A BILL

To enhance resources to enforce United States trade rights.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “United States Trade
Rights Enforcement Act”.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) United States producers that believe they
are injured by subsidized imports from nonmarket
economy countries have not been able to obtain relief
through countervailing duty actions because the De-
partment of Commerce has declined to make coun-
tervailing duty determinations for nonmarket econ-
omy countries in part because it lacks explicit legal
authority to do so;

(2) explicitly making the countervailing duty
law under subtitle A of title VII of the Tariff Act
of 1930 (19 U.S.C. 1671 et seq.) applicable to ac-
tions by nonmarket economy countries would give
United States producers access to import relief
measures that directly target government subsidies;

(3) the Bureau of Customs and Border Protec-
tion of the Department of Homeland Security has
encountered particular problems in collecting coun-
tervailing and antidumping duties from new shippers
who default on their bonding obligations;

(4) this behavior may detract from the ability
of United States companies to recover from competi-
tion found to be unfair under international trade
laws;

(5) accordingly, it is appropriate, for a test pe-
riod, to suspend the availability of bonds for new
shippers and instead require cash deposits;

(6) more analysis and assessment is needed to
determine the appropriate policy to respond to this
and other problems experienced in the collection of
duties and the impact that policy changes could have
on legitimate United States trade and United States
trade obligations;

(7) given the developments in the ongoing
World Trade Organization (WTO) negotiations re-
laying to trade remedies, Congress reiterates its re-
solve as expressed in House Concurrent Resolution
262 (107th Congress), which was overwhelmingly
approved by the House of Representatives on No-
ember 7, 2001, by a vote of 410 to 4;

(8) the United States Trade Representative
should monitor compliance by United States trading
partners with their trade obligations and systemati-
cally identify areas of noncompliance;

(9) the United States Trade Representative
should then aggressively resolve noncompliance
through consultations with United States trading
partners;

(10) however, should efforts to resolve disputes
through consultation fail, the United States Trade
Representative should vigorously pursue United
States rights through dispute settlement in every
available forum;

(11) given the huge growth in trade with the
People’s Republic of China, its impact on the United
States economy, and the complaints voiced by many
United States interests that China is not complying with its international trade obligations, the United States Trade Representative should place particular emphasis on identifying and resolving disputes with China that limit United States exports, particularly concerning compliance with obligations relating to intellectual property rights and enforcement, tariff and nontariff barriers, subsidies, technical barriers to trade, sanitary and phytosanitary issues, non-market-based industrial policies, distribution rights, and regulatory transparency;

(12) in addition, the United States Trade Representative should place particular emphasis on trade barriers imposed by Japan, specifically the Japanese trade ban on United States beef without scientific justification, the Japanese sanitary and phytosanitary restrictions on United States agricultural products, Japanese policies on pharmaceutical and medical device reference pricing, insurance cross-subsidization, and privatization in a variety of sectors that discriminate against United States companies;

(13) the fixed exchange rate that the People’s Republic of China currently maintains is a substantial distortion to world markets, blocking the price
mechanism and impeding adjustment of international imbalances, and it is also a source of large and increasing risk to the Chinese economy;

(14) the People’s Republic of China has completed significant preparations over the last two years for adoption of a more flexible, market-oriented exchange rate;

(15) the People’s Republic of China is now ready to move to a more flexible exchange rate and it should move to such an exchange rate as soon as possible;

(16) the Secretary of the Treasury, in the annual report reviewing developments in international economic policy, including exchange rate policy, under the Omnibus Trade and Competitiveness Act of 1988, appropriately concluded that “current Chinese policies are highly distortionary and pose a risk to China’s economy, its trading partners, and global economic growth”;

(17) moreover, the rapid growth of credit and very high rate of investment risk undermine the progress that the People’s Republic of China has made in reforming its banking system by creating new flows of non-performing loans;
(18) such behavior effectively prevents market forces from operating efficiently in the People’s Republic of China, which distorts world trade;

(19) furthermore, based on the fact that the Secretary of the Treasury has determined the currency policy of the People’s Republic of China to be “distortionary”, the United States Trade Representative and the Secretary of the Treasury should place particular emphasis on determining whether China is violating its international obligations and identify to Congress the actions it is taking to address distortions to world trade;

(20) in addition, Japan’s policy of intervening to influence the value of its currency and its prolific barriers to trade create distortions that disadvantage United States exporters;

(21) this adverse impact is magnified by Japan’s role in the global marketplace, combined with its chronic surplus, weak economy, deflationary economy, low growth rate, and lack of consumer spending; and

(22) accordingly, the United States Trade Representative should have additional resources in the Office of the General Counsel, the Office of Monitoring and Enforcement, the Office of China Affairs,
and the Office of Japan, Korea, and APEC Affairs to address a variety of needs that will best enable United States companies, farmers, and workers to benefits from the trade agreements to which the United States has around the world.

SEC. 3. APPLICATION OF COUNTERVAILING DUTIES TO NONMARKET ECONOMY COUNTRIES.

(a) Amendments.—

(1) Countervailing duties imposed.—Section 701(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1671(a)(1)) is amended by inserting “(including a nonmarket economy country)” after “country” each place it appears.

(2) Definition of countervailable subsidy.—Section 771(5)(E) of such Act (19 U.S.C. 1677(5)(E)) is amended by adding at the end the following new sentences: “With respect to the People’s Republic of China, if the administering authority encounters special difficulties in calculating the amount of a benefit under clause (i), (ii), (iii), or (iv) of this subparagraph, the administering authority may use methodologies for identifying and measuring the subsidy benefit which take into account the possibility that prevailing terms and conditions in China may not always be available as appropriate
benchmarks. When applying such methodologies, the administering authority should adjust such prevailing terms and conditions before considering the use of terms and conditions prevailing outside China.”.

(b) PROHIBITION ON DOUBLE COUNTING.—In applying section 701(a)(1) of the Tariff Act of 1930, as amended by subsection (a), to a class or kind of merchandise of a nonmarket economy country, the administering authority shall ensure that—

(1) any countervailable subsidy is not double counted in an antidumping order under section 731 of such Act (19 U.S.C. 1673) on the same class or kind of merchandise of the country; and

(2) the application of section 701(a)(1) of such Act is consistent with the international obligations of the United States.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) apply to any petition filed under section 702 of the Tariff Act of 1930 (19 U.S.C. 1671a) on or after 30 days after the date of the enactment of this Act, and the provisions contained in subsection (b) apply to any subsequent determination made under section 733, 735, or 751 of such Act (19 U.S.C. 1673b, 1673d, or 1675).
SEC. 4. NEW SHIPPER REVIEW AMENDMENT.

(a) Suspension of the Availability of Bonds to New Shippers.—Clause (iii) of section 751(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(2)(B)(iii)) shall not be effective during the 3-year period beginning on the date of the enactment of this Act.

(b) Report on the Impact of the Suspension.—Not later than 2 years after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Commerce, the United States Trade Representative, and the Secretary of Homeland Security, shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing—

(1) recommendations on whether the suspension of the effectiveness of section 751(a)(2)(B)(iii) of the Tariff Act of 1930 should be extended beyond the date provided in subsection (a) of this section; and

(2) assessments of the effectiveness of any administrative measures that have been implemented to address the difficulties giving rise to the suspension under subsection (a) of this section, including—

(A) problems in assuring the collection of antidumping duties on imports from new shippers; and
(B) burdens imposed on legitimate trade
and commerce by the suspension of availability
of bonds to new shippers by reason of the sus-
pension under subsection (a).

(c) REPORT ON COLLECTION PROBLEMS AND ANAL-
YSIS OF PROPOSED SOLUTIONS.—

(1) REPORT.—Not later than 90 days after the
date of the enactment of this Act, the Secretary of
the Treasury, in consultation with the Commissioner
of the Bureau of Customs and Border Protection
and the Secretary of Commerce, shall submit to the
Committee on Ways and Means of the House of
Representatives and the Committee on Finance of
the Senate a report describing the major problems
experienced in the collection of duties, including
fraudulent activities intended to avoid payment of
duties, with an estimate of the total amount of un-
collected duties for the previous fiscal year and a
breakdown across product lines describing the rea-
sions duties were uncollected.

(2) RECOMMENDATIONS.—The report shall
make recommendations on additional actions to ad-
dress remaining problems related to duty collections
and, for each recommendation, provide an analysis
of how the recommendation would address the spe-
cific problem or problems cited and the impact that implementing the recommendation would have on international trade and commerce (including any additional costs imposed on United States businesses and whether the implementation of the revision is likely to violate any international trade laws).

SEC. 5. COMPREHENSIVE MONITORING OF COMPLIANCE BY THE PEOPLE'S REPUBLIC OF CHINA WITH ITS INTERNATIONAL TRADE OBLIGATIONS.

(a) INTELLECTUAL PROPERTY RIGHTS COMPLIANCE.—

(1) IN GENERAL.—In accordance with the terms of the Agreement of WTO Accession for the People's Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Commerce shall undertake to ensure that the Government of the People’s Republic China has taken the following steps:

(A) The Chinese Government has increased the number of civil and criminal prosecutions of intellectual property rights violators by the end of 2005 to a level that significantly decreases
the current amount of infringing products for
sale within China.

(B) China’s Supreme People’s Court, Su-
preme People’s Procuratorate, and Ministry of
Public Security have issued draft guidelines for
public comment to ensure the timely referral of
intellectual property rights violations from ad-
ministrative bodies to criminal prosecution.

(C) The Chinese Ministry of Public Secu-
rity and the General Administration of Customs
have issued regulations to ensure the timely
transfer of intellectual property rights cases for
criminal investigation.

(D) The Chinese Ministry of Public Secu-
rity has established a leading group responsible
for overall research, planning, and coordination
of all intellectual property rights criminal en-
forcement to ensure a focused and coordinated
nationwide enforcement effort.

(E) The Chinese Government has estab-
lished a bilateral intellectual property rights law
enforcement working group in cooperation with
the United States whose members will cooper-
ate on enforcement activities to reduce cross-
border infringing activities.
(F) The Chinese Government has aggressively countered movie piracy by dedicating enforcement teams to pursue enforcement actions against pirates and has regularly instructed enforcement authorities nationwide that copies of films and audio-visual products still in censorship or import review or otherwise not yet authorized for distribution are deemed pirated and subject to enhanced enforcement.

(G) By the end of 2005, the Chinese Government has completed its legalization program to ensure that all central, provincial, and local government offices are using only licensed software and by the end of 2006 has extended the program to enterprises (including state-owned enterprises).

(H) The Chinese Government, having declared that software end-user piracy is considered to constitute “harm to the public interest” and as such will be subject to administrative penalties nationwide, has initiated civil and criminal prosecutions of software end-user violators.

(I) The Chinese Government has appointed an Intellectual Property Rights Ombudsman at
the Chinese Embassy in Washington, D.C., to serve as the point of contact for United States companies, particularly small- and medium-sized businesses, seeking to secure and enforce their intellectual property rights in China or experiencing intellectual property rights problems in China.

(J) The relevant Chinese agencies, including the Ministry of Commerce, the China Trademark Office, the State Intellectual Property Office, and the National Copyright Administration of China have significantly improved intellectual property rights enforcement at trade shows and issued new regulations to achieve this goal.

(K) Not later than June 30, 2006, the Chinese State Council has submitted to the National People’s Congress the legislative package needed for China to accede to the World Intellectual Property Organization (WIPO) Internet treaties.

(L) The Chinese Government has taken steps to enforce intellectual property right laws against Internet piracy, including through enforcement at Internet cafes.
(M) The Chinese Government, having confirmed that the criminal penalty thresholds in the 2004 Judicial Interpretation are applicable to sound recordings, has instituted civil and criminal prosecutions against such violators.

(N) The Chinese Government has initiated civil and criminal prosecutions against exporters of infringing recordings.

(2) **Dispute Settlement Proceedings in WTO.**—If the President determines that the People’s Republic of China has not met each of the obligations described in subparagraphs (A) through (N) of paragraph (1) or taken steps that result in significant improvements in protection of intellectual property rights in accordance with its trade obligations, then the President shall assign such resources as are necessary to collect evidence of such trade agreement violations for use in dispute settlement proceedings against China in the World Trade Organization.

(b) **Access for Exports of United States Goods.**—In accordance with the terms of the Agreement of WTO Accession for the People’s Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related
to its trade obligations, the United States Trade Representa-
tive and the Secretary of Commerce shall undertake to ensure that the Government of the People’s Rep-
public of China has taken the following steps:

(1) China has taken steps to ensure that United States products can be freely distributed in China, including by approving a significant backlog of distribution license applications and by preparing a regulatory guide for businesses seeking to acquire distribution rights that expands on the guidelines announced in April 2005.

(2) Chinese officials have permitted all enterprises in China, including those located in bonded zones, to acquire licenses to distribute goods throughout China.

(3) The Chinese Government has submitted regulations on management of direct selling to the Chinese State Council for review and taken any additional steps necessary to provide a legal basis for United States direct sales firms to sell United States goods directly to households in China.

(4) The Chinese Government has issued final regulations on direct selling, including with respect to distribution of imported goods and fixed location requirements.
(c) Access for Exports of United States Services.—In accordance with the terms of the Agreement of WTO Accession for the People’s Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Commerce shall undertake to ensure that the Government of the People’s Republic of China has taken the following steps:

(1) The Chinese Government has convened a meeting of the U.S.-China Insurance Dialogue before the end of 2005 to discuss regulatory concerns and barriers to further liberalization of the sector.

(2) The Chinese Government has made senior level officials available to meet under the JCCT Information Technology Working Group to discuss capitalization requirements, resale services, and other issues as agreed to by the two sides.

(d) Access for United States Agriculture.—In accordance with the terms of the Agreement of WTO Accession for the People’s Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade
obligations, the United States Trade Representative and the Secretary of Agriculture shall undertake to ensure that the Government of the People’s Republic of China has taken the following steps:

(1) China has completed the regulatory approval process for a United States-produced corn biotech variety.

(2) China’s Administration of Quality Supervision, Inspection and Quarantine has implemented the 2005 Memorandum of Understanding between the United States and China designed to facilitate cooperation on animal and plant health safety issues and improve efforts to expand United States access to China’s markets for agricultural commodities.

e) ACCOUNTING OF CHINESE SUBSIDIES.—In accordance with the terms of the Agreement of WTO Accession for the People’s Republic of China, subsequent agreements by Chinese authorities through the U.S.-China Joint Commission on Commerce and Trade (JCCT), and other obligations by Chinese officials related to its trade obligations, the United States Trade Representative and the Secretary of Commerce shall undertake to ensure that the Government of the People’s Republic of China has provided a detailed accounting of its subsidies to the World Trade Organization by the end of 2005.
(f) Reports.—

(1) Biannual report.—Not later than six months after the date of the enactment of this Act, and every six months thereafter, the President should transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that contains—

(A) a description of the specific steps taken by the Government of the People’s Republic of China to meet its obligations described in subsections (a) through (e) of this section (other than obligations described in subsections (a)(1)(A) and (G), (b)(1), (c)(1), and (e));

(B) an analysis of the extent to which Chinese officials are attempting in good faith to meet such obligations; and

(C) a description of the actions, if any, the President will take to obtain compliance by China if the President determines that the Chinese Government is failing to meet such obligations, including pursuing United States rights under the dispute settlement provisions of the World Trade Organization, as appropriate.
(2) MONTHLY REPORT.—Not later than 30 days after the date of the enactment of this Act, and every 30 days thereafter, the President should transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that contains—

(A) a description of the specific steps taken by the Government of the People’s Republic of China to meet its obligations described in subsections (a)(1)(A) and (G), (b)(1), (c)(1), and (e);

(B) an analysis of the extent to which Chinese officials are attempting in good faith to meet such obligations; and

(C) a description of the actions, if any, the President will take to obtain compliance by China if the President determines that the Chinese Government is failing to meet such obligations, including pursuing United States rights under the dispute settlement provisions of the World Trade Organization, as appropriate.

SEC. 6. REPORT ON CURRENCY MANIPULATION BY FOREIGN COUNTRIES.

Not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall sub-
mit to the Committee on Ways and Means of the House
of Representatives and the Committee on Finance of the
Senate a report that—

(1) defines currency manipulation;

(2) describes actions of foreign countries that
will be considered to be currency manipulation; and

(3) describes how statutory provisions addressing
currency manipulation by trading partners of the
United States contained in, and relating to, section
40 of the Bretton Woods Agreements Act (22
U.S.C. 286y) and sections 3004 and 3005 of the Exchange Rates and International Economic Policy Co-
ordination Act of 1988 (22 U.S.C. 5304 and 5305)
can be better clarified administratively to provide for
improved and more predictable evaluation.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS FOR THE OFFI-
FICE OF THE UNITED STATES TRADE REP-
RESENTATIVE.

(a) Authorization of Appropriations.—

(1) IN GENERAL.—Section 141(g)(1)(A) of the
Trade Act of 1974 (19 U.S.C. 2171(g)(1)(A)) is
amended by striking clauses (i) and (ii) and insert-
ing the following:

“(i) $44,779,000 for fiscal year 2006.

“(ii) $47,018,000 for fiscal year 2007.”.
(2) Rule of Construction.—The amendment made by paragraph (1) shall not be construed to affect the availability of funds appropriated pursuant to section 141(g)(1)(A) of the Trade Act of 1974 before the date of the enactment of this Act.

(b) Authorization of Appropriations for the Office of the General Counsel and Certain Other Offices.—There are authorized to be appropriated to the Office of the United States Trade Representative for the appointment of additional staff in or enhanced activities by the Office of the General Counsel, the Office of Monitoring and Enforcement, the Office of China Affairs, and the Office of Japan, Korea, and APEC Affairs—

(1) $4,000,000 for fiscal year 2006; and

(2) $4,000,000 for fiscal year 2007.


(a) Authorization of Appropriations.—Section 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

“(i) $62,752,000 for fiscal year 2006.

“(ii) $65,890,000 for fiscal year 2007.”
(b) Rule of Construction.—The amendment made by subsection (a) shall not be construed to affect the availability of funds appropriated pursuant to section 330(e)(2)(A) of the Tariff Act of 1930 before the date of the enactment of this Act.

(c) Study and Report on Trade and Economic Relations With China.—

(1) Study.—

(A) In general.—The United States International Trade Commission shall carry out a comprehensive study on trade and economic relations between the United States and the People’s Republic of China which focuses on China’s macroeconomic policy, including its fixed exchange rate policy, the competitiveness of its industries, the composition and nature of its trade patterns, and the impact of these elements on the United States trade account, industry, competitiveness, and employment.

(B) Requirements.—In carrying out the study under subparagraph (A), the United States International Trade Commission shall undertake the following:

(i) An analysis of the United States trade and investment relationship with
China, with a focus on the United States-China trade balance and trends affecting particular industries, products, and sectors in agriculture, manufacturing, and services. The analysis shall provide context for understanding the U.S.-China trade and investment relationship, by including information regarding China’s economic relationships with third countries and China’s changing policy regime and business environment. The analysis shall include a focus on United States-China trade in goods and services, United States direct investment in China, China’s foreign direct investment in the United States, and the relationship between trade and investment. The analysis shall make adjustments, where possible, for merchandise passed through Hong Kong.

(ii) An analysis of the competitive conditions in China affecting United States exports and United States direct investment. The analysis shall take into account, to the extent feasible, significant factors including tariffs and non-tariff measures, competition from Chinese domestic firms
and foreign-based companies operating in China, the Chinese regulatory environment, including specific regulations and overall regulatory transparency, and other Chinese industrial and financial policies. In addition, the analysis shall examine the specific competitive conditions facing United States producers in key industries, products, and sectors, potentially including computer and telecommunications hardware, textiles, grains, cotton, and financial services.

(iii) An examination of the role and importance of intellectual property rights issues, such as patents, copyrights, and licensing, in specific industries in China, including the pharmaceutical industry, the software industry, and the entertainment industry.

(iv) An analysis of the effects on global commodity markets of China’s growing demand for energy and raw materials.

(v) An examination of whether or not increased United States imports from China reflect displacement of United
States imports from third countries or United States domestic production, and the role of intermediate and value-added goods processing in China’s pattern of trade.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the United States International Trade Commission shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that contains the results of the study carried out under paragraph (1).

SEC. 9. SENSE OF CONGRESS REGARDING EXPANSION OF MEMBERSHIP IN THE AGREEMENT ON GOVERNMENT PROCUREMENT OF THE WTO.

(a) FINDINGS.—Congress finds the following:

(1) Nondiscriminatory, procompetitive, merit-based, and technology-neutral procurement of goods and services is essential so that governments can acquire the best goods to meet their needs for the best value.

(2) The Agreement on Government Procurement (GPA) of the World Trade Organization (WTO) provides a multilateral framework of rights and obligations founded on such principles.
(3) The United States is a member of the GPA, along with Canada, the European Union (including its 25 member States: Austria, Belgium, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, and the United Kingdom), Hong Kong, Iceland, Israel, Japan, Korea, Liechtenstein, the Netherlands with respect to Aruba, Norway, Singapore, and Switzerland.

(4) Albania, Bulgaria, Georgia, Jordan, the Kyrgyz Republic, Moldova, Oman, Panama, and Taiwan are currently negotiating to accede to the GPA.

(5) The People’s Republic of China joined the WTO in December 2001, signaling to the international community its commitment to greater openness.

(6) When China joined the WTO, it committed, in its protocol of accession, to negotiate entry into the GPA “as soon as possible”.

(7) More than 3 years after its entry into the WTO, China has not commenced negotiations to join the GPA.
(8) Recent legal developments in China illustrate the importance and urgency of expanding membership in the GPA.

(9) In 2002, China enacted a law on government procurement that incorporates preferences for domestic goods and services.

(10) The first sector for which the Chinese Government has sought to implement the new government procurement law is computer software.

(11) In March 2005 the Chinese Government released draft regulations governing the procurement of computer software.

(12) The draft regulations require that non-Chinese software companies meet conditions relating to outsourcing of software development work to China, technology transfer, and similar requirements, in order to be eligible to participate in the Chinese Government market.

(13) As a result of the proposed regulations, it appears likely that a very substantial amount of American software will be excluded from the government procurement process in China. The draft software regulations threatened to close off a market with a potential value of more than $8 billion to United States firms.
(14) United States software companies have made a substantial commitment to the Chinese market and have made a substantial contribution to the development of China’s software industry.

(15) The outright exclusion of substantial amounts of software not of Chinese origin that is apparently contemplated in the regulations is out of step with domestic preferences that exist in the procurement laws and practices of other WTO member countries, including the United States.

(16) The draft regulations do not adhere to the principles of nondiscriminatory, procompetitive, merit-based, and technology-neutral procurement embodied in the GPA.

(17) The software piracy rate in China has never fallen below 90 percent over the past 10 years.

(18) Chinese Government entities represent a very significant portion of the software market in China that is not dominated by piracy.

(19) The combined effect of rampant software piracy and the proposed discriminatory government procurement regulations will be a nearly impenetrable barrier to market access for the United States software industry in China.
(20) The United States trade deficit with China in 2004 was $162,000,000,000, the highest with any economy in the world, and a 12.4 percent increase over 2003.

(21) China’s Premier, Wen Jiabao, has committed to rectify this serious imbalance by increasing China’s imports of goods and services from the United States.

(22) The proposed software procurement regulations that were described by the Chinese Government in November 2004 incorporate policies that are fully at odds with Premier Wen’s commitment to increase China’s imports from the United States, and will add significantly to the trade imbalance between the United States and China.

(23) Once it is fully implemented, the discriminatory aspects of China’s government procurement law will apply to all goods and services that the government procures.

(24) Other developing countries may follow the lead of China.

(25) In July 2005, senior officials of the Chinese Government announced at the U.S.-China Joint Committee on Commerce and Trade that China would accelerate its efforts to join the GPA and to-
ward this end will initiate technical consultations
with other WTO member countries and accordingly
delay issuing draft regulations on software procure-
ment, as it further considers public comments and
makes revisions in light of WTO rules.

(b) SENSE OF CONGRESS.—It is the sense of Con-
gress that—

(1) the Government of the United States should
strive to expand membership in the Agreement on
Government Procurement of the World Trade Orga-
nization (WTO);

(2) the Government of the United States should
ensure that the Government of the People’s Republic
of China meets its WTO obligations as recently af-
ffirmed through its commitment in July 2005
through the U.S.-China Joint Committee on Com-
merce and Trade, to join the WTO Agreement on
Government Procurement.

(3) the Government of the United States should
seek a commitment from the Government of the
People’s Republic of China to maintain its suspen-
sion of the implementation of its law on government
procurement, pending the conclusion of negotiations
to accede to the Agreement on Government Procure-
ment of the WTO;
(4) the Government of the United States should seek commitments from the Government of the People’s Republic of China and other countries that are not yet members of the Agreement on Government Procurement of the WTO to implement the principles of openness, transparency, fair competition based on merit, nondiscrimination, and accountability in their government procurement as embodied in that agreement; and

(5) the President should direct all appropriate officials of the United States to raise these concerns with appropriate officials of the People’s Republic of China and other trading partners.