

## **H. Res. 576**

### ***In the House of Representatives, U.S.,***

*July 14, 2004.*

Whereas in 2001, the People's Republic of China agreed to implement a set of sweeping reforms designed to protect intellectual property rights;

Whereas since 2001, China initiated a series of measures and a comprehensive review of its intellectual property rights laws to bring itself in compliance with international standards in patent, trademark, copyright, trade secret, and other intellectual property laws;

Whereas central and local Chinese Government officials continue to work with their counterparts in the United States to improve China's intellectual property rights enforcement through regular bilateral discussions, round-table meetings, and numerous technical assistance programs;

Whereas China has initiated campaigns to seize illegal and pirated goods, closed or fined several assembly operations for illegal production lines, seized millions of illegal audio-visual products, and expanded training of law enforcement officials relating to intellectual property rights protection;

Whereas although China has made significant improvements to its framework of law, regulations, rules, and judicial

interpretations regarding intellectual property rights, its intellectual property rights enforcement mechanisms still face major obstacles, which have resulted in continued widespread piracy and counterfeiting of film, recorded music, published products, software products, pharmaceuticals, chemical products, information technology products, consumer goods, electrical equipment, automobiles and automotive parts, industrial products, and research results throughout China;

Whereas such widespread piracy and counterfeiting in China harms not only the economic development of China but also the economic and legal interests of United States business enterprises that sell their products or services in China, whether or not these United States business enterprises have invested in China or ever will invest in China;

Whereas United States losses due to the piracy of copyrighted materials in China is estimated to exceed \$1,800,000,000 annually and counterfeited products to account for 15 to 20 percent of all products made in China, approximately 8 percent of the country's gross national product;

Whereas the market value of counterfeit goods in China is between \$19,000,000,000 and \$24,000,000,000 annually, causing enormous losses for intellectual property rights holders worldwide;

Whereas the export of pirated or counterfeit goods from China to third country markets causes economic losses to United States and other foreign producers of patented, trademarked, and copyrighted products competing for market share in those third country markets;

Whereas current criminal laws and enforcement mechanisms for intellectual property rights in China by administrative authorities, criminal prosecutions, and civil actions for monetary damages have not effectively addressed widespread counterfeiting and piracy;

Whereas administrative authorities in China rarely forward an administrative case relating to intellectual property rights violations to the appropriate criminal justice authorities for criminal investigation and prosecution;

Whereas China currently has high criminal liability thresholds for infringements of intellectual property rights, with an unreasonable proof-of-sale requirement totaling approximately \$24,100 for business enterprises and \$6,030 for individuals (according to current exchange rates) that makes criminal prosecution against those enterprises or individuals that violate intellectual property rights extremely difficult;

Whereas seizures and fines imposed by Chinese authorities for intellectual property rights violations are perceived by the violators to be a cost of doing business and such violators are usually able to resume their operations without much difficulty;

Whereas China has the second largest number of Internet users in the world, it still has not acceded to the 1996 World Intellectual Property Organization (WIPO) Internet-related treaties that reflect international norms for providing copyright protection over the Internet;

Whereas China's market access barriers for United States and other foreign cultural products such as movies, music, and books stops or slows the legal entry of these

legitimate products into China, in turn increasing the demand for pirated products; and

Whereas United States Trade Representative, Ambassador Zoellick, and Secretary of Commerce Evans co-chaired an expanded Joint Commission on Commerce and Trade Meeting during Chinese Vice Premier Wu Yi's visit to the United States in April 2004 that led to the Chinese Government's commitment to an action plan to address the piracy and counterfeiting of American ideas and innovations: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) commends the Government of the People's Republic of China for the steps it has taken to improve its legal framework for intellectual property rights protection and for efforts to bring itself toward compliance with international standards for intellectual property rights;

(2) recognizes Chinese Government's renewed commitment through an action plan presented at the 2004 United States-China Joint Commission on Commerce and Trade to significantly reduce intellectual property rights infringement levels by increasing penalties for intellectual property rights violations, cracking down on violators, improving protection of electronic data, and launching a national campaign to educate its citizens about the importance of intellectual property rights protection;

(3) further recognizes, despite the steps referred to in paragraph (1) and paragraph (2), the continued existence of widespread intellectual property rights violations in China;

(4) urges the Chinese Government to closely adhere to its action plan referred to in paragraph (2) in undertaking a coordinated nationwide intellectual property rights enforcement campaign, and to further eliminate the high criminal liability threshold and procedural obstacles that impede the effective use of criminal prosecution in addressing intellectual property rights violations, to increase the criminal penalties provided for in its laws and regulations, and to vigorously pursue counterfeiting and piracy cases;

(5) encourages the Chinese Government to fully and comprehensively implement a legal framework and effective enforcement mechanisms that would protect not only intellectual property rights held by United States and foreign business enterprises with or without investments in China, but also Chinese intellectual property rights holders, which is crucial to China's own economic development and technological advancement;

(6) urges the Chinese Government to give greater market access to the foreign producers of legitimate products such as films and other audio-visual products

in order to reduce demand for and prevalence of pirated and counterfeit goods in their absence; and

(7) will continue to monitor closely China's commitment and adherence to its action plan on intellectual property protection presented during the 2004 United States-China Joint Commission on Commerce and Trade, and work with the Administration to further encourage China's efforts to bring its framework of laws, regulations, and implementing rules into compliance with international law and to create and maintain effective intellectual property rights enforcement mechanisms capable of deterring counterfeiting and piracy activities.

Attest:

*Clerk.*