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Settlement of the Macao Issue: Distinctive Features of Beijing’s Negotiating Behavior

Jaw-ling Joanne Chang*

I. INTRODUCTION

Almost a quarter of a century ago, in a March 8, 1963 People’s Daily (Renmin Ribao) editorial the People’s Republic of China (“PRC”) announced its policy to settle “peacefully through negotiations” the questions of Hong Kong and Macao “when conditions are ripe.”

On September 26, 1984, the PRC and the United Kingdom initialed in Beijing the so-called Joint Declaration on the Question of Hong Kong. This agreement was reached after two years of negotiations. It was signed by Britain’s Prime Minister Margaret Thatcher and Premier Zhao Ziyang on December 19, 1984 and ratifications were exchanged on May 27, 1985. According to the Joint Declaration, the United Kingdom’s sovereignty and jurisdiction over Hong Kong will cease in 1997. Hong Kong will thereupon become a Special Administrative Region of the PRC under article 31 of the PRC Constitution on July 1, 1997.

It will enjoy a “high degree of autonomy,” except in defense and foreign affairs. The current social and economic systems in Hong Kong will remain unchanged for fifty years after 1997.

On March 26, 1987, the PRC reached a similar agreement with Portugal on the question of Macao. The so-called Joint Declaration on the

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4 Id. para. 3(12).
5 Id. para. 3(12).
Question of Macao was signed by Portugal’s Prime Minister Aníbal Cavaco Silva and Zhao Ziyang in Beijing on April 13, 1987. Ratifications of this Joint Declaration were exchanged on January 15, 1988 in Beijing. The PRC will resume its sovereignty over Macao on December 20, 1999. Macao will also become a Special Administrative Region of the PRC, similar to Hong Kong, with a high degree of autonomy, except in defense and foreign affairs. The current social and economic systems in Macao will remain unchanged, as will the freedoms associated with its life style, for fifty years after 1999.

The similarities of the Hong Kong and Macao settlements are apparent, and, accordingly one is strongly tempted to couple them together as woven from the same cloth. While the Hong Kong negotiations and settlement have been accorded substantial scholarly attention, this has not been the case with Macao.

This article closely analyzes the Macao settlement from the perspective of Beijing’s negotiating tactics, with peripheral glances at the Hong Kong settlement for comparative purposes. The article discerns, therefore, the distinctive features of the Macao settlement.

Because of the complexity and secrecy involved with the Macao and Hong Kong negotiations, this article emphasizes only the most significant and controversial issues bargained by the PRC with the United Kingdom and Portugal, respectively.

On the Hong Kong question, the most difficult issue between the PRC and United Kingdom was whether Britain could continue her sovereignty and administration of Hong Kong after 1997. In contrast, Lisbon agreed in 1974 that the PRC had sovereignty over Macao. The major disputes, however, were: when should Portugal return Macao to the PRC, and how to resolve the problems associated with the question of nationality.

The United Kingdom in 1984 made concessions on both sovereignty and administration issues. In 1987, Portugal gained more concessions.


7 People’s Daily, Jan. 16, 1988, at 1.
9 Id. paras. 2-3, Annex I.
10 For a selected bibliography, see THE FUTURE OF HONG KONG 243-54 (H. Chiu, Y.C. Jao & Y.L. Wu eds. 1987).
12 Background to the Negotiations Preceding the Sino-British Joint Declaration, in THE FUTURE OF HONG KONG, supra note 10, at 197-222 (detailing the Sino-British Negotiations on Hong Kong). See generally F. CHING, HONG KONG AND CHINA FOR BETTER OR FOR WORSE (1985) (discussing the Sino-British negotiations on the sovereignty and administration issues).
from the PRC, however, than the United Kingdom had negotiated. The PRC originally wanted to take over Macao and Hong Kong at the same time in 1997. Portugal, on the other hand, did not want to return Macao in 1997. A compromise was reached between Beijing and Lisbon. Macao will be returned to the PRC in 1999. On the question of nationality, the PRC apparently acquiesced to the Portuguese demand of dual nationality.

What are the distinctive features of the Macao settlement? Why did the PRC make more concessions to the Portuguese than to the British? These questions, together with Beijing’s negotiating tactics, are the main focus of this study.

II. HISTORICAL BACKGROUND

As early as 1516, Portuguese traders were using Macao as a stopover on the voyage to Japan. The right to anchor and trade in the oldest European settlement in East Asia was gained through bribery of local officials by the Portuguese in 1535. Portuguese settlement of Macao was agreed to by the Chinese in 1557, but actual Portuguese Ad-

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13 Portugal also gained more protection for the Portuguese descendants in the Sino-Portuguese agreement: “The Macao Special Administrative Region shall protect, according to law, the interests of residents of Portuguese decent in Macao and shall respect their customs and cultural traditions.” Macao Joint Declaration, supra note 8, Annex I, § V. There is an absence of such a provision in the Sino-British Agreement on the Hong Kong question. In addition, the Sino-Portuguese agreement does not mention the stationing of Chinese military forces. The Sino-British agreement, on the hand, states “Military forces sent by the Central People’s Government to be stationed in the Hong Kong Special Administrative Region for the purpose of defence shall not interfere in the internal affairs of the . . . Region.” Hong Kong Joint Declaration, supra note 3, Annex I, § XIII. For further comparisons, see Leung & Yeung, How Macau’s Pact Differs from Ours, S. China Morning Post, Mar. 27, 1987, at 7; Macao Agreement to be Commended, S. China Morning Post, Mar. 24, 1987, at 14, reprinted in FOREIGN BROADCAST INFORMATION SERVICE, Mar. 24, 1987, at W3 [hereinafter F.B.I.S.]; Lin, There are Gains and Losses in Sino-Portuguese and Sino-British Agreements, PAI SHING, Apr. 16, 1987, at 47-48.

14 Yu, Macao’s Past, Present, and Future, in SELECTED INFORMATION ON MACAO 1535-1985 12 (1985) (On October 3, 1984, Deng Xiaoping told a delegation from Hong Kong and Macao that “the Macao question, like Hong Kong, will be settled at the same time and with the same formula.” Deng’s remark drew strong reactions from Macao. Three days later, Deng told Ma Man Kee, chairman of Macao’s General Chamber of Commerce and a local deputy of the National People’s Congress of the PRC, that “there is no rush for the Macao issue. It may be seven or eight years or even longer before we talk about it. Please have confidence, continue working.” On March 30, 1985, Peng Zhen said: “The Macao question [is] like Hong Kong . . . people in Hong Kong and Macao should both be prepared to return to the motherland on July 1, 1997.”). For a further discussion, see infra part III.

15 For a further discussion, see supra note 8, para. 3.

16 Macao Joint Declaration, supra note 8, para. 3.


19 BUREAU OF PUB. AFF., supra note 17, at 3.
ministration over Macao was not recognized until 1849. China refused until 1887 to recognize Portugal's right of "perpetual occupation." This occurred only when Portugal agreed "never to alienate Macao and its dependencies without agreement with China." This Manchu-Portuguese agreement was known as the Protocol of Lisbon.

With the rise in power of the Chinese Communists in 1949, came the retraction of the Protocol of Lisbon. The Chinese stated that the agreement was an "unequal treaty" imposed by foreigners on China and was, therefore, invalid. In 1951, Macao was termed by the Portuguese to be an Overseas Province. Meanwhile, however, the PRC made no attempt to regain Macao. Beijing's position was that "when conditions are ripe," the Macao issue "should be settled peacefully through negotiations and that, pending a settlement, the status quo should be maintained."

Portugal, on the other hand, made two unsuccessful attempts to return Macao to China in 1967 and 1974. In November and December 1966 during the Cultural Revolution, a confrontation between local, militant leftist Chinese elements and the Macao police provoked civil disturbances. From December 1-4, massive demonstrations launched by militant leftists against the Macao government turned into riots. At least eight people were killed, 212 injured, and 61 arrested. Macao's Portuguese Governor, Brigadier Nobre de Carvalho, was reported to have offered to abandon Macao within one month. The PRC was not ready to accept this offer, apparently because it feared acceptance would adversely affect the prosperity of Hong Kong. Moreover, the PRC generated about half of its foreign exchange earnings through its annual trade with Hong Kong and Macao. Any sign of instability, such as a change in sover-

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20 Id. See also ALMANAC OF MACAU'S ECONOMY 4 (H. Wong ed. 1986).
21 Macao was ceded in perpetuity to Portugal under art. 2 of the Sino-Portuguese Treaty of Dec. 1, 1887. For the text of the treaty, see 2 TREATIES, CONVENTIONS, ETC., BETWEEN CHINA AND FOREIGN STATES 274-75 (2d ed. 1973).
22 Macau, ASIA 1982 YEARBOOK 191 (1982) [hereinafter Macau '82].
23 BUREAU OF PUB. AFF., supra note 17, at 3.
24 Id.
25 Macau '82, supra note 22, at 191.
26 1 PEOPLE'S CHINA AND INTERNATIONAL LAW: A DOCUMENTARY STUDY, supra note 1, at 380.
27 Macao, ASIA 1968 YEARBOOK 230 (1968) [hereinafter Macao '68].
28 Id.
eigns, would have been immediately felt in Hong Kong. The Chinese feared a flight of capital from the British colony, as later happened during 1967 riots, so the PRC wished to maintain the status quo.30

The confrontation was resolved in January 1967. A protocol was signed between the Portuguese officials in Macao and leftist organizations.31 Indeed, the Portuguese accepted responsibility for the riots, and agreed to pay about H.K.$2.5 million "compensation."32 In addition, the Portuguese agreed to eliminate the Kuomintang influence, and to close its border to refugees from the adjacent mainland.33 As a result of the riots, therefore, Beijing gained a real ability to influence Macao's affairs.34

After Portugal's April 25, 1974 revolution, its new socialist government quickly introduced a new constitution which, among other things, abolished Portugal's long-time colonial policy.35 The new government tried, unsuccessfully, to negotiate returning Macao to China. The 1976 Portuguese constitution states that Macao is not Portuguese territory but is under Portuguese administration.36 The departure on December 31, 1975 of the 400 year-old symbol of Portuguese military presence, the local garrison, reflected the change in the attitude of the government.37

Lisbon unilaterally recognized the PRC on January 6, 1975.38 The Lisbon government, on February 1, 1979, acknowledged that the Macao issue was interfering with establishment of diplomatic relations.39 However, Lisbon and Beijing finally normalized relations on February 8, 1979.40 It was revealed in 1985 that an understanding between Lisbon and Beijing had been reached: Beijing considered Macao's status as an issue to be settled when conditions are ripe, while Portugal considered Macao to be a Chinese territory under Portuguese administration.41

During the 1982-84 Sino-British negotiations on the Hong Kong
question, Macao’s future also became a subject of speculation. Liao Chengzhi, then Director of the Hong Kong/Macao Office in Beijing, announced in January 1983 that the Macao issue would be dealt with after an agreement with the British was reached over Hong Kong. On June 16, 1981, however, Macao’s Governor, Vasco de Almeida e Costa, had insisted that there was a major difference between the Hong Kong and Macao issues. Costa stated that Macao is not a colony, and there is no deadline which would mark the end of Portuguese administration.

After the settlement of the Hong Kong issue in 1984, the PRC showed renewed interest in repossessing Macao. During the first visit by Portuguese President Ramalho Eanes in May 1985, the PRC raised the Macao issue. The significance of the visit was heightened by the release of a joint communique stating that the Macao issue would be negotiated in the near future through diplomatic channels. This announcement put an end to any lingering hopes that the people of Macao might be ignored by the Chinese while Hong Kong prepared to return to the PRC’s sovereignty.

In March 1986, PRC Vice Foreign Minister Zhou Nan, the head of the Chinese delegation which negotiated the Hong Kong issue, visited Portugal to attend the inauguration of the newly elected Portuguese President, Mario Soares. Zhou Nan brought up the Macao issue during his Lisbon trip, and both sides agreed to start negotiations in May 1986.

III. THE MACAO NEGOTIATIONS

A. Summary of the Macao Negotiations

The first round of talks was held in Beijing on June 30 and July 1, 1986, and the PRC and Portugal reached an agreement on the general agenda for future talks. They also exchanged views on some substantive matters, but informed sources believe the most important exchange resulted in an agreement that the transfer date for Macao would comprise a major issue.

42 Macau, ASIA 1984 YEARBOOK 207 (1984) [hereinafter Macau ’84].
43 Vasco de Almeida e Costa served as Governor of Macao from 1981-86.
44 Macau ’84, supra note 42, at 207.
45 Portuguese President’s Press Interview, supra note 41, at 7.
46 Huan, supra note 18, at 21.
48 See PRC-Portugal to Hold Macao Talks 9-10 September, Hong Kong Standard, Aug. 21, 1986, at 3, reprinted in F.B.I.S., Aug. 21, 1986, at W1. Zhou Nan was the head of the PRC delegation, while Rui Barbosa Medina, Ambassador to the United Nations, headed the Portuguese delegation. For a complete list of Chinese and Portuguese negotiation delegations, see Portuguese President’s Press Interview, supra note 40, at 4.
Both the second round (September 9-10, 1986) and third round (October 21-22, 1986) were also held in Beijing. After the third round, the two sides announced in a joint press communique released on October 22, 1986 an intent to establish a working group for the settlement of the Macao issue.\textsuperscript{50}

A working group was formed in Beijing by the delegations of the PRC and Portugal governments on December 8, 1986 to discuss and revise in detail all the proposed draft agreements.\textsuperscript{51} Zhao Jihua, a member of the Chinese negotiation team, was the leader of the PRC working group, while the Portuguese group leader was Joao de Deus Ramos, member of the Portuguese negotiation team.

Zhou Nan visited Lisbon on November 17-22, 1986 but no agreement had been reached on the issue of the transfer date.\textsuperscript{52} It was not until January 1987 that Portugal finally agreed to return Macao to the PRC prior to the year 2000.\textsuperscript{53} The last round of talks was held in Beijing March 18-23, 1987 and agreement on the Macao issue was finally reached.\textsuperscript{54}

\textbf{B. Negotiation on the Transfer Date}

The PRC originally wanted to take over both Macao and Hong Kong at the same time in 1997.\textsuperscript{55} Portugal, on the other hand, did not want to return Macao in 1997. Inasmuch as Portugal had previously tried twice, without success, to return Macao to the PRC, one may wonder why Portugal now preferred to keep Macao beyond 2000. There were several reasons. First, Portugal believed that, unlike the return of Hong Kong, there was no deadline for the Portuguese government to turn over Macao. Portugal maintained that Macao was not a colony, rather it was a territory under Portuguese administration.\textsuperscript{56} This constituted a great difference between the Hong Kong and Macao issues.

Second, Portugal did not want to return Macao to the PRC without careful planning. In the mid-1970s, Portugal’s decolonization efforts were marked by bloodshed and humiliation, leaving behind over a half

\textsuperscript{51} Id.
\textsuperscript{52} PRC, Portugal Disagree on Date For Macao’s Return (Hong Kong AFP, Dec. 30, 1986), reprinted in F.B.I.S. Dec. 30, 1986, at W1.
\textsuperscript{55} Yu, supra note 14, at 12.
million embittered and destitute colonial refugees.\textsuperscript{57} (Table 1) Portugal did not want to see a repeat of history in the case of Macao. In September 1986, Macao's Secretary for Economics, Finance and Tourism, Carlos Monjardino, publicly acknowledged that Portugal had not done much in the past 400-odd years in Macao.\textsuperscript{58} But now, he said, Portugal had plans for several development projects such as construction of an airport, a deep-sea port and a second bridge linking the Macao mainland with Taipa Island.\textsuperscript{59}

Table 1 - Portuguese Overseas Territories and Date of Loss

<table>
<thead>
<tr>
<th>Territory</th>
<th>Area (in square miles)</th>
<th>Date Lost to Portugal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asia</td>
<td></td>
<td></td>
</tr>
<tr>
<td>State of India</td>
<td>1,537</td>
<td>December 1961</td>
</tr>
<tr>
<td>Macao</td>
<td>6</td>
<td>December 1999</td>
</tr>
<tr>
<td>Timor</td>
<td>5,736</td>
<td>December 1975</td>
</tr>
<tr>
<td>Africa</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Guiné</td>
<td>13,948</td>
<td>September 1974</td>
</tr>
<tr>
<td>Cape Verde Islands</td>
<td>1,557</td>
<td>July 1975</td>
</tr>
<tr>
<td>São Tomé e Príncipe</td>
<td>372</td>
<td>July 1975</td>
</tr>
<tr>
<td>Angola</td>
<td>481,351</td>
<td>November 1975</td>
</tr>
<tr>
<td>Mozambique</td>
<td>303,070</td>
<td>July 1975</td>
</tr>
</tbody>
</table>


Third, Portugal thought it would take a long time to localize the civil service in Macao. Portuguese is Macao's official language, and all its laws, decrees and documents are written in Portuguese. Very few Macanese Chinese speak Portuguese. According to one report, there are only seventy-six government employees who know both Portuguese and Chinese—less than one percent of the total government employees.\textsuperscript{60} While the Macanese—those of mixed Portuguese and Chinese blood (about 5-10,000)—are in a minority, they hold 90% of the local government jobs.\textsuperscript{61} The Macanese have traditionally acted as middlemen between the majority Cantonese-speaking Chinese population and the minority Portuguese rulers. Senior posts in the government, including the judiciary and the police, are also held by non-Chinese.\textsuperscript{62} The prospect of localizing the civil service, in keeping with the PRC's slogan

\textsuperscript{57} R. Robinson, \textit{supra} note 34, at 223.
\textsuperscript{58} \textit{Macao '87}, \textit{supra} note 11, at 182.
\textsuperscript{59} \textit{Id.}
\textsuperscript{60} Hsiung, \textit{What Kind of Problems Will Macao Face During the Transitional Period?}, \textit{Ming Pao Monthly}, Apr. 1987, at 29. \textit{See also} \textit{Almanac of Macao's Economy}, \textit{supra} note 20, at 40-41.
\textsuperscript{62} \textit{Id.}; Hsiung, \textit{supra} note 60, at 28.
"Macao run by Macao people," will thus be very difficult. Hence, Portugal thought it would be better to return Macao to the PRC after 2000 in order to gain more time to develop a local administration.

Besides the aforementioned reasons, there was another practical and very important economic consideration. Portugal believed that it would benefit financially if Macao were not returned to the PRC right after the PRC takeover of Hong Kong. Apprehensive Hong Kong businessmen might transfer capital and investments from Hong Kong to Macao if the Portuguese were to keep Macao for decades after 1997.63

The PRC, on the other hand, had two main rationales for wanting to recover sovereignty over Macao and Hong Kong at the same time in 1997. First, Beijing did not want to regain Macao before 1997 for fear of jeopardizing the stability and prosperity of Hong Kong. Secondly, Beijing was anxious to settle the Hong Kong and Macao issues simultaneously in order to set the stage for its main objective—reunification of Taiwan with mainland China.64 Beijing wanted to use the Hong Kong and Macao models under the principle of "one country, two systems" as good examples for incorporation of Taiwan into the PRC.65

The first three rounds of negotiations between Lisbon and Beijing were deadlocked over the question of the date for transfer of Macao. Eleven days before the third round of talks, Dr. Joaquim Pinto Machado, Governor of Macao, stated in a radio broadcast that "it is completely impossible to coincide the date when Macao will return to China with the one chosen for Hong Kong. ... Macao does not have the dimension and development of Hong Kong .... It will be a problem much more complex."66

The Portuguese continued to be well aware that Lisbon’s best card in the talks was the prosperity and stability of Hong Kong, which the PRC risked jeopardizing if Portugal pulled out of Macao prematurely. Macao officials had threatened to use the unilateral pullout card twice. In August 1985, Governor Vasco de Almeida e Costa asserted that the PRC had spoken too much about taking back Macao at the same time as Hong Kong in 1997. "Must we go to the negotiating table to take the Chinese orders because China is such a powerful country?" asked Costa. "Maybe we cannot wait for 12 years. We can leave within one or two years," Costa warned.67 After the second round of talks in September 1986, Secretary for Economics, Finance and Tourism Carlos Monjardino

63 Reaves, China Sets its Sights on Taking Taiwan, Chicago Tribune, Mar. 31, 1987, at 6.
64 Id.
65 See Beijing Sets the Stage for the Main Event, S. China Morning Post, Mar. 27, 1987, at 22.
made the same threat: "We will withdraw [from Macau] early if we are not happy about the way things go. We have nothing to lose and we don’t want to lose face." The Portuguese view was that the problems of returning Macao to the PRC were "completely different" from that of Hong Kong and therefore the issues should be kept separate.

Zhou Nan, the PRC’s Vice-Foreign Minister and chief of its negotiation team, visited Lisbon on November 17-22, 1986. Portugal insisted that Zhou make this visit in order for its highest authorities to convey Portugal’s message to the PRC on the question of the transfer date as well as the nationality issue. No agreement was reached, however, during Zhou’s visit. Beijing realized, nevertheless, Lisbon’s sensitivity toward these two issues. A compromise solution was offered by the PRC at the end of November 1986. Ma Man Kee, chairman of Macao’s General Chamber of Commerce and a local representative of the National People’s Congress (NPC) of the PRC, stated on November 30, 1986 that the handover of Macao “will not be later than the year 2000, probably between 1997... and the end of the century.” On December 9, 1986 Ma again indicated that the PRC was determined to reach its reunification objectives concerning Hong Kong and Macao by the end of the century.

The Portuguese were not ready, however, to accept Beijing’s timetable. Antonio Barreto, a socialist deputy in the Portuguese Parliament and a close advisor to President Mario Soares, said in a December 29, 1986 interview that a unilateral declaration of 2007 or 2017 as the date of return was possible. His remarks, broadcast by Macao’s radio and television stations, drew strong reaction from the PRC. On December 31, 1986 the PRC Foreign Ministry said that “it is the unshakable and firm stand and the firm desire of the Chinese government and the 1 billion Chinese people, including our compatriots in Macao, to recover Macao

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68 Macau '87, supra note 11, at 182.
69 Id.
72 The National People’s Congress is the “highest organ of state under the leadership of the [Chinese Communist Party] CCP and the only organ exercising the legislative power of the state.” COMPREHENSIVE GLOSSARY OF CHINESE COMMUNIST TERMINOLOGY 83 (Kuo ed. 1978).
73 Macao-PRC Draft Agreement Expected by February, supra note 71, at W7.
75 PRC, Portugal Disagree on Date For Macao’s Return, supra note 52, at W1; Borralho, Beijing Reacts to Barreto’s Remarks on Transfers, Hong Kong Standard, Jan. 1, 1987, at 1, reprinted in F.B.I.S, Jan. 6, 1987, at W1.
before the year 2000.\textsuperscript{76} The PRC stated that any proposal to return Macao subsequent to that year cannot be accepted.\textsuperscript{77}

Portugal finally was convinced that Beijing would not make any further concession on the transfer date question. In early January 1987, Portugal's State Council, an advisory body, met for four hours to discuss the future of Macao.\textsuperscript{78} President Soares and Prime Minister Cacaco Silva presented full reports on negotiations with the PRC. It was reported on January 7, 1987 that Portuguese authorities concluded that the transfer of Macao by the year 2000 was unavoidable, but the exact date was not selected.\textsuperscript{79}

Once Portugal decided to return Macao prior to 2000, negotiations between Beijing and Lisbon again gained momentum. During the fourth round of talks in March 1987, both sides agreed that December 20, 1999 would be the date to transfer Macao to the PRC. It was reported that initially both sides selected December 31, 1999 as the transfer date. But later the PRC was afraid that should anything go wrong on December 31, a holiday, the PRC would not realize its goal of settling both the Hong Kong and Macao issues before the end of the century. So, an earlier date, December 20, 1999, was chosen instead.\textsuperscript{80}

C. Negotiation on the Nationality Issue

The second difficult issue during the Macao negotiations was the nationality question. Portugal allows dual nationality making any holder of a Portuguese passport a national.\textsuperscript{81} According to the PRC Nationality Law, however, no Chinese nationals are permitted to hold dual nationality.\textsuperscript{82} There are approximately 100,000 ethnic Chinese in Macao holding Portuguese passports—about one-fifth of Macao’s population.\textsuperscript{83} Moreover, unlike the United Kingdom, Portugal has only one type of nationality which grants the right of entry and abode in Portugal and also provides consular services and protection. In 1981, the United Kingdom

\textsuperscript{76} Borralho, \textit{supra} note 75, at W1.

\textsuperscript{77} Id.

\textsuperscript{78} \textit{Administration To Revert To PRC Before 2000} (Hong Kong AFP, Jan. 7, 1987), \textit{reprinted in F.B.I.S.}, Jan. 7, 1987, at W1.


\textsuperscript{80} Ming Pao, Mar. 24, 1987, at 2.

\textsuperscript{81} Lin, \textit{Nationality Issue Troubles Macanese Portuguese}, Pai Shing, July 16, 1985, at 51 (citing the 1981 new Nationality Law of Portugal (art. 27) which allows dual or multi nationalities).


\textsuperscript{83} \textit{Administration to Revert to PRC Before 2000}, \textit{supra} note 78, at W1; see also Misquitta, \textit{supra} note 61, at 149; Portuguese Seeks Concessions in Macao Talks (Hong Kong AFP, Mar. 19, 1987), \textit{reprinted in F.B.I.S.}, Mar. 19, 1987, at W4.
passed the British Nationality Act\textsuperscript{84} which does not allow Hong Kong residents to have the right of entry and abode in the United Kingdom.\textsuperscript{85} In 1984, London and Beijing reached an agreement on the question of nationality which was publicly announced in a U.K. Memorandum. The Memorandum declared that Hong Kong residents holding British passports do not have the right of entry and abode in the United Kingdom, but they do have the right to receive British consular services and protection in third countries.\textsuperscript{86}

Likewise, the PRC stated in the Chinese Memorandum that "all Hong Kong Chinese compatriots, whether they are holders of the 'British Dependent Territories Citizens' Passport' or not, are Chinese nationals."\textsuperscript{87} The PRC will, however, "permit Chinese nationals in Hong Kong who were previously called 'British Dependent Territories citizens' to use travel documents . . . for the purpose of travelling to other states and regions."\textsuperscript{88} But they will not be entitled to British consular protection in the Hong Kong Special Administrative Region and other parts of


\textsuperscript{85} Id. See also Hong Kong, ASIA 1982 YEARBOOK 147 (1982); Hong Kong, ASIA 1983 YEARBOOK 146 (1983) (On July 22, 1981, the House of Lords passed an amendment to the British Nationality Bill, giving 27,000 people of Gibraltar the right to British citizenship, while denying the right to the more than 5 million people of Hong Kong. The bill created three categories of citizenship, two of which—citizens of British Dependent Territories and citizens of British Overseas—exclude the right of entry and abode in Britain.).

\textsuperscript{86} Hong Kong Joint Declaration, supra note 3, at (A) United Kingdom Memorandum. The U.K. Memorandum provides:

(a) All persons who on June 30, 1997, are, by virtue of a connection with Hong Kong, British Dependent Territories citizens (BDTCs) under the law in force in the United Kingdom will cease to be BDTCs with effect from 1 July 1997, but will be eligible to retain an appropriate status which, without conferring the right of abode in the United Kingdom, will entitle them to continue to use passports issued by the Government of the United Kingdom. This status will be acquired by such persons only if they hold or are included in such a British passport issued before 1 July 1997, except that eligible persons born on or after 1 January 1997 but before 1 July 1997 may obtain or be included in such a passport up to 31 December 1997.

(b) No person will acquire BDTC status on or after 1 July 1997 by virtue of a connection with Hong Kong. No person born on or after 1 July 1997 will acquire the status referred to as being appropriate in sub-paragraph (a).

(c) United Kingdom consular officials in the Hong Kong Special Administrative Region and elsewhere may renew and replace passports of persons mentioned in sub-paragraph (a) and may also issue them to persons, born before 1 July 1997 of such persons, who had previously been included in the passport of their parent.

(d) Those who have obtained or been included in passports issued by the Government of the United Kingdom under sub-paragraphs (a) and (c) will be entitled to receive, upon request, British consular services and protection when in third countries.

\textsuperscript{87} Id. at (B) Chinese Memorandum.

\textsuperscript{88} Id.
the PRC.\textsuperscript{89}

Because the United Kingdom will not allow Hong Kong residents who hold British passports to continue to have the right of entry and abode after 1997, there is no dual nationality problem. The PRC has shown great flexibility in allowing the use of travel documents outside of Hong Kong and the PRC. As a result, no major confrontation has taken place between London and Beijing on the question of nationality.

The Macao situation, however, was different in that Portugal was not willing to make the sort of arrangement the British did in its 1981 Nationality Act, nor was Portugal prepared to create another type of nationality to solve the problems in Macao.\textsuperscript{90} Politically, it would have hurt the Portuguese government to change the status of nationals holding Portuguese passports. Portugal has had a policy of accepting refugees from former colonies as nationals, and these nationals would become suspicious if the status of passport holders with similar colonial backgrounds were to lose some of their rights.\textsuperscript{91} Additionally, Portuguese negotiators were not able to make such a concession even if they had so wished since parliamentary approval is required to change the nationality laws.\textsuperscript{92} That approval was not likely to be forthcoming, as the government feared instability would be created by any changes in their nationality laws. This was one of the reasons why the Portuguese invited Zhou Nan to Lisbon in November 1986.\textsuperscript{93} According to reliable sources from Portugal, President Soares and Prime Minister Silva wanted to explain the domestic difficulties to the PRC chief negotiator in person.\textsuperscript{94}

One of the Portuguese objectives during the negotiations was to preserve Portugal's national dignity.\textsuperscript{95} By allowing its citizens and their descendants the right of abode in Portugal and consular protection as any other Portuguese nationals, Lisbon's international image would thus be strengthened.\textsuperscript{96} Portugal is not prepared, however, to accommodate a possible flood of refugees into Portugal from Macao.\textsuperscript{97} It was important, therefore, for the Portuguese to reach an agreement with the PRC to

\textsuperscript{89} Id.
\textsuperscript{90} Macao, PRC Dispute Status of Ethnic Chinese, supra note 70, at W8.
\textsuperscript{91} Id.
\textsuperscript{92} Id.
\textsuperscript{93} Id.
\textsuperscript{94} Id.
\textsuperscript{96} Lin, Macao Has Problems Which Remain to be Resolved, PAI SHING, Mar. 16, 1987, at 38.
\textsuperscript{97} Portuguese President’s Press Interview, supra note 41, at 7 (on May 23, 1985, President Eanes stated in an interview in Beijing that the “Portuguese government does not foresee a large scale of immigrants (from Macao to Portugal). At the beginning of the changing of administration, of course, this may be a problem, but I do not believe there will be many Macao-born Chinese who are
maintain the status quo in Macao, while preserving the rights of Portuguese citizens in Macao.

After Portugal made the concession in January 1987 to return Macao before the year 2000, the nationality problem became the only remaining issue requiring extensive negotiation between Beijing and Lisbon. The fourth round of talks between Lisbon and Beijing began March 18, 1987. Portugal reiterated its position with respect to dual nationality during the talks. The PRC, on the other hand, demanded one citizenship—Chinese—for the inhabitants of Macao. It was reported that at one point Portuguese negotiators threatened to walk out unless an agreement to their satisfaction was reached. A compromise solution was finally worked out on March 23, 1987.

Because of the radically different positions held by Lisbon and Beijing on the question of nationality, two separate memoranda were issued, as in the Sino-British accord. The PRC side declared:

The inhabitants in Macao who come under the provisions of the Nationality Law of the People's Republic of China, whether they are holders of the Portuguese travel or identity documents or not, have Chinese citizenship. Taking account of the historical background of Macao and its realities, the competent authorities of the Government of the People's Republic of China will permit Chinese nationals in Macao previously holding Portuguese travel documents to continue to use these documents for travelling to other states and regions after the establishment of the Macao Special Administrative Region. The above-mentioned Chinese nationals will not be entitled to Portuguese consular protection in the Macao Special Administrative Region and other parts of the People's Republic of China.

Portugal declared its position in its Memorandum on the question of nationality and passports, as follows: "In conformity with the Portuguese legislation, the inhabitants in Macao who, having Portuguese citizenship, are holders of a Portuguese passport on December 19, 1999 may continue to use it after this date. No person may acquire Portuguese citizenship as from December 20, 1999 by virtue of his or her connection with Macao."
Although the PRC will only recognize Chinese passports after Macao returns to the PRC on December 20, 1999, Beijing will not strip Macao residents of their Chinese nationality if they are holding Portuguese passports.104 Portugal gained more concessions on the nationality issue than the British had gained. A primary reason for these concessions was that Beijing was more anxious than Lisbon to reach an agreement on Macao. Studies have shown that subjects facing a high degree of pressure to reach agreement have had a higher concession rate and have reached agreement more often than those subjects facing a low degree of pressure to reach agreement.105 Beijing was under pressure to conclude the Macao agreement for the following reasons.

1. Domestic Instability in the PRC

In January 1987, General Secretary Hu Yaobang resigned from his post following a series of student demonstrations for greater political freedom. Hu's forced resignation marked renewed party infighting between conservatives and moderate reformers. Premier Zhao Ziyang became acting party leader in January 1987.106

PRC leaders had hoped to conclude the Macao settlement within a short period of time since this would indicate that their policies worked and that they could provide strong leadership. A few days before the first round of talks, Zhou Nan optimistically announced his belief that resolution of the Macao issue would be accomplished with more speed and cooperation than the Sino-British negotiations on the Hong Kong issue.107 In November 1986, Beijing was hoping to reach an agreement with Lisbon before January 1, 1987, or at the latest in February 1987 to coincide with the celebration of the 8th anniversary of Sino-Portuguese normalization of relations.108

If an agreement was reached, according to the PRC Constitution, it would have to be endorsed by the NPC,109 which was scheduled to hold its fifth session in March 1987. The PRC leaders apparently were anxious to submit the Macao accord at this meeting, because a joint declaration based on the "one country, two systems" principle would have greatly strengthened Deng Xiaoping's leadership position. It is clear that

104 Macao Agreement to be Commended, supra note 13, at W3.
109 XIANFA (Constitution) art. 62 (People's Republic of China).
the Portuguese understood very well the domestic political struggle in the PRC. "Zhao Ziyang needs an agreement and we are using that to get last-minute concessions," informed Portuguese sources said.\textsuperscript{110} Zhao Ziyang sought to use a joint declaration as proof to the NPC that the PRC's open-door policy was successful and Portugal took advantage of that fact.\textsuperscript{111}

2. Domestic Instability in Portugal

Besides their own domestic political considerations, PRC leaders also considered the potentially unstable domestic politics in Portugal when they made decisions on the Macao issue. One source of instability is the diffusion of power between the prime minister and the president. According to the 1976 Portuguese Constitution, it is the prime minister and cabinet that conducts internal and external affairs, except in cases where constitutionally the parliament must intervene. The president has no executive powers.\textsuperscript{112} Practice has been otherwise, however, and this heightens the instability.\textsuperscript{113}

A second source of instability is illustrated by the fact that during the last fourteen years, there have been sixteen changes in government.\textsuperscript{114} One government lasted only sixteen days.\textsuperscript{115} There are four major parties in Portugal, plus a number of smaller parties.\textsuperscript{116} The structure of the electoral system makes it difficult to obtain an absolute majority.\textsuperscript{117} No party had managed to gain a clear electoral majority before July 1987.\textsuperscript{118} Consequently, no prime minister was able to function with any solid parliamentary support. Portugal has been governed by coalition or minority governments for many years with a turnover in government every eleven months on the average.\textsuperscript{119} This turnover in leadership placed pressure on the PRC to quickly conclude any negotiations with Portugal before a new government stepped in and the process had to begin over again.

It was no surprise, then, that Zhou Nan raised the Macao issue with newly elected President Mario Soares during his visit to Lisbon in March 1986. It was not until the end of June, however, that negotiations began.

\begin{itemize}
  \item \textsuperscript{110} Portugal Seeks Concessions in Macao Talks, supra note 98, at W4.
  \item \textsuperscript{111} Id.
  \item \textsuperscript{112} Balsemao, The Constitution and Politics, in PORTUGAL IN THE 1980's 204 (K. Maxwell ed. 1986).
  \item \textsuperscript{113} Id.
  \item \textsuperscript{114} Wise, New Premier Vows 'Great Struggle' in Portugal, Wash. Post, Aug. 18, 1987, at A9.
  \item \textsuperscript{115} Macau '84, supra note 42, at 232.
  \item \textsuperscript{116} Maxwell, At the Crossroads, in PORTUGAL IN THE 1980's, supra note 112, at 6. The four major parties in Portugal are the Socialist Party, the Social Democratic Party, the Communist Party and the Social Democratic Center Party.
  \item \textsuperscript{117} Balsemao, supra note 112, at 203.
  \item \textsuperscript{118} Wise, supra note 114, at A9.
  \item \textsuperscript{119} Balsemao, supra note 112, at 203, 228.
\end{itemize}
Throughout the talks, the PRC had been anxious to bring a quick end to the Macao question. Portugal, on the other hand, saw no reason to rush an agreement. Because of domestic constraints, Portugal would have preferred no agreement to a bad agreement. For the same reason, Beijing would have preferred to conclude the Macao negotiation as soon as possible for fear that further delay might cause complications occasioned by the Portuguese political instability. Under these circumstances, Lisbon gained more bargaining leverage vis-à-vis Beijing.

Beijing's concern was not ill-founded. Prime Minister Silva's government fell on April 3, 1987 when Parliament passed a vote of no confidence against his government by a slim margin. Accordingly, when Silva went to the PRC to sign the Joint Declaration, he was a "lame duck" prime minister. Silva was, nevertheless, very well treated by the PRC leaders during his stay. Beijing had hoped the Portuguese Parliament could approve the Sino-Portuguese agreement on Macao before it adjourned on June 15, 1987, but this turned out to be wishful thinking. On April 11, 1987, the Fifth Session of the Sixth NPC delegated the authority to review and approve the Joint Declaration on Macao to the NPC Standing Committee. The standing committee ended its 21st meeting on June 23, 1987 by approving the Joint Declaration.

Meanwhile, in Portugal Anibal Cavaco Silva's Social Democratic Party won a landslide electoral victory on July 19, 1987 by winning 50% of the vote and 148 of the 250 seats in the National assembly—Portugal's first majority government with the greatest assurance of completing a four-year term since 1974. The Joint Declaration was ratified by the Parliament on December 11, 1987.

IV. BEIJING'S NEGOTIATING TACTICS

The conventional perception of the process of negotiating is rather simplistic: the parties involved sit at a bargaining table and exchange promises, commitments, bluffs, threats, warnings, rewards, proposals, and counterproposals through which they will either resolve their differences and reach an agreement or abort the negotiations. The negotiating process in reality, however, is much more complex. Formal bargaining at the negotiating table is only a part of the process. Propa-
ganda, maneuvers of public opinion, mass media, informal exchanges of ideas, for example, are also important parts of the negotiating process.

During the Macao negotiations, Beijing has used the following tactics to strengthen its bargaining leverage vis-à-vis Lisbon.

A. Pre-Negotiation Maneuvers

How to set the stage and the rules of the game for formal negotiations is, perhaps, as important as negotiating itself. Before the formal negotiations began on the Macao issue in June 1986, the PRC had repeatedly stated its “non-negotiable” demands with respect to the transfer date (first in 1997, then, before 2000) and the nationality issue in order to persuade the Portuguese of the firmness of the Chinese “bottom line.”

1. Nonnegotiable Demands

Postulation of nonnegotiable demands as a negotiating tactic has been used very frequently by the PRC. In order to establish an agenda favorable to its objectives, the PRC would seek to establish its “nonnegotiable conditions” at the outset of a negotiation through leaks, formal statements by officials, or by less formal channels. On the Hong Kong question, PRC officials have successfully used the tactic of pre-negotiation disclosure of the PRC’s nonnegotiable demands in order to gain favorable negotiating leverage with the British.

British Prime Minister Margaret Thatcher visited the PRC on September 22-25, 1982. Before Premier Zhao Ziyang’s scheduled meeting with Mrs. Thatcher, he disclosed the PRC position to reporters, as follows: “Of course China will recover sovereignty over Hong Kong. But I think the question of sovereignty will not influence Hong Kong’s prosperity and stability.” The public disclosure of what would later be offered in private was meant to convey the steadfastness of the PRC’s position. Deng Xiaoping was reported to have told Mrs. Thatcher that Chinese sovereignty over Hong Kong was not open for negotiation. The Chinese would not accede to anything less than the removal of the British flag and the British governor.

Beijing used the same tactic on the Macao issue in 1986. Why does the PRC use the tactic of postulating “non-negotiable” demands prior to negotiation? Chester L. Karrass has made the following observation regarding nonnegotiable demands:

127 F. Ching, supra note 12, at 11.
128 Id.
129 Id.
Nonnegotiable demands are demands so extreme that compromise appears virtually impossible. At stake are deep-rooted values . . . .

The strange thing about nonnegotiable demands is that they can help a negotiator rally his own people at the same time that he diffuses the opposition. By making extreme demands a negotiator can demonstrate his conviction . . . .

Non-negotiable demands lower the expectations of an opponent. They make him more willing to compromise somewhere rather than risk so serious a confrontation of values.130

It is clear that establishing nonnegotiable demands is part of the PRC's bargaining style. The United Kingdom finally yielded on the issues of sovereignty and administrative rights of Hong Kong. Portugal also gave in and agreed to return Macao to the PRC before the year 2000. The PRC, however, compromised with Portugal on the nationality issue. Accordingly, Richard H. Solomon has commented: "when Chinese officials want to reach a specific agreement they will set aside their stress on principle and reach a concrete understanding that in fact may have little relation to—or may even seem to contravene—the principles they stressed early in the negotiation."131

2. United Front Campaign

To the Chinese Communists, the so-called united front strategy "means forming an alliance with all the forces that can be 'united,' organizing them into a camp of 'uniformity,' and then employing all possible means of struggle against the enemy."132 Beijing has taken the following measures to drive a wedge through the opposition:

a. Enlarging Macao's Representatives in the PRC

In February 1983, during the Hong Kong negotiations, Beijing enlarged the representation of Hong Kong and Macao residents by 140 members in its legislative organ, the NPC, and its corollary, the Chinese People's Political Consultative Conference (which while providing consultative services, carries no real power).133 In addition, the PRC also enlarged the number of seats for Macao "compatriots" in the Guangdong Provincial People's Congress by adding five appointees and also in the Guangdong Political Consultative Conference where four seats were added. These new members differed from their established
counterparts. They were younger (aged 30-50) and came from a wider cross-section of the pro-PRC Macao community, including heads of sporting associations, trade unions, as well as school principals.\textsuperscript{134} They were not public figures, but Beijing resorted to its united front strategy of isolating the primary antagonists by uniting them with as many other people as possible.\textsuperscript{135}

The PRC also received delegations of all types from Macao and sent representatives to visit Macao. Guangdong Governor Liang Lingguang visited Macao in August 1983. In July 1983 and February 1987, Xu Jiataun, director of the Xinhua news agency in Hong Kong as well as China's unofficial ambassador in Hong Kong, visited Macao. During his stay, Xu met representatives from the Chinese community, praised them for their support of "reunification and modernization of the Motherland," and called for even greater cooperation in achieving these two goals.\textsuperscript{136} Xu articulated nationalist and patriotic values in an attempt to unite Macao's people. He also promised Macao's prosperity and stability would continue under the principle of "one country, two systems."\textsuperscript{137}

b. Publicizing the "One Country, Two Systems" Slogan

The PRC has launched an extensive propaganda campaign consisting of the "scientific" and "strategic" nature of the "one country, two systems" principle.\textsuperscript{138} The campaign was proclaimed as reflecting the "patriotic united front during the new historical period."\textsuperscript{139} A May 26, 1986 Beijing Review article promised that the Chinese government "will give full consideration to Macao's history and present situation," and that the Macao issue "will be solved to the satisfaction of all parties concerned" according to the concept of "one country, two systems."\textsuperscript{140}

c. Wooing Public Opinion

Besides receiving all kinds of delegations from Macao and sending various delegations to Macao, Beijing had also mounted a visible effort to build confidence among Macao's residents. China's official representative in Macao, Nam Kwong Company, collected public opinion by tele-

\textsuperscript{134} Macau '84, supra note 42, at 208.
\textsuperscript{135} Id.
\textsuperscript{137} Id. at 50.
\textsuperscript{139} Wu, supra note 132, at 157.
\textsuperscript{140} Huan, supra note 18, at 22.
phone shortly before the talks were to begin. Some may wonder whether this sampling was truly indicative of public opinion, as the local residents may not have freely expressed their reservations to a communist organization. The majority of Macao residents were politically apathetic, mainly because they felt powerless.

B. Tactics Used During Negotiations

1. Beijing as the Negotiating Location

Richard Solomon has pointed out that: "The Chinese prefer to negotiate on their own territory for being at home aids internal communications, decision-making and their orchestration of the ambiance of negotiations from banquet toasts to the manipulation of the press." On the Hong Kong and Macao issues, the PRC selected Beijing as the negotiating location for several purposes. The PRC thought of Hong Kong and Macao as Chinese territory; therefore, negotiations should be on China’s soil. The United Kingdom had no objection—all twenty-two rounds of talks between the PRC and Britain took place in Beijing.

Portugal, however, did not want to repeat what it considered the humiliating experience of Britain. Portugal wanted to rotate the negotiating locations between Beijing and Lisbon on each occasion. The PRC disagreed. A compromise was reached, however, in that Zhou Nan would visit Lisbon in return for Portugal’s agreement to negotiate the Macao settlement in Beijing. The PRC declared, however, the purpose of Zhou’s visit was not for talks on the Macao issue, but for “a good-will visit.”

Besides the historic reasons, PRC leaders also wanted to impress Portuguese negotiators with the greatness of Chinese culture, by including banquet cuisine and sightseeing trips. Solomon believes that these aspects of the negotiating process are often used by the PRC in order to create a sense of China’s “great tradition and future potential—and in partial compensation for its current political and economic weakness.”

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141 Macau ’87, supra note 11, at 183.
143 Davis, How Britain Fell for the Peking Game-Plan, FAR E. ECON. REV., June 21, 1984, at 44.
144 Lin, Practical Contradictions Between China and Portugal Are Ambiguous, PAI SHING, July 16, 1986, at 42.
145 Portuguese President’s Press Interview, supra note 41, at 9.
146 Lin, supra note 121, at 35.
148 Solomon, supra note 126, at 13. See also Shiung, Will Sino-Portuguese Talks Be Peaceful?, THE MIRROR, 1987, at 21 (citing that during the Macao negotiations, Portuguese negotiators were
2. Time Pressure: Deadline

A major negotiating tactic often used by the PRC is the effort to use time pressures against an adversary. Beijing has successfully applied time pressures and deadlines against the United Kingdom on the Hong Kong issue. On the Macao issue, however, it was the PRC—not Portugal—that was vulnerable to time pressures.

Beijing takes advantage of an adversary's anxiety to conclude a given deal. A deadline is, actually, one of the most frequently used tactics in negotiation. As one commentator states: deadlines “force action” and “pressure people into making an either-or choice.”

There are several advantages in manipulating deadlines. First, a sense of urgency can be created. Second, deadlines can be used to deny your opponent time to gather sufficient knowledge and insight for making sound judgments. Third, a deadline gives the impression that you are ready to deal. Deadlines, properly executed, are effective from the lowest to the highest level of negotiation. According to Karrass, “[e]xperience tells us that some deadlines mean dead, others not. Some are costly, others inconsequential.”

One of the tactics Beijing used during Hong Kong negotiations was to impose a deadline in order to persuade London to concede on the sovereignty and administration issues. There were two stages of the Hong Kong negotiations. The first stage of the negotiations took place in 1982-83 and was characterized by impasse or deadlock. The PRC insisted that Britain give up sovereignty and administrative rights on Hong Kong. The United Kingdom, on the other hand, wanted to receive continuing British administration in exchange for acknowledging Beijing's sovereignty over Hong Kong.

Throughout the first stage of the negotiations, Hong Kong's financial and economic conditions deteriorated and the Hong Kong dollar steadily declined in value. This was an indication of the lack of public morale brought about by the deadlock. The third round of talks took place August 2-3, 1983 and there was still no progress, and the fourth
round was held on September 22-23, 1983. Meanwhile, the Hong Kong stock market continued to drop, the index falling 65.58 points to 785.48.\textsuperscript{159} In late September 1983, Hong Kong's dollar also plummeted in value against the American dollar—the greatest fall in its history.\textsuperscript{160}

In the middle of this financial crisis, the PRC disclosed its intention to announce its own plans for the future of Hong Kong, if an agreement with the United Kingdom could not be reached by September 1984.\textsuperscript{161} By unilaterally imposing a deadline, the PRC dramatized the likelihood of a breakdown in negotiations and heightened the risk of further deterioration of the Hong Kong economy. In addition, Deng Xiaoping was reported to have said that the PRC would not give in regardless of how far the Hong Kong dollar dropped.\textsuperscript{162} Premier Zhao also said, "No country can put prosperity ahead of sovereignty."\textsuperscript{163}

Against this background the United Kingdom became convinced of the firmness of Beijing's position. London finally decided to give in. The White Paper on Hong Kong, published in September 1984 as the "Draft Agreement", points out that "[t]he alternative to acceptance of the present agreement is to have no agreement. In this case the Chinese Government has made it plain that negotiations could not be reopened and that it would publish its own plan for Hong Kong."\textsuperscript{164}

The deadline tactic used by the PRC was apparently very effective. The British concession marked the most significant breakthrough in the Hong Kong negotiations. The fifth round of talks ended on October 20, 1983, the phrases "useful and constructive" reappeared in the press communiqué after the talks.\textsuperscript{165}

In the Macao negotiation, Beijing was pressured to reach an agreement with Portugal because of domestic consideration in both countries. Portugal, on the other hand, had no pressure to meet any deadlines.

During the deadlock period over the transfer date issue, Zhou Nan was reported to have threatened Portugal with annexation of Macao should Lisbon not agree to return Macao prior to the year 2000. This threat was reportedly made to Portuguese Foreign Minister Pedro Pires de Miranda during Zhou Nan's visit to Lisbon in November 1986.\textsuperscript{166} The PRC, however, denied the report. "[T]here was never an ultimatum or any threat of annexation," a Foreign Ministry spokesman said.\textsuperscript{167}

\textsuperscript{159} Id. at 19.
\textsuperscript{160} Id.
\textsuperscript{161} Id. at 20.
\textsuperscript{162} Id. at 17.
\textsuperscript{163} Id.
\textsuperscript{164} Hong Kong, ASIA 1985 YEARBOOK 146-47 (1985).
\textsuperscript{165} F. CHING, supra note 12, at 21.
\textsuperscript{166} PRC Threat 'to Annex' Macao, supra note 79, at W2.
\textsuperscript{167} Id.
Regardless of whether this threat was made, it was the PRC which was anxious to reach a quick agreement on the Macao question. Portugal, because of domestic uncertainty, would have preferred no agreement to a bad agreement on the Macao issue. Indeed, it was Lisbon which made repeated threats to pull out of Macao prior to 1997. Beijing, therefore, was in a less advantageous position to bargain with Portugal. It is no surprise that the PRC ultimately made a concession on the nationality issue.

3. Making Concessions in the Eleventh Hour

The PRC leaders are masters of eleventh-hour negotiations, but if the adversary persists and waits patiently and if Beijing needs an agreement badly, the PRC will make final concessions in order to conclude an arrangement.

There are several advantages in making concessions toward the end of negotiations. First, it makes the receiving party more appreciative of the concessions. Second, one can test the other side's limits before making important concessions.

Beijing tends to make concessions at the last minute of negotiations. On the nationality issue, for example, the PRC did not acquiesce to Portugal's "dual nationality" demand until the last day of negotiations. In addition, Beijing tends to make concessions on less vital issues, while demanding an adversary to yield on the most important issues according to its "non-negotiable" principle.

C. Post-Negotiation Maneuvers

Many foreign negotiators comment that the PRC does not believe that reaching an agreement means the end of negotiations. The Chinese may seek modifications of formal agreements or reopen issues if it serves their interests.

On the Macao issue, it was not clear how Beijing would implement the "dual nationality" provision. Macao residents holding Portuguese passports are now free to live in Portugal. Portugal is now a member state of the European Economic Community (EEC). As a consequence, there are restrictions on free movement of Portuguese to other EEC states, but these will be lifted in the 1990s. There are concerns, therefore, among the EEC countries that migrating Portuguese workers may increase rapidly once they have free access to the EEC states. It was

168 C. KARRASS, supra note 130, at 39.
169 Solomon, supra note 126, at 14.
170 Id. at 14-15.
reported that Britain, other EEC states and the PRC may pressure Portugal to change its nationality law before 1999 to make it more difficult for Chinese in Macao to acquire Portuguese citizenship.\(^{172}\)

Negotiations of the Hong Kong Basic Law since the conclusion of the Joint Declaration show that Beijing has "second thoughts" regarding parts of the agreement reached in September 1984. For example, the PRC declares in the Joint Declaration that the Hong Kong Special Administrative Region "will enjoy a high degree of autonomy" and "will be vested with executive, legislative and independent judicial power."\(^ {173}\) The PRC apparently now wants more authority for the executive branch than for the legislative branch.\(^ {174}\) There are also disputes about the meaning of the words "high degree of autonomy." Because of China's willingness to ask for modifications, it is still too early to tell how Beijing will implement the "one-country, two systems" principle with regard to both Hong Kong and Macao.

V. CONCLUSION

It is apparent from the foregoing analysis that the Macao negotiations and settlement were not woven by the PRC from the same cloth as the Hong Kong agreement. Despite the fact that the PRC initially sought settlement and return of both territories at the same time for the same reasons, and that some similarities are evident in the terms of the two agreements, we have seen that Macao was a "different kettle of fish" from Hong Kong.

In comparison with what is already known about the Hong Kong settlement, it is clear that significant dissimilarities existed between Hong Kong and Macao. These distinct differences derived in part from local conditions peculiar to Macao and from domestic political concerns and developments within Portugal and the PRC, respectively.

This analysis of the Macao case suggests four important conclusions about the PRC's negotiating style.

1) The PRC will be flexible and pragmatic in making those concessions it feels necessary to accomplish its objectives, even if this requires significant departure from precedent and previously stated positions.

2) The PRC will engage in various pre-negotiation tactics comprising: postulation of so-called "non-negotiable demands," the leaking of these, and the wooing of public opinion including utilization of various "united front" campaigns.

3) The PRC will resort to various tactics during negotiation that

\(^{172}\) Lau, supra note 171, at 36-37; Lau & Bowring, supra note 171, at 14-16.

\(^{173}\) Hong Kong Joint Declaration, supra note 3, para. 3(2)-(3).

may include: insisting on Beijing as the negotiating location; using time pressure or deadline tactics; and deferring any concessions to the last moment.

4) The PRC will also use a variety of post-negotiation maneuvers, such as seeking modifications or reopening negotiations on any issue that serve its interests. (Table 2)

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Finally, more research is required, particularly of the Macao case, before analysts can confidently make additional generalizations about the PRC's negotiating style that may be of predictive value for the Taiwan and other issues.