankou. See Shigeta (1975): 264-267.

Nonetheless, their claim was criticized by not only Western merchants but also by *Shenbao*. An anonymous letter signed as "Tea Inspector" published in the *North-China Herald* pointed out the facts as follows:

No parallel case has arisen in the sale of Piece Goods to that which is now cited; the only claim which has ever been preferred has been for mildew or for deterioration on the voyage, but never for dishonest enclosure of foreign material; or in other words, if 8 1/4 lb. Shirtings of a certain standard have been sold, the same goods have been delivered, and in no instance has a bale been found packed with cotton waste or other extraneous substance.⁵

Also, *Shenbao* warned that just as the adulteration of cotton piece-goods would ruin the credibility of British merchants in the long run, the adulteration of tea would bring about greater loss and damage for the Chinese tea industry.⁶ Although the result of the dispute was not recorded in the sources, this case seemed to have a certain effect as a warning against the danger of deterioration in the quality of Chinese tea.

The adulteration conflict arose again with the case, "the Yik Kee hong v. Major & Co.," in the next season.⁷ It started with a transaction of 630 half-chests of *Ki-chun* tea between Major & Co. and an anonymous Chinese tea broker arranged through a Chinese dealing house called the Yik Kee hong in August 1880. As was the custom for determining the prices of tea in those days, Fredrick Major chose 5 chests out of the purchased tea at random and weighed the average of them in the presence of John Blain of Blain & Co., who served as an arbitrator, and a representative of the Yik Kee hong recorded as Hai Chun on August 19.

⁵. "A Case of Fraud: Tea Inspector," *NCH*, Aug. 19, 1879, 190.

⁶. "書低茶案略後," *SB*, Aug. 23, 1879; The opinion of the editorial article was supported by the British merchants, "繙登西報," *SB*, Sept. 11, 1879; "Adulteration of Goods," *NCH*, Sept. 16, 1879, 281-282.

⁷. The outline of the case was recorded in "The Tea Trade and the Chinese Guild," *NCH*, Aug. 24, 1880, 188-190. Probably because the case did not reflect well on the paper's owner, Fredrick Major, *Shenbao* recorded nothing about this case. Therefore, the correct spelling and the pronunciation of the Chinese names related to the case are unknown.

While Hai Chun was satisfied with the result of the weighing, which was 290.60 piculs per chest, neither Major nor the Chinese tea broker were satisfied with it for their own reasons. Major found two lb. of dust in one of the tea chests he happened to open, and then wanted to reduce the price of the tea by a quarter tael per picul. Meanwhile, the Chinese tea broker requested a reweighing, alleging "the unfairness" of the weighing by Blain.⁸ In order to settle the dispute in favour of their own side, Major & Co. looked for another arbitrator, whereas the Chinese tea broker asked the Shanghai Tea Guild to intervene.

The intervention by the Shanghai Tea Guild commenced on August 20. Since they misunderstood the course of the dispute and thought that Blain weighed the *Ki-chun* tea, they instructed all the members not to send tea to Blain & Co. on the next day. Major & Co. called for a meeting with other Western tea merchants to consult about an appropriate response. At the meeting on August 23, they discussed two problems as follows. The first problem was whether a seller and a buyer of tea had the right to demand the reweighing of it even after the representative of the seller, who had been present at the weighing, accepted the result. The second one was whether the Shanghai Tea Guild had the right to intervene in a dispute between a seller and a buyer of tea and to force the buyer to submit to their arbitration.

Since the attitudes of the those present towards the two problems were unanimously negative, they agreed that some principle of arbitration should be established for settling all disputes between buyers and sellers of tea and no interference from the Chinese tea merchants' group should be permitted.⁹ Seeing the position taken by the major British

⁸. According to a British merchant recorded as "Mr. Sentance," who attended the meeting on August 23, since the market price of tea went up after the Chinaman had sold the *Ki-chun* tea to Major & Co., he tried to cancel the transaction by claiming "the unfairness" by Blain ("The Tea Trade and the Chinese Guild," *NCH*, Aug. 24, 1880, 189).

⁹. *Ibid.*

merchants, the Shanghai Tea Guild realized that they had misunderstood the dispute, and agreed to the reweighing.¹⁰

The reweighing was carried out on the morning of August 28 by Joseph Welch of Welch & Co. However, the result of it was unfavourable for both sides. The net weight of the 5 chosen chests at the second weighing was less than that of the first weighing: 290.27 piculs per chest. Since the payment amount was decided according to the average weight per chest, the Chinese side had to receive the payment which was less than the result of the first weighing. Meanwhile, since Welch found that the actual amount of tea dust was far smaller than what Major had claimed, his claim for reducing the sales price was turned down.¹¹

"A case of fraud" and "the Yik Kee hong v. Major & Co." made the Chinese and British tea merchants aware of the dangerous effect of adulteration. Since China was no longer the sole tea producing country in the world market, any malpractice which might undermine the popularity of Chinese tea should be eliminated. Nonetheless, these malpractices could not be eliminated but brought about further conflicts between the British and the Chinese merchants because of the production and the sales system of the tea industry in China.

As earlier studies have revealed, Chinese tea was grown by peasant cultivators (*shanhu* 山戶). Because of the small scale of their land and capital, they had to sell tea leaves immediately after producing crude tea (*maocha* 毛茶) with primitive technology.¹² Those who purchased crude tea from them were the dealers, who were called *chahang* 茶行 or *chazhuang* 茶莊. It was the latter type of dealers, who were located at central market towns near the tea-producing districts, that collected

¹⁰. "The Dispute in the Tea Trade," *NCH*, Aug. 31, 1880, 218-219.

¹¹. "The Dispute in the Tea Trade," *ibid.*, 219-220.

¹². Shigeta (1975): 248-264; Gardella (1976a): 221-224.

various kinds of crude teas through their employees or contract agents (*chake* 茶客), and made them into the distinctive finished product by sifting, refiring, blending, and packing them according to the grade of quality. They sold the products to foreign buyers by offering them sample of the refined tea through tea brokers (*chazhan* 茶棧) in the treaty ports. Since British merchants had entirely depended upon the chain of the Chinese tea merchants' organizations in purchasing tea since the era of the East India Company,¹³ they were quite ignorant as to the stage in the above production and sales system where adulteration occurred.

Although no source in the Shanghai and Hankou districts indicated it, adulteration of tea was the outcome of a contradiction between the prevailing "cutting" custom and the strategies against it.¹⁴ Whereas British merchants purchased tea by advancing funds to tea brokers or their agents, the Chinese tea-dealers used to purchase crude tea by sales on credit. When purchasing crude tea, however, the dealers exploited the peasant cultivators using many tricks, such as demanding unnecessarily more sample, underestimating the weight, delaying the settlement, or paying with debased silver. Meanwhile, the peasant farmers had their own tricks to protect their own profit against the above exploitation. They mixed tea leaves with powder, grass, or lower-class tea leaves. Moreover, they increased the weight of tea by even dampening it with water. Originally, such tricks seemed to have been used only between the dealers and peasant cultivators in the 1860s.¹⁵ Later, just like the prevalence of the "cutting" custom among British merchants, these

¹³. Hatano (1961): 97-131; Rowe (1984): 132-136.

¹⁴. On adopting the idea of the above dilemma, I had a hint from Axelrod (1984). While no source of the tea trade conflict in the Shanghai and Hankou districts directly indicated the dilemma, an article in *Shenbao*, which reported the tea trade conflict in the Fuzhou district, indirectly suggested the dilemma ("茶業改章," *SB*, Dec. 1, 1879).

¹⁵. Shigeta (1975): 265-267.

tricks spread to every stage of the tea industry. Subsequently the more tea British merchants tried to purchase by "cutting," the more tea native cultivators and merchants adulterated and delivered in order to avoid the loss by exploitation. Therefore, the prevalence of the "cutting" and the adulteration of tea from the end of the 1870s should be regarded as the two sides of a single historical phenomenon.

Since neither British nor Chinese tea merchants were aware the dilemma, they stuck to their own interests so stubbornly that they worsened the Chinese black-tea trade to Britain. While British merchants demanded the Chinese dealers pack more tea leaves than the contract amount in the chests under the name of the "1 lb. draft," the Chinese brokers persistently insisted on the establishment of an weighing system that could exclude the exploitation by "cutting." Their intentions took the shape of negotiations to set rules for eliminating "cutting" and ensuring compensation for the loss by adulteration after "the Yik Kee hong v. Major & Co." case was over.

On October 23, the Shanghai Tea Guild sent a letter to F. B. Forbes, who was the chairman of the Shanghai General Chamber of Commerce. In this letter they complained about several bad customs, such as heavy "cutting" of tea by "some foreign hong," delay of weighing and settlement, and the lack of insurance on the tea stored in the godowns against marine and fire risks. In order to eliminate these bad customs, the Shanghai Tea Guild proposed to the Shanghai General Chamber of Commerce that the tea should be weighed by a single standard scale without "cutting," and that weighing should be carried out within two weeks of signing the contract. Also they requested that the settlement should be made within two days after weighing, and that the buyers should fully cover the delivered tea by insurance against marine and fire

risks.¹⁶ The object of the proposals was apparently the removal of the exploitation by "cutting."

Reading these proposals, the opinion of the British merchants split. It was Joseph Welch who opposed them. He claimed that the criticism was baseless, and that the delay of weighing and settlement was a problem only in some exceptional sales which were waiting for an American mail. In addition, he even denied the *raison d'etre* of the Shanghai Tea Guild itself; he argued that the group apparently violated some articles of the treaties which stipulated "free trade" in China. Moreover, he suggested three counter proposals as follows:

1. One pound on every package weighing over twenty-eight pounds gross will be cut from the weights as agreed at the time of weighing.
2. Payment will be made two days after weighing, so as to allow a reasonable time for shipping off and getting documents, *etc.*
3. All teas will be at buyer's risk as to Fire Insurance as soon as inspected, which can be done shortly after receipt in the godown.¹⁷

However, other British merchants did not support Welch. Considering "the Yik Kee hong v. Major & Co.," they thought it necessary to establish some principles of arbitration so as to avoid further disputes with the Chinese merchants and the Shanghai Tea Guild. In order to establish rules of arbitration acceptable to the Chinese merchants, they required the cooperation of the Shanghai Tea Guild. They stressed that they had no hostility toward the Shanghai Tea Guild. The subscribed editorial note of the *North-China Herald*, which criticized the letter by Joseph Welch, reflected the opinion of the British merchants, who were seeking the cooperation of the prominent Chinese tea merchants' groups.

¹⁶. "Tea Guild (上海茶業會館) to F. B. Forbes, Oct. 23, 1880," *NCH*, Oct. 28, 1880, 397-398.

¹⁷. "Joseph Welch to the Editor of the *North-China Herald*, Oct. 25, 1880," *ibid.*, 398. Because of the hostile attitude, Welch & Co. was boycotted to sell tea by the Chinese merchants in 1886 (Rowe [1984]: 151).

Our correspondent [Joseph Welch] denies that "cutting" in the weighing of tea is a general or constant thing, and we hope that he is right, but most buyers here [Shanghai] and Hankow know perfectly well that if not constantly, it occurs far too often, and we have ourselves seen a letter from London, in which the writers, large tea importers, complain that while some of the teas they receive gain three to five pounds a half-chest, their correspondent's shipments barely come out. It is little excuse for the practice of injustice here to say that it is forced upon the buyer by the English consignee's cry for "good weights." We venture to say that until the custom is established and agreed upon by both parties, it is dishonest even to cut the one pound draft which the seller has to allow in London; ... That some action would be taken on the Tea Guild's letter was certain, as there are large number of foreigners who support the Group in the matter. The disadvantage at which the honest buyer is placed, by the present condition of affairs, is obvious; the better weight he gives, the more the "cutting" buyer is able to undersell him.¹⁸

The reply from the Shanghai General Chamber of Commerce was sent to the Shanghai Tea Guild on December 17, 1880. In this reply, they agreed with such proposals as the weighing of tea by a unified standard scale within three weeks after signing the contract book, settlement on the day after the weighing, and the coverage by fire and marine insurance at the buyer's expense from the time of delivery.

Nonetheless, they remained persistently attached to the "1 lb. draft" custom. Moreover, they offered a counter proposal for reweighing in which the Secretary of the Chamber of Commerce would appoint an arbitrator in order to prevent the Shanghai Tea Guild from setting a method of weighing which was favourable only for the Chinese merchants. Furthermore, they demanded that the certificate of the broker and the dock superintendent at the destination point should be regarded as sufficient proofs to recover the loss by adulteration, and that a sub-committee should be organized by the Shanghai Tea Guild and themselves to arbitrate any other types of disputes between buyers and sellers

¹⁸. "The Tea Trade," *NCH*, Nov. 4, 1880, 412.

of tea.¹⁹ Since the Shanghai Tea Guild rejected these counterproposals, the attempt to establish a set of rules for the tea trade to exclude the "cutting" custom or the adulteration by the Chinese side ended in failure.

The question of tea weighing again became a problem in Hankou when the six major groups (recorded as "guilds" in the English sources) of the Chinese tea merchants proposed five regulations for weighing to the Superintendent of the Hankou Customs in January 1883.²⁰ As the tea trade deteriorated in the late 1870s, the complaint of the Chinese merchants against the exploitation by the British merchants led to a set of more rigid regulations, which were published in an advertisement in the *North-China Herald* for three weeks beginning January 24, 1883. The essence of the five regulations were the first and the second sections, as follows:

1st. -That a competent Arbitrator, (Public Weigher) whose intellect is clear and character upright and in whom both Foreign and Chinese Merchants would confide, be elected from amongst themselves, so that whenever any case of dispute in Tea-weighing arises the said Arbitrator be empowered to investigate and decide and his decision shall be binding on both sides.

2nd.- That sets of standard scale-weights, the same as those introduced by the Foreign Merchants at their early commercial intercourse with Canton, be provided and a set sent to each Foreign Hong. Also one lodged at the Custom House and another at the Tea Guild Hall. Before a delivery of Tea is made the scales shall be tested by the standard weights. All holders of scales are required to be impartial. Any fraction of one pound in each chest is not to be reckoned. In taking the tare a fraction reaching half-a-pound in each chest is to be included. It is found that the custom in selling Tea in Foreign countries is the throwing off of one pound per chest for the benefit of the buyer, and the Foreign Merchants at Hankow wanted in past years to imitate this practice, but the Teamen thinking it an innovation, would

19. "The Tea Trade: F. B. Forbes to the Members of the Shanghai Tea Guild, 17, Dec. 1880," *NCH*, Dec. 23, 1880, 588.

20. The conflict for the tea weighing system in Hankou independently started in the 1870s. (Rowe [1984]: 140-145).

not accede and the consequence was that the evil grew worse. Now the Teamen have consented to allow the reduction of 1-lb. per half-chest, and 1/2-lb. per box (of 15 catties) [= 19.5 lb.] in the computation of weights. Besides this no exaction of any kind in weight shall be made. The short calling weight is strictly prohibited.²¹ [underlining added.]

Based upon the fact that the Shanghai Chamber of Commerce had expressed approval for the establishment of the weighing system in 1880, the Chinese merchants specified the system and the procedure of weighing tea as they desired. They appointed one Thomas Rothwell as an arbitrator. In return for this, they conceded to allow the extra packing to a certain extent.

However, the amount of tea which was allowed not to be reckoned was far from satisfactory for the British merchants. As seen in their counterproposal, the British merchants modified the above underlined passage to read "any fraction of a pound in the tare count in favour of the buyer." In addition, they claimed the right of appointing another arbitrator, with whom Thomas Rothwell should act and choose an umpire in case it was required for reweighing. Furthermore, they requested the Tea Guilds "to take steps to have the prices of all settlements correctly reported in the Market Book" on May 11.²²

Since these counterproposals were rejected by the Tea Guilds on the next day, sales were suspended as a result of protests by both sides.²³ As a consequence, the dispute turned into a diplomatic issue between the British Consul in Hankou, Chaloner Alabaster, and the Hankou Daotai, Yun Yanqi 惲彦琦. During the negotiations, the Hankou Tea Guilds never admitted the counter proposals by the British merchants, because

²¹. "Notification: The Six Tea Guilds of Hankou (Advertisement)," *NCH*, Jan. 24, 31, Feb. 7, 1883. The original Chinese text was available in "茶業章程," *SB*, May 9, 1883. The other three rules were the prohibitions for reweighing without proper reasons, and the observance of the rules by the Chinese and the foreign merchants.

²². "Hankou Tea Weighing," *NCH*, May 18, 1883, 557.

²³. "漢茶開盤," *SB*, May 18, 1883. "Taboo at Hankou: Adamson, Bell & Co. to the Secretary of Shanghai General Chamber of Commerce, June 28, 1883," *NCH*, Apr. 9, 1884, 417.

they had already promulgated the regulations to itinerant merchants in the interior. Although they agreed to reconsider the counter proposals in the end, it was merely a nominal concession. Thus, the dispute ended with the victory of the Chinese tea merchants' groups, and the five regulations for weighing tea were authorized in Hankou.²⁴

The established regulations seemed to eliminate any disputes due to the "cutting" practice and adulteration. Apparently, the second regulation made the exploitation by the "cutting" custom impossible, and the first regulation ensured the impartial settlement of the disputes caused by adulteration. In fact, however, the regulations could work well only as long as a man like Thomas Rothwell who was such "a competent arbitrator whose intellect was clear and character upright and in whom both foreign and Chinese merchants would confide," was in office. Nevertheless, the authorized regulations did not stipulate how to appoint such "a competent arbitrator."

Since they were devoting all of their attention to how to introduce the five regulations in Shanghai, British merchants were not aware of the defects of the regulations. In an effort to acquire cooperation of the Shanghai Tea Guild, they even turned down the request for help by Adamson, Bell & Co. when that company was boycotted in Hankou.²⁵

Without carefully examining the five regulations and assuming the approval of the Shanghai Tea Guild, the sub-committee of the Shanghai General Chamber of Commerce requested the Shanghai Tea Guild to make the necessary arrangements for the introduction of the Hankou tea weighing system to Shanghai on July 23.²⁶

²⁴. Rowe (1984), 148-149.

²⁵. "Taboo at Hankou: Shanghai General Chamber of Commerce to Adamson, Bell & Co., July 5, 1883," *NCH*, Apr. 9, 1884, 417. A year later when the correspondences between them were disclosed, the *North-China Herald* criticized their attitude for "the utter weakness and uselessness" of the Shanghai General Chamber of Commerce. ("The Taboo System," *NCH*, Apr. 25, 1884, 464).

²⁶. "Tea Weighing at Shanghai: Shanghai General Chamber of Commerce to the Representatives of the Shanghai Tea Guild, July 23, 1883," *NCH*, Apr. 9, 1884, 417. The members of the sub-committee

However, this was nothing but a silly mistake. The response by the Shanghai Tea Guild was quite contrary to the supposition of the sub-committee members. The Shanghai Tea Guild rejected their request by claiming that "the throwing off of one pound in the weight of each half chest of tea had never been the practice in the trade heretofore, ... and consequently it should not be allowed in Shanghai where they had always dealt fairly."²⁷ Because of the rejection, the plan to introduce common rules of weighing and arbitration in Hankou and Shanghai ended in failure. As a result of this, both the British and the Chinese tea merchants in Shanghai continued to struggle over the "cutting" custom and questions of adulteration.

Moreover, the guarantee of the impartial settlement in a dispute due to the "cutting" custom or adulteration did not last long. When Thomas Rothwell died in the spring of 1884, the Chinese Tea Guilds in Hankou and Shanghai appointed a British tea merchant, W. H. Macomber, as the next arbitrator. It was at that time that the British merchants became aware of the defects of the Hankou system of weighing. Since Macomber had large business in Hankou on his own account, he was thought to be easily influenced by the Chinese tea merchants' groups. For fear of losing the impartiality of the arbitrator and increasing his vulnerability to the influence of the Chinese Tea Guilds, they opposed his appointment and criticized the Shanghai General Chamber of Commerce for having acknowledged it.²⁸ In order to keep the neutrality of the arbitrator, a correspondence from "Merchant" in the *North-*

were, J. G. Purdon of Maitland & Co., W. Howie of Turnbull, Howie & Co., and J. M. Ringer of Drysdale, Ringer & Co.

²⁷. "Tea Weighing at Shanghai: The Shanghai Tea Guild to J. G. Purdon, Chairman of the sub-Committee of the Shanghai General Chamber of Commerce, Aug. 22, 1883," *NCH*, Apr. 9, 1884, 417.

²⁸. "The Way out of a Difficulty: Merchant," *NCH*, Mar. 12, 1884, 300-301; "The Tea Trade," *ibid.*, Mar. 19, 1884, 316; "The Tea Trade: Justice; A Large Buyer; Chaa-sze," *ibid.*, Mar. 19, 1884, 332; "The Hankou Tea Arbitrator's Appointment: Tea Inspector," *ibid.*, Apr. 25, 1884, 482.; "Enclosure No. 2 of H. E. Hobson to Robert Hart, No. 970: Memorandum by Mr. W. H. Macomber on Deterioration of Tea," *TEA* 1888, 71-73.

China Herald proposed the employment of an arbitrator to be paid with revenues from the by collection a tax of one candereen per half-chest of green tea.²⁹ Also, the solidarity of all foreign merchants against the Chinese Tea Guilds in Hankou and Shanghai was advocated.³⁰ However, none of this had any effect.

Thus, the disputes over the system for weighing tea and adulteration from 1879 to 1884 in Shanghai and Hankou ended with the defeat of the British mercantile firms. Since they did not have any effective "institutional privilege" to attract cooperative Chinese merchants, they could not undermine the solidarity of Chinese tea merchants' groups. Their outward transit-pass privilege had no such effect in the sales of black tea within the foreign settlements in Shanghai and Hankou. Therefore, they could not defeat the Chinese tea merchants' groups who united for protecting their right to transact such an attractive commodity as black tea for England.

The Controversy in Shanghai, 1885-87

While British mercantile firms were fighting with the Chinese tea merchants' groups, the share of Chinese tea in the world market was still further reduced and the both parties were forced to face the imminent situation in 1885. Meanwhile, Robert Hart warned the Qing central government the dangerous effect of the decline in the Chinese tea trade and the need to find a remedy for it in the same year. After the investigation started, both British mercantile firms and Chinese tea merchants' groups contributed their proposals to the Imperial Maritime

²⁹. "The Way out of a Difficulty: Merchant," *NCH*, Mar. 12, 1884, 300-301. According to the correspondence, the author estimated the 40,000 half-chests of green tea as the average supply per annum. Therefore, he expected Tls. 4,000 of the fund for employing the arbitrator. However, the proposal for raising fund from collecting tax only from green tea was criticized by another correspondence from "Tea-Taster" because the arbitrator was required by the black tea buyers in Hankou and Shanghai. This correspondence suggested collection of tax from all tea which arrived in Shanghai and Hankou to employ an arbitrator ("The Tea Trade: Tea-Taster," *NCH*, Mar. 26, 1884, 362).

³⁰. "The Tea Trade: B," *NCH*, Apr. 25, 1884, 481-482.

Customs, and argued with the Imperial Maritime Customs on the feasibility of their proposals.

Their proposals and the controversy were recorded and later published as one of the special reports of the Chinese Imperial Maritime Customs. The full title of it was *Chinese Imperial Maritime Customs II Special Series: No. 11. Tea, 1888, published by order of The Inspector General of Customs* (Shanghai: Kelly & Walsh, 1889) (hereafter quoted as *TEA 1888*). No other special report of the Imperial Maritime Customs was so enthusiastically greeted by British merchants in China as this one.

The character of the controversy was that it ended only on the controversy level. Neither British mercantile firms nor Chinese tea merchants' groups practiced their proposals by themselves at their own risk and on their own responsibility. It started when the Chinese-French war was reaching its final phase. The French navy led by Admiral Courbet had completed the blockade of Taiwan and Ningbo, and occupied the Penghu 澎湖 islands; meanwhile, the French army led by Brière de L'Isle succeeded in capturing Langson and Zhennan guan 鎮南關, the border district between China and Vietnam. In order to send new troops to wrest back these places, the Qing central government required much more revenue. After receiving the Empress Dowager's approval, Prince Chun 醇親王, the Board of Revenue (*hubu* 戶部), and the Zongli Yamen drew up a plan which increased taxes from the salt trade, commerce, and finance, reorganized the remittance system, and diminished other expenditures. Then they directed the local government authorities to express their opinion on the plan within six months.

When the whole content of the plan was disclosed by *Shenbao*,³¹ it caused a great sensation. Both the Chinese and the British merchants strongly opposed the schemes for increasing taxes on tea. The scheme for collecting new tax on tea was based upon the following two systems: 1) The Gansu 甘肅 "package" system, which charged Tls. 0.3 on every five catties from the grower; 2) the system of tea certificates at Ningxia 寧夏 district where a tea certificate which cost Tls. 3.9 per 100 catties of tea was issued after the examination of the tea by officers at the producing districts. Based upon the two systems, the Board of Revenue proposed a new plan to collect Tls. 3.9 together with other miscellaneous charge of Tls. 3.9 from the tea to be exported at the producing districts. Besides this, the Custom Houses on the coast or the frontier would collect the export duty as heretofore.

The British Embassy in Shanghai was deeply concerned about the disastrous impact of such a plan on the tea export trade to England. Sending the English translation of the plan to the British legation in Beijing on March 3, Consul-General Hughes pointed out that the export trade of common Chinese black tea to England would be greatly damaged if the grower's tax and other charges were increased by the proposed scheme.³² Reading the report, the British Minister, Nicolas R. O'Connor, asked the Zongli Yamen to express their official view on the plan on April 12.³³

Meanwhile, the Chinese dealers directed their agents in the producing districts to quit purchasing the new crop until the intention of the central government became apparent.³⁴ Seeing the depressed condition in

³¹ "海防事例書後," *SB*, Feb. 23, 1885; "開源接流事宜," *ibid.*, Feb. 25, 1885; "接續開源接流事宜," *ibid.*, Feb. 26, 1885; Mar. 2, 1885.

³² FO 228/804 "P. J. Hughes to Harry S. Parkes, No. 24," Mar. 3, 1885.

³³ The record of the inquire on that day was not available in FO 228. The fact of the inquiry was inferred from the record of the reply from the Zongli Yamen quoted in note 36.

³⁴ "The Taxes on Tea," *NCH*, Mar. 11, 1885, 273-274.

the tea market, the provincial authorities, such as the head of the *Lijin* office for Hubei (*Hubei yali zongju* 湖北牙釐總局) or the governor-general of Hunan, Pang Jiyun 龐際雲 reported that the proposed increase in the tax on tea was impractical.³⁵ The Qing central government had to abandon the proposed plan for increasing the tax on tea. On April 15, the Ministers of the Zongli Yamen indirectly expressed their intention to abandon the plan by replying to O'Connor that whether the tax on tea was increased or not depended upon the decision of the high provincial authorities.³⁶

Although the plan to increase the tax on tea ended in failure, this incident was a chance to make the Qing central government aware of the dangerous situation of the Chinese tea trade. It was Robert Hart who reported the crisis in the Chinese tea trade to the Zongli Yamen. On November 4, 1885, he warned that Chinese tea must lose the competition with Indian and Japanese tea in the world market unless adulteration of the product were eliminated. He suggested that the Zongli Yamen instruct the officials to issue a proclamation to the Chinese merchants which renounced adulteration to obtain advantage.³⁷ Adopting Hart's suggestion, the Zongli Yamen eventually notified the local officials of the dangerous effect of adulteration. In the case of Shanghai, the managers of the Shanghai Tea Guild received the above instruction from the Shanghai Daotai, Shao Youlian 邵友濂, on December 7.³⁸

When Hart's letter and the following notifications were disclosed, it called attention of the British merchants to the whole system of the

³⁵. FO 228/804 "P. J. Hughes to N. R. O'Connor, No. 51," Apr. 8, 1885; "書湖北牙釐總局扎後," *SB*, Apr. 10, 1885; Shigeta (1975): 241-252, 263.

³⁶. FO 228/1023 Ministers of the Zongli Yamen to Mr. O'Connor, Semi Official No. 37.

³⁷. "Enclosure No. 1 of Report on Tea addressed to the Zongli Yamen by the Inspector General of Customs: Note concerning Tea addressed to the Zongli Yamen by the Inspector General of Customs," *TEA* 1888, 7.

³⁸. "The Preparation of Tea," *NCH*, Mar. 10, 1886, 259. This article recorded the longer version of the official letter by Hart which was not recorded in *TEA* 1888.

Chinese tea industry. At the opening of the tea season of 1886, they contributed their proposals on the improvement of the Chinese tea industry to the *North-China Herald*. Their opinion was led by anonymous letters signed by "K. C. Y." In his first two letters, he attributed the success of the rival tea industries to the lack of taxation on tea.³⁹ He went on to say that the total taxes on Chinese tea, such as export duty, *Lijin*, and barrier squeeze, should be abolished. The proposal by K. C. Y. made the British merchants aware that the *Lijin* tax system should be abolished however much time and effort it would take.⁴⁰

Table 3-1: Export Duty and the Inland Tax on Black Tea (Haiguan Tael)
Hunan Province-Chang chou jie 長壽街 district

Export Duty	2.50 per picul
Lijin or Transit Dues collected through Customs Daotai	1.25 per picul
Tea Hong License fen, 30 cash per 1,000 cash on Tea costing Tls. 15	0.45 per picul
Provincial Lijin, 30 cash per 1,000 cash on Tea costing Tls. 15	0.45 per picul
Tax for building Hankou Bund 7 candereens per 1/2-chest	0.15 per picul
Total in Haiguan Tael	4.80 per picul
Total in Hankou Tael	5.22 per picul

Hubei Province-Tongshan 通山 District

Export Duty	2.50 per picul
Lijin or Transit Dues collected through Customs Daotai	1.25 per picul
Provincial Lijin, 46 cash per 1,000 cash	0.69 per picul
Defense Tax, 30 cash per 1,000 cash	0.45 per picul
Tax for building Hankou Bund, 4 candereens per 1/2-chest	0.09 per picul
Total in Haiguan Tael	4.98 per picul
Total in Hankou Tael	5.38 per picul

Source: "Lekin on Tea: K. C. Y.," *NCH*, Mar. 17, 1886, 295-296.

In the following two letters, K. C. Y. emphasized how the export duty and the *Lijin* tax led to higher sales prices in Hubei and Hunan, thus reducing the export demand and causing Chinese tea to lose in the competition with Indian, Ceylon and Japanese teas (see Table 3-1). As the first step of the remedy, K. C. Y. proposed that the Zongli Yamen

39. "The Tea Trade: K. C. Y.," *NCH*, Mar. 10, 1886, 265-266.

40. "The Burden on Tea," *NCH*, Mar. 17, 1886, 277-278.

appoint a proper person to inquire into and report on the state of the tea trade and suggested that the Imperial Maritime Customs should collaborate with him.⁴¹

Comparing his letter with that by Robert Hart, it was apparent that K. C. Y. pointed to another aspect of the crisis of the Chinese tea trade. While Hart merely suggested eliminating adulteration in the tea production districts, K. C. Y. proposed to reduce the cost of tea by abolishing all of the taxes on tea.⁴² Meanwhile, several British merchants did not support the proposal by K. C. Y. They feared that the prices in the London tea market would fall drastically if the abolition of all the taxes on tea were carried out.

The collision between those who supported K. C. Y. and those who did not broke out at the annual meeting of the Shanghai General Chamber of Commerce on April 5, 1886. At the beginning of the annual meeting, Joseph Welch supported K. C. Y. He proposed to request the foreign Ministers and Robert Hart to remove "the inland duties and other taxation."

On the other hand, Henry Hertz and J. M. Young argued against his proposal. According to them, the chief difficulty of the tea trade was glut. Therefore, if all the taxes on tea were removed, the export volume might continue to increase until the glut in London could not be eliminated before the new crop arrived. At the end of the meeting, J. J. Keswick, the chairman of the Shanghai General Chamber of Commerce, rejected their opposition, and remarked that he would communicate with Robert Hart on the taxation on tea.⁴³

⁴¹. "Lekin on Teas: K. C. Y.," *NCH*, Mar. 17, 1886, 295-296.

⁴². "Taxes on Tea: K. C. Y.," *NCH*, Mar. 31, 1886, 349. In this letter, K. C. Y. admitted his preference of the two choices, improvement of the quality and the reduction of the sales price by abolition of all the taxes, was contrary to that of Robert Hart and the Zongli Yamen.

⁴³. "Shanghai General Chamber of Commerce," *NCH*, Apr. 7, 1886, 372-373.

After the meeting, the controversy between Henry Hertz and those who stressed abolition of all taxation on tea continued for a while. Hertz opposed the opinion which held that the decline in the annual supply of Chinese tea was due to the excessive taxation.⁴⁴ He insisted that even though tea production in China was impeded by the excessive taxation, other countries continued to produce teas, which would result in over supply in the world market. Therefore, it was impossible for anyone to get rid of old stocks before the arrival of the new crop without selling it by auction.⁴⁵

However, K. C. Y. criticized Hertz's opinion. He pointed out that the demand for Chinese tea in the London tea market was mainly for the "common" class, rather than "fine" or "medium" class tea. Therefore, the only possible remedy for the Chinese tea trade was to supply the common tea, which could not be done unless all the taxation was eliminated.⁴⁶

In fact, as pointed out by the leading article of the *North-China Herald*, neither side could have been able to devise a truly effective remedy for the crisis of the Chinese tea trade.⁴⁷ According to the article, the actual cost of Chinese black tea on the London market including total taxes was at least 6d. per lb., and a producer in China did not want to sell his leaf unless he could get a profit which was equal to at least 3d. per lb. Therefore, Chinese black tea could not be sold for less than 9d. per lb. in London. In actual fact, however, millions of pounds of Chinese black tea was sold in London at less than 9d. per lb. every year. Based upon the calculation, the article claimed that the elimination of

⁴⁴. "The Duty on Tea: C.," *NCH*, Apr. 7, 1886, 376.

⁴⁵. "The Duty on Tea: Henry Hertz," *NCH*, Apr. 17, 1886, 405.

⁴⁶. "Tea Supplies: K. C. Y.," *NCH*, Apr. 30, 1886, 459-460.

⁴⁷. "The Tea Trade," *NCH*, Apr. 7, 1886, 361-362.

the *Lijin* tax would have little effect on reducing the sales prices in London.

Meanwhile, the article regarded Henry Hertz's view as fallacious. It pointed out that since most Chinese tea was produced for the consumption of 250 million people in China, with only a small portion exported for the consumption of not more than 150 million people in Western countries. Moreover, since the taste of the consumers in London had shifted to the strong Indian and Ceylon teas, Chinese tea could at most supplement the demand for these teas, even if the price of Chinese teas were lower than those of Indian and Ceylon teas.

This remark can be confirmed by the prices of teas in the London market shown as Table 3-2. The table is based on the prices of Chinese, Indian, and Ceylon teas at the beginning of August when the new crops of each season arrived in London. It indicates that the prices of Chinese tea were always considerably lower than those of the Indian and Ceylon teas even at the time the demand was at the highest. It was apparent that the reduction of the sales prices by abolishing the total taxes in China would not bring about any favourable effect for Chinese tea in the competition with Indian and Ceylon teas, let alone remedy the problem of excessive supply.

However, K. C. Y. rebutted these remarks, too. According to him, the cost of common Congou tea, 9d. per lb., was equivalent to Tls. 16 to 17. It was marked up by the export duty and the inland taxes because the real cost of production and profit of the producers amounted only Tls. 9 to 9 1/2. Therefore, he insisted that the elimination of the total taxes on tea would be effective. With regard to the consumption of Chinese tea in the Western countries, K. C. Y. claimed that Western people consumed far more tea leaves than the Chinese people because they changed tea

leaves each time they made a new cup of tea whereas the Chinese continued to pour hot water on the same leaves several times.⁴⁸

Table 3-2: Lowest and Highest Prices of Chinese and Indian Teas in London, 1880-1900

Date	Chinese Congou (common to fine)				Chinese Souchong (common to fine)				Indian and Ceylon Pekoe (including broken)				Indian Souchong			
	Low		High		Low		High		Low		High		Low		High	
	s.	d.	s.	d.	s.	d.	s.	d.	s.	d.	s.	d.	s.	d.	s.	d.
Aug. 7, 1880	0.	8.	1.	0.	1.	10.	1.	3.	0.	10.50	2.	9.	0.	9.50	1.	0.
Aug. 6, 1881	0.	5.75	1.	0.	0.	7.75	1.	2.	1.	2.	3.	0.	0.	11	1.	2.
Aug. 5, 1882	0.	5.	1.	4.5	0.	7.	1.	2.	1.	1.	2.	6.	0.	11.	1.	2.
Aug. 4, 1883	0.	9.50	1.	0.	0.	7.	1.	3.	0.	9.50	1.	6.	0.	10.	1.	1.
Aug. 2, 1884	0.	6.50	1.	0.	0.	8.	1.	4.	0.	10.50	1.	4.	0.	9.	1.	0.
Aug. 1, 1885	0.	6.75	0.	10.5	0.	6.50	1.	2.	1.	1.	1.	6.	0.	9.50	1.	0.
Aug. 7, 1886	0.	7.50	0.	10	0.	7.	1.	11.	0.	9.	2.	0.	n.	a.	n.	a.
Aug. 6, 1887	0.	4.50	0.	8.5	0.	6.	1.	3.	0.	8.	2.	6.	n.	a.	n.	a.
Aug. 4, 1888	0.	5.50	0.	10	0.	8.	1.	4.	0.	8.50	2.	3.	Indian Pekoe Souchong			
Aug. 3, 1889	0.	4.25	0.	9.	0.	3.	1.	4.	0.	6.25	2.	3.	0.	5.50	1.	0.
Aug. 2, 1890	0.	4.50	0.	10.	0.	4.	1.	0.	0.	8.50	0.	11.	0.	8.	1.	2.
Aug. 1. 1891	0.	5.25	0.	8.	0.	6.50	0.	11.	0.	7.50	0.	10.	0.	8.	1.	2.
Aug. 6, 1892	0.	4.50	0.	7.25	0.	6.50	0.	10.	0.	6.	0.	11.	0.	4.	no sale	
Aug. 5, 1893	0.	5.50	0.	8.	0.	6.	0.	8.	0.	6.50	0.	9.	0.	6.	0.	8.
Aug. 4, 1894	0.	4.	0.	7.	0.	4.75	0.	8.	0.	5.	0.	10	0.	4.50	0.	8.
Aug. 3, 1895	0.	3.50	0.	6.	0.	4.	0.	7.50	0.	6.50	0.	8.	0.	6.	0.	8.
Aug. 1, 1896	0.	3.50	0.	5.50	0.	5.	0.	7.	0.	7.	0.	10	0.	6.	0.	8.
Aug. 7, 1897	0.	3.75	0.	5.25	0.	4.50	0.	6.	0.	6.	0.	9.	0.	5.	0.	6.50
Aug. 6, 1898	0.	6.	0.	8.	0.	4.	0.	8.	0.	5.25	0.	7.50	0.	5.	0.	6.
Aug. 5, 1899	0.	5.	no sale		no sale		no sale		0.	5.25	0.	7.50	0.	5.	0.	6.
Aug. 4, 1900	0.	4.75	0.	5.50	0.	5.	0.	7.	0.	5.50	0.	8.50	0.	6.50	0.	8.50

Sources: "The Economist," Commercial Times, Weekly Price Current, 1880-1900.

Finally, as a remedy for the Chinese tea industry in crisis, while K. C. Y. insisted on the abolition of all taxation, the article of the *North-China Herald* proposed a new remedy for the Chinese tea industry. It claimed that foreigners should go into the tea-producing districts with the improved machinery used in India, and supervise the manufacture of the leaf to suit the tastes of the buyers at home so that they could improve the quality of Chinese tea.⁴⁹

Thus, through the controversy among British merchants in the *North-China Herald*, three ideas, which were the reduction of the export sup-

48. "The Duty on Tea: K. C. Y.," *NCH*, Apr. 17, 1886, 405.

49. "The Tea Trade," *NCH*, Apr. 7, 1886, 361-362.

ply, the elimination of all taxes on tea, and the supervision of the tea industry with the machinery used in India, were proposed as remedies for the Chinese tea industry. The next problem was to determine the priority of the three proposals.

While the above three proposals were raised during the seasons from 1886 to 1887, the export volume and value of the Chinese tea fell sharply as shown in Figures 3-1, 3-2. As the result of this, the opening prices of Chinese common tea in the London market also fell in the same seasons (Table 3-3). In spite of the best harvest since 1874 and the lower exchange rate, Chinese dealers made losses up to one million to one and a half million taels on the first crop trade. Many of them fell into bankruptcy or even committed suicide because the London market was glutted with fine Chinese tea which could only be sold at ruinous prices. K. C. Y. claimed if it had not been for the strong demand for common Chinese tea, British merchants would have also been ruined.⁵⁰ Because of the disastrous results of the season of 1886 and 1887, the proposal for reducing the export amount to prevent the glut in London proved to be impractical. In consequence, British and Chinese merchants had to determine which of the remaining proposals was more effective for the revival of export trade of Chinese tea to London.

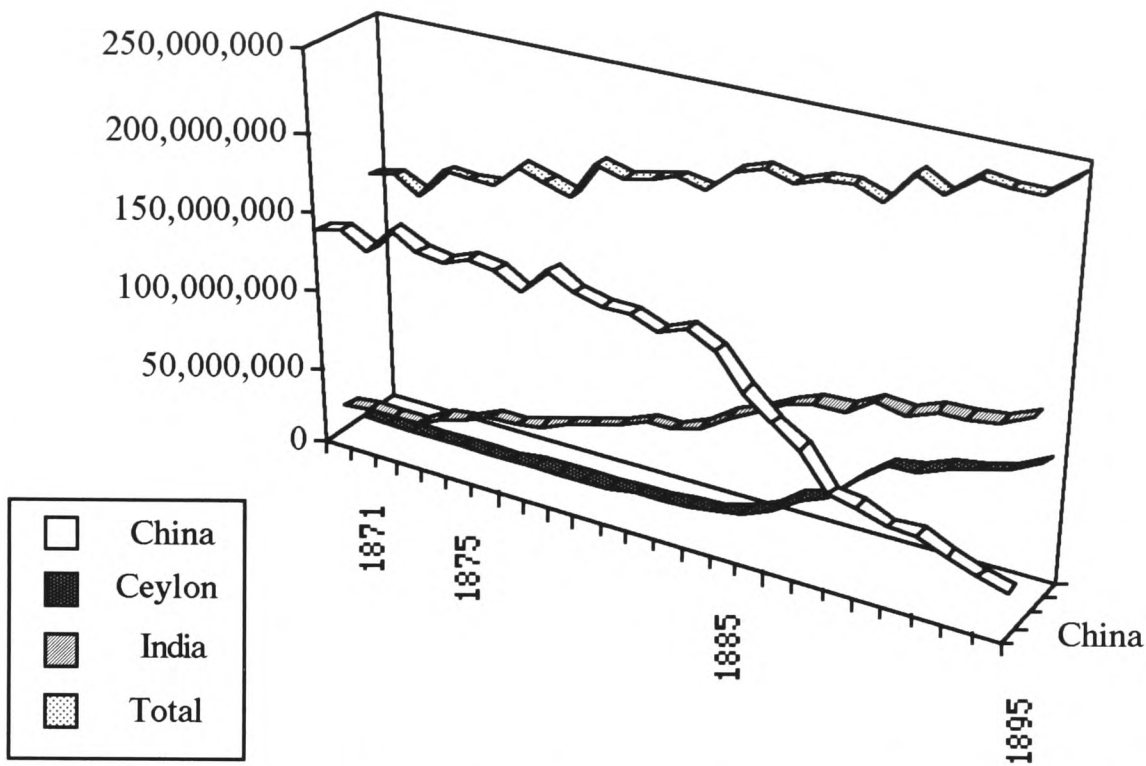
Table 3-3: The Opening Prices of Chinese Common Tea in London

Year	1883	1884	1885	1886	1887
Prices	11.50d.	8.50d.	8.25 a. 8.75d.	8.50 a. 10.00d.	6.75d.

Source: "The Tea Trade: C. C. J.," *NCH*, July 1, 1887, 21.

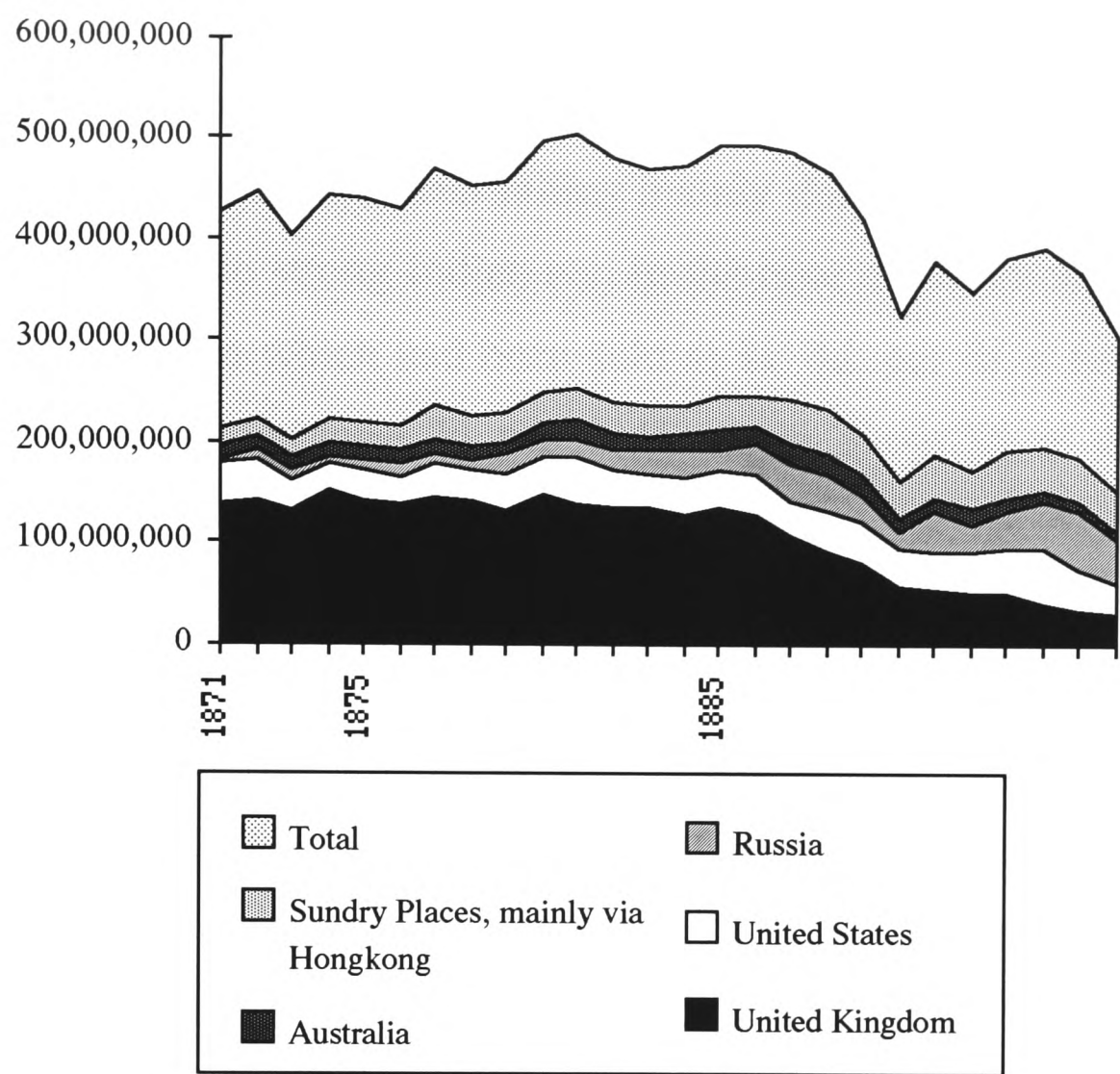
⁵⁰. "Taxation on Tea: K. C. Y.," *NCH*, Sept. 10, 1886, 289. His correspondence was criticized by another anonymous correspondent signed "T." "T" claimed the better result of the common tea trade in London was due to the a great volume of common tea was directly shipped to Russia. Since the great amount of common tea was exported to Russia despite the heavy taxation, "T" claimed that the abolition of all taxation on Chinese tea was not the complete settlement of the difficulty in the Chinese tea trade ("Taxation on Tea: T.," *NCH*, Sept. 10, 1886, 289).

Figure 3-1: Export Amount of Tea to United Kingdom (lb.)



Source: FO 881/7497 Reports of Shanghai Special Committee and "Tea" Section Sub-Committee of General Committee, 7.

Figure 3-2: Total Export of Leaf Tea from China to (lb.)



Source: FO 881/7497 Reports of Shanghai Committee and "Tea" Section Sub-Committee of General Committee, 7.

Meanwhile, the drastic fall in the tea trade drew the attention of the Qing central government again. On July 30, 1887, Robert Hart submitted his second official letter to the Zongli Yamen. In this letter, he pointed out that not only the total export volume of Chinese tea had been diminishing except that to Russia, but also that the prices of Chinese tea in London had been falling mainly due to the rapid shift of the consumers to the strong Indian tea. In the case of common Congou tea, for instance, tea which had been sold at 1s. 4d. per lb. a few years before, could be sold at most 7d. per lb. However, about 3d. of the sales price was deducted to meet the export duty and the *Lijin* tax. Therefore, he claimed as much K. C. Y. did, that the export duties ought to be light and the loss by the reduction of the export duty should be compensated for by a duty on luxury goods, such as native opium. Moreover, the lowered quality of Chinese tea as a result of adulteration made the sales only according to samples more difficult. As a remedy for these problems, Hart proposed to the Zongli Yamen that they advise the high authorities of tea producing provinces "to take effective steps to require those concerned to change what had been complained of."⁵¹ In the Circular No. 387, therefore, he claimed that the reduction of the export duty, which amounted 2d. per lb., would have little effect upon the competition with Indian tea. He also insisted that the effect and feasibility of the introduction of the Indian tea producing system should be examined, based on information which he was instructed to collect in the producing districts and the treaty ports.⁵²

British merchants in Shanghai welcomed the instruction from the Zongli Yamen. They promised A. Elgar Hobson, the Commissioner of

⁵¹. "Enclosure No. 2 of Report on Tea addressed to the Zongli Yamen by the Inspector General of Customs: Despatch concerning Tea addressed to the Zongli Yamen by the Inspector General of Customs," *TEA* 1888, 8-11.

⁵². "Enclosure No. 3 of Report on Tea addressed to the Zongli Yamen by the Inspector General of Customs: Circular No. 387, August 30, 1887," *TEA* 1888, 12-13.

the Imperial Maritime Customs in Shanghai, to collect relevant information about the difficulty of the Chinese tea industry and the best method of improving it.⁵³ In the leading article, the *North-China Herald* argued that it was necessary for the foreigners to introduce scientific methods of production and preparation.⁵⁴ Thus, the British merchants, the Chinese groups, and the Imperial Maritime Customs collected relevant information and specific proposals for reforming the Chinese tea industry.

Analysis of the Special Report No. 11, 1887-88

1) The opinion of the British Merchants

The British merchants' proposals to revive the export trade of Chinese black tea to Britain were not the same as those by "K. C. Y."⁵⁵ Seeing the fact that the price of Chinese tea had been consistently lower than those of Indian and Ceylon teas in the London market, they were convinced that the abolition of all taxation would not be so effective. According to J. M. Ringer, the tea gardens in India could make a fair percentage of margin if they could sell tea from 7d. to 7.5d. per lb. at an average; and those in Ceylon could do the same from 9.5d. to 9.75d. Meanwhile, the average cost of Chinese Congou tea, for instance, including the export duty and *Lijin* taxes, was from Tls. 19 to Tls. 20 per picul, which could be estimated at 9.42d. per picul when the exchange rate was set at Tls. 1 = 4s. 5d. However, at the same exchange rate, the taxes imposed upon tea, such as the export duty, the *Lijin* tax, and barrier tea, could be estimated at about 2d. per lb. Even though the amount

⁵³. "The Deterioration of China Tea," *NCH*, Oct. 27, 1887, 461.

⁵⁴. "The Zongli Yamen's Enquiry into the China Tea Trade," *NCH*, Oct. 27, 1887, 445-446.

⁵⁵. Those who provided the information were H. F. Ramsay, J. M. Ringer, Thomas Wood of Drysdale, Ringer & Co., W. H. Macomber, the public tea inspector in Shanghai, and the members of the sub-committee on the deterioration of the China tea trade, which belonged to the Shanghai General Chamber of Commerce. The members of the sub-committee were Joseph Welch, J. Findley, A. J. M. Carlill, Charles Cole, E. H. Kenney, and F. J. Green.

could be deducted, the sales of Chinese tea in London could make no profit whereas that of Indian tea could wield a satisfactory return.⁵⁶

What they considered to be more important was the improvement of the quality and the taste of Chinese black tea so that the British consumers would appreciate it. However, being unaware the dilemma between their arbitrary exploitation through the "cutting" custom and the spread of adulteration, they could not determine at what stage in the whole tea industry adulteration took place. What they should have done was to seek for a feasible way to get the cooperation of the Chinese tea merchants' groups to get rid of this problem. Nevertheless, since the attempts to cooperate with the Chinese merchants' groups to solve the weighing question had ended in failure, cooperation with them was out of question. Instead, British merchants argued that the backwardness of cultivating tea plants and producing tea were the real cause of the unpopularity of Chinese tea in London. They proposed that the current cultivation and production system should be replaced by the more efficient Indian systems.

According to them, the Chinese peasants planted tea trees in hilly and poor soils without renewing them for so many years. Moreover, because of their superstition that the nightsoil, which was the most popular fertilizer in China, hurt the flavour of tea leaves, peasant cultivators seldom gave fertilizer to tea plants. The only fertilizer used by them was ashes of burnt weeds and old leaves after they cleaned the ground. Furthermore, they seldom pruned tea trees until the trees had grown so much as to require it. As a result, they claimed that the growth of tea

⁵⁶. "Enclosure No. 1 of R. E. Bredon to Robert Hart, No. 459: Extract from Mr. Ringer's Letter to Mr. Commissioner Bredon," *TEA* 1888, 45; "Enclosure No. 3 of H. E. Hobson to Robert Hart, No. 970: Memorandum by Mr. J. M. Ringer on Deterioration of Tea," *TEA* 1888, 76-77.

plants was later and the harvest of the tea leaves were less than well cared for Indian tea trees.⁵⁷

Next, what British merchants criticized as the largest defect was the primitive preparation and refining system. H. F. Ramsay described the process and the illeffect of it as follows:

The Chinese grower after picking the leaf puts it in the sun for two or three hours to wither; then treads it under foot, to express what juice he can; then ferments in baskets for two or three hours; and, finally, puts in sun to dry, which probably occupies another four hours. It has then lost 75 per cent. of its weight, or 4 catties originally picked are now only 1, and the leaf is ready to hawk about and offer for sale. When purchased by the Tea hong, it is fired, sifted, chosen, winnowed, fired again, and packed, losing this time only 10 percent. This is a long and expensive preparation; by the former it loses flavour, and the added expense necessitates the production of an inferior article so as to be of sufficiently low cost to compete with Indian machine-made Teas.⁵⁸

Because of the above process, such factors as glucose, dectrine, tannin, and theine, which gave the colour and the strength to tea, were claimed to be carried away; whereas Indian tea, which was produced without pressing, was believed to retain these elements and in consequence was much stronger than Chinese tea.⁵⁹

Another defect to be improved was the hasty sales since the age of the tea clipper race. Even after "the Traffic Revolution," most of the sales were still carried out collectively at the first crop in each season. For the convenience of shipping, the Chinese merchants frequently attempted to make so large a chop of tea as one consisting of from 1,000

⁵⁷. "Enclosure No. 3 of H. E. Hobson to Robert Hart, No. 970: Memorandum by Mr. J. M. Ringer on Deterioration of Tea, Feb. 6, 1888," *Tea*, 1888, 74-75; Hatano (1961): 99-101; Shigeta (1975): 254.

⁵⁸. "Enclosure No. 1 of R. E. Bredon to Robert Hart, No. 459: Mr. H. F. Ramsay to Mr. Commissioner Bredon," *TEA* 1888, 41. This paragraph confirms that the tea cultivation and production system in Hubei district reported by Yamada, Mohei 山田繁平, a Japanese specialist of tea industry, in 1908, which is the crucial source of Shigeta (1975), could be referred back to the 1880s.

⁵⁹. "Enclosure No. 1 of R. E. Bredon to Robert Hart, No. 459: Enclosure in above, with Mr. H. F. Ramsay's Replies to the several Queries appended thereto," *ibid.*, 34. Similar criticism was available in the memorandums by the sub-committee of experts on the deterioration of the China tea trade and W. H. Macomber ("Enclosure No. 1 and No. 2 of H. E. Hobson to Robert Hart, No. 970," *TEA* 1888., 64, 71-72).

to 3,000 half-chests. Since it took more than a week or 10 days after picking up the leaves to make the necessary arrangements for preparing and purchasing such a large quantity of tea, the leaves deteriorated during the transaction. In addition, taking advantage of the long time of the transaction, Chinese dealers were able to mix inferior tea with fine teas.⁶⁰

As a first step for improving the above defects and introducing the Indian tea producing system, the sub-committee of the Shanghai General Chamber of Commerce proposed that the Qing central government allow all foreigners to establish tea curing hong, which used modern machinery, and if necessary, to acquire land for the better cultivation of the tea trees, let alone the abolishing of all taxes on tea.⁶¹ Also, W. H. Macomber proposed that the Qing central government send a commission to India and promptly establish an experimental plantation in order to introduce the Indian system of cultivation and preparation system in China.⁶²

Was their criticism against the backwardness of the cultivation and the refining system of Chinese tea correct? Could the introduction of the Indian tea-cultivation and -producing system into China have removed the above defects? An analysis by W. Dittmar, a professor of chemistry, Anderson's College, Glasgow, on March 25, 1886, cast doubt upon their claims.⁶³ This analysis attempted to determine the percentages of theine and tannin, which characterized the tastes of the samples of Indian and

⁶⁰. "Enclosure No. 1 of H. E. Hobson to Robert Hart, No. 970: Memorandum by Sub-Committee of Experts on the Deterioration of the China Tea Trade," *ibid.*, 65.

⁶¹. "Enclosure No. 1 of H. E. Hobson to Robert Hart, No. 970: Memorandum by Sub-Committee of Experts on the Deterioration of the China Tea Trade," *ibid.*, 67.

⁶². "Enclosure No. 2 of H. E. Hobson to Robert Hart, No. 970: Memorandum by Mr. W. H. Macomber on Deterioration of Tea," *ibid.*, 73. Besides these proposals, J. M. Ringer also suggested that the local authorities issue a proclamation to regulate the amount of leaves to be picked so that the grown leaves could not be picked ("Enclosure No. 3 of H. E. Hobson to Robert Hart, No. 970: Memorandum by Mr. J. M. Ringer on Deterioration of tea," *ibid.*, 75).

⁶³. "Enclosure No. 2 of R. E. Bredon to Robert Hart, No. 507: Analysis of Indian and China Teas, made by Professor Dittmar," *ibid.*, 54-56.

Chinese tea, and to ascertain how much of the two components in the two samples pass into solution (a) after 10 minutes' infusion, and (b) 20 minutes' infusion. The samples used in the analysis were Indian Assam Pekoe Souchong and China Oanfa tea, which had the equal value on the market. The results of the analysis, which are shown in Tables 3-4, 3-5, and 3-6, proved that Indian and Chinese teas had almost the same quality, but the taste was different. Because of the much greater amount of tannin, Indian tea had "a harsh, bitter, pungent taste." In other words, the difference of the taste of Indian and Chinese tea, which caused the shift of demand in the London market, had nothing to do with the primitive cultivation and production system in China.

Table 3-4: Comparison of the Samples of Indian and Chinese Tea

	Indian Assam Pekoe Souchong	Chinese Oanfa
Theine, dried at 100° C.	3.78%	4.10%
Tannin	9.68%	6.01%
Undetermined components	86.54%	89.89%
	100.00%	100.00%

Source: *TEA*, 1888, 54.

Table 3-5: Number of Grains of Theine and Tannin present in the Total Infusion derived from 100 Grains of Tea Leaves

	Indian Assam Pekoe Souchong		Chinese Oanfa	
Time of infusion	10 min.	20 min.	10 min.	20 min.
Theine found	3.01	2.96	3.32	3.37
Tannin found	5.96	6.53	3.50	3.86

Source: *Ibid.*, 54.

Table 3-6: Quantities of Theine and Tannin in the Infusion per respectively 100 Parts of Total Theine and 100 Parts of Total Tannin in the Tea Leaves infused.

	Indian Assam Pekoe Souchong		Chinese Oanfa	
Time of infusion	10 min.	20 min.	10 min.	20 min.
Theine	79.00	79.00	81.60	81.60
Tannin	61.60	67.50	58.20	64.20

Source: *Ibid.*, 55.

Similar remarks to confirm the high quality of Chinese tea can be seen in the minority opinions of other foreign merchants. For instance, Ramsay pointed out that Chinese tea contained much more ethereal oil, which brought about the flavour, than Indian tea because of the shorter

heating. Also, A. R. Greaves of Russell & Co., who doubted the ill-effects of the primitive preparation, believed that the change of the British consumers' taste was the cause of the decline of the Chinese tea trade. As evidence, he pointed to the fact that the export from China to Australia and Russia had not suffered from competition with the Indian tea industry.⁶⁴

However, major British merchants did not pay attention to the above opinions. Assuming that the primitive cultivation and refining system were to blame, they were fascinated with the idea that the introduction of the whole system of the Indian tea industry could remove all of the claimed defects of the Chinese industry and the control of the Chinese.

2) The Opinion of the Chinese Local Party

Just like the British merchants, the Chinese tea merchants' groups and local officials contributed their proposals to the commissioners of the Imperial Maritime Customs in Hankou, Ningbo, and Shanghai. However, they never admitted the ill-effects of the primitive cultivation or preparation system. Instead, by emphasizing that the flavour and aroma of the Chinese black tea was not inferior to the Indian tea, they claimed that the decline of the tea trade was entirely brought about by the higher export duty and *Lijin* taxes. It was the Ningshao Daotai 寧紹道台 who introduced the evidence of the claim of the Chinese local party. He pointed out that the European tea-dealers relied upon the mixture of high-class Chinese tea with their Indian and Japanese teas to make a profit, and therefore that they eagerly bought high-class Chinese tea in every season.⁶⁵

⁶⁴. "Enclosure No. 1 of R. E. Bredon to Robert Hart, No. 459: Mr. A. R. Greaves to Mr. Commissioner Bredon," *ibid.*, 43-44.

⁶⁵. "F. Kleinwächter to Robert Hart, No. 466," *ibid.*, 83, 85. The original Chinese text from the Ningshao Daotai was recorded in this special report, the page number of which was lix. The page number of the Chinese sources in the report was recorded in Roman numerals.

The only cause of the deterioration to which the Chinese local party admitted was bad weather at the picking season. Regardless of being too dry or wet, bad weather in the picking season entirely damaged the flavour and quality of Chinese tea. They insisted that "bad preparation" or "the admixture of the extraneous matter" had nothing to do with the deterioration.⁶⁶ Moreover, the Ningshao Daotai pointed out that the introduction of the Indian method of firing tea, preparing the tea-chest boards, and making the leaden linings with machinery was not feasible because the Chinese tea industry entirely depended upon the manual labour; moreover the Chinese tea hong, had so little capital that they could not afford to buy machinery.

Also, he denied that the adulteration was made by the peasant cultivators. He attributed the frequency of adulteration to the method of packing. According to him, if the tea chest was not packed in full, the flavour and aroma easily evaporated. He concluded that the production cost of crude tea represented only 60% of the total cost of crude tea whereas the transportation fee and the export duty and the *Lijin* taxes absorbed the remaining 40% of the cost.⁶⁷ By doing so, he denied the necessity of introducing the system of the Indian tea industry. Instead, he emphasized the heavy burden of the export duty and the *Lijin* taxes.

Similarly, the Shanghai Tea Guild claimed that the export duty and *Lijin* taxes were a heavy burden for the tea trade. When the export duty on tea was fixed at Tls. 2.5 per picul by the Treaty of Tianjin, the prices of tea were as high as Tls. 50 per picul. However, when the prices of Chinese tea dropped to less than Tls. 20 as a result of the competition with Indian, Ceylon, and Japanese teas, the rate of the export duty be-

⁶⁶. "Enclosure No. 3 of R. E. Bredon to Robert Hart, No. 459: Translation of Hankou Tea Guild's Memorandum on the Tea Trade," *ibid.*: 48, xxiv.

⁶⁷. "F. Kleinwächter to Robert Hart, No. 466," *ibid.*, 84

came a heavy burden.⁶⁸ In addition, the Chinese tea merchants had to pay several kinds of the *Lijin* taxes, such as a grower's tax (*shanli* 山釐) and *Lijin* tax shown in Tables 3-1, 3-7, and 3-8. As shown in Table 3-3, in the case of Hunan and Hubei tea-producing districts, the Chinese tea dealers had to pay not only a grower's tax of 800 cash per picul but also the *Lijin* tax of Tls 1.25, the total of which was Tls. 1.90.

Table 3-7: The Inland Taxes and Charges Paid by a Chinese Merchant in Hankou Districts

	Shipping Tael
Grower's tax, 800 cash per picul*	0.56
<i>Lijin</i> charges, Haiguan Tls. 1.25 per picul	1.34
Two chests and lead lining, per picul	1.00
Sifting and classifying, per picul	2.00
Carriers, freight, boat hire, etc. per picul	2.00
Total	6.90

Source: "Enclosure No. 3 of R. E. Bredon to Robert Hart, No. 459: Translation of Hankou Tea Group's Memorandum on the Tea Trade." *TEA*, 1888, 49⁶⁹

*Since the Chinese authorities reduced 5 % from the original rate in copper cash in order to complice a petition, the tax amounted 760 cash per picul.

Table 3-8: Percentages of *Lijin* and Export Duty of 2 1/2 Haiguan Taels on Hankou and Jiujiang Teas

Grades	Average Value at Hankou Tls.	Average Value without <i>Lijin</i> tax Tls.	<i>Lijin</i> tax in Hankou Tls.	Export Duty in Hankou Tls.	Amount of <i>Lijin</i> tax Export Duty Tls.	<i>Lijin</i> tax %	Export Duty %	<i>Lijin</i> and Export Duty %
Common	10.00	7.68	2.32	2.72	5.04	30.20	35.42	65.62
Medium	23.00	20.68	2.32	2.72	5.04	11.22	13.15	24.37
Fine	35.00	32.68	2.32	2.72	5.04	7.10	8.32	15.42
Finest	49.00	46.68	2.07	2.72	4.79	4.43	5.82	10.24
Choice	63.50	61.18	2.07	2.72	4.79	3.38	4.45	7.83
Average	22.27	20.35	2.28	2.72	5.00	11.20	13.30	24.50
Dust	5.18	4.18	1.00	2.72	3.72	24.00	65.00	89.00
Brick tea	n. a.	n. a.	1.00	0.65	1.65	n. a.	n. a.	n. a.

Source: FO 881/7497 "Report of Shanghai Committee and 'Tea' Section Sub-Committee of General Committee," 10.

Moreover, since they had to pay other costs for preparation and transportation, the total cost amounted to Tls. 5 or so. Since the price of the common grade of Chinese tea was at Tls. 4 or Tls. 5 per picul, the sales of Chinese tea must lose Tls. 2 to Tls. 3 per picul as long as the

⁶⁸. Ibid., 84; "上海華茶公所將茶業近年情形開具節略," *ibid.*, xxxiv-xxxv.

⁶⁹. Also, the Shanghai Tea Guild introduced the amount of the inland taxes on tea in Anhui, Jiangxi, Hunan, Hubei, and Zhejiang ("上海華茶公所將茶業近年情形開具," *ibid.*, xxxiv-xxxvi).

Chinese merchant honestly paid the above charges. Even if it was impossible to eliminate the costs for preparation and transportation fee, they claimed it was possible to abolish or at least to reduce the *Lijin* tax or the export duty so that they could gain a profit in the tea trade.⁷⁰

Although the right of collecting the *Lijin* taxes was a crucially important "institutional privilege," why did the Chinese local party including the Shanghai and Hankou tea merchants' groups emphasized the hazardous effect of the *Lijin* taxes and the export duty at that time? Seeing the opinions and proposals by British merchants, they apparently feared what would have been brought about if the whole system of the Indian tea industry had been introduced under the leadership of the British merchants and the Imperial Maritime Customs. It would have meant that not only the Chinese tea industry but also the inland tea market must fall into the hands of their foreign opponents. The impact of such an outcome would obviously have been a far graver blow to the Chinese tea merchants' organizations than what the commercial connection between Xu Hongkui and Xue Nanming brought about to the Shanghai Silk Group.

Whether it were true or not, they had to find another "cause" for the deterioration of the Chinese tea trade in order to prevent the introduction of the Indian tea-production system. What they chose as a nominal excuse was the harmful effect of taxation. Therefore, however much they emphasized the harmful effect of the export duty and *Lijin* tax, the Chinese local party appeared to have no intention of abolishing them. Thus, in spite of the fierce criticism, the abolition of the export duty and *Lijin* tax was at most passively supported by a minority of foreign merchants nor was it truly desired by the Chinese merchants' groups.

⁷⁰. "Enclosure No. 3 of R. E. Bredon to Robert Hart, No. 459: Translation of Hankou Tea Guild's Memorandum on the Tea Trade," *ibid.*, 49.

3) The Report by a Commissioner of the Imperial Maritime Customs

Among the commissioners of the Imperial Maritime Customs who received the various reports from the British merchants and the Chinese merchants' groups, it was only R. E. Bredon, who was the commissioner in Hankou, who wrote his own analysis and offered reliable advice to Robert Hart.⁷¹ Reading the reports by the British and the Chinese merchants, he was aware that no proposal could be feasible because they must require much cost, or heavily reduce the revenue of the Imperial Maritime Customs or the Chinese local governments.

First of all, he doubted the effect of introducing the Indian methods of cultivation and preparation. Although he personally acknowledged that the deterioration of Chinese tea was obviously due to bad cultivation, careless or unskilled work of plucking, preparing, packing, and the lack of sufficient methods of guarding against bad weather, no British merchants could give him thoroughly reliable information as to how and to what extent the Indian methods could improve the above defects. Moreover, since the crop of Chinese tea in 1886 was the best quality in the past 20 years, he insisted that the criticism against the backward Chinese system of cultivation and preparation was too superficial to believe. He concluded that the Indian methods of cultivation and preparation could not be introduced, because they would cost too much.

Meanwhile, he proved it would be difficult to remove the various causes, such as glut, hasty sales, deterioration or adulteration, which brought about the troubles between the British merchants and the Chinese dealers. Since the Chinese tea growers were so poor that they must pluck every leaf and sell it to gain as much profit as they could get during the two months of the year, it would be impossible to eliminate glut by prohibiting the sales of the second and the third crops.

⁷¹. "R. E. Bredon to Robert Hart, No. 459," *TEA* 1888, 14-31.

With regard to the troubles arising from the adulteration, he correctly noticed that it was the degenerate morality of "certain foreign merchants" that was to blame. They found fault with the delivered tea in order to cut the sales prices heavily by claiming adulteration. Since the tea which was once rejected by a buyer for "adulteration" could not be sold again without lowering prices, the Chinese merchants had to submit to the claim by the foreign buyers. As seen in the conflicts for admitting the "1 lb. draft" system, the grievances for adulteration by British merchants could not be believed to be as they were claimed to be. He found that the dilemma caused by the "cutting" and many tricks to redress for it caused the degeneration of Chinese tea trade. Unfortunately, however, even he did not know then how British merchants could get Chinese merchants to cooperate to get rid of the dilemma.

Finally, with regard to the abolition of the export duty and *Lijin* tax, he was quite negative. For he feared the loss of revenue of the Imperial Maritime Customs and the local governments. In order to criticize the proposal to abolish the taxation, he compared the merit of it for the foreign tea buyers in China and that for the British consumers. As it was repeatedly proved, even if the export duty and the total *Lijin* taxes were totally abolished, it would reduce only 2d. per lb. of the price. While it would reduce 30% of the cost for the foreign tea buyers, it would discount the prices hardly any more than 12% for the British consumers after deducting the profits of the British wholesale merchants and the English import duty. Therefore, he concluded that the reduction of the export duty and the total *Lijin* taxes would rather bring about "a bigger loss to the revenue than the English trade would make good."⁷²

In closing his report, Bredon made his own proposals. First of all, he suggested that the Zongli Yamen issue a strong proclamation to advise

⁷². "R. E. Bredon to Robert Hart, No. 459," *ibid.*, 29.

the tea growers and the dealers to take more care in the plucking, firing, and other process. Next, as a compromise for the opinion of abolishing the total taxation, he proposed the abolition of the *shanli*, the grower's tax or other small taxes, because this would not remarkably decrease the revenue. Furthermore, in order to compromise with those who advocated the adoption of the whole system of the Indian tea industry, he proposed to send a foreign tea specialist and two Chinese tea merchants, to the tea producing districts, such as Ningzhou or Fuzhou. He suggested that the specialists collect samples of Chinese tea cultivated in these districts, and then go to India to get information on the cultivation, preparation, and production systems. Finally he urged a halt to sales based upon the sample.

Selecting or modifying the suggestions by the British and the Chinese merchants, Bredon modified them to what could be carried out without harming the existing taxation system and the Chinese tea industry. At the same time, passing through the filter of Bredon's critical appraisal, the radical characters of suggestions and proposals made by the British and the Chinese merchants were removed.

4) Analysis of the Special Report No. 11

The common element in the opinions and the proposals of British merchants and the Chinese local party was that neither side practiced their ideas with their own capital and at their own risk. The key to reveal the so far unknown historical background of *TEA*, 1888 is to consider the reason why both British merchants and the Chinese local party did nothing except try to persuade the Imperial Maritime Customs to practice their ideas and proposals on their behalf. Their mysterious behaviour cannot be accounted for without considering the influences from the two civil cases, "Wu Yu-shan v. David Sassoon Sons & Co." of

1884 and "David Sassoon Sons & Co. v. Fan Desheng and Chen Yintang" from 1884 to 1887, both of which are introduced in Chapter 1.

If a British mercantile firm had decided to establish an enterprise which produced and exported black tea with suitable taste and flavour for the British consumers according to the Indian tea-production system with their own capital and at their own risk, they would have had to find some cooperative landlords in the tea-producing districts. Without their cooperation, the enterprise must have met with interference by the Qing local government officials and local gentry as was shown in the Fuyang incident. Moreover, just as the Shanghai branch of Jardine, Matheson & Co. had to do for the dried cocoon purchase and the management of the Ewo Filature, the British mercantile firm would have had to rely on their comprador to hire premises for growing tea trees and producing crude teas from cooperative landlords because they were quite ignorant about the native language and commercial customs in the inland districts.

Furthermore, since it required extensive equipment and machinery, the Indian-style black-tea-producing enterprise would have required much more capital, and time to collect it, than did the purchase of dried cocoons. The British mercantile firm would have had to entrust a large sum of money to their comprador for the necessary arrangements. Then, the important problem was whether or not the British mercantile firm could have safely recovered their capital from the enterprise if it had fallen into liquidation and their comprador had bankrupted.

To cover the case in which their comprador was bankrupted or absconded, a foreign mercantile firm in China used to require a surety who could guarantee the comprador's debt when they made an employment contract with him. However, the civil case, "David Sassoon Sons &

Co. v. Fan Desheng and Chen Yintang" revealed an important fact, namely that the surety contract did not always bind the surety to pay the comprador's debt.

According to the evidence and the proceedings of the above civil case, the surety of a comprador could choose two types of responsibility when making a contract with a foreign mercantile firm. The first type of responsibility was expressed by the Chinese verb, "*lishi* 理涉," the meaning of which was "will hold oneself responsible" or "be responsible for [arranging] the settlement." When the term was written on the surety contract of a comprador, it meant that the surety had the obligation to make every effort to make the comprador pay his debt, but he himself was not personally bound to pay it instead of the comprador. Meanwhile, the second type of the responsibility, which bound the surety to pay the comprador's debt, was expressed when the Chinese verbs, such as "*daipei* 代賠," or "*peichang* 賠償," was written on the surety contract.⁷³

Because of the lack of relevant sources, it is impossible to determine how many foreign mercantile firms had to revise the surety contract with their compradors after the arise of the civil case. However, it is quite likely that quite a few foreign mercantile firms did so in order to make the surety guarantee their compradors' debt with his property. Since then, such ambiguous responsibility as requiring the surety had to make every effort to make the comprador pay his debt gradually became extinct in the foreign mercantile community in China. As an evidence for that, neither the Japanese investigation report nor the study of

⁷³. Besides the surety contract between foreign mercantile firms and Chinese compradors, the two types of responsibility of the surety prevailed in every kind of the surety contract in the Qing period. See Niida (1960): 554-560.

the comprador system in the twentieth century referred to the first type of surety's responsibility.⁷⁴

When the Imperial Maritime Customs were doing the investigations which were collected in *Tea 1888*, the proceedings and the diplomatic negotiation of the civil case, "David Sassoon Sons & Co. v. Fan Desheng and Chen Yintang," still continued. At that time, many British mercantile firms were unsure as to whether, in the event of bankruptcy or default, they could safely recover their capital from the surety of their compradors if they invested it through their compradors in an enterprise in the inland district which intended to produce and export suitable black tea for the taste of British consumers. Therefore, they dared not invest their capital in such an enterprise but tried to persuade the Imperial Maritime Customs to do at their own risk.

Even if there had been some British mercantile firm, which had employed a comprador on the condition that his surety had to pay his debts with his property, and entrusted him with a large amount of money to set up an enterprise for producing the suitable black tea for the British consumers in the tea-producing districts, there would certainly have been no landlords or merchants who cooperated with him. The reason for that was the judgement of another civil case, "Wu Yu-shan v. David Sassoon Sons & Co." of 1884.

As indicated in Chapter 1, the chief judge of the British Supreme Court in Shanghai judged that a comprador was not an employee of a foreign merchants but an independent broker. It shattered the assumption that prevailed among the Chinese mercantile people that foreign merchants were the *de facto* surety of a Chinese comprador. Hitherto, they had taken it for granted that foreign merchants would eventually guarantee the frozen debt of a comprador when he was bankrupted.

⁷⁴. *Shina keizai zensho* vol. 2: 350-355, 358-359, 367-368; Negishi (1948), 135-186.

Therefore, they had trusted a comprador of a foreign mercantile firm, and transacted sales on credit with him.

Meanwhile, British mercantile firms had repeatedly denied such an assumption among the Chinese mercantile people since the civil case, "E-kee v., Jardine, Matheson & Co." of 1867, in order to evade the responsibility of guaranteeing the frozen debt of their bankrupted compradors. As for them, the judgement of the case, "Wu Yu-shan v. David Sassoon Sons & Co." of 1884 was nothing but a boon. Claiming that the bankrupted comprador was an independent broker who had nothing to do with them, they could openly turn down the demand by the Chinese creditors to guarantee his frozen debt.

However, the judgement in the case, "Wu Yu-shan v. David Sassoon Sons & Co." of 1884 had a subsidiary effect. Since it shattered the assumption that foreign merchants were the *de facto* surety of Chinese compradors, Chinese mercantile people no longer trusted them. When a comprador came to the inland districts to purchase a native produce, such as dried cocoons, Chinese landlords or merchants could cooperate or transact with him because the comprador could protect their profit margins with the "institutional privilege" of using outward transit-passes.

On the contrary, were he to have proposed a plan of an enterprise of producing something in the inland districts, no landlords or merchants would have cooperated with him because the comprador had no "institutional privilege" to protect their capital or property from bankruptcy. In consequence, however attractive a plan of setting up an enterprise which produced and exported suitable black tea for the taste of the English consumers a Chinese comprador of a British mercantile firm had proposed, no Chinese landlords and merchants would have cooperated with him.

Furthermore, the fact that the Chinese local party could not make any feasible proposal, but put forward such a useless proposal as reducing the *Lijin* tax on tea clearly indicated that the commercial organization of Chinese tea merchants were quite inactive in improving the production and the sales systems of the commodity they monopolized. So long as they remained attached to the economic principle that no one could claim the privilege of doing business without paying the *Lijin* tax imposed on it, Chinese tea merchants' groups could not respond to the shift of demand in the world market by changing the economic structures.

Faced with the decline of the black-tea export trade to Britain, they had only two choices: to change the production and the sales systems of Chinese black tea by abandoning their economic principle so that they could increase the export amount of Chinese black tea to Britain; or they looked for another market without abandoning their economic principle. As it was well known, they selected the second choice, which made the revival of export trade of Chinese black tea to Britain impossible, and in consequence, Chinese black tea was no longer an attractive commodity for both British mercantile firms and Chinese tea merchants' groups.

Aftermath

When Robert Hart addressed his own report to the Zongli Yamen, nine months had already passed since Bredon sent his report to him. In his report, Hart agreed with all of the suggestions by the British merchants so far as cultivation and the preparation were concerned. He recommended that they plant tea trees in deep soil with weeding and manuring, to prune and to replace the aged trees, and to take proper care for picking, preparation, and packing. However, he did not suggest how these proposals could be carried out. With regard to the taxation, he

also turned down the abolition of the export duty and the *Lijin* taxes according to Bredon's advice. The only remedy he adopted was the abolition of the grower's tax, which was collected from the owners of the tea trees.⁷⁵

The British merchants were disappointed by the results of the investigation by the Imperial Maritime Customs. Although they did not expect the suggestions quoted in the reports would be allowed by the Qing central government to be put into practice,⁷⁶ they were irritated by the fact that even Hart himself saw little chance that their advice and suggestion could be carried out.⁷⁷ A year after, they publicly criticized Hart for ignoring the advice given by many experienced merchants.⁷⁸

However, neither the Qing central government nor the Imperial Maritime Customs seriously considered their criticism again. As Figures 3-1 and 3-2 indicated, the decline of the Chinese tea trade, particularly the black-tea trade temporally halted in the former half of the 1890s, and in consequence, the Qing central government lost interest in the decline of the Chinese tea trade.

Since Chinese black tea was no longer a popular commodity in the British market in the 1890s, both British mercantile firms and Chinese merchants' groups lost any eagerness to conflict with each other for protecting their respective commercial interests. Their response to the revival of conflicts for changing the weighing system of tea trade clearly indicated their change of attitude.

⁷⁵. "Report on Tea addressed to the Zongli Yamen by the Inspector General of Customs," *ibid.*, 1-6.

⁷⁶. For instance, the *North-China Herald* pointed out that the plan of establishing tea-curing honggs with modern machinery in the interior districts, and acquiring land for the better cultivation of the plant, which was recommended by the sub-committee of Experts on the Deterioration of the China Tea Trade (*TEA 1888*, 67) could not be permitted by the Qing central government as long as the extraterritoriality existed ("The Chamber of Commerce on the Tea Trade," *NCH*, Jan. 6, 1888, 6).

⁷⁷. "Tea," *NCH*, May 11, 1889, 565.

⁷⁸. "The Tea Trade," *ibid.*, Feb. 21, 1890, 197-198.

In the season of 1891, George Butler, a British merchant, called for the Shanghai Chamber of Commerce to send a circular to the Western tea buyers to abstain from buying tea unless members of the Shanghai Tea Guild allowed the pound draft because shippers in Shanghai had lost 20,000 pounds sterling in the previous season due to the lack of this custom.⁷⁹ Although the leading article of the *North-China Daily News* on July 2 supported his opinion, other Western merchants were quite passive or sceptical about the pound draft.⁸⁰ The controversy as to whether the Shanghai Chamber of Commerce should demand the Shanghai Tea Guild allow the pound draft or not ended with the curt reply by John G. Purdon, who was the chairman of the Shanghai Chamber of Commerce, that "any attempt to carry out the plan [the pound draft] would be useless."⁸¹ In contrast to the early 1880s, British merchants paid little attention to the introduction of the pound draft simply because Chinese black tea had no possibility to bring about much profit.

Similarly, Chinese tea merchants had little eagerness to conflict with British merchants for protecting their commercial interest in the trade of the unpopular commodity. Four years later in Hankou, two foreign mercantile firms claimed adulteration and false packing in order to reduce the sales prices of black tea by Tls. 3.5 to 10 per chest. Other foreign mercantile firms also practiced "cutting" again, or delayed the settlement until two or three weeks after the delivery.

In order to stop the revival of these malpractices by the foreign mercantile firms, leaders of Hankou Tea Guilds consulted with each other. After they had decided not to send samples to the two foreign mercan-

79. "The Chamber of Commerce and the Tea Trade: Geo. Butler," *NCH*, June 26, 1891, 805.

80. "The Pound Draft, " "Mr. Butler and the Chamber of Commerce: A Chaasze and Member of the Shanghai Chamber of Commerce," "The Pound Draft: Chas. Overbeck; N. L. S.," *NCH*, July 3, 1891, 7, 18-19

81. "The Pound Draft and the Chamber of Commerce: John G. Purdon, July 4th," *NCH*, July 10, 1891.

tile firms that had ignited the conflict until they withdrew their claims, they called for the members of the groups to a meeting for further response. However, only a few members came to attend the meeting, and those attending tried to avoid taking the responsibility for any action. Consequently, the leaders of the Hankou Tea Guilds had to compromise with the foreign mercantile firms. They informed foreign mercantile firms that they would resume transactions on the following conditions: (1) the settlement should be carried out within a week after setting prices; (2) a sales contract of certain tea should be immediately cancelled if the delivered tea was found to be inferior to the sample; (3) foreign merchants should refrain from the custom of "cutting."⁸²

Since Chinese black tea had lost popularity among the British consumers, it had no power to attract the commercial organizations of Chinese tea merchants. Although the Shanghai or Hankou Tea Guilds still existed, in fact, they no longer had much influence on the numerous Chinese tea merchants.

⁸². "茶業整規." SB, June 18, 28, 1895.

Chapter 4

Opium Trade Conflict, 1879-1890

The Historical Background of the Conflict

Chapter 2 and Chapter 3 revealed in what condition British mercantile firms could organize a cooperative Chinese merchant organization and in what condition they could not do so. However, the viewpoint from the British mercantile firms was insufficient to account for the behaviour of Chinese merchants. Previous two chapters could not reveal the reason why Chinese merchants' groups could not maintain their solidarity without relying upon an "institutional privilege" to secure their monopoly of transacting a commodity.

A remarkable example to prove the existence of the economic principle of a Chinese merchant organization, which I frequently referred to so far, was the conflict between prominent British mercantile firms in Shanghai and the Swatow opium merchants' groups from 1885 to 1887. The case study of the opium trade conflict reveals how immediately a prominent Chinese merchants' group lost their power to maintain the solidarity of its members, and turned out to be merely a part of the merchants' group of the same local origin when it lost the crucial "institutional privilege" of collecting the *Lijin* tax from its members.

The conflict between British mercantile firms and the Swatow opium merchants' group took place after the following historical background. Just as they had done so in the silk and the tea trade, British mercantile firms in Shanghai had fought against the Swatow opium merchants' group which monopolized the opium trade since the 1870s. Because of the "institutional privilege" of collecting *Lijin* tax only from its members, the Swatow opium merchants' group could wield great power over foreign as well as over native opium merchants.

Meanwhile, British merchants failed to defeat the Swatow opium merchants' group. Besides, they clashed with British diplomats, who wanted to recognize the joint collection of the import duty and the *Lijin* tax on opium by the Qing central government, because British merchants wanted to abolish any tax on opium which might raise the sales prices of Indian opium.

Since the late 1860s, they were aware that native opium impeded the demand for Indian opium. Also, the Qing authorities were aware that the spread of native opium cultivation had an effect in preventing the import of Indian opium. As is well known, the Qing authorities were more concerned about the drain of silver as a result of the Indian opium trade than about the hazardous effect of opium upon the health of opium smokers. As the cultivation of native opium became more common, they considered it an effective way to prevent the import of Indian opium. By setting lower *Lijin* tax upon the right of dealing with native opium, they intended to encourage the native opium cultivation and to stop the Indian opium trade in the long run.¹ On the other hand, British merchants expected that Indian opium could compete with native opium effectively in the inland market if they could abolish all taxation on opium.

The Chefoo Convention was the first chance to deprive the "institutional privilege" of the Swatow opium merchants' group to maintain their commercial organization. It drew up the rules for the Imperial Maritime Customs to collect the *Lijin* tax on opium together with the import duty. As for the Qing central government, the focus of the Chefoo Convention was to stop the smuggling of Indian opium from Hongkong. The smuggling of opium by native junk-owners in Hongkong had continued for years, because a Chinese resident in

¹. Niimura (1991): 224-235.

Hongkong could register vessels and enjoy the protection of the British flag by Hongkong Ordinances No. 4 of 1855 and No. 9 of 1856. Due to the smuggling, only about one-tenth of the opium imported from Hongkong is said to have paid the import duty. Although Chinese and British authorities had tried to regulate the smuggling in order to collect the import duty and *Lijin* tax on opium since the 1860s, they could not make any effective arrangement because of the opposition by the mercantile people in Hongkong. The Chefoo Convention was a solution to the smuggling question. In Clause 7 of Section 3, the Chefoo Convention (see Appendix) stipulated the devising of a system which enabled the Qing central government to protect her revenue without damaging the interests of Hongkong.²

The Indian government and the British opium merchants opposed the Chefoo convention, too. They feared that the Qing central governments could arbitrarily raise the rate of *Lijin* tax on Indian opium, and that the local governments might introduce a new type of duty on Indian opium in order to compensate for the loss of the *Lijin* tax on opium.³ The Indian government criticized Sir Thomas Wade, who arranged the Chefoo Convention, arguing that he neglected their interest. Also, David Sassoon Sons & Co. and the Shanghai General Chamber of Commerce protested to the British government arguing that the joint collection of the *Lijin* tax and the import duty on Indian opium would not only damage the import trade of Indian opium but also would encourage the cultivation of native opium. Considering the criticism and protests from the Indian government and British opium merchants, the British Parliament did not ratify the Chefoo Convention until 1885.⁴

². Wright (1938): 300-310.

³. Waung (1977): 86-88.

⁴. Wang Shengzu (1981): 150-155.

The second chance came in October 1882 when the Qing central government became eager to raise the rate of the *Lijin* tax on opium and to arrange its joint collection with the import duty as suggested by Zuo Zongtang 左宗棠.⁵ In order to realize the plan, Marquis Zeng Jize 曾紀澤, the Chinese Minister in Britain, started to negotiate with the British Foreign Office in April 1883. Although the negotiation was temporally suspended until September 1884 due to the Chinese-French war, it eventually led to the Additional Agreement of the Chefoo Convention, which was signed, and an exchange of notes was carried out between Marquis Zeng and Marquis of Salisbury on July 18, 1885.⁶ In consequence, the Qing central government and the British government finally agreed to raise the rate of the import duty on opium and permit its joint collection with the *Lijin* tax by the Imperial Maritime Customs.

The New Opium Taxation System

When the diplomatic negotiations in London were coming to an end, the content of the Additional Agreement was leaked in China. Two weeks after Lord Granville sent the memorandum to Marquis Zeng on February 9, 1885 that the British government would agree to raise the rate of import duty on opium to Tls. 80 per picul, *Shenbao* disclosed a new tax plan of the Qing central government which included increases in taxation on tea and opium. According to *Shenbao*, the Board of Revenue was empowered to issue two kinds of licenses to the Chinese opium traders and dealers for the transportation as well as local sales of opium. Regardless of whether they were handling imported opium or not, the transport licenses were to be charged at the rate of twenty taels per picul and the trader's license was to be twenty four taels per an-

⁵ Waung (1977): 132; Banno (1985): 145-147.

⁶ Waung (1977): 132-140; Wright (1938): 278-288.

num.⁷ On April 5, the Qing central government raised the rate of *Lijin* tax on foreign opium in Shanghai from twenty taels to forty taels per picul. They also raised the rate of the *Lijin* tax on native opium from ten taels to twenty taels per picul.⁸ Following these preliminary actions, the Board of Revenue proposed to increase the rate of the *Lijin* tax on opium everywhere to Tls. 86 per picul from May 14.⁹

The reason why the Board of Revenue hastened to increase the taxation on opium even before the Additional Agreement of the Chefoo Convention came into effect was connected with the obligations of the Qing central government imposed by the British government. After signing and exchanging notes, the Qing central government had to persuade other treaty powers, especially Germany, to consent to the Additional Agreement, and to solve the tax collecting question for opium imported from Hong Kong and Macao. If they had failed to do so, the new tax system could not have been put into operation.¹⁰

The Qing central government never intended to give up their diplomatic victory. By issuing the proposal to the provincial authorities, local *Lijin* offices, or some prominent merchants' groups, they intended to realize the new opium tax system in advance so that other treaty powers could not nullify it. Although the proposal was carried out as it was promulgated in local districts, such as Jiangxi province and Wuhu, it was delayed until June 2 in Shanghai.¹¹

7. Waung (1977): 138; "開源節流事宜," *SB*, Feb. 25, 1885. The content of the article was translated into English and sent to the British minister, N. R. O'Connor. FO 228/804 P. J. Hughes to N. R. O'Connor No. 24, March 3, 1885.

8. FO 228/804 P. J. Hughes to N. R. O'Connor No. 51, April 8, 1885.

9. FO 228/804 P. J. Hughes to N. R. O'Connor No. 57, April 24, 1885; *Ibid.*, No. 58, April 25, 1885. This document includes the English translation of the Memorial of the Board of Revenue proposing increase of inland tax on opium, which was appeared in *Hubao*.

10. Waung (1977): 139-156; Wright (1938): 287-315.

11. "洋藥加稅示," "增收土稅," *SB*, May 21, 1885; FO 228/805 P. J. Hughes to N. R. O'Connor, No. 86, June 6, 1885.

The reason for the delay was the opposition by the four prominent British mercantile firms, which dealt in opium in Shanghai. The names of the British firms were Jardine, Matheson & Co., Cawasjee Pallanjee & Co., David Sassoon Sons & Co., and Elias David Sassoon & Co. Their fierce opposition to the joint collection of the import duty and the *Lijin* tax from foreign opium became apparent when the directors of "the Swatow merchants' guild in Shanghai (*Shanghai Chaohui huiguan* 上海潮惠會館)" called for the above four firms and an unknown man recorded as "Mr. Ezra" to join the "Imperial Authorized Syndicate" which was to supervise the joint collection of the import duty and the *Lijin* tax on opium.¹² The leaders of the Swatow opium merchants' group intended to maintain their privilege of monopolizing the Indian opium sales with their own economic principle by sharing their "institutional privilege" with the above four prominent British mercantile firms.

However, since the British merchants did not understand the economic principle of the Chinese mercantile society, they did not consider the offer at all. They expected that once the Additional Agreement had been put into effect, the Swatow opium merchants' group would lose its power and the free trade of Indian opium must be realized sooner or later. Therefore, they did not want to support any scheme which might maintain the power of their commercial opponents and prevent the reduction of the sales prices of Indian opium.¹³

Also, in order to avoid paying the increased import duty, they had already landed a huge volume of opium and stored it within the

¹². FO 228/804 P. J. Hughes to N. R. O'Connor No. 64, May 8, 1885. According to the report, the "Imperial Authorized Syndicate" was planned to consist of the managers of the above four British companies, the five largest Chinese opium sellers, and the leaders of "the Swatow merchants' guild in Shanghai", such as Li Guanzhi 李貫之, "Leong Kuin-che," Tang Maozhi 唐茂芝, Tang Jingxing 唐景星, and "Su Yuanjiu," the chief commissioner of customs (松滬捐釐總局道台). Beside them, four captains of the opium hulks belonged to the four British companies were to be inspectors who were required to collect the import duty from foreign and native opium.

¹³. FO 228/804 P. J. Hughes to N. R. O'Connor No. 69, May 22, 1885.

International Settlement or on opium hulks without paying the *Lijin* tax. From the British merchants' point of view, the *Lijin* tax was nothing but a sort of indirect tax which was imposed upon the price of Indian opium. Therefore, they supposed that since the opium had cleared inspection at the Imperial Maritime Customs and the *Lijin* offices before the Additional Agreement had been put into effect, it would not be subject to the new rate of import duty.¹⁴ By storing this huge stock before the rise of the import duty, the British firms intended to maintain the cheaper sales prices of Indian opium as long as possible.

Seeing the activities of the British firms, Chinese merchants, who were not the members of the Swatow opium merchants' group, took similar actions. They employed some foreign vagabonds to be nominal owners of their imaginary foreign opium hong, through which they intended to sell foreign opium without paying the new import duty. By doing this, non-members of the Swatow opium merchants' group, who had been excluded from the opium trade, found a way to enter into the opium business without paying the *Lijin* tax imposed upon the privilege of doing the Indian opium trade business.

They cited every reason they could imagine to land opium in the International Settlement. The common excuse which the British and certain Chinese merchants used was to claim that they were delivering foreign opium into the International Settlement to hospitals or dispensaries for medical use. In those days, the opium for mixing other drugs was allowed to be delivered into the International Settlement without paying the inland tax at the *Lijin* office. Taking advantage of this permission, not only British merchants but also the cunning Chinese merchants brought foreign opium to hold as stock. As an evidence for that,

¹⁴. Ibid.

five or six new opium dealing hong's were reportedly opened after the hike of the import duty on opium was announced.¹⁵

Table 4-1: The Amount of Indian Opium Reexported from Shanghai to

	1884	1884	1884	1884	1884	1884
	Malwa	Malwa	Patna	Patna	Benares	Benares
	Chests	Piculs	Chests	Piculs	Chests	Piculs
Niuzhuang	66.00	66.00	9.00	10.80	11.00	13.20
Tianjin	832.50	832.50	36.00	43.20	n. a.	n. a.
Zhifu	136.00	136.00	6.00	7.20	35.00	42.00
(Chefoo)						
Hankou	907.50	907.50	140.00	168.00	1.00	1.20
Jiujiang	406.00	406.00	1.00	1.20	n. a.	n. a.
Wuhu	1,025.00	1,025.00	n. a.	n. a.	n. a.	n. a.
Zhenjiang	2,241.00	2,241.00	196.00	235.20	52.00	62.40
Ningbo	2,324.50	2,324.50	98.00	117.60	160.00	192.00
Wenzhou	1.00	1.00	2.00	2.40	n. a.	n. a.
Fuzhou	33.00	33.00	n. a.	n. a.	n. a.	n. a.
Shantou	5.00	5.00	9.00	10.80	n. a.	n. a.
(Swatow)						
Hongkong	60.00	60.00	160.00	192.00	4.00	4.80
Total	8,037.50	8,037.50	657.00	788.40	263.00	315.60

	1885	1885	1885	1885	1885	1885
	Malwa	Malwa	Patna	Patna	Benares	Benares
	Chests	Piculs	Chests	Piculs	Chests	Piculs
Niuzhuang	140.00	140.00	3.00	3.60	6.00	7.20
Tianjin	8.00	8.00	4.00	4.80	n. a.	n. a.
Zhifu	31.00	31.00	5.00	6.00	16.00	19.20
(Chefoo)						
Hankou	320.00	320.00	30.00	36.00	n. a.	n. a.
Jiujiang	594.00	594.00	5.00	6.00	n. a.	n. a.
Wuhu	993.00	993.00	n. a.	n. a.	1.00	1.20
Zhenjiang	553.50	553.50	19.00	22.80	7.00	8.40
Ningbo	1,438.50	1438.50	93.00	111.60	136.00	163.20
Wenzhou	1.00	1.00	n. a.	n. a.	n. a.	n. a.
Fuzhou	4.00	4.00	n. a.	n. a.	n. a.	n. a.
Shantou	2.00	2.00	22.00	26.40	14.00	16.80
(Swatow)						
Hongkong	5.00	5.00	n. a.	n. a.	15.00	18.00
Total	4,090.00	4,090.00	181.00	217.20	195.00	234.00

Source: FO 228/805 Inclosure in Chal. Alabaster to N. R. O'Connor, No. 155, Nov. 16, 1885.

As was the reflection of the activities by the British merchants and the Chinese merchants, the reexport amount of opium from Shanghai to other treaty ports sharply declined from 1884 to 1885 as indicated by

¹⁵. FO 228/1027 Shao Youlian to the Zongli Yamen: Enclosure in Semi Official No. 16 of Mar. 12, 1886; "洋藥加稅後論," *SB*, June 1, 1885.

Table 4-1.¹⁶ The sharp decline in the reexport trade in foreign opium brought about a great decline in the import duty revenue in Shanghai. According to Shao Youlian, the Shanghai Daotai, only 320 chests of foreign opium were reported to have paid the new rate of combined import and inland duty, and only 35.5 of these chests were taken away from the port during the first two months after the raising of the import duty had officially been proclaimed on May 23.¹⁷ Shao reported that the amount of landed opium since the raising of the import duty was extraordinarily small compared with a normal season. In a normal season, about 40,000 chests of opium were imported through Shanghai. About 27,000 or 28,000 chests of them were reexported to Ningbo, Wenzhou, or other treaty ports and the remaining chests were reported at the Imperial Maritime Customs in Shanghai in order to pay the import duty.¹⁸ The Qing central government regarded the delivery of foreign opium into the International Settlement without paying the *Lijin* tax as smuggling. When they eventually raised the rate of the import duty on opium on June 2, they instructed the leaders of the Swatow opium merchants' group to collect the *Lijin* tax from the stocks in the International Settlement.¹⁹ Beside this instruction, the Board of Revenue issued a memorial which instructed every province to raise the import duty and

¹⁶. FO 228/805 Chal. Alabaster to N. R. O'Connor, No. 155, Nov. 16, 1885. In this report, Consul Alabaster pointed out that the decline of the reexport should rather be attributed to the reduction of demand for foreign opium than a result from the competition with native opium. However, since the import amount of Indian opium continued to decrease in 1886 due to the increase of the import duty ("Opium Monopoly: Thomas W. Duff," *NCH*, July 16, 1886, 68), the burdensome effect of the increased import duty on Indian opium should not be neglected.

¹⁷. FO 228/1027 Shao Youlian to the Zongli Yamen: Enclosure in Semi Official No. 16 of Mar. 12, 1886.

¹⁸. Nonetheless, even in a normal season, Shao pointed out only 7,000 or 8,000 chests out of the remaining 12,000 or 13,000 chests were honestly reported at the *Lijin* office to pay the inland tax. He indicated that the unreported amount was all smuggled into the inland market (FO 228/1027 Enclosure in Semi Official No. 16 of Mar. 12, 1886).

¹⁹. FO 228/805 P. J. Hughes to N. R. O'Connor No. 86, June 6, 1885. *Shenbao* criticized the instruction. It claimed that the check of smuggling by the *Lijin* runners employed by the Swatow merchants' group in Shanghai was ineffective. Instead, it insisted that the collection of the import duty and the inland tax on opium ought to be carried out by the Imperial Maritime Customs ("論包辦洋藥事," *SB*, June 19, 1885).

to adopt the examination system of Zhejiang province.²⁰ This fact indicated that the Qing central government approved the rule that no one could claim the privilege of doing Indian opium sales without paying the *Lijin* tax imposed upon it. The question at this case was whether the Maritime Customs or the leaders of the Swatow opium merchants' group had the crucial "institutional privilege" of collecting the *Lijin* tax from the ordinary opium merchants.

For the leaders of Swatow opium merchants' group in Shanghai, it was the last chance to ensure their monopoly over the opium trade. Before losing the "institutional privilege" of collecting the *Lijin* tax on opium, they tried everything to reassert their control over Chinese as well as foreign opium merchants. Taking advantage of the excuse that they had to check smuggling, they requested Western consuls to admit 32 *Lijin* runners (*xunding* 巡丁) to enter into the International Settlement.

Supposing the request to be a temporary policy until the Additional Agreement came into effect, Western consuls accepted the request.²¹ However, seeing the activities of the *Lijin* runners in the International Settlement, the Western residents were aware of the real aims of the

²⁰. FO 228/804 Inclosure in Mr. Hughes' No. 58 of April 24, 1885; FO 228/805 P. J. Hughes to N. R. O'Connor No. 86, June 6, 1885. According to the source, the examination system in Zhejiang was ruled as follows:

1) An office was located in front of the Imperial Maritime Custom House in order to ascertain the daily import and daily sales of opium.

2) The officials, outdoor staff, military and naval officers and other men who surveyed the opium trade must be under the strict rules.

3) Smuggling without violence was punished by confiscation and a fine of ten times the value of the goods, and two tenths of the fine was paid to the government and eight tenths to the officers and private persons who gave the information of the smuggling.

4) Officers who captured 100 catties of smuggled opium would have their names recorded for merit, and after five records they would be reported for rewards.

5) Peculation of officials and receipt of bribes would be punished as were offences connected with the grain tribute.

²¹. The formal letter for admitting 32 runners enter into the foreign settlement dated on August 14, 1885 was produced at the Mixed Court for the trial of the Chinaman employed by G. Lindsay of Messrs. Myburgh & Dowdall, which is dealt with later ("Seizing Opium for Lekin in the Settlement," *NCH*, Aug. 28, 1885, 249-250). FO 228/805 Chal. Alabaster to N. R. O'Connor No. 149, Oct. 26 1885; No. 150, Oct. 29, 1885; Inclosure 1 in Mr. Alabaster's No. 166 of Dec. 28, 1885; FO 228/1005 Shanghai Chinese No. 46 of 1885.

runners. The *Lijin* runners attempted to collect the *Lijin* tax from anyone who transacted the opium regardless of whether it was stored in the godowns or delivered out of the International Settlement. Moreover, when they collected *Lijin* tax from the Chinese merchants who did not belong to the Swatow opium merchants' group, they charged a higher rate than that to their members. Furthermore, they confiscated all the opium at the moment when it left the foreign importers' hands, or even in the course of delivery to the native dealers by the Chinese servants of foreign importers, unless the transaction was carried out by the members of the Swatow opium merchants' group. In order to prevent commercial activities of the non-members of the Swatow opium merchants' group, they sent spies and informers around the shops.²² It was apparent that the *Lijin* runners worked only to maintain the monopoly over the opium trade exercised by the Swatow opium merchants' group. Since Western residents in the International Settlement did not understand the economic principle of the Chinese mercantile people, and assumed that their economic principle, "free trade," was the only supreme one, they regarded the activities of the *Lijin* runners only as the interference with "free" commercial activities in the International Settlement and a more important problem: the legal status of the International Settlement.

The Sovereignty of the International Settlement

The activities of the *Lijin* runners within the International Settlement clearly revealed the fact that the Chinese side and the British side had opposite views on the collection of the *Lijin* tax on the stored opium. The *Lijin* runners justified their activities by Article 28 of the Chinese-British Treaty of Tianjin. According to this article, opium was allowed to be carried into the inland districts only by the Chinese and only as

²². FO 228/805 Chal. Alabaster to N. R. O'Connor No. 156, Nov. 16, 1885; Inclosure 3 in Mr. Alabaster's No. 156 of Nov. 16, 1885.

their own property. Therefore, the inward transit-passes which could exempt the *Lijin* tax could not be applied to opium. The Qing local governments could impose *Lijin* tax on imported opium whenever the ownership of the imported opium was transferred from foreign importers to native merchants.²³

On the contrary, British merchants, who did not understand the economic principle of the Chinese merchants, did not agree with such a system of collecting the *Lijin* tax. They fiercely opposed to the system of collecting the *Lijin* tax on opium through the *Lijin* tax runners because it inevitably brought about surveillance and the arrests of the natives who came to deal with the foreign importers.²⁴ However, the Chinese side remained strictly attached to the system, particularly after 1876, because they imposed the *Lijin* tax upon the right of selling foreign opium. Moreover, the Chefoo Convention, which stipulated the International Settlement were to be a *Lijin* tax-free zone, was not ratified by the British Parliament.

Meanwhile, the foreign merchants had a different view. Now that the Additional Agreement of the Chefoo Convention was ratified by both the British government and the Qing government, foreign merchants should be allowed to bring imported opium into the inland districts once they had paid the import duty. Nonetheless, they insisted that they should pay only the former rate. According to them, further tax could not be imposed on them unless they broke the packages or changed the marks.²⁵ Therefore they claimed that the collection of *Lijin* tax from the stored opium within the International Settlement was illegal. Even though they acknowledged the collection of *Lijin* tax on opium outside

23. Waung, (1977): 1; FO 228/805 Chal. Alabaster to N. R. O'Connor No. 153, Nov. 5, 1885.

24. Owen, (1934): 252.

25. Wright (1938): 287.

the International Settlement, they never recognized the legitimacy of its collection it within the International Settlement.²⁶

A more complicated problem was the treatment of "native smugglers". Whenever the *Lijin* runners found a Chinese who had stored opium within the International Settlement, they arrested him and confiscated the opium regardless of whether the opium was to be consumed within the International Settlement or not. Then they handed the suspected "smuggler" over the Chinese court which was located outside the International Settlement for trial, and sent the confiscated opium to the guildhall of the Swatow merchants.²⁷ The treatment of the "native smugglers" and the confiscation of their opium was based upon the view that a case in which no foreigners' interest was involved ought not to be administered only by the Mixed Court Magistrate and the Chinese local officials, even if it occurred within the International Settlement.

The disposal of "native smugglers" by the *Lijin* runners also angered Western residents in the International Settlement. Since they were convinced that the International Settlement ought to be self-governed by the international municipal council (hereafter the Municipal Council, *i.e.*, *gongbujū* 工部局), they insisted that any case which happened in the International Settlement should be examined by the Municipal Police or at least at the Mixed Court with joint attendance of the Mixed Court Magistrate and a foreign assessor, even though a foreign resident had nothing to do with a particular case. From their point of view, the arrest of "native smugglers" by the *Lijin* runners without the cooperation of the Municipal Police was nothing but an intervention against the self-

²⁶. "Lekin Runners in the Settlement," *NCH*, Nov. 18, 1885, 569-570; FO 228/805 Chal. Alabaster to N. R. O'Connor No. 149, Oct. 26, 1885. In this report, Consul Alabaster pointed out to the Shanghai Daotai, Shao Youlian, that so long as the imported opium remained within the limit of the port of Shanghai, *i.e.*, 30 miles radius from the Custom House, which was settled by the Chinese authorities during the Taiping rebellion, only the import duty could be levied on it.

²⁷. FO 228/805 Chal. Alabaster to N. R. O'Connor No. 156, Nov. 16, 1885.

government of the International Settlement. What most angered them was the attitude of the Mixed Court Magistrate, Luo Jiajie 羅嘉杰, because he permitted the activities of the *Lijin* runners. He had taken over as Mixed Court Magistrate, after his predecessor, Huang Chengyi 黃承乙, had been dismissed for his rude behaviour and fighting with the British assessor, H. A. Giles, in July 1885. Since the Western residents expected Luo to be more cooperative and friendly to them, they saw his "*laissez-faire*" policy towards the *Lijin* runners as a betrayal.²⁸

The resentment of Western residents against the *Lijin* runners and Luo Jiajie became apparent when the *Lijin* runners arrested Chinese employees of Western opium merchants who were delivering a stock of opium to be consumed within the International Settlement. Records remain of some of the trials of the arrested Chinese in the Mixed Court, which escalated the conflict.

The first case was the arrest of a Chinese employee of a foreign opium shop managed by G. Lindsay of Messrs. Myburgh & Dowdall in August.²⁹ He was suspected of having two balls of opium on which the *Lijin* tax had not been paid. However, G. Lindsay, who claimed that the two balls of opium were his property, sued the *Lijin* runner in the Mixed Court to regain the opium. In order to prove his claim, Lindsay insisted that the Chinese employee was the proprietor of his opium shop and therefore that the two balls of opium were not smuggled goods.

Meanwhile, the *Lijin* runner who had arrested the Chinese employee stated that he was by no means the proprietor of Lindsay's opium shop but in fact an employee of a pawnbroker shop on Fujian Road. Based upon this statement, the defendant claimed that the opium was not the

²⁸. The dismissal of Huang was a result of a conflict between British consuls, Western residents in the foreign settlement and the Qing local officials for reforming the system of the Mixed Court since 1884. At the time that Huang was dismissed, Giles was also forced to resign as a political bargaining chip. Concerning the conflict in detail, see Motono (forthcoming).

²⁹. "Seizing Opium for Legin in the Settlement," *NCH*, Aug. 28, 1885, 249-250.

property of G. Lindsay, but of a Chinese pawnbroker. Therefore, he insisted that the arrest of the Chinese employee and the confiscation of the opium were by no means illegal.

The only evidence to judge which party's claim was true were the books of the Lindsay's opium shop produced in the Mixed Court. However, while the eleven books were said to have been handed by Lindsay to the British Assessor, G. M. H. Playfair, the principal book, which must have recorded the name of the real proprietor of the opium shop, were found to be missing when they were to be examined at the Mixed Court. In addition, the Chinese pawnbroker in Fujian Road was also found to have absconded. Consequently, it was impossible to judge the case, therefore the case was adjourned.³⁰

The second case, which had a stronger impact upon the Western residents in the International Settlement than the first case, started with the arrest of a Chinese whose name was Zhang Asi 張阿四 and the confiscation of his opium. Zhang Asi was a proprietor of a native opium house recorded as Zhang Yong De 張永德 on Nanjing Road. When he was arrested on Hankou Road, he was on his way back from a Hetai 和泰 native opium shop on Tianjin Road where he had purchased a large ball of Patna opium. With the cooperation of the Municipal Police, he was then sent to the Mixed Court to be tried for possessing opium on which the *Lijin* tax had not been paid on October 13.

On the next day, Luo Jiajie and Playfair clashed over how to dispose of the case. According to Luo, since the case had nothing do with foreigners, it should be investigated and dealt with only by the Chinese authorities. On the contrary, Playfair insisted that the case should be adjourned because the *Lijin* runners had no right to arrest the keeper of a licensed opium shop and to confiscate his opium. Their clash grew into

³⁰. Further proceedings of the case were not recorded in the *North-China Herald*.

a diplomatic issue when Playfair suddenly ordered that Zhang Asi be released on bail while he was discussing with Luo whether or not the *Lijin* tax on opium could be collected within the International Settlement.³¹

While Playfair and Luo clashed in the Mixed Court, Acting Consul-General Alabaster tried to convince the Shanghai Daotai, Shao Youlian, of the injustice of the arrest of Zhang Asi and the confiscation of his opium. Although Alabaster failed to persuade him, the case was ended with the release of Zhang Asi on bail and the seizure of his opium by the *Lijin* runners employed by the Swatow opium merchants' group.³²

Seeing the way in which the case had been resolved, the Municipal Council asked the consular body in Shanghai to send their protest to the Chinese authorities. The consular body, which consisted of the consuls of Britain, France, Germany, Russia, Italy, Sweden, and Belgium, discussed how to deal with the protest on October 23. However, the Western consuls did not understand that the conflict was the reflection of the clash between the economic principle of the Chinese mercantile people and that of the British merchants. Therefore, they did not regard the agenda as important, and the meeting did not bring about any effective result.

The Senior Consul, Dr. Lühsen of Germany, supported the opinion that the Chinese had a right to levy what taxes they liked and that the foreigners could not interfere with them; and he arbitrarily weakened the resolution and the complaint by omitting the arrests and seizures made by the *Lijin* runners without the cognizance and the cooperation of the Municipal Police. Although Alabaster and the French Consul, Kraetyer, insisted that they should make a stronger complaint, the con-

³¹. FO 228/805 Inclosure in Mr. Alabaster's No. 149 of October 26, '85; *ibid.*, Inclosure No. 1 in Mr. Alabaster's No. 150 of Oct. 29, '85; FO 228/1005 Shanghai Chinese No. 40 of 1885.

³². FO 228/805 Chal. Alabaster to N. R. O'Connor, No. 149, Oct. 26, 1885.

suls eventually decided to avoid raising such a political question as whether the collection of *Lijin* tax on opium in the International Settlement was illegal or not. They could at most send a strong complaint to the Daotai that they would withdraw the permission for the *Lijin* runners to enter the International Settlement if they should cause further troubles.³³

As a result, the complaint had no effect. The *Lijin* tax runners collected a reduced amount of the *Lijin* tax from those opium dealers who accepted to purchase opium from the members of the Swatow opium merchants' group. In addition, they harassed independent opium dealers by setting spies and watches around their shops, or seizing and questioning their agents and generally worrying them.³⁴ Warning of the dangerous effect of the action by the *Lijin* runners upon the self-government of the International Settlement, Alabaster persuaded Dr. Lühsen to withdraw permission for the *Lijin* runners to enter the International Settlement on November 2.³⁵

The *Lijin* runners continued to arrest holders of the opium on which the *Lijin* tax had not yet been paid. In order to maintain the privilege of monopolizing Indian opium sales by the members of the Swatow opium merchants' group in Shanghai, they strongly supported that the arrested Chinese should be tried only by the Chinese authorities, and that the opium of the arrested Chinese should be seized by the Swatow opium merchants' group. The Chinese side intended not only to eliminate the influence of the British Assessor but also to bypass the authority of the

³³. FO 228/805 Chal. Alabaster to N. R. O'Connor, No. 149, Oct. 26, 1885. Because of this opinion, he was criticized in the leading article of the *North-China Herald* ("Lekin Taxation in the Settlement," *NCH*, Nov. 11, 1885, 541-542).

³⁴. FO 228/805 Chal. Alabaster to N. R. O'Connor, No. 153, Nov. 5, 1885; *ibid.*, Inclosure 3 in Mr. Alabaster's No. 156 of Nov. 16 '85.

³⁵. FO 228/805 Inclosure in Mr. Alabaster's No. 153 of Nov. 5, 1885.

Municipal Police, and for this they enlisted help from a British barrister, W. V. Drummond.

Their first attempt appeared in the trial of a Chinese. He was arrested on November 9 on his way back to his opium den on Guangdong Road after he had purchased opium from a shop, which was nominally owned by a Briton named Nail. Since the opium bought from Nail was in the hands of the Municipal Police, Drummond, who conducted the prosecution, tried to wrest the opium from them. By claiming it necessary to present the opium as evidence, he persuaded Luo Jiajie to make a formal demand for the production of the opium. Also, some of the high officials connected with the Swatow opium merchants' group were reported to have visited Luo Jiajie before the trial of the case was opened. Because of the visit by the high officials, Luo evidently decided to keep the case in his own hands, and not to allow the prisoner to be turned over to the Municipal police.

Being aware of the intention of the prosecutor, Playfair opposed the order. However, since he was reminded that the assessor had no power to block the Mixed Court Magistrate's decision and action but could only protest, he had to countersign the official order to demand that the Municipal Police present the opium. Thus, the seized opium was handed over to the Mixed Court together with the arrested Chinese so that Luo Jiajie could hand it over to the Swatow opium merchants' group.³⁶

Learning the intention of the Swatow opium merchants' group and the local officials from the third case, the British side did not make the same mistake in the next case, that of a coolie named Li Aer 李阿二 who was accused of having a box containing five and a half balls of opium without paying the *Lijin* tax on them.³⁷ Although Li claimed that

³⁶. "Lekin Runners in the Settlement," *NCH*, Nov. 11, 1885, 557-558.

³⁷. The record of the fourth case is "Lekin Runners in the Settlement," *NCH*, Nov. 18, 1885, 584-585.

he was just an employee of Nail and the opium was Nail's property, he was arrested and the opium was confiscated. Nail petitioned Consul-General Alabaster to release Li Aer and to return the seized opium. Before the trial, Alabaster instructed the Municipal Police not to bring the case to the Mixed Court in the usual course, and requested the Shanghai Daotai, Shao Youlian, to release Li Aer and to return the opium.³⁸ As a result, at the trial of Li Aer on November 13, the Municipal Police did not present five balls of opium though they produced the half ball of it, and took Li Aer to the court. Although Drummond and Luo Jiajie made a formal demand to the Municipal Police to present the five balls of opium, the demand was not effective because Playfair refused to countersign it. In consequence, however, Luo Jiajie refused to attend trials at the Mixed Court with Playfair any more because his power was taken away by Playfair. Because of Luo's refusal, the Mixed Court was eventually forced to close.

Confronted with the trouble in the Mixed Court in addition to the action of the *Lijin* runners, Consul-General Alabaster decided to withdraw permission for the *Lijin* runners to enter the International Settlement. He proposed the withdrawal of the permission for the *Lijin* runners' entrance to the consular body on November 12,³⁹ and sent the second protest to Shao Daotai against the arbitrary closure of the Mixed Court by Luo Jiajie two days later.⁴⁰

His proposal was put into force and had a great effect.⁴¹ Shao Daotai replied with an apology and reprimanded Luo Jiajie. In return for that, however, he counterproposed that Alabaster bring Li Aer and the five

³⁸. FO 228/805 Inclosure 1 in Mr. Alabaster's No. 156 of Nov. 16 '85; FO 228/1005 Shanghai Chinese No. 42 of 1885.

³⁹. FO 228/805 Chal. Alabaster to N. R. O'Connor, No. 156, Nov. 16, 1885; *ibid.*, Inclosure 3 in Mr. Alabaster's No. 156 of Nov. 16 of '85.

⁴⁰. FO 228/805 Inclosure 2 in Mr. Alabaster's No. 156 of Nov. 16, 1885; FO 228/1005 Shanghai Chinese No. 43 of 1885.

⁴¹. FO 228/805 Chal. Alabaster to N. R. O'Connor No. 158, Nov. 19, 1885.

balls of opium in order to reveal whether the seized opium was the *bona fide* property of Nail or the illicit property of a Chinese to whom Nail had lent his name for legal protection.⁴² Alabaster accepted the Daotai's counterproposal on the condition that the Li Aer case should be settled between the Daotai and himself.⁴³ Thus, the attempts of the Chinese side to eliminate the influence of the British Assessor and to bypass the authority of the Municipal police ended in failure, and the Mixed Court was reopened. The Li Aer case and the *Lijin* tax in the International Settlement question were then determined by diplomatic negotiations.

The First Diplomatic Negotiations

The negotiations to settle the Li Aer case were held on November 20, 1885. Before the negotiations, Alabaster was aware that Nail was simply an agent of a Chinese opium dealer who had smuggled opium under the legal privilege of the British subject. However, in order to protect the legal rights of the International Settlement, he decided to defend Nail until he was proved to have committed any fraud by lending his name to Chinese smugglers.⁴⁴ Attending the negotiations, he noticed that Shao Daotai had no evidence to prove Nail's fraud or to justify the confiscation of Li's opium under the confiscation rules. By claiming that the Li Aer case should be tried under native jurisdiction because the opium was the *bona fide* possession of Li Aer, he merely tried to support the monopoly of opium trade by the Swatow opium merchants.

Alabaster insisted that since Nail and Li Aer were identical, it was therefore Nail that ought to be proceeded against in the British jurisdiction. Moreover, he proposed to Shao to handle the case under the con-

⁴². FO 228/805 Chal. Alabaster to N. R. O'Connor No. 157, Nov. 17, 1885; *ibid.*, Inclosure 1 in Mr. Alabaster's No. 157 of Nov. 17 '85; FO 228/1005 Shanghai Chinese No. 45 of 1885.

⁴³. FO 228/805 Inclosure 2 in Mr. Alabaster's No. 157 of Nov. 17, 1885; FO 228/1005 Shanghai Chinese No. 44 of 1885.

⁴⁴. FO 228/805 Chal. Alabaster to N. R. O'Connor, No. 158, November 19, 1885.

fiscation rules. Due to the lack of any evidence, Shao Daotai could make no effective argument against Alabaster's insistence, and in consequence, the negotiations to settle the Li Aer case ended in the victory of Alabaster at that moment.⁴⁵

Meanwhile, another diplomatic negotiation to settle the opium *Lijin* tax question was started in Beijing on November 19. The British minister, N. R. O'Connor, proposed to the Zongli Yamen that the *Lijin* tax should not be collected on opium stored and to be consumed within the International Settlement in Shanghai.⁴⁶ But the Zongli Yamen never yielded to O'Connor's request. Persisting in their interpretation of Article 28 of the Treaty of Tianjin, they emphasized that the exemption of *Lijin* tax could not be applied to opium even if it was stored within the International Settlement. Moreover, they pointed out that most opium within the International Settlement was taken away to the inland districts by native opium dealers. In order to avoid paying the *Lijin* tax, they inserted the opium among the other goods and surreptitiously conveyed it elsewhere. Even if it was found by the *Lijin* runners, they claimed it was to be consumed in the International Settlement. Based upon the above observation, the Zongli Yamen counterproposed to O'Connor that he instruct Alabaster to assist the *Lijin* runners in checking smuggling.⁴⁷ O'Connor, who demanded that the Zongli Yamen respect the self-government of the International Settlement, turned down the counterproposal of the Zongli Yamen.⁴⁸ Thus, the negotiations to settle the opium *Lijin* tax question in the International Settlement broke off at the first stage.

⁴⁵. FO 228/805 Chal. Alabaster to N. R. O'Connor, No. 160, November 21, 1885.

⁴⁶. FO 228/804 N. R. O'Connor to Consul Alabaster, No. 81 and No. 82, Nov. 23, 1885.

⁴⁷. Ibid.; FO 228/1023 Semi Official No. 102: Ministers of the Yamen to Mr. O'Connor, Dec. 1, 1885.

⁴⁸. FO 228/1023 Semi Official No. 99: Mr. O'Connor to Prince & Ministers, Dec. 7, 1885.

As for the Qing government officials or British diplomats, the negotiation could be postponed for the time being because the issue of the negotiation would automatically disappear when the Additional Agreement of the Chefoo Convention came into effect in March 1886. By contrast, as for the Swatow opium merchants' group, if the Additional Agreement were once to be put into effect without securing their privilege of monopolizing the opium trade, they could not maintain their solidarity. Therefore, besides the negotiations in Beijing, the leaders of the Swatow opium merchants started private negotiations.

Their object of the private negotiations was to maintain their monopoly over the opium trade based upon the economic principle that no one could claim the right of doing opium business without paying some sort of tax (even though which was not called *Lijin* tax) imposed upon it with the cooperation of British diplomats, mercantile firms or Western residents in the International Settlement in Shanghai. From the viewpoint of the Chinese side, it was an offer for compromise. On the contrary, from the viewpoint of the British side, it was nothing but a sort of bribe for denying their vital economic principle, free trade of Indian opium. Therefore it was quite natural that the following private negotiations ended in failure.

First, in order to ascertain his view on the *Lijin* tax problem, "Sung Pao-hua," who was recorded as a *Weiyuan* 委員 of the Swatow opium merchants organization, visited Alabaster on behalf of the official head of the organization. Alabaster pointed out a contradiction was contained in the Chinese-British Treaty of Tianjin, as follows: Whereas the treaty stipulated that the *Lijin* tax could be levied upon opium in the inland districts because the inward transit-pass charge could not be applied to it, it stipulated that no tax but only import duty strictly defined could be legally levied on any imported goods including opium in the port of

Shanghai. This being the case, where should the border line be drawn between the inland districts and the port of Shanghai? According to Alabaster, the range of the port of Shanghai was all the districts within a radius of thirty miles from the Custom House because it had been so defined by the Chinese Authorities during the Small Sword rebellion for the necessity of defense.⁴⁹ Basing himself on the above fact and on the interpretation of the Treaty of Tianjin, Alabaster refused to levy the *Lijin* tax upon the opium within the International Settlement.⁵⁰

Following the visit of "Sung Pao-hua," Tang Maozhi, who was the comprador of Jardine, Matheson & Co., and a director (*Dongshi* 董事) of the Swatow opium merchants' group whose name is not recorded in the sources came to see him. They only discussed the levy of the *Lijin* tax on opium consumed in the International Settlement. During the discussion, Tang suggested that he would change the former attitude of the Swatow opium merchants' group if the consular body and the Municipal Council assisted in preventing the evasion of payment of the *Lijin* tax on opium which was not consumed within the International Settlement. He promised that he would at once persuade the Daotai to make such a proposal to the consular body.⁵¹

Seeing Tang's suggestions during the private negotiations, Alabaster misinterpreted them as meaning that the Swatow opium merchants' group would withdraw the *Lijin* runners from the International Settlement. However, the Chinese side had by no means such an intention. In a despatch to the consular body on December 8, Shao Daotai firmly rejected any withdrawal of the *Lijin* runners from the International Settlement. He emphasized that the opium seized by the *Lijin* runners was smuggled by "native smugglers", and the foreigners

⁴⁹. Ueda Toshio (1941): 84-97.

⁵⁰. FO 228/805 Chal. Alabaster to N. R. O'Connor, No. 162, Dec. 5, 1885.

⁵¹. Ibid.

who alleged that they were the real opium-holders were actually the employees of the "native smugglers". As an example of his claim, he revealed the career of Nail who had been alleged to be the employer of Li Aer. Since it is a typical record of a British vagabond in China, it deserves to be introduced as follows:

Nail has never previously opened a foreign hong. He has been a clerk first in Lavers & Co., then in the Gas Works, and lastly in Hall & Holty, but in every case he gave way to drink and having no business capacity, was dismissed without having acquired any capital. From the 14th October he has been employed by two Chinese opium hongs "Chung Fou [Zhong Fu 中孚]" and "Ho T'ai [He Tai 和泰]," to pass through the Customs, clear and dispose of smuggled opium, for which he received a monthly salary of fifty-odd dollars. From the 14th October to 26th November he took delivery of 134 1/2 chests of smuggled opium, which fact can be verified. . . .⁵²

Nonetheless, Alabaster proposed to Tang Maozhi that he adopt a set of provisional rules for six months in order to settle the *Lijin* tax question and the "smuggling" within the International Settlement in favour of the Western residents. The set of rules, which consisted of four provisions, stipulated as follows:

(1) The consuls had no desire to prevent the Chinese from raising any revenue which did not interfere with foreign interests, but they could not be expected to countenance taxes which did so unless by special agreement of their governments. The consular body therefore would be notified of any *Lijin* it was proposed to collect, and the collection should not be insisted on if they protested.

(2) It was provided that the *Lijin* runners should be subordinated to the captain superintendent of the Municipal Police, that the runners should obey all orders they received from him, and that the captain superintendent should have the power summarily to dismiss any one of whose conduct he disapproved.

(3) All cases of alleged smuggling should be dealt with by the Mixed Court Magistrate and a foreign assessor. If they agreed the confiscation of the opium and the guilty of the arrested person, the opium

⁵². FO 228/805 Inclosure 1 in Mr. Alabaster's No. 166 of Dec. 28 '85; FO 228/1005 Shanghai Chinese No. 46 of 1885. Since the disclosure of Nail's career in the despatch, the disposal of Li Aer case was not referred to again in the negotiation.

would be handed over the *Lijin* office and the prisoner punished by the Mixed Court; otherwise, the prisoner should be released on bail and the opium returned on the owner's bond until the case has been reviewed by the Daotai and consular body and they had reached a decision.

(4) If a foreigner claimed ownership in the confiscated opium, the case should be tried in the first instance by the deputy of the consul of the nation interested sitting with the Mixed Court Magistrate, and that the appeal should be to the consul and Daotai.⁵³

It was apparent that the *Lijin* runners could neither have checked "smuggling" nor collected the *Lijin* tax within the International Settlement if the proposed set of rules, which gave prime consideration to the self-government of the International Settlement, had come into effect.

Therefore, Tang Maozhi was opposed to it. He claimed that it would be impossible to distinguish the opium consumed within the International Settlement from the opium which was to be taken out of the International Settlement, unless the direct collection of the *Lijin* tax from all the opium landed was allowed. He then counterproposed his own rules.⁵⁴ In his four counterproposals, he emphasized that since the *Lijin* tax had been collected only from the Chinese and had nothing to do with foreigners, the Chinese who evaded duty and "smuggled" opium should be arrested and sent to the Mixed Court for trial according to the regulations. Moreover, for the effective arrest and trial of "smugglers," he insisted on organizing the *Lijin* runners as an independent organization separate from the Municipal Police, and on the trial of the "smugglers" being conducted by the Mixed Court Magistrate without foreign assessors attending. Only in cases where the seized opium was claimed to be the *bona fide* property of a foreign merchant would he allow the

⁵³. FO 228/805 Inclosure 2 in Mr. Alabaster's No. 166 of Dec. 28, '85; FO 228/1005 Shanghai Chinese No. 47 of 1885.

⁵⁴. FO 228/805 Chal. Alabaster to N. R. O'Connor No. 166, December 28, 1885.

attendance of a foreign assessor, and an appeal to the Daotai and the consul of the concerned nationality.⁵⁵ Contrary to the set of rules by Alabaster, the above rules apparently infringed on the self-government of the International Settlement, by advocating the collection of the *Lijin* tax on opium and the trial of the "native smugglers" only by the Chinese. Since the basic preferences expressed in the rules were diametrically opposed, it was quite natural that the parties never reached mutual agreement.

After the negotiation with Alabaster had ended in failure, the Swatow opium merchants' group made two private offers to the four British opium importers and the Municipal Council in order to maintain the economic principle and their privilege of dealing with Indian opium. The first plan was offered to the four British companies which owned opium hulks, *i.e.*, Jardine, Matheson & Co., Cawasjee Pallanjee & Co., David Sassoon Sons & Co., and Elias David Sassoon Sons & Co. The offer made to these opium importers was to secure their monopoly of the opium sales in the International Settlement if the four companies agreed to share paying the *Lijin* tax on opium consumed within the International Settlement. As a reward for the offer, the Swatow opium merchants' group promised to pay the taxes on the opium consumed in the International Settlement, which was estimated at Tls. 120,000 per annum.⁵⁶ Receiving the proposal through W. V. Drummond on December 23, the Shanghai branch of Jardine, Matheson & Co. consented on the condition that the agreement, which was consented to by all the hulk owners, was effective for not less than five years, and that there were suitable guarantees for the payment of the money and the

⁵⁵. FO 228/805 Inclosure 3 in Mr. Alabaster's No. 166 of Dec. 28, '85; FO 228/1005 Shanghai Chinese No. 48 of 1885.

⁵⁶. FO 228/805 Chal. Alabaster to N. R. O'Connor No. 166 of Dec. 28, 1885; FO 228/836 Chal. Alabaster to N. R. O'Connor No. 2 of Jan. 15, 1886.

monopoly of the opium sales by the four companies in the port of Shanghai.⁵⁷

However, this proposal was not realized because of a clash between Jardine, Matheson & Co. and the other three companies. With regard to the dividend, David Sassoon Sons & Co. demanded to receive more than Tls. 30,000 of the consumption taxes within the International Settlement.⁵⁸ In addition, Jardine, Matheson & Co. and other three companies disagreed over the expiration of the agreement. While the three companies requested the agreement with the commercial organization of the Swatow opium merchants to expire after one year because the Additional Agreement must be put into effect, Jardine, Matheson & Co. desired it to be effective for not less than five years.⁵⁹

The Swatow opium merchants' group turned down these requests which were mutually contradictory.⁶⁰ As a result of this refusal, the four companies quit negotiating with Drummond. Neglecting his warning about the expiration of the agreement, Jardine, Matheson & Co. once again repeated their former requests and this brought an end to the negotiations.⁶¹

The second plan of the Swatow opium merchants' group was to request the Municipal Council to permit, and if necessary, to assist the opium runners' activities within the International Settlement in return for their paying Tls. 100,000 per annum. However, this plan met with the fierce opposition from most of the ratepayers in the International

57. "John Keswick to William Keswick," *JMA-PCLB* c41/8, Dec. 23, 1885. Other three companies also requested the guarantee for the monopoly ("Jardine, Matheson & Co. to W. V. Drummond," *JMA-UC* B7/37, letter 10767, Jan. 15, 1886).

58. "John Keswick to William Keswick," *JMA-PCLB* c41/8, Dec. 30, 1885.

59. "John Keswick to William Keswick," *JMA-PCLB* c41/8, Dec. 23, 1885; "David Sassoon Sons & Co., Elias David Sassoon & Co., and Cawasjee Pallanjee & Co. to W. V. Drummond," *JMA-UC* B7/37, letter 10764, Jan. 13, 1886.

60. "W. V. Drummond to Jardine, Matheson & Co.," *JMA-UC* B7/37, letter 10765, Jan. 15, 1886.

61. "W. V. Drummond to Jardine, Matheson & Co.," *JMA-UC* B7/37, letter 10766, Jan. 15, 1886; "Jardine Matheson & Co. to W. V. Drummond," *ibid.*, letter 10767, Jan. 15, 1886; "W. V. Drummond to John Keswick," *ibid.*, letter 10768, Jan. 22, 1886; "Jardine, Matheson & Co., to W. V. Drummond," *ibid.*, letter 10769, Jan. 22, 1886.

Settlement. For it would benefit neither opium importers nor the Indian government however it might bring about a great revenue for the Municipal Council. Moreover, although the income of the *Lijin* tax on opium consumed within the International Settlement could be estimated at Tls. 150,000 per annum, the plan offered to pay only two-thirds of it. Furthermore, for those who advocated the self-government of the International Settlement, the entrance of the *Lijin* runners into the International Settlement was by no means to be allowed.⁶²

Since it was no longer possible to collect the *Lijin* tax from the opium consumed within the International Settlement, the Swatow opium merchants' group attempted to keep the native dealers out of the International Settlement by arresting them for various reasons until they promised to pay the *Lijin* tax. This attempt eventually failed because Consul-General Alabaster strongly protested to the Daotai against such arrests, and the arrested native dealers were all released.⁶³ However, it did nothing to settle the question as to whether the collection of *Lijin* tax on opium in the International Settlement or the self-government of the International Settlement ought to be preferred.

Thus, the opium *Lijin* tax question had to be sent back to Beijing for negotiation between N. R. O'Connor and the Zongli Yamen yet again. At the second round of negotiations, it was the Zongli Yamen that initiated the bargaining. Relying upon the two detailed reports by Shao Daotai, the Zongli Yamen could prove how "shrewd opium smugglers" (*i.e.* non-members of the Swatow opium merchants' group) and foreign

⁶². FO 228/836 Chal. Alabaster to N. R. O'Connor No. 5 Feb. 13, 1886; "Opium Legin in the Settlement," *NCH*, Feb. 17, 1886, 165-166. Meanwhile, however, the *North-China Herald* recorded a correspondence which approved to accept the offer from the guild ("Legin on Opium: Merchant," *NCH* Feb. 17, 1886, 181).

⁶³. FO 228/836 Chal. Alabaster to N. R. O'Connor No. 5 Feb. 13, 1886; *ibid.*, No. 7, Feb. 18, 1886.

merchants took advantage of the alleged immunity of the opium from the *Lijin* tax within the International Settlement.⁶⁴

Reading the two reports,⁶⁵ O'Connor decided to compromise with the Qing government. He instructed Alabaster to assist the opium *Lijin* office managed by the Swatow opium merchants' group. Subsequently Alabaster reluctantly made a small but important retreat. Formerly he had claimed that the opium consumed within the International Settlement should be exempted from the *Lijin* tax. He now stated his new proposal to "Sung Pao-hua" that opium should be exempted from the *Lijin* tax as long as it was stored within the limits of the port.⁶⁶ This retreat meant that the *Lijin* tax, regardless of whether the opium was consumed within the International Settlement or not, was permitted to be levied on all the opium in the International Settlement at the moment it was brought out from storage. Therefore, the *Lijin* runners were permitted to collect the *Lijin* tax from the opium which importers had stored in the warehouses after they had paid the old rate of the Import Duty.

The importance of the small retreat was, however, not noticed by the Chinese side because Shao Daotai was ordered to go to Hongkong with Robert Hart in order to arrange the joint collection of import duty and the *Lijin* tax on Indian opium reimported from Hongkong to China.⁶⁷ After this, the Qing central government no longer assigned importance to the efforts of the leaders of the Swatow opium merchants' group to secure their privilege of monopolizing the opium trade. The negotiation between the British Consul-General and the Shanghai Daotai was thus

⁶⁴. FO 228/1027 Semi Official No. 16: Ministers of the Yamen to Mr. O'Connor, March 12, 1886.

⁶⁵. FO 228/1027 Inclosure in Semi Official No. 16 of Mar. 12, 1886: Letters from Daotai at Shanghai to Yamen.

⁶⁶. FO 228/836 Chal. Alabaster to N. R. O'Connor, No. 15 Mar. 13, 1886.

⁶⁷. FO 228/1026 Mr. O'Connor to Prince & Ministers of Zongli Yamen No. 3, Mar. 16, 1886. With regard to the Hongkong mission, see Wright (1938): 310-315; Waung (1977): 144-152.

suspended, and in consequence, the *Lijin* runners could neither collect *Lijin* tax nor arrest smugglers in the International Settlement. Since the Municipal Police frequently released "native smugglers" instead of sending them to the Mixed Court for trial, the "smuggling" increased again. Despite warnings and requests from the Swatow opium merchants' group and the Acting Shanghai Daotai,⁶⁸ the negotiation to allow the *Lijin* runners to enter into the International Settlement was not reopened until October 1886.

The Second Diplomatic Negotiations

The negotiations to resolve the opium *Lijin* tax question within the International Settlement reopened at the beginning of October 1886 when the new Shanghai Daotai, Gong Zhaoyuan 龔照瑗, received instructions from the governor of Jiangsu, Zeng Guoquan 曾國荃, to consult with the Western Consuls. Now that Western consuls no longer permitted the Swatow opium merchants' group to collect the *Lijin* tax on opium within the International Settlement, Zeng Guoquan decided to establish a special bureau for the same purpose under the supervision of the new Shanghai Daotai. In order to realize the plan, Gong Daotai visited Consul-General Alabaster, who was regarded as the chief obstacle in the way of the success of the special bureau, and asked him for help. Since Alabaster had been informed by Robert Hart that the Additional Agreement would be implemented within a month, he felt it too late to play a role in establishing the new bureau. However, considering the possibility of getting some control over the proposed bureau, he decided to cooperate with the Daotai.⁶⁹

⁶⁸ FO 228/836 Chal. Alabaster to N. R. O'Connor No. 25 of 1886, May 4, 1886; *ibid.*, Inclosure in Mr. Alabaster's No. 25 of May 4, '86; FO 228/1005 Shanghai Chinese No. 1 of 1886; "憲示照錄," *SB*, Aug. 7, 1886; "Proclamation Regarding Lijin on Foreign Opium," *NCH*, Aug. 13, 1886, 168.

⁶⁹ FO 228/836 Chal. Alabaster to John Walsham No. 58 of 1886, Oct. 12, 1886.

In answer to the Daotai's request, he drew up suggestions for collecting the *Lijin* tax on opium within the International Settlement; his suggestions consisted of eight rules.⁷⁰ To the great surprise of Alabaster, all of his proposals were accepted in the counterproposals by the Daotai except the request that the amount of the *Lijin* tax from opium before landing should be Tls. 66 per chest.⁷¹ As a result, the following system of collecting the *Lijin* tax on opium was arranged by the Daotai: (1) it was agreed that opium was not liable to the *Lijin* tax so long as it was kept within the International Settlement. In other words, once it left the International Settlement, it was liable to any tax imposed by the Chinese government and foreigners were not allowed to convey opium out of the International Settlement; (2) when foreigners went to the *Lijin* office and reported the volume and kind of opium before they had landed it from the opium hulks into the International Settlement, the office would issue a permit and send an officer on board the hulk to affix stamps charged at Tls. 66 per chest; (3) when they went to the *Lijin* office to report after they had landed opium in the International Settlement, the office sent an officer to affix a stamp at a total charge of Tls. 86 per chest of import duty and *Lijin* tax; (4) if the officers at the barriers found the imported opium was being conveyed outside the International Settlement without paying the duty and *Lijin* tax, they would charge the owners of the opium a fine of Tls. 10 per 100 catties in addition to the Tls. 86 of duty and *Lijin* tax, and the opium would be confiscated; (5) opium within the International Settlement which was suspected to have been smuggled could be seized and taken to the Municipal Police Station and the case brought to the Mixed Court. If the Mixed Court Magistrate and an Assessor disagreed in their judgement,

⁷⁰ FO 228/836 Inclosure No. 1 in Mr. Alabaster's No. 58 of Oct. 12, '86.

⁷¹ In his rule 5, Alabaster proposed the rate of inland tax to be collected from opium before landing should be 56 Haiguan taels (FO 228/836 Inclosure 1 in Mr. Alabaster's No. 58 of Oct. 12, '86).

the case would be investigated by the Shanghai Daotai and the Consul; (6) in order to prevent smuggling, transport of opium was prohibited at night; (7) the runners employed by the *Lijin* office within the International Settlement should be under the control of the Municipal Police.⁷²

It was apparent that all the requests from Western residents were accepted in the above system. In addition, the Daotai agreed to the reduction of import duty and *Lijin* tax if foreign merchants reported to the *Lijin* office before landing. Although the amount of deduction was less than originally demanded by Alabaster and the transportation of opium at night was prohibited, he supported the new opium *Lijin* tax collecting system.⁷³

However, the system was never fully implemented. After ten days, Gong Daotai sent a new version of the system for collecting *Lijin* tax on opium, which consisted of five rules, to the French Consul-General, who had taken over as the senior consul of the consular body in Shanghai.⁷⁴ It was the British Consul-General, P. J. Hughes, who had

⁷². FO 228/836 Inclosure No. 2 in Mr. Alabaster's No. 58 of Oct. 12, '86.

⁷³. FO 228/836 Inclosure No. 3 in Mr. Alabaster's No. 58 of Oct. 12, '86.

⁷⁴. Since the new rules were at first sent to the French Consul-General and circulated among the consular body by him, the text was translated into French as follows:

1. Après sur les droits sur l'opium auront été acquittés, l'opium sera timbré par un bureau établi par la taotai. Ce timbre tiendra lieu de reçu du paiement des droits.

Tout individu qui se présentera à un des octrois pour l'opium, établis en dehors des concessions, porteur d'opium non timbré par ce bureau sera arrêté et conduit au tribunal. Tout individu qui, sur les Concessions, cherchera à transporter de l'opium, sans avoir préalablement acquitté les droits, sera arrêté, incarcéré et traduit devant la Cour Mixte qui instruira l'affaire. Si les deux assesseurs sont d'accord ils prononceront la condamnation sans qu'il soit permis aux coupables d'en appeler. Si les deux assesseurs sont d'opinion différente, ils en référeront au taotai et au Consul qui jugeront en concert.

2. La police des concessions aura la haute main de la ferme de l'opium sur les employes seront les employés revués à la première plainte formulé contre eux par la Police des Concessions.

3. Il ne sera pas permis sur les Concessions de transporter de l'opium pendant la nuit. Tout individu arrêté dans de semblables conditions et sans avoir payé les droits sera traduit par la police devant la Cour Mixte qui le punira.

4. En dehors des Concessions l'opium qui ne portera pas le sceau des bureaux du taotai, et pour lequel les droits n'auront pas été acquittés, sera saisi; le porteur sera arrêté et conduit au tribunal ou il sera puni.

5. Tout opium portant le sceau du bureau du taotai pourra être transporté dans toute cette province sans qu'on puisse le soumettre à de nouveaux droits (FO 228/836 Enclosure No. 1 in Mr. Hughes' Despatch No. 65 of Nov. 3, 1886: Daotai's Despatch and Rules). Original Chinese text is recorded in FO 228/1005 Shanghai Chinese No. 4 of 1886.

substituted for Alabaster, who noticed discrepancies between the new system and the former one. The difference was the omission of the rate of *Lijin* tax to be collected. At the meeting of the consular body on October 30, they decided to ask the Daotai for further information.

When the Daotai visited Hughes privately, he said that the main reason for the omission was fear of outraging the Board of Revenue by specifying a different rate from the one prescribed in the regulations of the Board: Tls. 86 per chest.⁷⁵ In his report to John Walsham, Hughes suggested that the Daotai had been put under some pressure from the Board of Revenue through the Jiangsu Governor.⁷⁶ Thus the final effort by the Shanghai Daotai to establish a system to maintain the collection of *Lijin* tax on opium in the International Settlement without undermining the self-government of the International Settlement also ended in failure. It also meant that the Swatow opium merchants' group would inevitably lose their control over the opium trade once the Additional Agreement came into effect.

The Qing central government was not sympathetic to the Swatow opium merchants' group. As long as the increase of the revenue was secured, they did not consider the ill-effects of the Additional Agreement upon the solidarity of the Swatow opium merchants' group. Without considering the negotiations in Shanghai, they arbitrarily prepared to arrange the system for simultaneous collection of the import duty and *Lijin* tax. The attitude of the Qing central government became apparent when Robert Hart issued circular No. 352 on December 21, 1886. It stipulated that the imported opium stored in warehouses or receiving hulks could not be removed without paying the Tls. 30 per chest as im-

⁷⁵ FO 228/836 P. J. Hughes to John Walsham No. 65, Nov. 3, 1886.

⁷⁶ Ibid., At the end of this record, Hughes recorded that the Daotai "would endeavour to get his own scheme into working under in accordance with the instructions he had received from His Excellency the Governor [Zeng Guoquan]." However, Hughes did not record the content of the instructions from Zeng.

port duty, and Tls. 80 per chest as *Lijin* tax as it had been before the Additional Agreement was signed by the Qing central government and the British government. Moreover, it also stipulated that the Imperial Maritime Customs would charge Tls. 220 per picul on the opium brought out of warehouses or receiving hulks without permission from them.⁷⁷

Based upon circular No. 352, the commissioner of the Shanghai Customs requested the owners of opium hulks to apply for formal licenses which obliged the holders to pay Tls. 100 per annum.⁷⁸ Only at this time did the four prominent British opium importers become aware that the new rate of *Lijin* tax could be applied to the opium which had been stored before the Additional Agreement came into effect. On December 22, David Sassoon Sons & Co. and Elias David Sassoon & Co. expressed their concern for the above arrangement to the new British minister, John Walsham.⁷⁹ Probably because of the request from Walsham on behalf of the two companies, the Imperial Maritime Customs offered a slight concession. In circular No. 356 on January 20, 1887, they permitted a refund of the import duty and the *Lijin* tax collected from opium which was reexported to a foreign country if the importer submitted a claim to this effect to Beijing.⁸⁰ Yet it had virtually no effect on the simultaneous collection of the import duty and *Lijin* tax by the Maritime Customs. After ten days, H. Elgar-Hobson, the Commissioner of the Customs in Shanghai, issued customs notification No. 261, Article 7 of which caused a great sensation among the British opium importers:

⁷⁷. "Circular No. 352 (Second Series): Dec. 21, 1886," *CIMCSS No. 69, Vol. 1*, 512-513.

⁷⁸. FO 228/854 Enclosure No. 2 in Mr. Hughes Despatch No. 3 of Jan. 12, 1887.

⁷⁹. FO 228/854 P. J. Hughes to John Walsham, No. 3, Jan. 12, 1887; *ibid.*, Enclosure No. 1 in Mr. Hughes Despatch No. 3 of Jan. 12, 1887.

⁸⁰. "Circular No. 356 (Second Series): Opium: simultaneous collection of Duty and Likin; I.G.'s instructions respecting transaction of Opium business at the Custom Houses," in *CIMCSS No. 69, Vol. 1*, 515-516.

On all Foreign Opium which has arrived or shall have arrived in Shanghai, *and paid Duty but not Likin*, and been landed and stored in godowns prior to the 1st February 1887, owners will be permitted to pay at the Custom House the Treaty Likin of *Hk. Tls.* 80 per picul, from the 1st February to the 31st July next; and such Opium will thereupon have Duty-proof Stamps affixed to it, and will be entitled to be conveyed inland under Transit Certificate if desired. But if - from the 1st February to the 31st July next - Opium is removed from any godown without having paid Treaty Likin, or is found in circulation without the Customs Duty-proof Stamp affixed, it will be subjected to special Likin at the rate of *Hk. Tls.* 300 per picul; and after the 31st July any such Opium will be confiscated.⁸¹

Although Jardine, Matheson & Co. had tried to sell their stocked opium as soon as possible so that they could evade paying the new tax imposed by the Shanghai custom, they were surprised and indignant at Article 7. Because it ignored the extraterritoriality of the International Settlement. They requested the Senior Consul to "demand the Customs a clear explanation and what was meant by the Article 7 of the notification" through the Chairman of the Shanghai General Chamber of Commerce.⁸² As they planned, the Shanghai General Chamber of Commerce sent a letter to the consular body to enquire whether Article 7 of the customs notification No. 261 had the sanction of the representatives of the foreign government on February 1.⁸³ Beside the activities by Jardine, Matheson & Co., ten major opium importers led by David Sassoon Sons & Co. petitioned Consul-General Hughes to protest to Elgar-Hobson. They claimed the opium landed within the International

⁸¹. FO 228/854 Enclosure No. 2 in Mr. Hughes No. 8 of Feb. 3, 1887. This notification was apparently based upon the circular No. 358 circulated from Beijing on the same day, which was recorded in *CIMCSS No. 69, Vol. 1*, 521-527. The circular No. 357 seemed to be issued at the request of Li Hongzhang, who was asked to do so by the Shanghai Daotai. For fear of having the whole stock smuggled out of the foreign settlement before the simultaneous collection was started, Li asked the Zongli Yamen to instruct the Commissioners of the Customs to act as they were instructed on Jan. 26, 1887 ("直督李鴻章致總署請釐定洋藥稅緝私辦法電," *QJWJSL*, vol. 70, 1-2).

⁸². "John Keswick to J. B. Irving," *JMA-PCLB*, c41/9, Jan. 18, 1887; Jan. 31, 1887.

⁸³. FO 228/854 Enclosure No. 1 in Mr. Hughes No. 9 of Feb. 4, 1887, Feb. 1, 1887. This letter was published in the *North-China Herald* ("The Last Customs Notification," *NCH*, Feb. 9, 1887, 146).

Settlement should be exempted from any further taxation except the import duty.⁸⁴

Discussing the request on February 2, most of the consuls were aware that they were not sure whether the customs notification No. 261 was approved by their superiors in Beijing because they had no instructions. Therefore, they decided not to do anything unless the Qing local authorities interfered with the movement of duty-paid opium within the International Settlement, and replied so to the Chamber of Commerce on February, 4. Their lukewarm attitude was due to the optimistic supposition that Elgar-Hobson would not interpret the notification so strictly as foreign merchants complained.⁸⁵

In fact, however, the attitude of the Qing central government and the Imperial Maritime Customs was far from what they expected. The Zongli Yamen reconfirmed that the new rate of *Lijin* tax could be levied on opium which had been imported before February 1, and that the punishing charge of Tls. 300 per picul would be charged on opium owners who did not pay the amount necessary to compensate for the new rate of import duty or Tls. 80 to the Maritime Customs.⁸⁶ Since the above arrangement was based upon the Additional Agreement, the foreign ministers had no way to intervene on behalf of the Shanghai General Chamber of Commerce.⁸⁷ The opium merchants who had stored much opium before the rate of the import duty was raised had to

⁸⁴. FO 228/854 Enclosure No. 1 in Mr. Hughes' No. 8 of Feb. 3, 1887, Feb. 2, 1887. The names of the opium merchants were David Sassoon Sons & Co., Ebrahimhoy Pabaney, Tharia Topan, A Ebrahim & Co., S. J. David & Co., W. H. Silas, Elias David Sassoon & Co., Teaac (sic) Ezra & Co., Cawasjee Pallanjee & Co., Tata & Co., Taviabhoy Peerbhoy & Co.

⁸⁵. FO 228/854 P. J. Hughes to John Walsham No. 9, Feb. 4, 1887; *ibid.*, Enclosure No. 2 in Mr. Hughes No. 9 of Feb. 4 1887. This letter was also published in the *North-China Herald* ("The Last Customs Notification," *NCH*, Feb. 9, 1887, 146).

⁸⁶. FO 228/1032 Prince and Ministers of the Zongli Yamen to Sir John Walsham No. 3, Feb. 6, 1887 and No. 4, Feb. 14, 1887. The strong attitude was influenced by Li Hongzhang who insisted the rigid taxation from the stored opium and the surveillance to check smuggling ("直督李鴻章致總署請釐定洋藥稅緝私辦法電," *QJWJSL*, vol. 70, 1-2). Later, Chinese newspaper "Hubao," disclosed the confidential telegram between Li and the Zongli Yamen (FO 228/854 Enclosure No. 1 in Mr. Hughes' No. 13 of Mar. 2, 1887).

⁸⁷. FO 228/854 P. J. Hughes to John Walsham, Feb. 7, 1887.

select one of the three choices offered by customs notification No. 262: to pay the old rate of the import duty but not to be entitled to the exemption of further tax; to pay the new rate of the import duty and thereby secure the exemption of further tax; or to pay any rate of *Lijin* tax the Chinese authorities saw fit to assess at the customs or any Chinese Yamen in any place.⁸⁸

Aftermath and Analysis

When the Additional Agreement came into effect in March 1887, the control of the Swatow opium merchants' group over the opium trade was removed. Nevertheless, it did not bring about the "free trade" condition as British merchants expected. Instead, it only brought about confusion in the tax collection and the distrust between the British and Chinese opium merchants.

Since the opium merchants could not gain any profit if they sold the stored Indian opium paying the heavy *Lijin* tax of Tls. 80 per picul, they neglected Article 7 of the customs notification No. 261 and sold it within the International Settlement without paying the higher *Lijin* tax. In consequence, not only the Imperial Maritime Customs but also the Qing local government officials could not collect *Lijin* tax from the stored Indian opium, because the Qing local officials and the leaders of the Swatow opium merchants' group could no longer send opium runners into the International Settlement. For fear of letting the stored Indian opium consumed without collecting the *Lijin* tax, the Zongli Yamen and the Qing local government officials attempted to make Chinese merchants sell the stored Indian opium outside the International

⁸⁸. FO 228/854 Inclosure in Mr. Hughes' No. 22 of March 23, 1887.

Settlement by imposing the far less rate of Tls. 37.5 upon it.⁸⁹ However, their attempts had no effect.

Moreover, after the control of the Swatow opium merchants' group over the Indian opium trade collapsed, the sales of the stored Indian opium within the International Settlement only broke the trust between the British and the Chinese merchants. Although British merchants could not discern which Chinese merchants were reliable, they had to make sales by trusting only an oral promise or the signature of a purchaser with little capital. Accordingly, civil cases between British and Chinese merchants frequently occurred in the opium trade as recorded in a despatch from Gong Daotai to Consul-General Hughes on March 29, 1890 as follows:

The manner of doing business in Malwa opium is still more hap-hazard, no date even being fixed for taking delivery. When the opium arrives, the purchaser, influenced by the fluctuations in the market, delays to take delivery, and hence have arisen an endless succession of cases in the Mixed Court. The Chinese merchants on such occasions all prove to be persons merely acting for others for a commission, being what are commonly called middlemen. Those who sign in the name of their own firms vary greatly in the matter of the amount of capital at their disposal, but this is a matter into which the foreign merchants do not trouble themselves to enquire. . . . The foreigner in these cases having had the goods too long on his hands, applies to the Mixed Court for authority to dispose of them to other buyers, and claims compensation for loss, - insurance, godown-hire, and interest being added and making his claim considerably larger. . . .⁹⁰

As remedies for the troublesome condition, the Daotai suggested that "some person of substantial means be invariably provided as security; or that, in proportion to the ascertained value of the merchandise, a certain

89. "江督曾國荃致總署詢新章未定以前滬存洋藥辦法電," *QJWJSL*, Vol. 70, 26; "總署致曾國荃規定洋藥土膏稅釐辦法電," *ibid.*, Vol. 70, 27; "滬道龔照瑗致總署存棧補半釐洋藥可否照稅司辦法乞示電," *ibid.*, Vol. 71, 2; "總署致龔照瑗完稅存棧洋藥照新章辦理電," *ibid.*, vol. 71, 2.

90. "Business Contracts between Foreign and Chinese," *NCH*, May 23, 1890, 645-646. Similar article is available in *Shenbao* ("論通商," *SB*, Sep. 6, 1890). Since neither the translation of the Chinese despatch nor any other sources recorded the content of the seven and any other cases, it could not be known what kinds of conflicts took place.

sum of money be always paid down on closing the bargain; and that a date should be fixed for taking delivery, which neither party may exceed.”⁹¹

British Consul-General Hughes transmitted these proposals to John G. Purdon, who was the chairman of the Shanghai General Chamber of Commerce. After the careful consideration by the committee, however, they turned down these proposals. It was beyond their power to formulate rules which bound foreign merchants in dealing with the Chinese merchants. The foreign merchants could not eventually improve the problematic condition of the opium trade by themselves.

However, the most important factor of the opium trade conflict from 1885 to 1887 was the unique attempt of some Chinese merchants recorded as “native smugglers.” As Shao Youlian criticized in his report, non-members of the Swatow opium merchants’ group employed some foreign vagabonds to be nominal owners of imaginary foreign hong, and attempted to sell Indian opium without paying the *Lijin* tax.⁹² Although sources recorded only a few specific examples of the “native smugglers,” such as Zhang Asi or the unknown Chinese merchant who employed Nail, many Chinese opium merchants who were non-members of the Swatow opium merchants’ group, carried out the sales of Indian opium without paying the *Lijin* tax in the International Settlement by pretending to be the pseudo employees of foreign vagabonds. Since their activity apparently breached the economic principle of Chinese merchants that no one could claim the privilege of doing business without paying the *Lijin* tax imposed upon it, the *Lijin* runners and the Qing local government officials persistently tried to prohibit their business.

⁹¹ Ibid.

⁹² FO 228/1027 Shao Youlian to the Zongli Yamen: Enclosure in Semi Official No. 16 of Mar. 12, 1886.

Just as the Xue Nanming and other landlords in the Jiangsu silk producing districts were attracted to Xu Hongkui and other compradors for sharing the "institutional privilege" of using outward transit-passes with them, the "native smugglers" were attracted to the foreign vagabonds for obtaining the "institutional privilege" of doing Indian opium trade without paying the *Lijin* tax. As long as they were nominal employees of the foreign vagabonds, they could sell Indian opium at the lower prices without paying the *Lijin* tax in the International Settlement. Unfortunately for them, however, this method was effective only within the International Settlement until the whole stored Indian opium was consumed, they could not maintain their own commercial organizations.

The pattern of the behaviour of some Chinese merchants or landlords, which are dealt with in Chapter 2, Chapter 3, and this chapter, clearly proved that it could not be impartially accounted for only from the viewpoint of the British mercantile firms. British mercantile firms were quite ignorant about the economic principle which disciplined Chinese merchants' groups. They were completely unaware that they could undermine the solidarity of prominent Chinese merchants' groups if they could properly grant their "institutional privileges" of doing business without paying the *Lijin* tax to some cooperative Chinese merchants or protecting their property from bankruptcy.

Therefore, until 1888, it was not British mercantile firms but the Chinese merchants who cooperated with them that took the initiative in proceeding the conflicts over foreign silk filatures, the black-tea trade to England, and Indian opium sales in the International Settlement. For the numerous Chinese merchants, the wealthy British or any other foreign mercantile firms and even an alcoholic British clerk were their new patrons who granted them a sort of "institutional privilege" to ensure their privilege of doing business without paying the *Lijin* tax. They

could select the Qing local governments or foreign merchants as their patrons of their privilege of doing business. Just as in the case of silk cocoon purchase or Indian opium sales, when the foreign merchants or even a foreign vagabond could grant them the privilege of doing business without paying the *Lijin* tax, they easily cooperated with them. On the contrary, as in the case of tea trade, if foreigners could not grant them such privilege, Chinese merchants chose to be under the control of the prominent Chinese merchants' groups and the Qing local government officials.

What was more important was that neither British mercantile firms nor the Qing government officials were aware the meaning of the Chinese merchants' behaviour at least until 1888. It meant that whoever noticed it first could get the superior position in controlling the Chinese merchants. And as the fact indicated, it was British mercantile firms that noticed it first. The final two chapters will reveal when and how they noticed it, and what happened as a result it.

Chapter 5

The Changed Situation, 1888-1903

The Outward Transit-Pass Question, 1889-1903

The incident that made British merchants and diplomats aware of the effect of the outward transit-pass system on the Chinese merchant organizations was the cotton-ginning factory question in 1888. The origin of this issue was the attempt of a Japanese mercantile firm, Mitsui Bussan 三井物産, to export Chinese raw cotton to Japan. Since the Zongli Yamen had easily prohibited a similar plan by other Japanese merchants in 1887, Mitsui Bussan cooperated with a British mercantile firm, Boyd & Co., to establish the Cotton Cleaning and Working Company Limited and registered it in Hongkong so that the Qing government officials could not easily interfere with their enterprise. Through the enterprise, Mitsui Bussan and Boyd & Co. established a cotton-ginning factory capable of producing 6,400 pounds per day in 1888.¹

According to the prospectus of the Cotton Cleaning and Working Company Limited, it planned to produce not only cleaned and ginned cotton but also cotton, flax, hemp, and silk yarn and cloth, for export to China, Hongkong, Japan, Korea, and Philippine in the future.² Since few records concerning the raw-cotton purchasing activities of the Cotton Cleaning and Working Company Limited survived, it is impossible to know where and how the factory purchased raw cotton in the interior district. However, they might well have had a comprador or a cooperative Chinese merchants' group purchase raw cotton in the interior districts in return for providing them with outward transit-passes.³ Just as

¹. Hatano (1961): 376, 385-394; Takamura (1982): 45-46. With regard to the whole course of the diplomatic negotiation to settle this issue, see Motono (1992b).

². FO 228/880 Enclosure 3 in Mr. Hughes' Despatch No. 12, Shanghai, 26 April 1889.

³. As an evidence for the hypothesis, George Jamieson, who was the first commercial attaché of the British embassy, reported that a British mercantile firm, Ilbert & Co., used outward transit-passes in

the Ewo and other foreign silk filatures had been doing since 1881, the cotton-ginning factory unconsciously granted cooperative Chinese raw cotton merchants with the "institutional privilege" of using outward transit-passes. Due to the outward transit-pass privilege, Chinese merchants could evade paying the *Lijin* tax provided they were dealing in raw cotton on behalf of the Cotton Cleaning and Working Company Limited. Just like Ewo Filature and the landlords in the Jiangsu silk-producing districts, the cotton-ginning factory and its cooperative Chinese merchants' group were linked through the "institutional privilege" of using outward transit-passes. It apparently breached the rule of the Chinese merchants' organization that no one could claim the privilege of doing business without paying the *Lijin* tax imposed upon it.

It was therefore quite natural that the Qing government officials should have interfered with the Cotton Cleaning and Working Company Limited. Just as in the case of the foreign silk-filature question, the Shanghai Daotai, Gong Zhaoyuan 龔照瑗, tried to prohibit the factory, giving as his nominal reasons that foreign merchants were not allowed to set up machinery for changing the nature of native goods, and that the factory breached the monopoly of cotton cleaning industry enjoyed by the Shanghai Cotton Cloth Mill (*Shanghai Jiqi Zhibuju* 上海機器織布局).⁴ By putting forward these reasons, it may be suspected that he was trying to keep the effect of the outward transit-pass system on the Chinese merchants' organizations a secret.

However, since the connection between the cotton-ginning factory and its cooperative Chinese merchants' groups did not include a man of political influence like Xue Nanming, the diplomatic negotiation did not

purchasing raw cotton to be exported in 1895 (FO 228/1198 G. Jamieson to N. R. O'Connor No. 56, Sep. 9, 1895).

⁴ FO 228/866 Enclosure No. 1 in Mr. Hughes' Despatch No. 27 of 6th August 1888; FO 228/1031 Shanghai Chinese No. 1 of 1889.

settle the issue soon. Despite the repeated request from Gong Daotai to prohibit the cotton-ginning factory, Boyd & Co. and the British Consul-General, Patrick J. Hughes, did not yield to his request. By clinging to the Western diplomats' interpretation that Article 7 of the Chinese-French treaty of Tianjin, Article 11 of the Chinese-Belgian treaty, and Article 6 of the Chinese-German treaty instead, they persistently claimed the right of opening manufactures.⁵

The Qing local government officials made another attempt. They had planned to monopolize the modern cotton-ginning industry by means of the Shanghai Cotton Spinning Company, which was a branch of Shanghai Cotton Cloth Mill.⁶ Nonetheless, this attempt eventually ended in failure. In order to monopolize the modern cotton-ginning industry, the Shanghai Cotton Spinning Company had to order the Chinese raw-cotton merchants to purchase raw cotton on their behalf. For the Chinese raw-cotton merchants, however, the order was nothing but a nuisance.

The reason why the Chinese raw-cotton merchants cooperated with the cotton-ginning factory of the Cotton Cleaning and Working Company Limited was that they could use the outward transit-passes to protect their sales profits from the *Lijin* tax collection. If they had no choice but to sell their raw cotton to the Shanghai Cotton Spinning Company, they had to pay the *Lijin* tax again because the Shanghai Cotton Spinning Company did not provide them with outward transit-passes. Once they had appreciated the effect of using outward transit-passes, the Chinese raw cotton merchants would no longer yield to the Qing local bureaucrats. They complained to Liu Kunyi 劉坤一, who

⁵. FO 228/866 Enclosures 2 to 5 in Mr. Hughes' Despatch No. 27 of 6th August 1888; FO 228/1031 Shanghai Chinese No. 2, No. 3, No. 4 of 1889.

⁶. FO 228/866 Enclosure No. 1 in Mr. Hughes' Despatch No. 27 of 6th August 1888; FO 228/1031 Shanghai Chinese No. 1 of 1889.

was then the Liangjiang Viceroy 兩江總督, and to Gong Daotai about the interference with their business.⁷

This complaint by the Chinese raw-cotton merchants was an extraordinary revolt against the Qing local bureaucrats because it apparently disagreed the discipline structure that linked the Qing local bureaucrats and Chinese merchants: the Qing local bureaucrats granted Chinese merchants the privilege of doing business in return for which the Chinese merchants paid the *Lijin* tax. In ordinary cases, the Qing local bureaucrats could deprive disobedient merchants of their privilege of doing business by refusing their payment of the *Lijin* tax through the merchant organization. However, the Chinese raw-cotton merchants no longer feared the Qing local bureaucrats at this time, because they could do business without paying the *Lijin* tax, owing to cover provided by the Cotton Cleaning and Working Company Limited.

Liu Kunyi and Gong Zhaoyuan must have been appalled at the protest by the Chinese raw-cotton merchants. By accepting that the factory of the Shanghai Cotton Spinning Company would consume not more than one-tenth of the total product of raw cotton in the Shanghai district, they had tacitly to abandon the plan of monopolizing the raw cotton crop in the Shanghai district. Their official replies were published in the advertisement of the Chinese newspaper, *Shenbao*, on October 3 and 4 in 1888.⁸

British mercantile people and diplomats were also interested in the advertisement on *Shenbao*. The British consulate in Shanghai translated their replies into English and reported to the British Minister in Beijing, and another English translation of their official replies was published in

7. FO 228/866 P. J. Hughes to John Walsham, No. 36, October 8th, 1888. The content of their complaint was not recorded in any sources.

8. "照錄兩江督憲批," "照錄江海關道批," *SB*, Oct. 3, 4, 1888.

the *North-China Herald*.⁹ Analyzing the meaning and the social background of the official replies by Liu Kunyi and Gong Daotai, foreign mercantile people and British diplomats became aware the effect of the outward transit-pass system on the Chinese merchant organizations. Except for this incident, no other incident took place of such a nature as to make them aware of it in that year. Together with the English translation of the official replies by Liu Kunyi and Gong Zhaoyuan, the information that British mercantile firms could undermine the commercial organizations of Chinese merchants and control Chinese merchants if they only used the outward transit-pass system must have been disseminated throughout the whole treaty-ports world in China.

The effect of this information became apparent in the trading season of 1889. British mercantile firms eagerly applied for outward transit-passes and distributed them to the Chinese merchants who cooperated with their purchase of native goods in the interior districts. What took place in consequence may be seen in the official complaint made by the Jiangsu Governor-General, Gangyi 剛毅, and by Gong Daotai concerning the diminution of the *Lijin* tax revenue in Shanghai and Suzhou districts in November 1889. At that time, they were nonetheless still quite optimistic. They attributed the decline in the *Lijin* tax revenue to the "unscrupulous" native merchants who applied for outward transit-passes under the names of their foreign employees or counterfeit foreign mercantile firms. According to them, these native merchants escaped paying the *Lijin* tax by using the outward transit-passes when they brought native goods from the interior districts to Shanghai.

In order to repress such illicit activities and to discover counterfeit foreign mercantile firms in the International Settlement, Gangyi at first

⁹. "Notes from Native Papers," *NCH*, Oct. 12, 1888, 414-415; FO 228/866 Enclosures No. 1 & 2 in Mr. Hughes Despatch No. 36 of October 8th, 1888.

instructed Gong Daotai to adopt proper measures after consulting with foreign consular representatives. Therefore, Gong Daotai requested British Consul-General, P. J. Hughes, to provide him with full particulars as to the number of *bona fide* British mercantile firms, their business style or appellation, and the names of their partners or managers. Moreover, he asked Hughes to have the other consular representatives make similar enquiries, and to send him similar information on the non-British mercantile firms.¹⁰

Although Hughes provided the Daotai with the requested information in his reply, he did not acknowledge the claimed abuse of outward transit-passes by "unscrupulous" Chinese merchants. As evidence, he quoted the Shanghai Customs Returns of 1888, which calculated that Tls. 31,891,475 of native produce of local origin was brought to Shanghai by native merchants, who must have paid the *Lijin* tax *en route*; whereas only Tls. 911,985 of native produce was recorded as subject to Transit Dues which had been paid to the Shanghai Customs (*i.e.*, brought to Shanghai under the protection of outward transit-pass) (see Table 5-1). The only goods recorded in the Customs Returns for which outward transit-passes were issued to foreigners in the same year were 209 piculs of silk cocoons from Suzhou.

Basing himself on these facts, Hughes insisted that the reduction of the *Lijin* tax revenue was due to embezzlement by the officers in the barrier stations. He counterclaimed that the diminution of the *Lijin* tax revenue was due to the large expenses for employing excessive numbers of officials, clerks, and runners at the barrier stations. In order to reduce these heavy expenditure, he proposed to abolish most of the barrier stations and to reduce the numbers of the officials. Moreover, he suggested that

¹⁰. FO 228/880 Enclosure 1 in Mr. Hughes' Despatch No. 31, Nov. 3, 1889; FO 228/1031 Shanghai Chinese No. 7 of 1889.

outward transit-passes for native produce should be issued to Chinese merchants as freely as to British merchants. By doing so, he emphasized that the payment of the *Lijin* tax on native produce could be simplified, whether it was directly paid to the Imperial Maritime Customs as "Transit Duty" or indirectly paid to the local governments as *Lijin* tax, and thereby the *Lijin* tax revenue could be remarkably increased.¹¹

Three facts can be pointed out by analyzing Hughes' reply. First of all, by claiming he had been informed of none of the alleged irregularities by Chinese merchants, Hughes indirectly admitted that the British merchants were aware the effect of outward transit-passes on Chinese mercantile society, which had caused the sudden increase of the numbers of outward transit-passes issued.

Table 5-1: Value of Native Products conveyed to Shanghai for which Outward Transit-pass application were made in 1888.

Value	Tael
Value of Exports of Local Origin, Exclusive of Imports from other Chinese ports	32,803,463
Value of Native Produce on which Transit Duty was paid to the Customs at Shanghai (<i>i.e.</i> conveyed under outward transit-pass)	911,985
Value of Native Produce Native Merchants conveyed to Shanghai without Outward Transit-pass	31,891,478

Source: FO 228/880 Enclosure 2 in Mr. Hughes Despatch No. 31 Mar. 16, 1889.

Furthermore, Hughes was guilty of a trick in quoting the Shanghai Customs Returns. As Table 5-1 clearly indicates, Hughes assumed that outward transit-passes were not issued for "Exports of Local Origin, Exclusive of Imports from other Chinese ports" except the items recorded as "Native Produce on which Transit Duty was paid to the Customs at Shanghai." However, this was bogus. Whoever transacted it, he could not export native produce abroad without paying the export duty, and the *Lijin* tax or one-half export duty unless he was a smuggler. When a native merchant conveyed native produce under outward-transit passes and exported it abroad, the Maritime Customs did not pay

¹¹. FO 228/880 P. J. Hughes to John Walsham No. 31, Nov. 16, 1889; *ibid.*, Enclosure 2 in Mr. Hughes' Despatch No. 31, Nov. 11, 1889; FO 228/1031 Shanghai Chinese No. 8 of 1889.

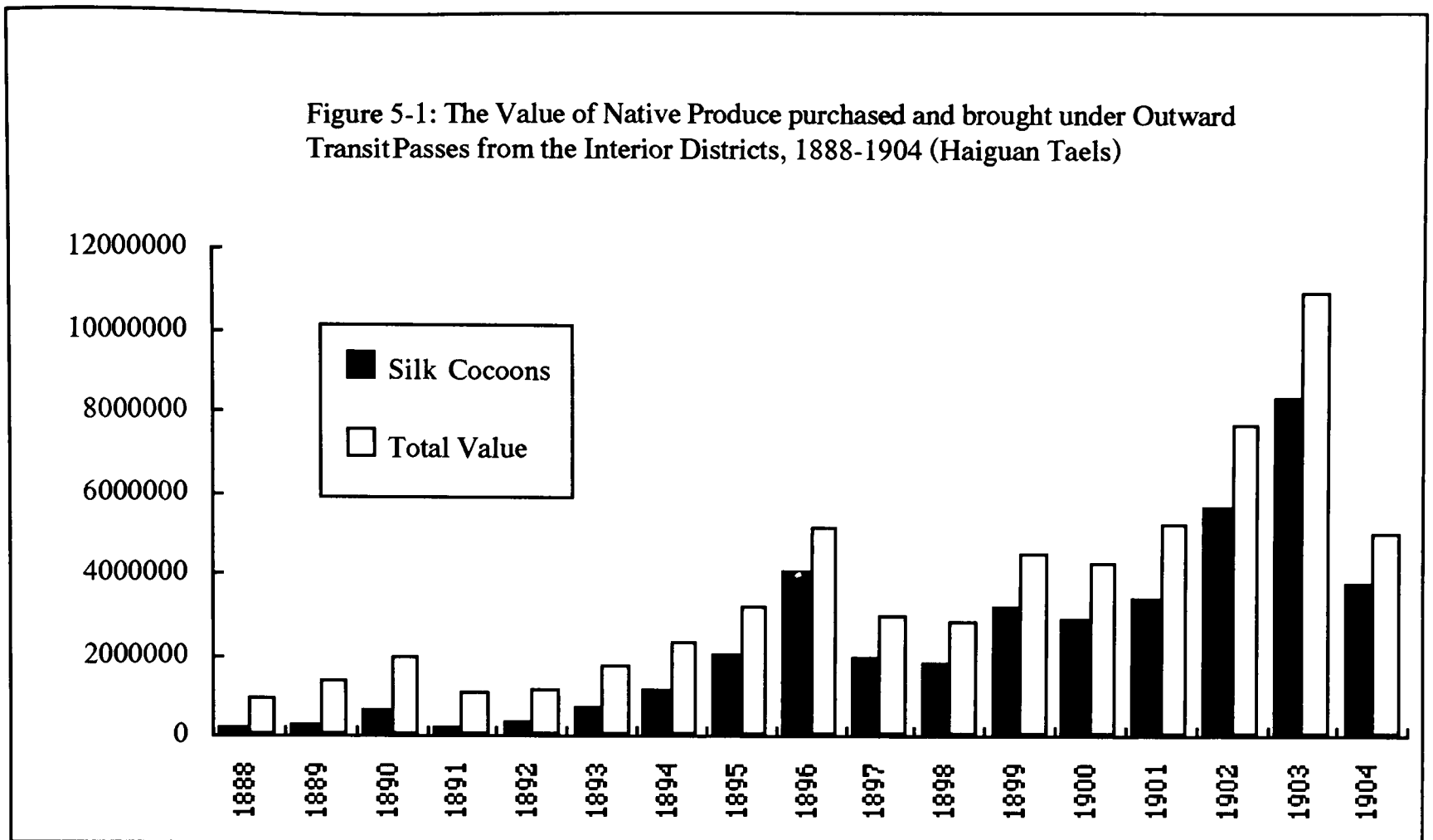
attention to the items, the amount, and the value of such items because the native merchants paid the export duty and the *Lijin* tax or one-half export duty.

However, although all the native produce for which outward transit-passes were issued should have been exported abroad, some of it was not. When some native produces were not exported abroad though they were conveyed to Shanghai under outward transit-passes, the Maritime Customs made the record of the items, the amounts, and the value of these native produces because the Maritime Customs could not collect the export duty from such native produces. Therefore, what Hughes quoted as the "Value of Native Produce Native Merchants conveyed to Shanghai without Outward Transit-Pass" should be regarded as the value of native produce exported abroad after native merchants paid the export duty and the *Lijin* tax or one-half export duty.

What Hughes mentioned as "Native Produce on which Transit Duty was paid to the Customs at Shanghai" was merely the items of native produce which was not exported abroad but consumed within Shanghai. Needless to say, the typical item of native produce purchased under outward transit-passes and consumed within Shanghai was silk cocoons as shown in Figure 5-1. The Shanghai Decennial Report described the phenomenon as follows:

A decided change has taken place during the period in the character of the Transit trade, *viz.*, a decrease in the amount of traffic inward contemporaneously with a marked increase in the value of the products brought down under *San-lien-tan* . . . the causes producing them may, in some cases, be directly traced to alterations in the rules governing the trade, and in others, to extraneous events having a direct bearing upon it. For instance, the sudden expansion of the outward trade in 1896 is due, almost entirely, to the Cocoons brought from this province [*i.e.* Jiangsu] and from Chehkiang [Zhejiang] into

Shanghai for use in the steam filatures, which were then running to their full capacity.¹²



Source: Shanghai Maritime Customs Returns, 1888-1904.

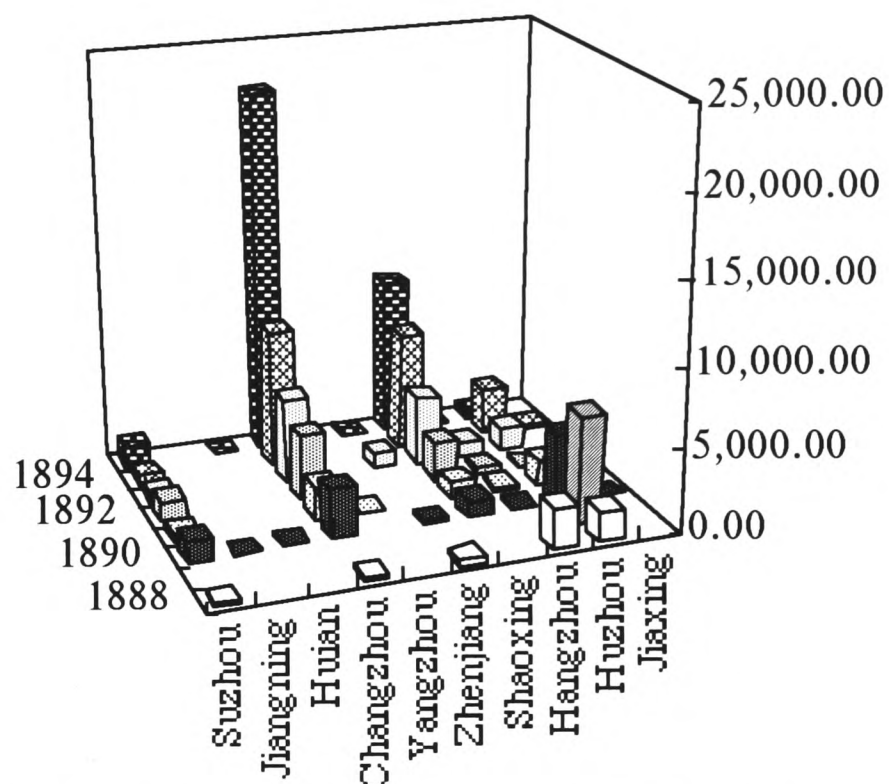
Because of the above reason, the Chinese merchant organization that cooperated with foreign mercantile firms for purchasing silk cocoons was the largest and in fact the only merchants' group the development of whose network in the silk-producing districts of Jiangsu and Zhejiang provinces we can trace with the available sources. Figure 5-2 is a record of where and how many silk cocoons were purchased and brought to Shanghai under outward transit-passes. It clearly corroborates the record of the places where Xu Hongkui purchased silk cocoons for Ewo Silk Filature between 1888 to 1894 and the amounts (see Figure 5-3).

These figures reveal the process where and how the commercial network between foreign mercantile firms and Chinese merchants and their cooperative landlords tied in with outward transit-passes developed in Jiangsu and Zhejiang silk producing districts. Figures 5-2 and 5-3

¹². Chinese Imperial Maritime Customs, *Decennial Report, 1892-1901*: 473-474.

clearly showed that the network of the commercial organization of Chinese merchants who cooperated with foreign mercantile firms reached Shaoxing in the early 1890s. They indicate that the commercial organization of Chinese merchants who cooperated with foreign mercantile firms undermined the network of the Shanghai Silk Guild, which was the commercial organization of Zhejiang merchants.

Figure 5-2: The Amount of Silk Cocoons purchased under Outward Transit Passes and the Names of Cocoon Producing Districts (Piculs)

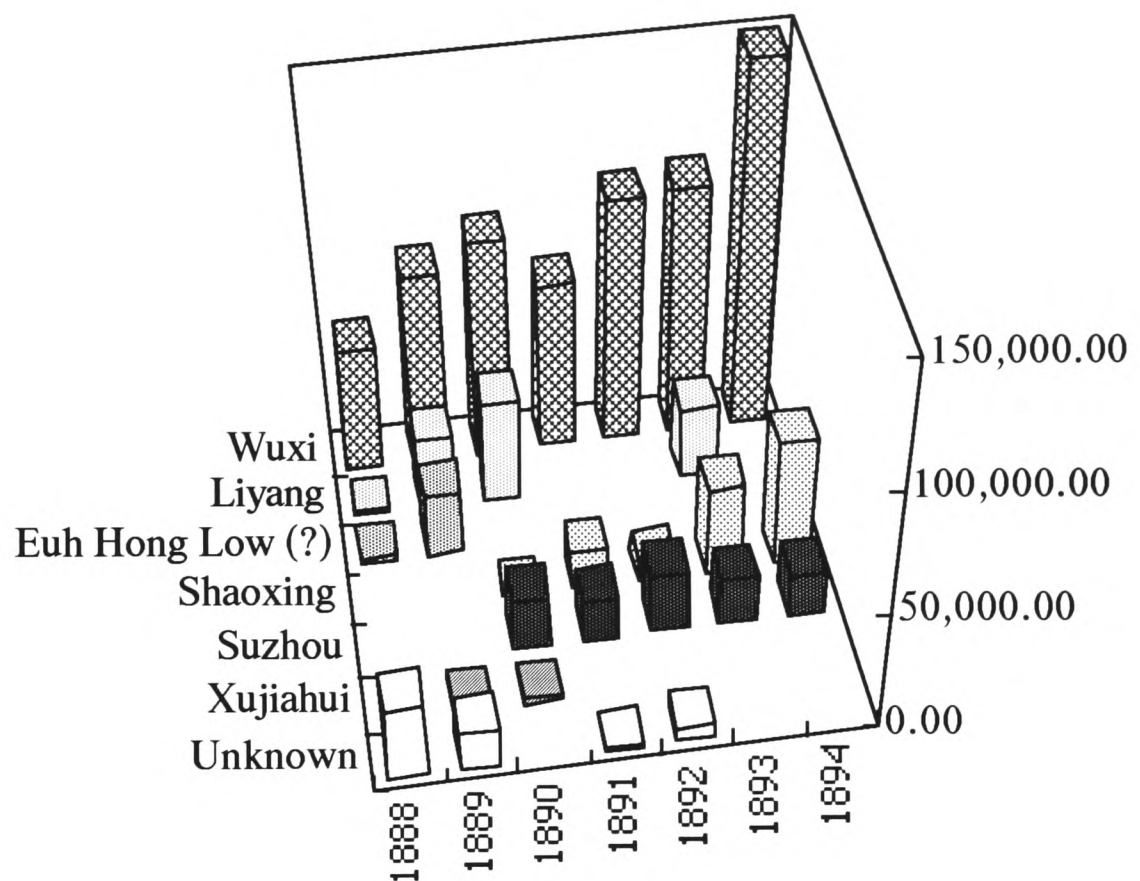


Source: Imperial Maritime Customs Returns, *Returns of Trade and Trade Reports, Shanghai, 1888-1904*.

From an article in *Shenbao* dated April 10, 1894, we can see what happened in the Shaoxing silk-producing districts in the early 1890s. According to the article, although peasants in Sheng 嵊縣 county, the centre of the Shaoxing silk-producing district, had produced so much raw silk that the local silk weaving industry could not consume all of it, they could not sell raw silk to anyone except the silk-dealing houses (*sihang* 絲行) at the prices the silk dealing houses determined until the end of the 1880s. However, once a cocoon-drying oven had been established, peasants could dry their cocoons and store them until the prices

of silk cocoons soared up. As a result, they could sell dried cocoon or raw silk according to the market condition, and the silk-dealing houses lost their control over the silk-cocoon and raw-silk trade in Sheng county.¹³

Figure 5-3: The Places and the Value where Xu Hongkui paid for purchasing Silk Cocoons for Ewo Filature, 1888-1894 (Tael)

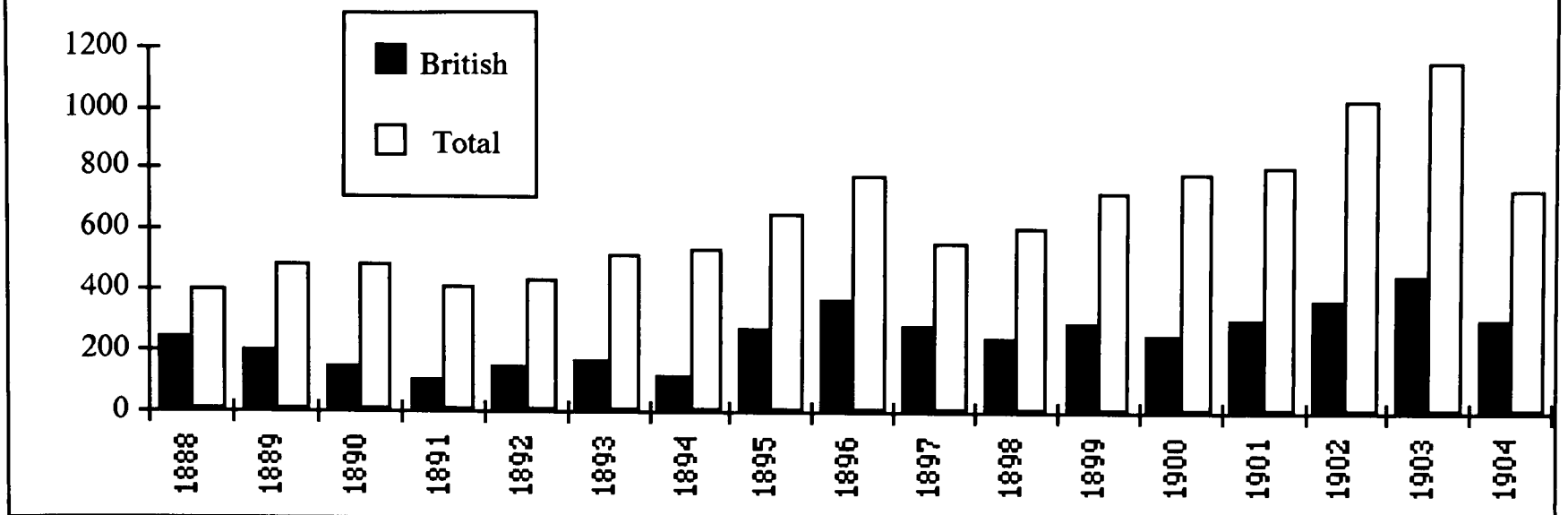


Source: Ewo Steam Filature Account Book (JMA A7/553)

Such was the situation in which native agents of British mercantile firms including Xu Hongkui, who brought outward transit-passes, came to purchase silk cocoon. Since the silk-dealing houses had lost control the cocoon and raw silk trade, it must have been quite easy for the native agents of British mercantile firms to purchase dried cocoons from peasants. Other foreign mercantile firms followed the British mercantile firms. As Figure 5-4 indicates, the total number of outward transit-

13. "振興絲業芻言" SB, April 10, 1894.

Figure 5-4 The Numbers of Outward Transit-Passes issued for purchasing Native Produce in the Interior Districts and consumed in Shanghai



Source: Imperial Maritime Customs, Returns of Trade and Trade Reports, Shanghai, 1888-1904.

passes issued for purchasing native goods to be consumed in Shanghai was much more than those issued to the British mercantile firms. Since similar phenomena took place everywhere in China, and this undermined any other Chinese merchants' groups disciplined with the rule that no one could claim the privilege of doing business without paying the *Lijin* tax imposed upon it, the Qing government officials had to stop the increase of outward transit-passes. They were confronted with a dilemma. If they clung to the income of the *Lijin* tax system, they had to rely upon the existing prominent Chinese merchants' groups and local bureaucrats. It accordingly allowed the subversive effect of outward transit-passes distributed by foreign merchants upon the solidarity of the existing Chinese merchants' groups.¹⁴ On the contrary, if the Qing government officials wanted to damage the subversive effect of the outward transit-pass system on the solidarity of the existing Chinese merchants' groups, they had to give up imposing the *Lijin* tax on the privilege of

14. "光祿寺卿袁昶奏陳整頓釐金辦法六條" *Guangxu Zhengyao* 光緒政要 vol. 25, GX 25/5 [June to July 1899]; "商務部奏請." *SB*, Nov. 12, 1903.

dealing with any commodities. It meant that they had to sacrifice the indispensable part of the local government revenue.¹⁵

Because of this dilemma, Gangyi and Gong Daotai finally neglected Hughes' counterproposal and suggestion. Nonetheless, this did not mean that the Qing government officials let foreign mercantile people do what they wanted. In order to restrict the development of links between the cooperative Chinese merchants' organizations and foreign mercantile firms, and to reinforce their control over the Chinese merchants through the prominent Chinese merchants' groups, they started several initiatives.

Diplomacy on the Outward Transit-Pass Question, 1890-1896

Since it was impossible for the Qing government officials to abolish the whole outward transit-pass system, the second-best choice was to prevent foreign merchants from getting outward transit-passes easily. They intended to set up many complicated procedures and restrictions governing application for the issue of outward transit-passes. In order to justify such a restriction, they looked for an incident that could be a pretext, and such a case took place in April 1890.

On April 1, a native boatman who was conveying a cargo of 116 packages of wool, handed in an outward transit-pass for exemption from the *Lijin* tax at the Hung Ch'iao barrier near Tianjin. Examining the outward transit-pass presented, the barrier officers found that it was not valid because it had been issued at Tianjin to a British firm, Wilson & Co., for the purchase of native goods on June 12, 1878, twelve years earlier. According to a regulation of 1872, which had been drawn up by the Inspector General of Customs, an outward transit-pass for native goods purchased in a province expired 50 days after the date of issue;

¹⁵. Such an attempt was really carried out in Chaozhou district in Guangdong province in 1899 (剛毅奏 "GXCDHL, GX 25/10 [Nov. 30, 1899], 4445-4446).

100 days after the date of issue when it was taken out for purchasing goods in adjacent provinces; and 200 days when it was for purchasing goods in distant provinces. Therefore, they arrested the boatman and confiscated his cargo.

While the Customs Daotai was taking the depositions of witnesses and investigating the matter, B. Brennan, a British Consul in Tianjin, asked him to release the boatman and his cargo because the Customs at Tianjin had never notified merchants that there was a fixed limit for expiration of outward transit-passes. Since the claim by the British consul was confirmed, the Daotai had to accept his request.

The Qing authorities regarded the incident as a typical example of the outward transit-pass abuse. Moreover, as the Zongli Yamen was surprised to learn, this case revealed that there were no effective legal codes to regulate the problem. Although the Zongli Yamen had circulated the Inspector General's regulation to the foreign ministers in December 1872 and again in January 1877, and the foreign ministers had replied that the ministers would duly consider the question and take action in the matter, the Inspector General's regulation was apparently not respected at all.

After the incident, the Zongli Yamen investigated the working of the outward transit-pass system in each treaty port. As a result, they found that the duration of the validity of the outward transit-pass on native goods was not equally determined in every treaty port. In Zhenjiang, Wuhu, Beihai, Qiongzhou, and Guangdong, the Daotai, foreign consuls, and the Commissioner of Customs had mutually agreed that the validity of the outward transit-pass should be from three months to six months; such an arrangement had not, however, been reached in other treaty ports.

In order not to allow the abusive use of an old outward transit-pass and intervention by a foreign consul again, the Zongli Yamen directed the Daotai in every treaty port to come to a satisfactory arrangement with foreign consuls on the duration of the validity of outward transit-passes. At the same time, they instructed the Northern and Southern Superintendents of Trade (Beiyang dachen 北洋大臣; Nanyang dachen 南洋大臣) and Robert Hart to ascertain why the Maritime Customs in most treaty ports had not taken any action to draw up regulations on the duration of the validity of outward transit-passes with the Daotai. Finally, the Zongli Yamen requested the British minister, John Walsham, to instruct British consuls to cooperate with the Daotai and Commissioners of Customs.¹⁶

After Walsham accepted this request from the Zongli Yamen, he counterproposed that the local authorities in the treaty ports who had arranged the regulations affecting the duration of the validity of outward transit-passes should consult with foreign merchants as to whether these regulations were detrimental to them or not.¹⁷ By so requesting, Walsham gave British merchants an opportunity to present their grievances against the outward transit-pass and the *Lijin* tax systems.

Whatever Walsham intended, the Qing central government did not accept his counterproposal. They expressed their views on the outward transit-pass system, the *Lijin* tax, and other issues to the Commissioners of Customs.¹⁸ By circulating this former confidential letter, they reconfirmed that they would never change the existing *Lijin* tax system in any way as follows:

16. FO 228/1048 The Zongli Yamen to Sir John Walsham No. 5, 7 May 1890; "Circular No. 505: Transit Documents Outwards: limit of time for validity of, to be fixed locally, 23rd June 1890," *CIMCSS No. 69, vol. 1*, 616-618.

17. FO 228/1048 Sir John Walsham to the Zongli Yamen No. 3, May 29, 1890.

18. "Enclosure of Circular No. 512: The Tsungli Yamen to the Chinese Ministers abroad," *CIMCSS No. 69, vol. 1*: 622-636, including original Chinese text. The other problem which were referred to in this letter were extraterritoriality, "Most Favoured Nation" clause, and Missionary questions.

In the matter of *Outward Transit*, we hold that produce not yet bought by Foreigners, or bought but not covered by Transit documents, is liable to all local charges, and that goods brought down under Transit-passes for Foreigners must be sent to Foreign countries, and cannot be allowed to go to other Chinese ports for sale, to the disadvantage of Native-owned goods which have not had the benefit of the Transit-pass.

In the matter of *Likin and Taxation generally*, we hold that China, as an independent State, has the right to levy whatever taxes she pleases in whatever manner she may think best; and we consider it unfair on the part of other Governments to question our proceedings or put difficulties in our way, seeing that we only collect special taxes because special circumstances call for them.¹⁹

The attitude of the Qing central government encouraged the local bureaucrats. Although Li Hongzhang and Zeng Guoquan, who were the Northern and Southern Superintendents of Trade at that time, instructed the new Shanghai Daotai, Nie Jigui 聶緝槩, to consult with the Commissioner of Customs and the consular representatives for fixing the time-limit for the validity of outward transit-pass, the Daotai did not do so. He discussed the reasons why some local officials refused to issue outward transit-passes to native merchants as well as foreign merchants. According to him, the exemption from the *Lijin* tax with an outward transit-pass was a privilege only for foreign merchants who were conveying native goods to a treaty port for shipping abroad.

Nie claimed that since the amount of the *Lijin* tax paid by Chinese merchants was much more than that of the Export Transit Duty paid by foreign merchants, the provincial revenue would be seriously reduced if the local authorities issued outward transit-passes to Chinese merchants for purchasing native goods in the interior districts. Moreover, in order not to allow foreign merchants to sell their surplus outward transit-passes to Chinese merchants, he stressed the necessity of introducing

¹⁹. Ibid., 628.

rules to regulate the issue and the usage of outward transit-passes.²⁰ Although he mentioned the reduction of the provincial revenues as if it were the more important issue, the major point of his claim was the prevention of the further increase in the numbers of Chinese merchants who used the outward transit-passes issued for foreign merchants. For the above reasons, Nie Daotai sent to Hughes for consideration on September 21, 1890, a set of provisional rules for the issue and surrender of outward transit-passes in Shanghai, the model of which were the rules for the outward transit-pass system in Zhenjiang.

British mercantile people and diplomats naturally opposed any attempts by the Qing government officials to restrict the outward transit-pass system. Among the provisional rules, the contents of which British merchants in Shanghai criticized were the following four rules.

Rule I. All Outward Transit-passes which have been issued before the 14th September 1890, and which shall not have been availed of for the purchase of produce, and returned to the Shanghai Customs before the 14th March 1891, will, on the latter date, be declared invalid by the Superintendent of Customs, and the Consul will be requested to recall the document for cancellation. All goods which the holders of such invalid Transit-passes may attempt to bring down under them will be confiscated.

Similarly, all Transit-passes issued subsequently to the 14th September 1890, and not used within six months from the date of issue, will be cancelled at the expiration of such six months.

Rule II. Applicants for Transit-passes will be required to give a Bond in which, firstly, they undertake to abide by the provisions of these rules or to forfeit to the Chinese Government a sum of money equal to six times the export duty payable on the declared amount of goods to be covered by the Pass applied for; and by which, secondly, they give to the Chinese Customs authorities, as an additional security for the due fulfilment of the conditions of the Bond, a lien upon all produce purchased under said Transit-pass, such lien to have priority over all other claims. . . .

20. FO 228/891 Enclosure No. 1 in Mr. Hughes' Despatch No. 21 Shanghai Oct. 27, 1890; FO 228/1031 Shanghai Chinese No. 8 of 1890.

Rule III. Henceforward all Transit-passes which may have been availed of for the purchase of produce within six months from the date of issue must be returned to the Superintendent of Customs, through the Consul, to be cancelled. All goods which the holders of cancelled Passes may attempt to bring down under them will be confiscated. . . .

Rule X. Outward Transit-passes are only granted for the following 31 classes of goods: Silk, Hides, Tallow, Bean oil, Hemp, Bristles (pigs'), Varnish, Coarse paper, Red dates, Ground-nuts, Bamboo mats, Raw Cotton, Horns, Sesamum seed oil, Soap, Tobacco leaf, Walnuts, Ground-nut oil, Black dates Senna seed, Melon seeds, Straw braid, Vermicelli, Samshu, Bones, Medicines, Persimmons, Wool, Lily flowers, Fine paper, Dried dates.

Each Foreign merchant cannot take out Passes under more than two hong names.

For every district each hong is allowed to have no more than 20 Passes for lily flowers and 10 Passes for other classes of cargo in use at one time. As each lot of goods covered by a Pass arrives a new Pass may be applied for.²¹

Consul-General Hughes was quite eager to support the British merchants in Shanghai. Hughes asked the Shanghai General Chamber of Commerce to analyze the provisional rules and to submit their views on October 14.

The Shanghai General Chamber of Commerce sent back their reply on October 22. They criticized the six months mentioned in Rule I and III as being too short for the time limit of the validity of an outward transit-pass to carry on trade. Similarly, they claimed that the money which was equal to six times the export duty on the declared amount of goods was so heavy for the fine for infringement that it should be reduced to the amount equal to two and a half or three times the export duty on the wrongly declared goods. Furthermore, they suggested the omission of the lien of the Customs upon all produce purchased under the outward transit-pass. Also, they strongly demanded that the omission of Rule X be omitted altogether because no treaty stipulated that the

²¹. FO 228/891 Enclosures No. 2 and 3 in Mr. Hughes' Despatch No. 21 Shanghai, Oct. 27, 1890.

Customs and the Daotai had authority to limit the goods for which outward transit-passes could be used, or to limit the number of passes a foreign merchants might apply for.²²

After receiving the above comments, Hughes submitted the provisional rules to the meeting of the Shanghai Consular Body on October 25 for consultation. The consuls consented to confer with the Commissioner of Customs only on the point of limiting the period of validity of outward transit-passes, and then to report to the ministers in Beijing before taking further action. With regard to other provisional rules, especially Rule X, the consuls asked the ministers to negotiate with the Qing central government to abolish them.²³

Ministers in Beijing protested to the Zongli Yamen that some local authorities were planning to impose limits on the kind of Chinese products for which outward transit-pass could be issued, instead of determining the time limit of validity of outward transit-passes. Therefore, they requested the Zongli Yamen to order the local authorities not to make any rule concerning outward transit-passes without consulting with the consuls.²⁴

The Zongli Yamen did not seriously consider the protest. In order to evade pressure from the foreign ministers, they asked at what place local authorities refused to enter the joint consultation for fixing the time limit of outward transit-pass.²⁵ Even after receiving the answer from von Brandt, who was the Doyen at that time, that the local officials in Shanghai, Jiujiang, and Gaoxiong were refusing to engage in joint consultation, and the Zongli Yamen did not refer to the outward transit-pass question again.²⁶

22. Ibid., Enclosure No. 4 in Mr. Hughes' Despatch No. 21 Shanghai October 29, 1890.

23. Ibid., P. J. Hughes to John Walsham No. 21, October 27, 1890.

24. FO 228/1048 No. 27 Joint Note from Foreign Representatives to Zongli Yamen, Nov. 23, 1890.

25. Ibid., No. 25 The Zongli Yamen to H. E. M. von Brandt, German Minister, Nov. 28, 1890.

26. Ibid., No. 28 German Minister to Zongli Yamen, Dec. 4, 1890.

The controversy over the outward transit-pass question still continued in Shanghai. While the foreign consuls, the Commissioner of Customs, and the chairman of the Shanghai General Chamber of Commerce did not accept any of the provisional rules for outward transit-passes, except the time limit of the validity which was extended to twelve months, Nie Daotai still clung to all of the provisional rules. He claimed it was imperative to refuse to issue outward transit-passes to the foreign merchants who sold them to native merchants for the purpose of evading the *Lijin* tax, and to allow the officials in the *Lijin* tax stations to confiscate goods under the rule governing illegally utilized outward transit-passes.²⁷

In contrast to the Qing government officials, the British side intended to abolish any restriction on the outward transit-pass system and to simplify the procedure for issuing outward transit-passes. What the British merchants in Shanghai mentioned as an apparent defect of the outward transit-pass system was the delay of issue. According to Jamieson, the first commercial attaché of the British embassy, the delay was due to the complicated application procedures to the Daotai, which he described as follows:

The applicant, the British merchant, files his application at the Consulate stating roughly the quantity and description of property he wishes to bring down and the place where it is to be purchased. This application is sent in English to the Commissioner of Customs and a corresponding note in Chinese is sent to the Daotai. In due course, the latter official transmits the [Outward] Transit-pass (duly stamped) in Triplicate through the Customs to the Consulate when it is delivered out to the applicant on his signing the declaration which is printed on the Pass or Certificate itself in English and which is to the following effect: The undersigned hereby declares that the native produce specified in this memorandum enters on the date and at the Barrier notes in Chinese in transit for the Port of Shanghai, is the property of the undersigned and the undersigned hereby agrees and engages to pay half Tariff Transit dues thereon either upon the return of this memo-

27. FO 228/1068 P. J. Hughes to John Walsham, No. 2 and 7, Jan. 10, and March 10, 1891.

randum from the said Barrier or upon the arrival of the said produce at the Barrier nearest the port of Shanghai whichever first happens.²⁸

Because of the complicated procedures, British merchants usually had to wait from ten to fourteen days after making an application to obtain the pass. After the Sino-Japanese war was over, the Shanghai General Chamber of Commerce asked the German Consul, O. Stüebel, who was the Senior Consul at the time, to improve the slow and cumbersome system of issuing outward transit-passes. As a remedy for that, they requested that the Customs in Shanghai instead of the Shanghai Daotai should issue transit-passes.²⁹ If the Shanghai Customs issued outward transit-passes, British merchants could much easily obtain outward transit-passes and organize more cooperative Chinese merchants' groups, and thereby undermine the existing commercial organizations disciplined by the prominent Chinese merchants' groups and the local government officials.

The Zongli Yamen therefore simply turned down their request following to their own analysis of the abuse of the transit-pass system.³⁰ The Zongli Yamen was not in a position to accept the request at that time because they had received a report from the Board of Revenue, which emphasized the handicaps that came from the extraordinary low import and export duties in China and the increase of outward transit-pass abuse, and had ordered an investigation of the defects of the systems of the *Lijin* tax and the transit-pass two months before.³¹

Despite the Zongli Yamen's refusal, neither the Shanghai Chamber of Commerce nor Western diplomats gave up their hopes for redressing

²⁸. FO 228/1123 Enclosure of N. R. Hannen to N. R. O'Connor No. 2, Jan. 23, 1893.

²⁹. "The Annual Meetings of the Chamber of Commerce," *NCH*, June 14, 1895, 908; "The Chamber of Commerce," *ibid.*, July 5, 1895, 22-25. Since the negotiation at that time was carried out by the American minister via the German Consul, relevant documents are not recorded in the British Foreign Office Archives.

³⁰. "The Shanghai General Chamber of Commerce," *ibid.*, Nov. 15, 1895, 820-821.

³¹. "戶部尚書熙敬等奏整頓洋稅逐漸收回利權片" *QJWJSL*, vol. 116, July 25, 1895; "旨戶部及各省將軍督撫著整頓釐金裁源制兵電," *ibid.*, vol. 116, July 25, 1895.

their grievance. They resolved to send the same request to Colonel Denby again on November 21, and the Western consuls in Shanghai supported their request on January 24, 1896.³²

The Zongli Yamen suddenly changed their attitude towards the outward transit-pass question in 1896. Suffering from the heavy indemnity to Japan after the Sino-Japanese War, they thought it more important to secure the one-half duty and the *Lijin* tax revenue through the Imperial Maritime Customs than to maintain the control over the Chinese merchants through the prominent Chinese merchants' groups and the local bureaucrats. They directed Robert Hart to "levy a 10 *per cent. ad valorem* duty on all things produced in Chinese manufactories [*i.e.*, products of foreign factories in China] before they leave the factory, the said products to be thereafter free from all charges, whether conveyed inland or coastwise or exported abroad."³³ Moreover, they directed Hart to extend the rules of the outward transit-pass system in Zhenjiang to all treaty ports, which included the four rules quoted above. After the above arrangement had been completed, the Zongli Yamen issued a memorial to announce their policies on the manufactured products of foreign factories and the outward transit-pass system on August 11, which was then translated into English.³⁴

Two weeks after the issue of the memorial, the Shanghai General Chamber of Commerce held a special meeting to discuss the increase of taxation on the products of foreign factories on August 26, and asked O. Stüebel and Colonel Denby to protest against the suggested taxation to

³². FO 17/1299 Enclosures 1 and 2 in Beauclerk to Salisbury No. 75, Feb. 29, 1896. The reason why Stuebel delayed to send the letter by the Shanghai General Chamber of Commerce for two months is not given in this document.

³³. Circular No. 730 (Second Series): "Products of Chinese factories to pay 10 per cent. *ad valorem* Duty. Outward Transit: Chinkiang procedure extended to Chinese, July 15, 1896," *CIMCSS No. 69* vol. 2, 77.

³⁴. "譯署奏稿." *SB*, Aug., 11, 1896; "Proposed Tariff on Local Manufactures," *NCH*, Aug. 28, 1896, 368-369.

the Zongli Yamen the next day. Meanwhile, they published two letters sent to them in the *North-China Herald*.³⁵ However, this had no effect. Since some members of the diplomatic body in Beijing were absent at the moment when Denby circulated the communications from the Shanghai General Chamber of Commerce, he could not hold a meeting to discuss whether they should present the protest to the Zongli Yamen as had been requested. Denby could at most only ask the Zongli Yamen to postpone all action on the taxation of the manufactured products of foreign factories until the Diplomatic body had held a meeting to discuss the problem.³⁶ The Zongli Yamen ignored Denby's verbal request, and thus the diplomatic negotiations over the outward transit-pass system ended.

The diplomatic negotiations for setting the outward transit-pass system ended with the victory of the Chinese side, but it raised a much more important question. As an anonymous letter from "Videlicet" to the *North-China Herald* pointed out, the new system led to a conflict between the Qing central government on the one hand and the local authorities and the Chinese merchant guilds on the other over the *Lijin* tax system.

Because of the complicated rules and procedures for issuing outward transit-passes, the Qing central government supposed that foreign mercantile firms could no longer get outward transit-passes so easily as before. Now that there was no worry about the outward transit-pass abuse by the foreign mercantile firms, the Qing central government directed its attention to the question of how it would increase tax revenue. They not only imposed 10% *ad valorem* duty on the total production of for-

³⁵. FO 881/6887 Inclosures 1 and 2 in No. 94 : Shanghai General Chamber of Commerce to Dr. O Stübel and Colonel Denby, Aug. 27, 1896; "The Recent Works of the Chamber of Commerce," *NCH*, Sep. 4, 1896, 385-386; "The Shanghai General Chamber of Commerce," *ibid.*, 402-405.

³⁶. FO 881/6887 Inclosure 3 in No. 94: Colonel Denby to Shanghai General Chamber of Commerce, Sep. 5, 1896.

eign factories in China, but also allowed Chinese merchants to apply for outward transit-passes by themselves.

Local bureaucrats regarded the new policy by the Qing central government as a method of depriving them of all the revenue collected at the barrier stations.³⁷ Moreover, they considered that the Zongli Yamen's change of attitude toward the outward transit-pass system apparently negated the principle according to which local government officials and prominent Chinese merchants' groups invoked to discipline the Chinese merchants: no one could claim the privilege of doing business without paying the *Lijin* tax imposed upon it.

Therefore, the Daotai in each treaty port and the officials in the *Lijin* tax barrier stations refused to regard the outward and inward transit-passes directly issued to Chinese merchants as valid even though the Zongli Yamen directed them to do so. Even after the Zongli Yamen had directed the Daotai and commissioners of the barrier stations to reinvestigate the feasibility of issuing outward and inward transit-passes to Chinese as requested by Robert Hart a year later, their attitude remained unchanged.³⁸

It was apparent that the complicated rules for issuing outward transit-passes according to the rules in Zhenjiang had no effect in preventing the collapse of the Chinese commercial organizations disciplined by the prominent Chinese merchant guilds and the local government officials. It exacerbated instead a conflict between the Qing central government and the local bureaucrats and the prominent Chinese merchants' groups. Therefore, the Qing government officials had to seek another way to preserve their control over the Chinese mercantile community.

37. "The Extension of Transit-pass Privileges: Videlight," *NCH*, Oct. 16, 1896, 670.

38. "Circular No. 803 (Second Series): Transit-passes issued to Chinese: provisional authorities to secure respect of, Oct. 6, 1897, with 2 Enclosures," *CIMCSS No. 69*, vol. 2, 101-103.

Failure of Factory Construction Policy, 1896-1897

While the Qing central government was carrying out diplomatic negotiations over the rules for issuing outward transit-passes, the Qing local government officials were clearly aware of the importance of protecting Chinese merchant organizations after the defeat of the Sino-Japanese war. It was Zhang Qian 張騫 and Wang Pengyun 王鵬運 who emphasized the importance of doing so.

In order to deter the growth of foreign manufacturing factories and to construct Chinese manufacturing factories, Zhang Qian proposed to unite the capital power of Chinese merchants; whereas Wang insisted that the Qing government officials (*guan* 官) ought to protect Chinese merchants (*shang* 商) so that foreign mercantile firms could not control them with the outward transit-passes. The organization both Zhang and Wang proposed to set up to carry out the above policy was the Commercial Affairs Bureau (*Shangwuju* 商務局).³⁹

It was Zhang Zhidong who responded most eagerly to Zhang Qian and Wang Pengyun's proposals for setting up Commercial Affairs Bureaux and constructing manufacturing factories together with Chinese merchants. However, he did not understand the reason why Chinese merchants wanted outward transit-passes. Moreover, he was entirely unaware that the effective methods for maintaining the control of the Qing local government officials and prominent groups over Chinese merchants were to protect their property from bankruptcy and their sales profit from the *Lijin* tax collection.

His ignorance was reflected in his behaviour when he received a imperial edict that directed him to collect the *Lijin* tax on raw silk and cotton cloth produced in Suzhou and Hangzhou before the merchants

39. "代鄂督條陳立國自強疏" *Zhangjizi jiulu*, 張季子九錄 *Zhengwenlu* 政聞錄, vol. 1, GX 21 [1895]; "總理各國事務衙門奏" *GXCDHL* GX 21/12/ [Feb. 7, 1896], 3722-3725.

conveyed them to Shanghai, to construct silk- and cotton-cloth weaving mills with Chinese merchants, and to improve inland navigation by introducing more than ten small steam-ships so that they could resist the commercial activities of the Japanese. He suggested that Ye Dazhuang 葉大莊, who was one of his subordinates, consult with several prominent Chinese merchants and compradors as experts in importing machinery, foreign cotton cloth, the silk industry, the cotton-spinning industry, the import trade, the management of the Chinese Imperial Steam Navigation Company (*zhaoshangju* 招商局), and Japan. Together with the prominent Chinese merchants and compradors he mentioned, he recommended Xu Hongkui 徐鴻逵 and Huang Zongxian 黃宗憲 as the experts in the silk industry.⁴⁰

As was revealed in Chapter 2, Xu and Huang organized the cooperative commercial organization of Shanghai foreign silk filatures in Jiangsu silk producing districts in the early 1880s. It was their commercial activities as compradors of Jardine, Matheson & Co. or Iveson & Co. that caused the collapse of the Chinese mercantile organizations disciplined by the rule mentioned above. The fact that Zhang Zhidong recommended Xu Hongkui and Huang Zongxian as the experts of silk industry clearly revealed his ignorance about what had been happening among the Chinese mercantile people. It also predicted the failure of his policies.

For starting the Commercial Affairs Bureaux and for his factory construction policies, Zhang Zhidong planned to borrow Tls. 5 million with interest at 6% *per annum* from the Qing central government, Tls. 1 million from the Krisp loan from Board of Revenue, and Tls. 2 million from Chinese merchants in Jiangsu province in order to obtain the funds useful for setting up the Commercial Affairs Bureaux. According

40. "致上海葉令大莊" ZWXGQJ vol. 147, GX 21/6/4 [July 25, 1895] 2a-2b.

to his plan, fair-minded prestigious landlords would manage the Commercial Affairs Bureau under the supervision of the Qing bureaucrats. They would advance money to any native merchant who planned to establish a silk filature or cotton-spinning factory on the condition that he could find ten landlords, native bankers, or pawnshop keepers that could guarantee his debt. By doing so, Zhang Zhidong expected that Chinese merchants could easily construct five silk filatures and five cotton spinning mills which could consume almost all the silk cocoons and raw-cotton crops in Jiangsu province.⁴¹

However, since neither the Qing central government nor Board of Revenue would lend him money, Zhang Zhidong had to start the Commercial Affairs Bureaux with only Tls. 2.26 million borrowed from native merchants in Shanghai and Suzhou. He gave permission to the Commercial Affairs Bureau to advance sums not exceeding Tls. 100,000 within two-and-a-half years to any Chinese merchants who could start an enterprise to produce goods of a type hitherto imported with machinery on the condition that they could submit a suretyship signed by prominent gentry-merchants, and find twenty native bankers or pawnshop keepers who could guarantee his debt.

By advancing money to native merchants, he planned to open silk filatures with silk-cocoon hong merchants in Wuxi, and to construct cotton-spinning factories on the southern side of the French concession of Shanghai and somewhere in Suzhou.⁴² Besides, he determined to establish Commercial Affairs Bureaux in Shanghai, Suzhou, Nanjing, Zhenjiang, and Tongzhou, and appointed the Shanghai Daotai, Lu

41. "致總署" ZWXGQJ vol. 78, GX 21/7/18 [Sep. 6, 1895], 31a-33a.

42. "致總署" ZWXGQJ vol. 78, GX 21/7/18 [Sep. 6, 1895], 27a-28b; "致蘇州趙撫台鄧藩台" *ibid.* vol. 147, GX 21/7/16 [Sep. 4, 1895] 24b-25a.

Runxiang 陸潤庠, the Nanjing Daotai, Ding Liying 丁立瀛, and Zhang Qian to administer each Commercial Affairs Bureau.⁴³

Among his plans, the financial support given to silk filatures managed by Chinese merchants did enjoy success. According to a report by Liu Kunyi several years later, Huang Zongxian's silk filature in Suzhou and Yang Zonghan 楊宗瀚's silk filature in Wuxi were able to continue to operate after they had received financial support from the Commercial Affairs Bureau.⁴⁴ In fact, since Huang was a comprador of Iveson & Co. and the Wuxi silk merchants and landlords had had close connections with foreign mercantile firms in Shanghai since the 1880s, they could purchase and sell cocoons or raw silk under outward transit-passes issued to Iveson & Co., and other foreign mercantile firms.⁴⁵ The success of these silk filatures was based on the institutional privilege of using outward transit-passes rather than to the financial support from the Commercial Affairs Bureau. It did not mean the success of the Commercial Affairs Bureaux policy. Just like some Chinese opium merchants dealt with in Chapter 4, the compradors and the Chinese silk merchants or landlords were merely attracted to anybody who could grant them some institutional privilege or other support.

As an evidence of that, the investors in Suzhou who lent their money to the Commercial Affairs Bureau did not believe in that the plan for establishing a cotton-spinning factory plan in Suzhou under the supervision of the Commercial Affairs Bureau would be successful. If a Chinese merchant started an industrial enterprise with financial support from the Commercial Affairs Bureau, no one would underwrite the success of his enterprise. When his enterprise fell into bankruptcy leav-

43. "通海設立紗絲廠請免稅釐片" ZWXGQJ vol. 42 GX 21/12/28 [Feb. 11, 1896], 11b-13a; "籌設商務局片" ZWXGQJ vol. 43, GX 22/1/5 [Feb. 17, 1896], 15b-16b; "致蘇州趙撫台" *ibid.* vol. 147, GX 21/8/21 [Oct. 13, 1895], 8a-8b.

44. "復總署" LKYYJ Dian zou [Telegraphic Memorial] vol. 1, GX 25/5/17 [June 24, 1899].

45. Suzuki (1992), 354, 357-358, 368, 403-409.

ing an immense amount of debt, he would have the responsibility of guaranteeing the whole amount even to the extent of losing his whole property because Qing law had no provision for the limited liability of commercial debtors. Also, his sureties had the same responsibility to guarantee the bankrupted merchant's debt with their property. Therefore, few merchants dared to take part in such a high risk enterprise even when he could obtain financial support from the Commercial Affairs Bureau. It was quite natural that the creditors in Suzhou doubted the prospect of Zhang Zhidong's policy.

Despite Zhang Zhidong's opposition and persuasion, Chinese native merchants in Suzhou strongly urged his subordinates that the Commercial Affairs Bureau in Suzhou ought not to advance their money to anyone who did not live in the Suzhou district, otherwise they would withdraw their capital. Confronted with their firm attitude, Lu Runxiang, and Zhu Zhizhen 朱之榛, who had worked under Zhang's direction in the Suzhou district, did not carry out his order.⁴⁶

Zhang Zhidong did not understand the reasons for the unpopularity of his policy in Suzhou. He only supposed that the heavy burden of the debtors was the unique reason for this. In order to reduce the heavy burden of Chinese merchants that might try to build a cotton-manufacturing factory with the financial support from the Commercial Affairs Bureau, he transferred a part of the cotton-spinning machinery he had bought from Arnhold Karberg & Co. in 1894 to the Commercial Affairs Bureau in Suzhou at a reduced price. Nonetheless, this had no effect in protecting the property of both the investors who lent money to the Commercial Affairs Bureau and the Chinese merchants who borrowed money from it. As a result, no one dared to borrow money or

46. "致蘇州趙撫台" ZWXGQJ vol. 148, GX 21/9/11 [Oct. 28, 1895], 15b-16a; "趙撫台來電" *ibid.*, vol. 148, GX 21/9/13 [Oct. 30, 1895], 24b-25a; "蘇州趙撫台陸朱道台" *ibid.*, vol. 148, GX 21/9/16 [Nov. 2, 1895], 23b-24a; "陸祭酒來電" *ibid.*, vol. 150, GX 22/2/13 [Feb. 13, 1896] 25a.

the cotton spinning machinery from the Commercial Affairs Bureau, and the investors in Suzhou continued to request Zhang Zhidong pay back their money. In consequence, the fund of the Commercial Affairs Bureau in Suzhou was reduced to Tls. 570 thousand by August 1896.⁴⁷

Since no Chinese merchant dared to borrow the cotton-spinning machinery, Sheng Xuanhuai and Zhang Qian decided to construct cotton spinning factories in Shanghai and Tongzhou with the transferred cotton spinning machinery. The cotton-spinning factory in Tongzhou started its operation in December 1896, and it became the beginning of the famous success story of Dasheng cotton-spinning factory 大生紗廠.⁴⁸

The success of Dasheng cotton-spinning factory had the several reasons. First of all, the factory was located amidst the raw-cotton producing districts. Because of its geographical position, Dasheng factory could purchase raw cotton locally. In other words, Chinese merchants could sell raw cotton to the factory without paying the *Lijin* tax because they need not pass the *Lijin* tax barrier stations. As a result, the sales of raw cotton to the Dasheng cotton-spinning factory had the same meaning for them as selling to foreign cotton-spinning factories in Shanghai without paying the *Lijin* tax. Moreover, since Zhang Zhidong had arranged that the Qing central government exempt the finished products of the Dasheng cotton-spinning factory from the *Lijin* tax, Chinese merchants could also convey the cotton yarn produced in the factory to other districts, paying a lower rate of the *Lijin* tax.⁴⁹ In retrospect, the

47. "增設紡紗廠摺" ZWXGQJ vol. 35, GX 20/10/3 [Oct. 31, 1894] 19b-21a; "湖北原訂紗機移撥蘇州商務局摺" *ibid.*, vol. 43 GX 22/1/5 [Feb. 17, 1896] 13a-15b; "致上海葉承大莊" *ibid.*, vol. 150, GX 21/12/13 [Jan. 27, 1896] 4b; "致上海陸鳳石祭酒" *ibid.*, vol. 150, GX 21/12/15 [Jan. 29, 1896] 5b-6a; "致蘇州陸祭酒" *ibid.*, vol. 150, GX 21/12/28 [Feb. 11, 1896] 24b-25a; "陸祭酒來電" *ibid.*, vol. 150, GX 22/1/1 [Feb. 13, 1896] 25a; "致蘇州趙撫台" *ibid.*, vol. 150, GX 22/1/17 [Feb. 29, 1896]; "息借商款移作公司股分片" LKYYJ Palace Memorial vol. 25 GX 22/6/28 [Aug. 7, 1896].

48. "復總署" LKYYJ Telegraphic Memorial vol. 1, GX 25/5/17 [June 24, 1899]; "劉坤一 奏" GXCDHL GX 26/2/5 [Mar. 5, 1900].

49. Chu (1965): 21-22; "通海設立紗絲廠請免稅釐片" ZWXGQJ vol. 42 GX 21/12/28 [Feb. 11, 1896], 11b-13a.

Qing central government and Zhang Zhidong unconsciously granted an institutional privilege to protect the sales profit of the Chinese merchants who dealt with the Dasheng cotton-spinning factory from the *Lijin* tax collection.

Even so, however, no one could ensure the prospects of the Dasheng cotton-spinning factory at the moment when it started. Dasheng cotton-spinning factory did not grant any institutional privilege to cooperative Chinese investors with which they could protect their property in case the Dasheng cotton-spinning factory went bankrupt. Therefore, as previous studies about Zhang Qian as an entrepreneur have pointed out, few Chinese merchants or members of the gentry cooperated with him in undertaking the management of the Dasheng cotton-spinning factory.⁵⁰ For ordinary Chinese merchants, industrial enterprise was a too risky business because it might end in failure leaving them only with a huge debt. If they had a huge debt, they could never avoid guaranteeing the whole debt even though they lost their whole property. The greatness of Zhang Qian as an entrepreneur was that he could lead his enterprise into success only with his courage and diligence under the unfavourable condition that no one could institutionally secure his property from bankruptcy.

In contrast to the success of Dasheng cotton-spinning factory, Sheng Xuanhuai's cotton-spinning factory ended in failure together with the other five *guanshang huban* 官商合辦 factories he supervised.⁵¹ He himself attributed the failure of these six factories to the timidity of Chinese merchants with regard to industrial enterprise, their fear of

⁵⁰. Nozawa (1955); Chu (1965), 17-52; Tajika (1971); Nakai (1974a) (1974b) (1975); Fujioka (1985), 500-553.

⁵¹. The names of the five *guanshang huban* factories were Huasheng 華盛, Huaxin 華新, Dachun 大純, Yüyuan 裕源, and Yüjin 裕晉. With regard to the profile of these factories, see Yan (1955), 328-330. The specific studies on the founding of Huasheng factory, see Feuerwerker (1958), 207-225.

trouble, the depressed condition of the cotton-yarn market, and the high cost of raw cotton and wages pushed up by the foreign cotton manufacturing factories.⁵²

In fact, the real cause of the failure was that the six factories lacked institutional privilege that could immunize them against the outward transit-pass system. Since these factories could not grant any institutional privileges that could protect the sales profit of cooperative Chinese merchants from the *Lijin* tax, it was quite natural that Chinese merchants preferred to sell their raw cotton to the foreign rivals rather than to the six *guanshang huban* factories.⁵³ Accordingly, the six *guanshang huban* factories could not obtain sufficient raw materials, and they could neither manufacture sufficient products nor afford to pay sufficient wages to their workers. As a result, the employed workers transferred from these factories to the foreign factories in order to get jobs or higher wages. Thus, by the end of the 1890s, the *guanshang huban* cotton manufacturing factories fell into difficulty and were sold to foreign mercantile firms.

Through the success of Dasheng cotton-spinning factory and the failure of the six *guanshang huban* cotton manufacturing factories, the Qing government officials learned one important thing. When Chinese merchants or bureaucrats built a manufacturing factory in Shanghai, it could not win the competition against its counterparts owned by foreign rivals. On the other hand, when they built a manufacturing factory in

⁵². "上北洋大臣書" *Sheng Xuanhuai weikan xingao* 盛宣懷未刊信稿, GX 23/6/21 [July 20, 1897], 21-22; "上劉師書" *ibid.*, GX 23/6/20 [July 20, 1897], 28-29. "寄李傅相" *YQCG*, vol. 28 GX 23/8/6 [Sep. 2, 1897], 11b-12a; "李傅相來電" *ibid.*, vol. 28, GX 23/8/7 [Sep. 3, 1897], 12a; "寄峴師" *ibid.*, vol. 34, GX 24/3/17 [Apr. 7, 1898], 12a-12b; "上海華廠紡織虧累招商面接辦摺" *ibid.*, GX 28/8 [Sep.-Oct. 1902], 41a-43b.

⁵³. The names of the foreign cotton spinning factories were Soy-Chee Spinning Co. Ltd., International Cotton Manufacturing Co. Ltd., Laou-Kung-Mow Cotton Spinning and Weaving Co. Ltd., and Ewo Cotton Spinning and Weaving Co. Ltd. As the titles of the foreign cotton manufacturing factories suggested, these factories were limited companies and could protect the property of the shareholders. Although there was no relevant record, these factories naturally could protect the property of Chinese shareholders if there had been.

the interior districts such as Wuxi and Tongzhou, the factory could successfully compete with foreign rivals. If the Qing government officials could exclude the foreign factories from the interior districts, the Chinese manufacturing factories in the interior districts could maintain their competing power because the foreign factories purchased raw materials through their cooperative Chinese merchants' groups by providing them with outward transit-passes.⁵⁴ They at last discovered an effective policy to immunize themselves against the outward transit-pass system that foreign mercantile firms had used to undermine the solidarity of the prominent Chinese merchants' groups.

But they could not invent any effective institutional privilege to protect the property of Chinese merchants from the bankruptcy of their commercial or industrial enterprises. Actually, the *Shenbao* emphasized the importance of the limited liability of shareholders of a company. In the editorial article on March 12, 1897, it proposed to introduce the limited liability of shareholders in order to encourage commercial enterprise in China.⁵⁵ It is impossible to know whether Zhang Zhidong, Liu Kunyi, Zhang Qian and other Qing government officials ever read the article or not. Even if they had read it and seriously considered its proposal, they could have done nothing.

The limited liability of shareholders was an institution to protect the property of the debtors. Conversely, it could sacrifice the property of the creditors. If the Qing central government had introduced the limited liability of shareholders into the Chinese mercantile society, they would have removed the responsibility of any Chinese merchants, who had started their enterprises with the financial support of the Commercial Affairs Bureau, from guaranteeing a part of any debt they might incur.

54. "寄藥師" *YQCG* vol. 27, GX 23/6/25 [July 24m 1897]; "復盛杏蓀宮保" *LKYYJ*, Telegraphic Memorial vol. 2, GX 27/11/27 [Jan. 6, 1902].

55. "論商務以公司為最善" *SB*, March 12, 1897.

It would accordingly have meant that the Qing government officials would have permitted the possibility of a bad (in other words, irrecoverable) debt owing to the Commercial Affairs Bureau.

As seen in the case of the Commercial Affairs Bureau in Suzhou, the investors did not believe in the prospects of the Commercial Affairs Bureau at all. If the Qing government officials had permitted the limited liability of shareholders in such a situation, the creditors of the Commercial Affairs Bureau would certainly have feared that the Commercial Affairs Bureau could not guarantee its debts, and hurriedly requested the Commercial Affairs Bureau to pay back their money. Moreover, if a Chinese merchant had been able to evade paying back a part of his debt to the Commercial Affairs Bureau, the gentry, native bankers, and pawnshop keepers must have refused to stand surety for him.

Even though the limited liability of shareholders was apparently indispensable to encourage commercial and industrial enterprise of Chinese merchants, it could not have been compatible with the Commercial Affairs Bureau policy of the Qing local government officials, who feared the anger of their creditors. It made the failure of the Commercial Affairs Bureau policy inevitable.

Failure of Commercial Affairs Bureau, 1898-1903

After Sheng Xuanhuai and Zhang Qian had constructed their cotton-spinning factories in Shanghai and Tongzhou with the cotton-spinning machinery transferred to Suzhou from Hankou, Zhang Zhidong continued his Commercial Affairs Bureau policy in Hankou. When he came back to Hankou from Nanjing, he ordered Qu Gengfu 瞿廣甫, who was the Hankou Daotai, to set up a Commercial Affairs Bureau in Hankou, investigate the local products of Hubei province, and improve

their production systems. Just like the Commercial Affairs Bureau in Suzhou and Nanjing, he planned to order the prominent merchants of each merchants' group to elect several merchants as the directors of the Hankou Commercial Affairs Bureau. According to his plan, it was the merchant directors that would carry out the business of the Commercial Affairs Bureau, such as introducing new kinds of products and their production systems to the ordinary Chinese merchants, and to raise the capital to lend them for enlarging their businesses. The Qing local officials would only protect the members of the Hankou Commercial Affairs Bureau in the other provinces, and negotiate with the local officials of the other provinces or foreign diplomats.⁵⁶

The Qing central government strongly supported the Commercial Affairs Bureaux policy. On August 4 and 6, 1898, they directed Liu Kunyi and Zhang Zhidong to build Commercial Affairs Bureaux in Shanghai and Hankou, and to appoint the proper directors carefully. Liu Kunyi appointed Zhang Qian and Liu Shiheng 劉世珩 as directors, and directed Yun Zuqi 惲祖祁 and Kuai Guangdian 蒯光典 to investigate the commercial situations in Jiangnan and Northern Anhui. Moreover, he directed them to contact rich gentry-merchants so that they could seek for new attractive native products, disseminate new production systems, and collect more capital to enlarge the commercial enterprises of native merchants. Besides this, the Shanghai Commercial Affairs Bureau merged with the Commercial Affairs Bureaux in Nanjing and Suzhou.⁵⁷

Meanwhile, Zhang Zhidong appointed Zhu Zize 朱滋澤 and Zhang Gengyang 張廣颺 as directors of the Hankou Commercial Affairs

56. "振興商務" *SB*, April 5, 1898; "札開商務" *ibid.*, July 21, 1898.

57. "寄總署" *LKYYJ*, Telegraphic Memorial vol. 1, GX 24/7/21 [Sep. 6, 1898]; "商務先聲" *SB*, Jan. 8, 1899; "照錄商務局照會" *ibid.*, Jan. 10, 1899; "劉坤一奏" *GXCDHL*, GX 25/2/11 [Mar. 22, 1899].

Bureau and appointed Wang Bing'en 王秉恩 and Cheng Yiluo 程儀洛 as the sub-directors. According to the *Shenbao*, the major tasks of the Hankou Commercial Affairs Bureau were obtaining commercial information and providing education services, such as encouraging the adoption of a new production system for native products, or introducing Western technology to native merchants so that they could construct manufacturing factories. Moreover, with the same objective, the Hankou Commercial Affairs Bureau planned to make proper rules for setting up a private stock exchange company, to administer the property of bankrupted merchants, and to reduce the *Lijin* tax on raw material or products.⁵⁸ Both Commercial Affairs Bureaux in Shanghai and Hankou agreed to cooperate with each other by exchanging information so that they could facilitate the encouragement of the business of Chinese merchants.⁵⁹

Following Hankou and Shanghai, other cities opened their Commercial Affairs Bureaux from 1899 to 1904. Besides the opening of the branches of the Hankou Commercial Affairs Bureau in Shashi and Yichang in June 1899, *Shenbao* reported the opening of Commercial Affairs Bureaux in Wuhu, Xiamen, Nanjing, Jiangxi, Shandong, Anhui, Fuzhou, Tianjin, and Zhongjing.⁶⁰ This phenomenon indicated that the collapse of the solidarity of Chinese merchants' groups spread over the whole districts.

⁵⁸. "振興商務" *ibid.*, Sep. 20, 1898. Similarly, the Shanghai Commercial Affairs Bureau set up a four rules, which stipulated the commercial education system, the administration system to reorganize each commercial and handicraft guild, the introduction of stamp duty to abolish the hazardous effect of the *lijin* tax, and the improvement of the quality of native produce, especially tea and silk, and the transaction system ("照錄開辦商務章程" *SB*, Jan. 9, 1899).

⁵⁹. "農工開局" *ibid.*, Nov. 16, 1898.

⁶⁰. "商務叢談" *ibid.*, Apr. 20, 1899; "振興商務" *ibid.*, June 24, 1899; "保商有法" *ibid.*, June 30, 1899; "江南商務總局章程" *ibid.*, Mar. 30, 1900; "擬興商務" *ibid.*, Nov. 19, 1901; "山東商務局試辦暫行章程" *ibid.*, Nov. 30, 1901; "頒行商律" *ibid.*, Dec. 24, 1901; "贛省興商" *ibid.*, Feb. 13, 1902; "續贛省興商" "振興商務札" *ibid.*, Feb. 14, 1902; "續山東振興商務章程" *ibid.*, Feb. 15, 1902; "閩中商務章程" *ibid.*, Feb. 17, 1902; "天津商務公所暫行章程" *ibid.*, June 14, 1903; "示保商人" *ibid.*, Apr. 25, 1904.

The common character of these Commercial Affairs Bureaux was that they preferred to protect the funds of the Commercial Affairs Bureaux and the property of the creditors rather than that of the debtors. As an evidence for that, the rules of these local Commercial Affairs Bureaux required a Chinese merchant to find several reliable members of the gentry, merchants, or native banks to stand surety for the Chinese merchant when he wanted a loan for starting his commercial or industrial enterprise, to cover the eventuality that his enterprise ended in failure. Moreover, the rules even stipulated that the Commercial Affairs Bureau would arrest the debtor and send him to the local magistrates for punishing him under the criminal code if he failed to pay back his loan within the limited time, or absconded because of the bankruptcy of his enterprise or for some other reason. Furthermore, the rules stipulated that the Commercial Affairs Bureaux would confiscate the property of the arrested debtor to guarantee his debt.⁶¹ Because of these rules, the Commercial Affairs Bureau could not guarantee the property of the Chinese merchants who started their enterprises with a loan from the Commercial Affairs Bureau if their enterprise bankrupted, leaving a huge debt.

Another defect of the Commercial Affairs Bureau was that they could not grant Chinese merchants an institutional privilege similar to the outward transit-pass system that could protect their sales profit from the *Lijin* tax collection. As a result, when some Chinese merchants started a manufacturing enterprise according to the *hegu* 合股 style firm system with loans from the Commercial Affairs Bureau, they could neither reduce the cost of purchasing raw materials nor protect the profit of selling the finished products from the *Lijin* tax collection.

61. "江南商務總局章程" *SB*, Mar. 30, 1900; "山東商務局試辦暫行章程" *ibid.* Nov. 30, 1901; "頒行商律" *ibid.*, Dec. 24, 1901; "贛省興商" *ibid.*, Feb. 13, 1902; "續贛省興商" *ibid.*, Feb. 14, 1902; "續山東振興商務章程" *ibid.*, Feb. 15, 1902; "閩中商務章程" *ibid.*, Feb. 17, 1902.

Because of the lack of relevant sources, it is impossible to know how many Chinese merchants tried to start what kind of manufacturing enterprises with a loan from the Commercial Affairs Bureau. However, it is quite likely that their enterprises followed a course of failure of similar to that of Sheng Xuanhuai's six *guanshang huban* cotton-manufacturing factories because they had to compete with foreign factories that could organize cooperative Chinese merchants' groups with the institutional privileges of the outward transit-pass system and the limited liability of shareholders. When it became apparent that their manufacturing enterprise would fall into difficulty in the near future and they could not pay back the loan to the Commercial Affairs Bureau without losing their property, the Chinese merchants might just as well dissolve their *hegu* style firms and abscond with their property.

Moreover, since the Commercial Affairs Bureau had very poor information about the background and financial conditions of the Chinese merchants to whom they lent money,⁶² it was extremely difficult for the Commercial Affairs Bureau to trace Chinese merchants once they absconded. Taking advantage of the poor information system of the Commercial Affairs Bureau, some Chinese merchants deceived the Commercial Affairs Bureau. They organized a forged *hegu* style firm, borrowed money from the Commercial Affairs Bureau, and then absconded. Accordingly, other merchants, gentry, native banks, who stood surety for them, had to guarantee the debts of the absconded merchants. Otherwise, it resulted in a bad debt for the Commercial Affairs Bureau. The *Shenbao* reported the increase in the number of instances of Chinese merchants absconding and leaving their debt to the Commercial Affairs Bureau became apparent in 1899.⁶³

62. "漢口錢業條陳" *SB*, Aug. 17, 1904.

63. "嚴禁虧空倒帳以維市面說" *ibid.*, Jan. 20, 1899.

For the surety of the absconded merchants, the directors of the Commercial Affairs Bureau, and the local government officials, such behaviour by the Chinese merchants was nothing but a fraudulent bankruptcy. The directors of the Shanghai Commercial Affairs Bureau asked Liu Kunyi to establish rules to punish the absconded debtors. Liu ordered Zhu Zhushi 朱竹石, to make such rules in 1900. At the same time, he ordered native bankers to organize a group consisting of five native banks that guaranteed their debts with each other. By doing so, Liu intended to prevent the increasing outbreak of the bankruptcy of native banks, which resulted from guaranteeing the debts of absconded merchants. And he declared that local magistrates would check the account books of native banks in order to avoid financial panic.⁶⁴ A year later, Board of Revenue prescribed punishing the debtors that absconded leaving huge debts under the rules for administering native banks in Beijing (*Jingcheng Qianpu Dingli* 京城錢鋪定例). According to these rules, each five native banks had to guarantee their debts with each other and local magistrates registered their names. If someone went bankrupt, local magistrates immediately arrested the bankrupted debtor, confiscated all of his property, and ordered him to guarantee his whole debt within two months. If someone deliberately bankrupted his enterprise in order to avoid paying his debt, he would be punished by wearing the cangue for two months and beaten with one hundred blows of a stick. If the bankrupted debtor could not pay back his whole debt within two months, he would be punished more severely according to the amount of his debt.⁶⁵

Although native bankers supported the severe punishment policy on the absconded debtors, it instead destroyed the popularity of the

64. "整頓商務" *ibid.*, Mar. 12, 1900.

65. "奏陳奸商倒騙存疑擬照京城錢鋪定例辦理摺" *ibid.*, Feb. 3, 1901.

Commercial Affairs Bureau policy among the Chinese mercantile people.⁶⁶ *Shenbao* criticized the severe punishment policy by the Qing government officials. It pointed out that the bankruptcy of Chinese merchants ordinarily took place due to overinvestment or oversupply, and that the fraudulent bankruptcy was an exception. It went on to say that it was quite unreasonable to punish the debtors with life in prison or death by hanging because debts of more than Tls. 1 million were by no means unusual.⁶⁷ However, Liu Kunyi and the Qing central government did not change their policy.

Because of the preference of the Commercial Affairs Bureaux for protecting their funds and the property of the creditors rather than that of the debtors, the Commercial Affairs Bureaux completely lost popularity with the Chinese mercantile people. It was apparent that the Commercial Affairs Bureau policy had no effect in reinforcing the solidarity of Chinese merchant organizations nor in reviving the tea- and silk-exporting industries under their leadership despite their elaborate information and educational services.⁶⁸ Even Liu Kunyi himself admitted the failure of the Commercial Affairs Bureau policy in 1901.⁶⁹ Except for the success of the Dasheng cotton-spinning factory, the Commercial Affairs Bureau policy ended in failure.

⁶⁶. Four years later, native bankers in Hankou pointed out the poor system of punishing and guaranteeing the debt of the bankrupted Chinese merchants, and the insufficient system of registering major dealing merchants and investigating their managing condition as defects of the Hankou Commercial Affairs Bureau ("漢口錢業條陳" *SB*, Aug. 17, 1904).

⁶⁷. "書江督劉奏陳奸商倒騙存疑擬照京城錢鋪定例辦理摺後" *ibid.*, Feb. 5, 1901.

⁶⁸. "興商末議" *ibid.*, Mar. 7, 1900; "書江南商務總局章程後" *ibid.*, Apr. 19, 1900; "論中國商務有振興之機" *ibid.*, Nov. 20, 1902.

⁶⁹. Chan (1977): 201.

Chapter 6

The Ministry of Commerce Regime, 1902-1906

Birth of the Ministry of Commerce Regime

After the Commercial Affairs Bureau policy by the Qing local government officials ended in failure, the Qing central government officials attempted to tighten their hold over the Chinese commercial organizations. They reorganized the Chinese commercial organizations belonging to the prominent merchants' groups of the same local origin into the Chinese Chambers of Commerce (*shangye huiyisuo* 商業會議所; *shanghui* 商會), and then put them under the supervision of the Ministry of Commerce (*Shangwubu* 商務部; *Shangbu* 商部). The Qing central government officials had the Ministry of Commerce promulgate several sets of commercial laws in an effort to control and support Chinese merchants and their mercantile enterprises. In return for that, they expected Chinese merchants would cooperate with them in promoting their industrial business encouragement (*shiye zhenxing* 實業振興) policy. From this stage, the Qing central government officials seriously tried to reinforce the Chinese commercial organizations by adopting Western legal system.

The reorganization of the Chinese commercial organizations started with a proposal by Sheng Xuanhuai in 1902. When he came to Shanghai to attend the diplomatic negotiations for the new commercial treaty with Great Britain, he was impressed with the collective activities of the British merchants, who belonged to the Shanghai General Chamber of Commerce (*Heming gongsuo* 和明公所), especially their ability to collect information about the *Lijin* tax system or the inland navigation system, and to provide it to the British delegation, Sir James Mackay, so that he could get the upper hand in the negotiation. By contrast, he was

shocked by the fact that Chinese merchants could not help him collectively by providing him with any useful information for the diplomatic negotiations.

After the diplomatic negotiations were over, Sheng ordered Yuan Shuxun 袁樹勛, then the Shanghai Daotai, to contact prominent Chinese merchants in Shanghai, such as Yan Xinhou 嚴信厚, Zheng Taoqi 鄭陶齋, Liang Yutang 梁鈺堂, Shi Ziyong 施子英, Zhu Baosan 朱葆三, and have them establish a Chinese chamber of commerce with them.¹ As a result, a Shanghai Chinese Chamber of Commerce was established in the autumn of 1902. The board of management directors (*zongdong* 總董) consisted of Yan Xinhou, who was appointed as the president, Zhou Pubiao 周普鑣, who was the vice president, and four other management directors. In addition to the establishment of the Shanghai Chinese Chamber of Commerce, Sheng cooperated with Zhang Zhidong to encourage commerce by setting up commercial schools (*Shangwu xuetaang* 商務學堂) and commercial law (*shanglü* 商律).²

Whatever Sheng Xuanhuai and Zhang Zhidong intended to do, it was the Qing central government officials, such as Prince Chun 醇親王 and Daizhen 戴振, who took the leadership in establishing a Ministry of Commerce regime. As previous studies have revealed, it was Prince Chun who proposed to set up a Ministry of Commerce. On his way to Germany as a mission to apologize for the Boxer uprising, he met many Chinese merchants in Shanghai, Hongkong, Singapore, and Malaya, who convinced him of the necessity for setting up a Ministry of Commerce. Immediately after his return to Beijing, he proposed to set up Ministry of Commerce.

1. "盛宮保致上海關道函" *Xuanbao* 選報 vol. 9 GX 28/2/1 [Mar. 10, 1902].

2. "上海商務總董嚴小舫觀察稟盛宮保" "盛宮保批稟" *ibid.*, vol. 9 GX 28/2/1 [Mar. 10, 1902]; "請設上海商議會議公所摺" *YQCG* vol. 7 GX 28/9 [Oct.-Nov. 1902]. 35a-37b.

Meanwhile, Dai Zhen made the similar proposal after he came back from attending King Edward VII's coronation ceremony in Great Britain via America and Japan.³ In April 22, 1903, the Qing court announced their proposals, and ordered Dai Zhen, Yuan Shikai 袁世凱, and Wu Tingfang 伍廷芳 to lay down commercial laws by selecting useful rules from the commercial laws in Western countries or adopting relevant regulations of Chinese merchants' groups collected through Chinese Chambers of Commerce in Shanghai and other districts so that the Qing central government could encourage industry and commerce.⁴ A half year later, the Qing court formally ordered to set up Ministry of Commerce.⁵

The first attempt of the Ministry of Commerce was to break the control of the Qing local governments over the Chinese merchants' groups and Chinese mercantile firms. On September 26, 1903, they proposed that the Qing court to order the local government officials and magistrates to cooperate with the commercial experts sent from the Ministry of Commerce (*kaocha shangwuyuan* 考察商務員) in managing the Chinese mercantile firms, the supervision of which had been monopolized by the Qing local government officials, whether they were *guandu shangban* 官督商辦 or *guanshang heban* 官商合辦 firms.⁶ Next, in the regulations that ruled their organization system, the Ministry of Commerce clearly declared their will to exert control over railway, mining, industry, and agriculture by supporting the mercantile activity of the cooperative Chinese merchants.⁷ In the third rule, Ministry of Commerce stipulated as follows:

³ Kurahashi (1976a): 1; Chan (1977): 162-163; Soda (1992): 117-119.

⁴ "上諭" *GXCDHL*, GX 29/3/25 [Apr. 22, 1903]; "札訂商律" *SB*, May 18, 1903.

⁵ "上諭" *GXCDHL*, GX 29/7/16 [Sep. 7, 1903], GX 29/7/21 [Sep. 12, 1903].

⁶ "商部奏" *GXCDHL*, GX 29/8/6 [Sep. 26, 1903].

⁷ Full detail of the organization of Ministry of Commerce, see Chan (1977): 165-169; Soda (1992): 118-122.

[The Ministry of Commerce would] invite Chinese merchants to set up railway, mining, industry, and agricultural companies. If these companies as test cases succeeded in their management, the Ministry of Commerce encourages each provincial government to prevail the management style of the successful companies gradually...If the aforementioned companies are provisionally organized by the accumulating of official capital, [since] it will not be easy for all the shares to be subscribed by merchants, those who assume responsibility for their management should be supported and protected as appropriate by this Ministry. As to the shares subscribed by merchants, profits or losses and suchlike matters, this Ministry will only concern itself with providing encouragement and ordering the pursuit of those absconding on account of their debts. Furthermore, it will not operate according under the rubric of 'official supervision and merchant management'; nor will it despatch other supervisory or general managerial officers so as to prevent malpractices. They will, as if they are official-merchant partnerships and 'official assistance and merchant management', from time to time determine regulations that have regard to the quantity of shares held [by the partners] and the level of difficulty of the management. Generally speaking, the responsibility of this Ministry resides in advocating and promoting, with especial attention to what will be of benefit to the people. All the abuses of interference and oppression should be severely removed, so as to assist the policy of the protection and favouring of merchants by the state...⁸

In addition, Ministry of Commerce lay down detailed regulations for encouraging Chinese merchants to set up joint stock companies. The set of regulations promised to give the post of Ministry of Commerce and the official rank to any Chinese merchant that bought shares of the *guanshang hegu* or *guanzhu shangban* firms according to the amount of shares he bought.⁹

The Chinese merchant organization, through which Ministry of Commerce intended to control Chinese merchants and their mercantile enterprises, was the Chinese chambers of commerce. As Rule 2 of the short regulations of Chinese chambers of commerce (*Shangwu jianming zhangcheng* 商會簡明章程) stipulated so, all the Chinese chambers of

8. "商務部奏擬章程十二條" *SB*, Oct. 17, 1903.

9. "商部奏酌擬獎勵公司章程摺" *SB*, Dec. 6, 1903.

commerce were the same organizations as the prominent Chinese merchant groups that had been called as *shangye gongsuo* 商業公所 or *shangye gonghui* 商業公會.¹⁰ In contrast to the Qing local government officials, Ministry of Commerce intended to control merchant activities by introducing with commercial law or company law (*gongsi lü* 公司律) modelled after the laws of Western countries. By this way, Ministry of Commerce intended not only to strengthen the position of the Chinese commercial organizations but also to improve the quality of tea, silk, and other industrial products, such as glass, wax, paper, and soap.¹¹

The Ministry of Commerce regarded the *Lijin* tax collection system by the leaders of the prominent Chinese merchants' groups and the officials of the *Lijin* tax bureaus as a hindrance to commercial activities by Chinese merchants despite the fact that it had been a vital "institutional privilege" for maintaining the commercial organizations and the solidarity of the prominent Chinese merchants' groups. They apparently considered it more important to protect the sales profit of each Chinese merchant from the *Lijin* tax collection than to uphold the old power system of the local government officials and the leaders of the prominent Chinese merchants' groups. Therefore, they directed provincial governments to prohibit "wicked officials" in the *Lijin* tax bureaus from harassing or taking bribes from Chinese merchants when they collected the *Lijin* tax, and to severely punish such misconduct by the "wicked officials" if they found it.¹²

For the Qing local government officials and the leaders of the prominent Chinese merchants' groups, however, the direction obviously denied the method upon which they had relied to control the Chinese

10. "商部奏定商會簡明章程" *SB*, Mar. 21, 1904.

11. "商部奏" *GXCDHL*, GX 29/11/24 [Jan. 11, 1904].

12. "商部奏" *GXCDHL*, GX 29/9/1 [Oct. 20, 1903].

merchants and to ensure the right of doing their business. Subsequently they neglected any other regulations or directions from Ministry of Commerce.¹³ Unfortunately, the Ministry of Commerce lacked any effective means of disciplining disobedient local government officials.

If they really wanted to protect the sales profits of Chinese merchants from the *Lijin* tax collection with a Western type of commercial legal system, they had to have some effective means of punishing those who breached the legal system they adopted. The merchant regulations (*shangren tongli* 商人通例), a part of the commercial law, required that Chinese merchants record their transactions and accounts, and to keep their accounting books for at least ten years so that Ministry of Commerce could check their commercial records at any time,¹⁴ no one respected such directions.

Furthermore, the crucially important problem for the Ministry of Commerce was whether they could nullify the two institutional privileges foreign mercantile firms in Shanghai granted to attract their cooperative Chinese merchant groups with their commercial law system or not. Since the Qing government officials were clearly aware how to nullify the outward transit-pass system and to compete with foreign manufacturing factories from the failures of the factory constructing movement and the Commercial Affairs Bureau policy, the last remaining problem to get over was how to nullify the limited liability of shareholders of foreign firms and factories registered within the Shanghai International Settlement.

Nonetheless, the company law the Ministry of Commerce lay down cast a shadow upon the prospects of the Ministry of Commerce regime, because Rule 9, Rule 29, and Rule 33 of it, which defined the respon-

13. "商部奏" *GXCDHL*, GX 31/44/22 [May 25, 1905].; Soda (1992): 135.

14. "欽定商律" *SB*, Mar. 1, 1904; "欽定商律續昨稿" *ibid.*, Mar. 2, 1904.

sibility of shareholders of so-called limited companies or joint stock companies to guarantee the debt of the companies, clearly denied their limited liability.¹⁵

Success of the Ministry of Commerce Regime

Although the company law did not clearly indicate the limited liability of the shareholders of Chinese companies, the Ministry of Commerce made their own effort to nullify the two institutional privileges foreign firms granted to attract their cooperative Chinese merchant groups. After experiencing the success of the Dasheng cotton spinning factory and the failure of the six *guanshang huban* cotton manufacturing factories, the Qing government officials were always considering how to nullify the outward transit-pass system, and to compete with foreign factories within the International Settlement of Shanghai. Even though they permitted the construction of foreign factories within the International Settlement in Shanghai, they decided never to allow foreign mercantile firms to build manufacturing factories or warehouses in the inland raw-material-producing districts because Chinese merchants in the inland districts immediately came to be employed by the foreign manufacturing factories or warehouses in order to do business under the outward transit-passes. Therefore, they were particularly sensitive about the discrepancy with the articles of the Mackay treaty that might make it impossible to carry out the prohibition.

On March 28, 1904, Liangjiang viceroy, Wei Guangtao 魏光燾, asked the Ministry of Commerce as to how to interpret the discrepancy between Article 4 and Article 8 Section 9 of the Mackay treaty. According to Wei, since Article 8 Section 9 stipulated that "An excise equivalent to double the import duty as laid down in the Protocol of

15. "欽定商律" *SB*, Mar. 1, 1904; "欽定商律續昨稿" *ibid.*, Mar. 2, 1904.

1901 is to be charged on all machine-made yarn and cloth manufactured in China, whether by foreigners at the Open Ports or by Chinese anywhere in China... This Excise is to be collected through the Imperial Maritime Customs. The same principle and procedure are to be applied to all other products of foreign type turned out by machinery, whether by foreigners at the Open Ports or by Chinese anywhere in China," the local Qing government officials allowed foreign mercantile firms to open manufacturing factories only within "the Open Port" [*i.e.*, the International Settlement of the treaty ports], but prohibited them from doing so in the interior districts.

On the contrary, the British government and the Qing central government agreed in Article 4 of the same treaty that Chinese subjects may become shareholders in any British Joint-Stock Company; similarly British subjects may invest in Chinese companies under the same obligations as the Chinese shareholders in such companies. Moreover, Rule 57 of the company law promulgated the same right. The above article and rule meant that British merchants and Chinese merchants could organize and invest in the same mercantile firm, whether it was a joint-stock or Chinese *hegu* style firm.

Accordingly, Wei requested Ministry of Commerce to explain what he should do if foreign merchants attempted to set up a *hegu* style firm with Chinese merchants and to build a manufacturing factory in the interior district under the name of the *hegu* style firm. Besides this, he asked what he should do if foreign merchants attempted to gain control over a Chinese joint-stock railway or mining company by buying more than a half of the subscribed shares of the company.

Immediately after receiving his inquiry, the Ministry of Commerce directed local magistrates to investigate whether foreign merchants were attempting to build a manufacturing factory in the interior districts by

cooperating with a company of Chinese merchants or to advancing loans to them on the security of a piece of land in order to avoid a conflict or making it a precedent case. The Ministry of Commerce's reply was that since the Qing central government could not prohibit foreign merchants becoming shareholders of Chinese companies, they had no choice but to restrict the commercial activities of foreign shareholders through the Chinese commercial law system.

Therefore, with the regulations for the railway or mining construction companies (*tielu zhangcheng* 鐵路章程; *kuangwu zhangcheng* 礦務章程), the Ministry of Commerce prohibited foreign shareholders from buying more than half of the subscribed shares of Chinese railway or mining companies, and from making a loan to Chinese companies on the security of a piece of land in order to prevent them from governing railway or mining in China or enlarging their spheres of influence. Informing local government officials of their policy, the Ministry of Commerce directed them strictly to prohibit foreign merchants from building manufacturing factories in the interior districts by cooperating with Chinese companies.¹⁶

Furthermore, in their reply to the Ministry of Foreign Affairs (*Waiwubu* 外務部) and Wei on the same question, the Ministry of Commerce again emphasized the importance of prohibiting foreign merchants from building not only manufacturing factories but even a warehouse (*hangzhan* 行棧), or even from living in the interior and stressed the reasons for it. The Ministry pointed out that no treaty had allowed foreign merchants to build a warehouse or to live in the interior since the Chinese-British treaty of Nanjing of 1842, and that only Clause 1 Section 3 of the Chefoo convention, which allowed foreign steamers to stop at Datong, Anjing, Hukou, Wuxue, Luxikou, and Shashi

16. "商部申明商律內洋商附股字義咨兩江總督魏文" *DFZZ*, vol. 1 No. 5, July 8, 1904: 61-62.

for the purpose of landing or shipping passengers or goods, might be interpreted as a pretext for foreigners to build warehouses or to live in the interior districts. However, since even this clause specifically declared what and where foreigners were allowed to do in order to avoid arbitrary interpretation, the Ministry declared foreign merchants were not allowed to do so on the alleged authority of this clause.

The Ministry of Commerce went on to emphasize the fact that Chinese merchants could not compete with foreign manufacturing factories after foreign merchants acquired the right of building manufacturing factories in the treaty ports, and that only by building manufacturing factories amidst the inland raw-material-producing districts could Chinese merchants effectively compete with the foreign factories. However, as in the case of the silk filatures in Wuxi, foreign merchants could extend their influence in the interior district by making loans to Chinese merchants for building factories, and Article 4 of the Mackay treaty openly permitted such activity.

Therefore, the Ministry of Commerce pointed out the importance of Rule 38 of the commercial law, Rule 6 of the regulation for the railway construction company, and Rule 16 of the regulation for the mining construction company. Rule 38 promulgated that a shareholder of a Chinese company should register the amount of the stock he bought in the Chinese company, and the latter two prohibited foreign shareholders from buying more than half of the subscribed stocks of Chinese railway or mining companies. On the basis of these rules, the Ministry of Commerce ordered a survey the stock-exchange activities of foreign merchants and to prevent them from building a manufacturing factory

or a warehouse in the interior districts, and controlling railways or mining in China.¹⁷

It was obvious that the above policy of the Ministry of Commerce was to nullify the outward transit-pass system as an "institutional privilege" used by foreign merchants to undermine the solidarity of the prominent Chinese merchants' groups. They directed the local government officials to act according to this policy. As a result, the *Shenbao* and *Dongfang zazhi* 東方雜誌 reported that local officials had prohibited British, American, and Japanese mercantile firms from opening warehouses for purchasing raw materials in the interior districts from October 1905 in Fujian, Shanghai, Shandong, Jiangxi, Tongzhou, and Hangzhou.¹⁸

The Qing government officials led by the Ministry of Commerce, eventually began to nullify one of the "institutional privileges" that foreign mercantile firms utilized to attract cooperative Chinese merchants. However, the prohibition on building foreign factories or warehouses in the interior districts immediately lost its effect if foreign merchants or their cooperative Chinese merchants went into the interior districts by railway or steamships with outward transit-passes. Therefore, about the same time as the Qing local government officials strictly prohibited the commercial activities of foreign merchants in the interior districts, there arose the railway and mining autonomy movements aimed at managing the railways and mining companies and led by the prominent gentry-merchants.

Limit of the Ministry of Commerce Regime

17. "商部申明洋商在內地設廠與附股系屬兩事不得牽混誤" *DFZZ*, vol. 1 No. 9, Nov. 2, 1904: 95-99.

18. Soda (1975): 50-51; "福建洋務局移知各局不准洋商在內地開設行棧文" *DFZZ*, vol. 2 No. 9, Oct. 23, 1905: 93-94; "商部咨請查禁洋商影射牌號" *SB*, Nov. 18, 1905; "嚴禁洋商內地設局(鎮江)" *ibid.*, Dec. 2, 1905; "江督札飭關道與領事爭論洋商內地設棧" *ibid.*, Jan. 6, 1906; "稅務總局稟商三聯單辦法" *ibid.*, Apr. 22, 1906.

While the Ministry of Commerce succeeded in deterring foreign mercantile firms from undermining the solidarity of the prominent Chinese merchants' groups with the outward transit-pass privilege to a certain extent, they did not manage to protect the property of Chinese merchants from bankruptcy so that they could nullify the other "institutional privilege" held by foreign mercantile firms, namely the limited liability of the shareholders of the foreign mercantile firms registered in the International Settlement in Shanghai. Both the commercial law and the company law that the Ministry of Commerce had laid down assumed the unlimited liability of the shareholders, and preferred to protect the property of the creditors rather than that of the debtors.

Accordingly, "fraudulent bankruptcy" by Chinese merchants had frequently taken place since the end of the 1890s. Even so, however, it was apparently unreasonable and excessive to inflict such heavy punishments on bankrupted Chinese merchants as wearing the cangue, beating with sticks, exile to the border areas, or life in prison as proposed by Liu Kunyi in 1899. Moreover, not all of the case of bankruptcy by Chinese merchants were "fraudulent."

In order further to deter "fraudulent bankruptcy" by making the punishment fit it, Ministry of Commerce laid down a bankruptcy code (*pochan lü* 破產律), which consisted of 9 sections and 69 articles, by considering the analogous laws of foreign countries and the requests from Chinese chambers of commerce. After Shen Jiaben 沈家本 and Wu Tingfang had examined the contents, the Ministry of Commerce submitted the bankruptcy code to the Qing court for approval.¹⁹

When the bankruptcy code was published in the *Shenbao* on May 30, 1906, it immediately got a bad reputation from the Qing government

19. "商部法律大臣等奏" *GXCDHL*, GX 32/4/2 [Apr. 25, 1906].

officials and Chinese mercantile society.²⁰ Just nine days after the issue of the bankruptcy code, the Board of Revenue proposed to the Qing court that it order the Ministry of Commerce to revise the bankruptcy code because it contained too many defects and problems.²¹ Next month, native bankers in Suzhou, Shanghai, and Ningbo petitioned the Ministry of Commerce through Zhang Qian to postpone putting the bankruptcy code into effect because it had many defects.²² Furthermore, five months after the issue, directors of the native bankers' guild in Zhenjiang, who had felt its dissatisfaction with the bankruptcy code, sent in their critical remarks on each article and petitioned Ministry of Commerce to consider their opinion.²³

Why did the bankruptcy code have such a bad reputation among the Qing government officials and Chinese mercantile people? The editorial article of *Shenbao* on June 10, 1906 explained the social background.²⁴ According to this article, the bankruptcy code was modelled after that of Japan of 1890. However, the Japanese Diet did not pass the bankruptcy code of 1890 as it contained many defects and it was not until 1905 that the Japanese Diet finally passed the law after several revisions it for several times, but in 1906 it was not yet implemented even in Japan.

In order to put the bankruptcy code into effect, the government had to protect all kinds of business profit with the Civil Law. Since the Qing central government had not laid down a Civil Law, it was impossible to

20. "商部奏定破產律全文" *SB*, May 30, 1906. Also, *Dongfang Zazhi* published the full text of the bankruptcy code in vol. 3, No. 7, Aug. 14, 1906: 72-80. Moreover, English translation with an editorial by J. H. Teesdale was published by the American Presbyterian Mission Press in Shanghai. One copy of the English translation of the bankruptcy code is available in G. E. Morrison pamphlet collection in Toyo Bunko, Tokyo. The full title of it is "Translation of the Chinese Bankruptcy Code of 1905 by Chang Nieh-yun: with an Editorial by J. H. Teesdale," (Shanghai: Printed at the American Presbyterian Mission Press: 1907). The quotation of the articles of the bankruptcy code in this study is from this translation.

21. "本館接到戶部擬酌改破產律再行會奏專電" *SB*, June 8, 1906.

22. "商訂破產律窒礙電文" *ibid.*, July 26, 1906.

23. "鎮商電請緩頒破產律(鎮江)" *ibid.*, Oct. 12, 1906.

24. "新訂破產律末議" *ibid.*, June 10, 1906.

define what was the obligation legally in China. That was the first reason why the bankruptcy code had a bad reputation in China.

Second, among the many complicated articles of the Civil Law designed to protect individual property in existing legal systems, the law of security and *jus in rem* were the most important because these laws defined a Common-law lien (*Retentionsrecht*; *ryuchiken* 留置權), equitable lien (*Vorzugsrecht*; *sakidori tokken* 先取特權), pledge (*Pfandrecht*; *shichiken* 質權), and mortgage (*Hypothek*; *teitoken* 抵當權).²⁵ However, since there had been no such laws in China, people had no choice but carry out debt adjustment according to the social custom, which vaguely recognized only pledge and mortgage but did not recognize Common-law lien and equitable lien. As a result, "fraudulence" and "fraudulent bankruptcy" frequently took place in China, and there was in full protection for individual property in Chinese society.

The editorial article of the *Shenbao* concluded that it was necessary to lay down a Civil Law, particularly a law of obligation and a law of security, so that the bankruptcy code could be put into effect. As a typical example of the defects of the bankruptcy code, the editorial article pointed out the case of Article 45, the text of which was as follows:

The liability of any bankrupt merchant shall not extend to his brother's, uncle's, nephew's or wife's moneys and property and those moneys and property entrusted by others to his care. All such moneys and property shall be registered according to the regulations of the Chamber of Commerce at the Chamber, when the relative deeds and documents will be stamped and noted and some relation or clansman shall sign them as a witness before they shall be deemed proved.

The above article assumed a Western society where husbands, wives, and their relatives had their own property, and the lawyers drew up documents to administer their property, according to which the gov-

²⁵ Since the Chinese bankruptcy code of 1890 modelled the Japanese and German laws, the key concepts of them quoted here are not strictly the same meaning as those of English law.

ernment protected it. But in China it was ineffective because society was based on a kinship system (*zongfa shehui* 宗法社會). On the whole, members of several generations could live together as a family, and their property was not individually administered in China. Moreover, since the Qing central government did not lay down a law of property, it was impossible to distinguish between the property of a bankrupted merchant from that of his wife, family, and clansmen in paying the debts according to the bankruptcy code. Furthermore, since China lacked a legal system based on professional lawyers, signature, payment through bank accounts, and public property registry office, and it was thus impossible to put the bankruptcy code modelled on those in Western countries into effect without a law of property.

Native bankers and other financiers criticized the bankruptcy code on other grounds than the character of the Chinese society. Attaching importance to the unlimited liability of the debtors, and to the preference of the property of the creditors over that of the debtors, they opposed to every article that was intended to ensure the limited liability of the bankrupted debtors. First of all, they criticized Article 27, 30, 32, 44, and 66 because these articles were intended to reduce the amount of the obligation of the creditors and accordingly to preserve the property of the bankrupted debtors. Secondly, since Article 45 was infeasible in China because of the above-mentioned reason, it was impossible to investigate, as Article 48 ruled, whether or not the bankrupt had concealed his property by placing it under another's care. Thirdly, fearing the failure of getting payment from debtors to meet their obligations, they opposed Article 63 and 65 because these articles permitted the debtors to postpone the term of repayment within one year even though these articles faced under the rigid conditions. Finally,

they regarded the punishment against intentional and fraudulent bankruptcy defined in Article 52 as too mild.(see Appendix)²⁶

The fierce criticism and opposition to the bankruptcy code by Chinese mercantile people, particularly the native bankers, put the Ministry of Commerce into a dilemma. If the Ministry of Commerce abandoned the implementation of the bankruptcy code into effect, they could not nullify the last remaining "institutional privilege" that foreign merchants had for attracting Chinese merchants to cooperate with them. On the other hand, if the Ministry of Commerce forcibly put the bankruptcy code into effect, it would create great confusion among Chinese mercantile people. The Ministry of Commerce considered it more important to nullify the limited liability of the shareholders of foreign firms and factories registered in the International Settlement in Shanghai. They tried to persuade Zhang Qian, and the Chinese chambers of commerce in Shanghai and other districts to gradually get accustomed to the bankruptcy code because they had laid down the code for the benefit of the Chinese merchants. At the same time, they rebutted most of the criticism as baseless.²⁷

However, their efforts at persuasion had no effect. Native bankers and prominent Chinese merchants' groups in many districts continued to oppose the bankruptcy code. In the end, the Ministry of Commerce decided to withdraw the bankruptcy code and declared that they would revise it on November 1, 1906.²⁸

The withdrawal of the bankruptcy code was a fatal retreat for the Ministry of Commerce. Two months before it did so, the Ministry of

26. "商業駁破產律議 (來稿代論)" *SB*, June 23, 1906; "續漢口錢業匯業破產律條議" *ibid.*, Oct. 1, 1906; "再續漢口錢業駁破產律條議" *ibid.*, Oct. 7, 8, 1906. English translations of the quoted articles of the bankruptcy code are given in the Appendix.

27. "商部致顧問官張騫及上海商會等論破產律書" *Shangwu guanbao* 商務官報, No. 12, GX 32/6/25 [Aug. 14, 1906].

28. "商部議改破產律之條款" *SB*, Nov. 2, 1906.

Commerce was divided into a Ministry of Agriculture, Industry, and Commerce (*Nonggongshangbu* 農工商部) and a Ministry of Posts and Communications (*Youchuanbu* 郵傳部) as a preparation for the establishment of the constitutional system. After separation, the Ministry of Agriculture, Industry, and Commerce greatly lost its power and influence because Tang Wenzhi 唐文治, Wang Qingmu 王清穆, and Dai Zhen, who had been the leaders of the Ministry of Commerce, resigned or lost their posts. Meanwhile, the Ministry of Posts and Communications, which inherited the railway administration from Ministry of Commerce, came into conflict over the railway autonomy movement because the Ministry of Posts and Communications was a front agency of Yuan Shikai and Sheng Xuanhuai used to establish their control over the railway administration.²⁹

Since the reorganization of the Ministry of Commerce and the withdrawal of the bankruptcy code, the Qing central government officials had no longer any desire or ability to lead and control the Chinese merchants' organizations. In consequence, the Chinese merchants could neither depend upon any "institutional privilege" granted by the Qing government officials to maintain their commercial organizations, nor expect any legal protection for the preservation of their property. They had to maintain their commercial organizations and preserve their property by themselves in the series of economic crises, which broke out in 1907.³⁰ From the latter half of 1906, Chinese businessmen were no longer dependent merchants in a dynastic bureaucratic state. They were being forced to become an independent bourgeoisie, and their commercial organizations completely changed their character.

29. Kurahashi (1976a): 10-12; Chan (1977): 169-175; Soda (1992): 133-137.

30. Kikuchi (1960).

Conclusion

At the end of this study, I would like to criticize the assumption that economic history should only deal with such matters as the circulation system of men, goods, and money, or the production and consuming systems of a society. Human beings act according to their own will, sentiment, and intellectual ability, which work at the highest level when they want to obtain more interest or not to lose it. Historical writings without considering the psychological factor of human activities are inevitably uninteresting, because human history is fabricated by the human activities according to their own will, sentiment, and intellectual ability. Even economic history is of course not an exception.

Without considering the psychological changes that took place in the minds of the British mercantile people when they discovered the methods of undermining the concrete commercial organizations of Chinese merchants, it is impossible to account for the reason why the British mercantile people, who had always been defeated by the Chinese merchants and the Qing local government officials at each commercial conflict after the Arrow War, could suddenly and dramatically control Chinese merchants as they wanted after 1889.

The image of Rhoads Murphey that compared the Western mercantile people in China as "fleas on an elephant" is completely wrong.¹ As I pointed out in the Introduction of this study, Western residents in China should be compared as magnet that attracted the iron filings of Chinese merchants. The peculiar character of the "magnet" was that it had its own conscious. At first, the "magnet" was entirely unaware its own power. When it was aware that, it strengthened its power at its own will in order to attract much more the iron filings of Chinese merchants.

¹. Murphey (1974), (1977).

Why were Chinese merchants attracted to the Western mercantile firms? Because they could protect their sales profit or property with the "unequal" treaty system, so long as they cooperated with Western mercantile firms. In China, social and economic order was maintained by the rule that no one could claim the privilege of doing business without paying the tax imposed on it. Therefore, no institution to ensure the sales profit or the property of Chinese merchants was available, because the right of doing business was much more important than the sales profit or the property of individual merchants in China. Dealing with the change of the rule governing the maintenance of the merchant organizations in such a society, this study proves that the concept of "China's response to the Western impact" is still effective for interpreting modern Chinese history. Then, what was the "Western impact" on China?

The "Western impact" on China after the 1880s was entirely different from that before the end of the 1870s. It was neither gunboat diplomacy nor industrial products, such as British machine-made cotton goods, let alone advanced Western civilization. Former studies, which supposed that "Western impact" was the above things, was based on the wrong assumption that only Westerners could bring about a "Western impact" on China.

In fact, the Chinese were capable of promoting "Western impact" on China by themselves. The peculiar change in the treaty-port society in China during the 1880s was the emergence of a new type of Chinese who could speak and write English fluently, and was familiar with Western culture. The *North-China Herald* called them "English-speaking Chinese." According to the article of the *North-China Herald*, Western residents in China did not entirely trust and welcome the new

type of Chinese due to the ambivalent character of the "English-speaking Chinese" as follows.

During the last few years, a class has sprung up in Shanghai and the other open ports of China which is rapidly assuming large and powerful proportions. We refer to the young Chinese, who whether from having been to Europe and America, or from having been educated in mission schools, are able to speak and write English with fluency. These young men are already an important factor in the commercial life of the Far East, and great things are expected of them. Of many- the large majority, we believe- it is difficult to speak too highly. They are clever, well-educated, well-behaved, smart, industrious fellows, and in many instances have proved themselves of the highest value both to their foreign and Chinese employers. But there are exceptions, and these form a very great danger to the community. Active, shrewd, and good-looking, very often writing an excellent hand, and with many other capacities of great value in an office, they tell a plausible tale, make a pleasing impression, and not unfrequently (sic) secure posts of responsibility in foreign businesses. It may be months before the eyes of their employers are opened to the true villainy of the 'treasures' on the possession of which they have been pluming themselves. Many of these men have turned out the most arrant scamps, and the delinquency which is at last discovered proves perhaps to be only one in a long series of systematic malpractices which have up till then remained undetected. It is serious enough when private firms are thus victimised, but far worse when public bodies are found to have such men in their employ. There is no more valuable member of the commercial or industrial community of Shanghai than an English or American educated Chinese, so long as he is as honest as he is able- for able they most of them are; but no more pernicious element exists in China, if, to their ability, these young men fail to add rectitude. Their opportunities for doing mischief are tenfold more numerous than those enjoyed by an ordinary Chinese or an ordinary European. ...We are throwing no discredit upon the English-speaking Chinese as a class, for we believe them to be in many respects a great boon to the community. But it is our duty to warn the public against placing too easily their confidence in any plausible youth who may apply for a situation, and always to institute a rigorous search into his antecedents. ...²

It was the "English-speaking Chinese" who cooperated with British and other foreign mercantile firms for protecting their sales profit from

2. "English-speaking Chinese," *NCH*, Sep. 23, 1882, 315-316.

the *Lijin* tax collection by means of the outward transit-pass system, and their property from the bankruptcy of the mercantile firms they invested in by means of the limited liability of the shareholders. As was fully explained in Chapter 2, since the Qing local government officials and the leaders of the Shanghai Silk Guild failed to prohibit the commercial activity of the only one "English-speaking Chinese," Xu Hongkui, it resulted in the collapse of the concrete commercial organizations of Chinese merchants in the 1890s, just as a great dike may break from the boring of a tiny anthill. Moreover, as was revealed in Chapter 5, when British mercantile firms, which had feared the commercial organizations of Chinese merchants and the malpractices of their compradors, discovered the method to control their compradors and to undermine the commercial organizations of Chinese merchants by a trivial incident in 1888, the situation completely changed.

Based upon the above facts, my new definition of "the Western impact" on China after the 1880s includes the growth of the commercial organizations of the "English-speaking Chinese" who cooperated with foreign mercantile firms for protecting their sales profit and property by exploiting the institutional privileges stipulated by the "unequal" treaties. Nonetheless, the conditions in which the "English-speaking Chinese" and foreign mercantile firms could develop their commercial organizations based upon the institutional privileges stipulated by the "unequal" treaties was originally very limited. For the limited liability of the shareholders was effective only within the International Settlement of Shanghai, and the outward transit-pass system was effective only on the commercial routes between the interior districts and the treaty ports. Therefore, as seen in Chapter 3 and Chapter 4, the "English-speaking Chinese" and foreign mercantile firms could not fully develop their commercial organizations in the black tea export trade to

England or the sales of the stored Indian opium within the International Settlement in Shanghai.

Then, why could the commercial activities of the "English-speaking Chinese" who cooperated with foreign mercantile firms undermine the apparently concrete solidarity of the prominent Chinese merchants' groups and in consequence threaten the dominance of the Qing government officials exercised over them, especially after the latter half of the 1890s? The main reasons were the treaty of Shimonoseki and the Mackay treaty, which promulgated the rights of foreign residents to manage manufacturing factories in China and to become shareholders in any type of Chinese mercantile firms. However, since the collapse of prominent Chinese merchants' groups had already taken place in the trading season of 1889, the treaty of Shimonoseki and the Mackay treaty only accelerated the above change. This can also serve as evidence to show the Sino-Japanese war and the Boxer uprising in themselves only had an indirect influence on the Chinese economy though they delivered a fatal blow to the Qing central government.

While the "Western impact" on China can be newly defined, what were the contents of "China's response" to it? They included several attempts by the Qing government officials to nullify the two "institutional privileges" of foreign mercantile firms granted to attract the commercial organizations of the cooperative "English-speaking Chinese" and to reinforce their own control over the commercial organizations of the Chinese merchants.

As seen in Chapter 5 and Chapter 6, their endeavour achieved a partial success. By building manufacturing factories in the raw-material-producing districts and prohibiting foreign merchants from building manufacturing factories or warehouses there, they could nullify the

outward transit-pass system as one of the institutional privileges of foreign merchants.

However, the Qing government officials could not nullify the other institutional privilege of foreign merchants: the limited liability of the shareholders of the foreign firms registered within the International Settlement in Shanghai. Their only attempt to nullify it was the bankruptcy code laid down by Ministry of Commerce. When this ended in failure in 1906 due to opposition from Chinese mercantile classes and the reorganization of the Ministry of Commerce, the Qing central government officials could not find any other way to protect the property of Chinese merchants from the bankruptcy of the mercantile enterprises in which they invested until 1911.

Since the Qing central government officials failed to put the bankruptcy code into effect, and could not grant any other effective "institutional privileges" to maintain the commercial organizations of Chinese merchants, the prominent Chinese merchants had to move towards becoming an independent bourgeoisie and seek for their own way to protect their own commercial interest and their power. What they most worried about was the development of the foreign railways and mining companies, because they could undermine the entrenched commercial organizations of Chinese merchants by attracting rich Chinese merchants with the limited liability of the shareholders and disseminating outward transit-passes towards the numerous Chinese merchants and landlords in the inland raw-material-producing districts. They tried to tighten the solidarity of the Chinese merchants' groups by conducting the patriotic boycott or autonomy movements in order to prevent the numerous Chinese merchants were attracted to the foreign mercantile firms.

However, the patriotic boycott and autonomy movements could not prevent the flow of Chinese merchants in the long run. The prominent Chinese merchants eventually had to rely upon some government that could lay down proper legal systems to ensure their power so that they could maintain their commercial organizations and the solidarity of their members. Since the Qing central government seemed to be unable to play such a role, the Chinese merchants felt that they had to replace it with a new government and state.

Thus, the revolution of 1911 became close to inevitable and it was the beginning of the long hard way to be followed by the Chinese bourgeoisie in the effort to build their own government and state, based upon a legal system and an "equal" treaties.

Appendix

Relevant Articles of Treaties between China and Foreign States, the English Joint Stock Company Act of 1862, and the Chinese Bankruptcy Code of 1905 (Western languages text only)

Great Britain

Article 5 of the Treaty of Nanking (1842)

The Government of China having compelled the British Merchants trading at Canton to deal exclusively with certain Chinese Merchants called Hong Merchants (or Cohong) who had been licensed by the Chinese Government for that purpose, the Emperor of China agrees to abolish that practice in future at all Ports where British Merchants may reside, and to permit them to carry on their mercantile transactions with whatever persons they please, and His Imperial Majesty further agrees to pay to the British government the sum of Three Million of Dollars, on account of Debts due to British Subjects by some of the said Hong Merchants (or Cohong), who have become insolvent, and who owe very large sums of money to Subjects of Her Britannic Majesty.

Article 9 of the Treaty of Tientsin (1858)

British subjects are hereby authorized to travel for their pleasure or for purpose of trade, to all parts of the Interior, under Passports, which will be issued by their Consuls and countersigned by the Local Authorities. These Passports, if demanded, must be produced for examination in the localities passed through. If the Passport be not irregular, the Bearer will be allowed to proceed, and no opposition shall be offered to his hiring persons, or hiring Vessels for the carriage of Baggage or Merchandise.

If he be without a Passport, or if he commit any offence against the Law, he shall be handed over to the nearest Consul for punishment, but he must not be subjected to any ill-usage in excess of necessary restraint. No Passport need be applied for by persons going on excursions from the Ports open to trade to a distance not exceeding one hundred *li*, and for a period not exceeding five days.

Article 11 of the Treaty of Tientsin

In addition to the Cities and Towns of Canton, Amoy, Foochow, Ningpo and Shanghai, opened by the Treaty of Nanking, it is agreed that British subjects may frequent the Cities and Ports of Newchwang, Tangchow, Taiwan (Formosa), Chawchow (Swatow) and Kiungchow (Hainan).

They are permitted to carry on trade with whomever they please, and to proceed to and fro at pleasure with their Vessels and Merchandise.

They shall enjoy the same privileges, advantages and immunities at the said towns and Ports as they enjoy at the Ports already opened to trade, including the right of residence, of buying or renting Houses, of leasing Land therein, and of building Churches, Hospitals and Cemeteries.

Article 13 of the Treaty of Tientsin

The Chinese Government will place no restrictions whatever upon the employment, by British subjects, of Chinese subjects in any lawful capacity.

Article 16 of the Treaty of Tientsin

Chinese subjects who may be guilty of any criminal act towards British subjects shall be arrested and punished by the Chinese authorities according to the Laws of China.

British subjects who may commit any crime in China shall be tried and punished by the Consul or other Public Functionary authorized thereto according to the Laws of Great Britain.

Justice shall be equitably and impartially administered on both sides.

Article 28 of the Treaty of Tientsin

Whereas it was agreed in Article X of the Treaty of Nanking that British Imports, having paid the Tariff Duties, should be conveyed into the Interior free of all further charges, except a Transit Duty, the amount whereof was not to exceed a certain percentage on Tariff value; and whereas no accurate information having been furnished of the amount of such Duty, British Merchants have constantly complained that charges are suddenly and arbitrarily imposed by the Provincial Authorities, as Transit Duties upon produce on its way to the Foreign market, and on Imports on their way into the Interior, to the detriment of Trade; it is agreed that within four months from the signing of this Treaty at all Ports now open to British trade, and within a similar period at all Ports that may hereafter be opened, the authority appointed to superintend the collection of Duties shall be obliged, upon application of the Consul, to declare the amount of Duties leviable on produce between the place of production and the Port of Shipment, and upon Imports between the Consular Port in question and the inland markets named by the Consul; and that a notification thereof shall be published in English and Chinese for general information.

But it shall be at the option of any British Subject, desiring to convey produce purchased inland to a Port, or to convey Imports from a Port to an inland market, to clear his goods of all Transit Duties, by payment of a single charge. The amount of this charge shall be leviable on Exports at the first Barrier they may here to pass, or on Imports at the Port at which

they are landed; and on payment thereof a certificate shall be issued which shall exempt the goods from all further inland charges whatsoever.

It is further agreed that the amount of this charge shall be calculated as nearly as possible at the rate of two and a half per cent *ad valorem*, and that it shall be fixed for each article at the conference to be held at Shanghai for the revision of the Tariff.

It is distinctly understood that the payment of Transit Dues, by commutation or otherwise, shall in no way affect the Tariff Duties on Imports or Exports, which will continue to be levied separately and in full.

Rule 7 of the Rules of Trade in the Treaty of Tientsin

Transit Dues.- It is agreed that Article XXVIII. of the Treaty of Tientsin shall be interpreted to declare the amounts of Transit Dues legally leviable upon merchandise imported or exported by British subjects, to be one-half of the Tariff Duties, except in the case of the Duty-free goods liable to a Transit Duty of two and a half per cent, *ad valorem*, as provided in Article 2 of these Rules. Merchandise shall be cleared of its Transit Dues under the following conditions:-

In the case of Imports:- Notice being given at the port of entry from which the Imports are to be forwarded inland, of the nature and quantity of the goods, the ship from which they have been landed, and the place inland to which they are bound, with all other necessary particulars, the Collector of Customs will on due inspection made, and on receipt of the Transit Duty due, issue a Transit Duty Certificate. This must be produced at every barrier station and *viséd*. No further Duty will be leviable upon Imports so certificated, no matter how distant the place of their destination.

In the case of Exports.- Produce purchased by a British subject in the interior will be inspected, and taken account of at the first barrier it passes on its way to the port of shipment. A memorandum showing the amount of the produce and the port at which it is to be shipped, will be deposited there by the person in charge of the produce; he will then receive a Certificate, which must be exhibited and *viséd* at every barrier on his way to the port of shipment. On the arrival of the produce at the barrier nearest the port, notice must be given to the Customs at the port, and the Transit Dues due thereon being paid, it will be passed. On exportation the produce will pay the Tariff Duty.

Any attempt to pass goods inwards or outwards, otherwise than in compliance with the rule here laid down, will render them liable to confiscation.

Unauthorized sale, *in transitu*, of goods that have been entered as above for a port, will render them liable to confiscation. Any attempt to pass goods in excess of the quantity specified in the Certificate will render all the goods of the same denomination named in the Certificate liable to confiscation. Permission to export produce, which cannot be proved to

have paid its Transit Dues, will be refused by the Customs until the Transit Dues shall have been paid.

The above being the arrangement agreed to regarding the Transit Dues, which will thus be levied once and for all, the notification required under Article XXVIII of the Treaty of Tientsin, for the information of British and Chinese subjects, is hereby dispensed with.

Article 46 of the Treaty of Tientsin

The Chinese authorities at each Port shall adopt the means they judge most proper to prevent the Revenue suffering from fraud or smuggling.

Clause 3, Section 2 of the Chefoo Convention (1876)

It is agreed that whenever a crime is committed affecting the person or property of a British Subject, whether in the interior or at the open ports, the British Minister shall be free to send officers to the spot to be present at the investigation.

To the prevention of misunderstanding on this point, Sir Thomas Wade will write a Note to the above effect, to which the Tsung Li Yamen will reply, affirming that this is the course of proceeding to be adhered to for the time to come.

It is farther understood that so long as the laws of the two countries differ from each other there can be but one principle to guide judicial proceedings in mixed cases in China, namely, that the case is tried by the official of the defendant's nationality; the official of the plaintiff's nationality merely attending to watch the proceedings in the interests of justice. If the officer so attending be dissatisfied with the proceedings, it will be in his power to protest against them in detail. The law administered will be the law of the nationality of the officer trying the case. This is the meaning of the words *huit'ung* [會同], indicating combined action in judicial proceedings in Article XVI of the Treaty of Tientsin [see above], and this is the course to be respectively followed by the officers of either nationality.

Clause 1, Section 3 of the Chefoo Convention (1876)

With reference to the area within which, according to the Treaties in force, *likin*, ought not to be collected on foreign goods at the open ports, Sir Thomas Wade agrees to move his government to allow the ground rented by foreigners (The so called concessions) at the different ports to be regarded as the area of exemption from *likin*: and the Government of China will thereupon allow I-chang in the Province of Hu-pei, Wu-hu in An-Hui, Wen-chow in Che Kiang and Pei-hai (Pak-hoi) in Kuang Tung, to be added to the number of ports open to trade and to become Consular stations. The British Government will farther be free to send officers to reside at Chung-king, to watch the conditions of British trade in Ssu

Chuen. British merchants will not be allowed to reside at Chung-king, or to open establishments or warehouses there, so long as no steamers have access to the port. When steamers have succeeded in ascending the river so far, further arrangements can be taken into consideration.

It is farther proposed, as a measure of compromise, that at certain points on the shore of the Great River, namely, Ta-t'ung and Nganching in the Province of An-Hui; Hu-k'ou in Kiang-Si; Wu-sueh, Lu-chi-k'ou, and Sha-shih in Hu Kuang; these being all places of trade in the interior, at which, as they are not open ports, foreign merchants are not legally authorized to land or ship goods, steamers shall be allowed to touch for the purpose of landing or shipping passengers or goods; but in all instances by means of native boats only: and subjects to the regulations in force affecting native trade. ... Foreign Merchants will not be authorized to reside or open houses of business or warehouses at the places enumerated as ports of call.

Clause 4, Section 3 of the Chefoo Convention (1876)

The Chinese Government agrees that Transit Duty Certificate shall be framed under one rule at all Ports, no difference being made in the conditions set forth therein; and that so far as Imports are concerned the nationality of the person possessing and carrying these is immaterial. Native produce carried from an Inland Centre to a port of shipment, if *bona fide* intended for shipment to a foreign port, may be by Treaty certificated by the British Subject interested, and exempted by payment of the half duty from all charges demanded upon it *en route*. If produce be not the property of a British Subject, or is being carried to a port not for exportation, it is not entitled to the exemption that would be secured it by the exhibition of a Transit Duty Certificate.

The British Minister is prepared to agree with the Tsungli Yamen [總理衙門] upon rules that will secure the Chinese Government against abuse of the privilege as affecting produce.

The words, *nei ti* [內地], inland, in the clause of Article VII of the Rules appended to the Tariff, regarding carriage of imports inland, and of native produce purchased inland, apply as much to places on the sea coast and river shores, as to places in the interior not open to foreign trade; the Chinese Government having the right to make arrangements for the prevention of abuse thereat.

Clause 7, Section 3 of the Chefoo Convention (1876)

The Government of Hongkong having long complained of the interference of the Canton Customs Revenue Cruisers with the junk trade of that Colony, the Chinese Government agrees to the appointment of a Commission, to consist of a British Consul, and officer of the Hongkong Government, and a Chinese official of equal rank, in order to the

establishment of some system that shall enable the Chinese Government to protect its revenue without prejudice to the interests of the Colony.

Article 4 of the Mackay Treaty (1902)

Whereas questions have arisen in the past concerning the right of Chinese subjects to invest money in non-Chinese enterprises and companies, and whereas it is a matter of common knowledge that large sums of Chinese capital are so invested, China hereby agrees to recognize the legality of all such investments past, present and future.

It being, moreover, of the utmost importance that all shareholders in a Joint-Stock Company should stand on a footing of perfect equality as far as mutual obligations are concerned, China further agrees that Chinese subjects who have or may become shareholders in any British Joint-Stock Company shall be held to have accepted, by the very act of becoming shareholders, the Charter of Incorporation or Memorandum and Articles of Association of such Company and regulations framed thereunder as interpreted by British Courts, and that Chinese Courts shall enforce compliance therewith by such Chinese shareholders, if a suit to that effect be entered, provided always that their liability shall not be other or greater than that of British shareholders in the same Company.

Similarly the British Government agree that British subjects investing in Chinese Companies shall be under the same obligations as the Chinese shareholders in such Companies.

The foregoing shall not apply to cases which have already been before the Courts and been dismissed.

Article 8 of the Mackay Treaty (1902)

Preamble. The Chinese Government, recognizing that the system of levying *likin* and other dues on goods at the place of production, in transit, and at destination, impedes the free circulation of commodities and injures the interests of trade, hereby undertake to discard completely those means of raising revenue with the limitations mentioned in section 8.

The British Government, in return, consent to allow a surtax, in excess of the Tariff rates for time being in force to be imposed on foreign goods imported by British subjects and a surtax in addition to the export duty on Chinese produce destined for export abroad or coastwise.

It is clearly understood that, after *likin* barriers and other stations for taxing goods in transit have been removed, no attempt shall be made to revive them in any form or under any pretext whatsoever; that in no case shall the surtax on foreign imports exceed the equivalent of one and a half times the import duty leviable in terms of the Final Protocol signed by China and the Powers on the 7th day of September, 1901; that payment of the import duty and surtax shall secure for foreign imports, whether in the hands of Chinese or non-Chinese subjects, in original packages or oth-

erwise, complete immunity from all other taxation, examination or delay; that the total amount of taxation leviable on native produce for export abroad shall, under no circumstances, exceed 7 1/2 per cent *ad valorem*.

Keeping these fundamental principles steadily in view, the High Contracting Parties have agreed upon the following methods of produce...

Section 9.- An excise equivalent to double the import duty as laid down in the Protocol of 1901 is to be charged on all machine-made yarn and cloth manufactured in China, whether by foreigners at the Open Ports or by Chinese anywhere in China.

A rebate of the import duty and two-thirds of the Import Surtax is to be given on raw cotton imported from foreign countries, and of all duties, including Consumption Tax, paid on Chinese raw cotton used in mills in China.

Chinese machine-made yarn or cloth having paid excise is to be free of Export Duty, Export Surtax, Coast-Trade Duty, and Consumption Tax. This Excise is to be collected through the Imperial Maritime Customs.

The same principle and procedure are to be applied to all other products of foreign type turned out by machinery, whether by foreigners at the Open Ports or by Chinese anywhere in China.

This stipulation is not to apply to the out-turn of the Hanyang and Ta Yeh Iron Works in Hupeh and other similar existing Government works at present exempt from taxation; or to that of Arsenals, Government Dockyards, or establishments of that nature for Government purposes which may hereafter be erected.

United States of America

Article 15 of the Treaty of Wang-hea (1844)

The former limitation of the trade of Foreign nations to certain persons appointed at Canton by the Government, and commonly called hong merchants, having been abolished, citizens of the United States engaged in the purchase or sale of goods of import or export are admitted to trade with any and all subjects of China without distinction; they shall not be subject to any new limitations nor impeded in their business by monopolies or other injurious restrictions.

France

Article 9 of Treaty of Huangpu (1842)

La corporation privilégiée connue précédemment Canton sous le nom de marchands *hong* ou *hanistes* ayant été légalement supprimée, les Français, dans les cinq ports, seront libres dorénavant de traiter de l'achat et de la vente de toute marchandise d'importation ou d'exportation avec tel sujet chinois qu'ils voudront, sans distinction de classe et sans l'intervention obligée de qui que ce soit. Aucune autre société privilégiée ne

pourra désormais s'établir non plus qu'aucune coalition organisée dans le but d'exercer un monopole sur le commerce.

En cas de contravention au présent. l'Autorité chinoise, sur les représentations du Consul ou Agent consulaire, avisera aux moyens de dissoudre de semblables associations, dont elle s'efforcera d'ailleurs de prévenir l'existence par des prohibitions préalables, afin d'écarter tout ce qui pourrait porter atteinte à la libre concurrence.

Article 7 of Treaty of Tientsin (1858)

Les Français et leur famille pourront se transporter, s'établir et se livrer au commerce ou à leur industrie, en toute sécurité et sans entrave d'aucune espèce, dans les ports et villes de l'Empire Chinois situés sur les cotes maritimes et sur les grands fleuves dont l'énumération est contenue dans l'Article précédent.

Ils pourront circuler librement de l'un à l'autre, s'ils sont munis de passeports; mais il leur est formellement défendu de pratiquer sur la cote des ventes ou des achats clandestins sous peine de confiscation des navires et des marchandises engagées dans ces opérations; et cette confiscation aura lieu au profit du Gouvernement Chinois, qui devra cependant, avant que la saisie et la confiscation ne soient légalement prononcées, en donner avis au Consul Français du port le plus voisin.

Article 14 of the Treaty of Tientsin (1858)

Aucune société de commerce privilégiée ne pourra désormais s'établir en Chine, et il en sera de même de toute coalition organisée dans le but d'exercer un monopole sur le commerce.

En cas de contravention au présent Article, les autorités Chinoises, sur les représentations du Consul ou de l'Agent Consulaire, aviseront aux moyens de dissoudre de semblables associations dont elles s'efforceront, d'ailleurs, de prévenir l'existence par des prohibitions préalables, afin d'écarter tout ce qui pourrait porter atteinte à la libre concurrence.

Germany

Article 6 of the Treaty of Tientsin (1861)

In den Häfen und Städten: Canton, Swatau (Tschau-Tschau), Amoi, Futschau, Ningpo, Shanghai, Tongtschau, Tientsin, Niutschwang, Tschinkiang, Kiukiang, Hangkau, ferner Kiongtschau auf der Insel Hainan, und Taiwan und Tamsui auf der Insel Formosa ist es den Unterthanen der contrabirenden Deutschen Staaten erlaubt, sich mit ihren Familien niederzulassen, frei zu bewegen, und Handel oder Industrie zu treiben. Sie können zwischen denselben nach Belieben mit ihren Fahrzeugen und Waaren hin-und herfahren, daselbst Häuser kaufen, mieten oder verpachten, und Kirchen, Kirchhofe und Hospitäler anlegen.

Belgium

Article 11 of the Treaty of Peking (1865)

Les Belges et leurs familles pourront se transporter, s'établir et se livrer au commerce ou à l'industrie en toute sécurité et sans entrave d'aucune espèce, dans les ports et viles de Canton, Swatow, Amoy, Foochow, Ningpo, Shanghai; Nanking, Chinkiang, Kiukiang et Hankow sur le fleuve Yangtze; Chefoo, Tientsin, Niuchuang; Tamsui et Taiwanfoo dans l'île de Formose; et Kiungchow dans l'île de Hainan.

Austria-Hungary

Article 8 of the Treaty of Peking (1869)

In den Häfen und Städten von Canton, Swatow, Amoy, Foochow, Ningpo, Shanghai; Chinkiang, Nanking, Kiukiang und Hankow auf dem Yangtsze Flusse; Chefoo (Yentai), Tientsin und Newchwang; dann Tamsui und Taiwanfoo auf der Insel Formosa und Kiungchow auf der Insel Hainan ist es den Angehörigen der österreichisch-ungarischen Monarchie und ihren Familien erlaubt sich frei zu bewegen, niederzulassen, Handel und Industrie zu treiben, in voller Sicherheit und ohne irgend welches Hinderniss. Im Innern des Landes können sie, gleich den Angehörigen anderer Nationen, Handel treiben, ohne jedoch Waarenhäuser daselbst zu errichten.

Japan

Section 4, Article 6 of the Treaty of Shimonoseki (1895)

Japanese subjects shall be free to engage in all kinds of manufacturing industries in all the open cities, towns, and ports of China, and shall be at liberty to import into China all kinds of machinery paying only the stipulated duties thereon.

All articles manufactured by Japanese subjects in China, shall in respect of inland transit and internal taxes, duties, charges and exactions of all kinds and also in respect of warehousing and storage facilities in the interior of China, stand upon the same footing and enjoy the same privileges and exemptions as merchandise imported by Japanese subjects into China.

In the event additional Rules and Regulations are necessary in connection with these concessions, they shall be embodied in the Treaty of Commerce and Navigation provided for by this Article.

Section 6 to 10 of the English Joint Stock Company Act of 1862¹

Any seven or more persons (or, where the company to be found will be a private company within the meaning of this Act, any two or more persons) associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requirements of this Act in respect of registration, form an incorporated company, with or without limited liability (that is to say), either-

- (i) A company having the liability of its members limited by the memorandum, to the amount, if any, unpaid on the shares respectively held by them (in this Act termed a company limited by shares); or
- (ii) A company having the liability of its members limited by the memorandum to such amount as the members may respectively thereby undertake to contribute to the assets of the company in the event of its being sound up (in this Act termed a company limited by guarantee); or
- (iii) A company not having any limit on the liability of its members (in this Act termed an unlimited company).

In the case of a company limited by shares-

(1) The memorandum must state-

- (i) The name of the company, with "Limited" as the last word in its name;
- (ii) The part of the United Kingdom, whether England, Scotland, or Ireland, in which the registered office of the company is to be situate;
- (iii) The objects of the company;
- (iv) That the liability of the members is limited;
- (v) The amount of share capital with which the company proposes to be registered, and the division thereof into shares of as fixed amount:

(2) No subscriber if the memorandum may take less than one share:

(3) Each subscriber must write opposite to his name the number of shares he takes.

In the case of a company limited by guarantee-

¹. Since the original text of the English Joint Stock Company Act of 1862 is not available in Tokyo, this quotation is based from D. G. Hemmant (1925), which recorded the revised English Joint Stock Company Act of 1908 with comparative table.

(1) The memorandum must state-

- (i) The name of the company, with "Limited" as the last word in its name;
- (ii) The part of the United Kingdom, whether England, Scotland, or Ireland, in which the registered office of the company is to be situate;
- (iii) The objects of the company;
- (iv) That the liability of the members is limited;
- (v) That each member undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and of the costs, charges, and expenses of winding up, and for adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.

Section 38 of the English Joint Stock Company Act of 1862

In the event of a company being wound up, every present and past member shall, subject to the provisions of this section, be liable to contribute to the assets of the company to an amount sufficient for payment of its debts and liabilities and the costs, charges, and expenses of the winding up, and for the adjustment of the rights of the contributories among themselves, with the qualifications following (that is to say):-

- (i) A past member shall not be liable to contribute if he had ceased to be a member for one year or upwards before the commencement of the winding up:
- (ii) A past member shall not be liable to contribute in respect of any debt or liability of the company contracted after he ceased to be a member:
- (iii) A past member shall not be liable to contribute unless it appears to the court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act:
- (iv) In the case of a company limited by shares, no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member:

(v) In the case of a company limited by guarantee, no contribution shall be required from any member exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up:

(vi) Nothing in this Act shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members on the policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of the policy or contract:

(vii) A sum due to any member of a company, in his character of a member, by way of dividends, profits, or otherwise, shall not be deemed to be a debt of the company, payable to that member in a case of competition between himself and any other creditor not a member of the company: but any such sum may be taken into account for the purpose of the final adjustment of the rights of the contributories among themselves.

Chinese Bankruptcy Code (Except Article 45)²

Article 27.- On presentation of a petition in bankruptcy all purchases, sales or loans made or obtained, although deeds or contracts for them have been entered into, but the money in respect thereof has not been paid, shall be deemed null and void.

Article 30.- In the payment of debts by the shareholders of such Company the Trustee, in conjunction with the Manager or Director of the Company, shall take into consideration the financial circumstances of the shareholder. If in the payment of the allotted payment in full he should be permitted to pay according to his ability. On receipt of all the payments and average percentage shall be decided on and the creditors will be directed to accept the same.

Article 32.- All mortgagees shall report to the Trustee as to the articles mortgages in order that he may make enquiries, and if he shall find that the mortgage has been entered into two months before the bankruptcy, and that the same articles have not been fraudulently placed under somebody else's charge, he may then permit the mortgages to retain possession of the articles or deal with them at their discretion.

Article 48.- If the bankrupt after the liquidation of his debts with his assets has actually nothing left, and is not guilty of any malpractices such as placing his property under another's care for pur-

². The English text of Chinese Bankruptcy Code is quoted from Chang Nieh-yun (1907). This translation lacked the translation of Article 44.

poses of concealment, the Trustee shall inform the creditors and they may thereupon at their discretion set apart out of the estate, before its division, a sum for maintenance of the bankrupt's family sufficient to cover about two years' expenses (to show compassion).

Article 52.- In the case of intentional and fraudulent bankruptcy besides his moneys, property, goods and chattels being administered, the merchant shall be sentenced, according to the circumstances of the case, to imprisonment for a term extending from twenty days to three years or fined from 50 to 1,000 Dollars, or imprisoned and fined.

Article 63.- Any merchant owing to pressure of claims on him, and to a temporary financial inability to pay his debts, or to get payment of his debts so as to duly meet his obligations, may report the true state of his affairs to the Chamber of Commerce, who may invite the creditors to a meeting to confer on the matter and grant the bankrupt an extension of time, or devise other means to avoid the necessity of his becoming a bankrupt, in order to assist him as far as they can. An application for extension of time for liquidation of debts must give the following particulars: (1). Reason for application for extension of time. (2). The submission of the receipt and expenditure book for the preceding years, and books showing existing, moneys, goods, property, furniture and implements and a list of loans made and credits given. (3). A statement of the mode and date of repayment of debts and the particulars of the security given.

Article 65.- The extension of time shall commence to run from the date of the passing of the resolution, and shall not exceed one year in duration. If on expiration of the extension of time the debts cannot be paid, a petition in bankruptcy should then be filed.

Article 66.- If the circumstances under which the bankruptcy has occurred be found extenuating, and the estate is sufficient to pay a dividend or not less than fifty per cent., the bankrupt shall be exempted from paying the balance, and the Chamber of Commerce will communicate with the Local Authorities in regard to closing the matter (discharging the bankrupt).

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