

**Opening Statement, Chairman Tom Coburn, M.D.**

**Subcommittee on Federal Financial Management,  
Government Information, and International Security**

***Ensuring Protection of American Intellectual Property Rights for  
American Industries in China***

**Beverly Hills, California  
Monday, November 21, 2005**

The Subcommittee on Federal Financial Management, Government Information, and International Security will come to order. Thank you all for being here. Today's Subcommittee field hearing will focus on the massive piracy and counterfeiting of American intellectual property that persists in China.

This field hearing is a follow-up to a previous hearing held by this Subcommittee this past June, where the Subcommittee took a snapshot of the direction of the World Trade Organization (WTO), where we asked the question about how U.S. economic interests are being served and sovereignty protected. One of the key findings at our hearing was the severity of the intellectual property vandalism occurring in China against American entrepreneurs, innovators, artists and consumers.

That's why we wanted to take the next logical step and zoom in on that issue specifically, and what better location than here in the great State of California, where major industries affected by intellectual piracy are located.

Today we will hear firsthand accounts of companies and representatives of various sectors who are experiencing intellectual property theft in China. One of the reasons why I like to hold hearings outside of Washington is that sometimes hearings are filled with a lot of dry, government speak. When something is as close to the pocketbooks of Americans as today's topic is, it's important that we don't obfuscate with inside-the-beltway jargon and mindset. Robbery from huge employers and industries as represented here today should resonate in the ears of the American people – it's their money. Money spent on higher prices for goods and services, jobs lost to foreign competitors and lower profit margins for employers, and everyday investors in these companies whose nest-eggs don't grow as they should. The point cannot be emphasized enough that American jobs are at risk when China steals our American intellectual property. The U.S. Commerce Department estimates that counterfeit trade in China is somewhere between \$19

## Opening Statement, Chairman Tom Coburn, M.D.

billion to \$80 billion a year. When you apply the general rule of thumb that \$1 billion in economic activity equates to 12,000 – 14,000 jobs, it means we are talking about 240,000 to 960,000 lost jobs.

### ***Why Is Protection of Intellectual Rights is so Crucial?***

The dictionary defines intellectual property as: *A product of the intellect that has commercial value, including copyrighted property such as literary or artistic works, and ideational property, such as patents, appellations of origin, business methods, and industrial processes.* [<http://dictionary.reference.com>]

Protecting the intellectual property of every American citizen is the cornerstone of America's innovation and the success of our nation's economy. American citizens must know that when they invest and dedicate their energy, resources, creativity to providing a product that has the potential to better and benefit our quality of life, their intellectual property rights will be protected by our nation's laws.

And as our nation engages with other nations in trade relations, it is the job of those of us in Washington to ensure that our international commercial partners abide by and protect America's laws on intellectual property rights.

The Founding Fathers rightly identified property rights as one of the fundamental rights upon which all economic and cultural life of a nation must be based. As James Madison stated: "The rights of persons, and the rights of property, are the objects, for the protection of which Government was instituted."

### ***U.S. Government Efforts to Stop China IPR Theft***

For some time now, the United States Government and its citizens have been engaged in a struggle to stop China from stealing the intellectual property of American citizens.

As the U.S. Chamber of Commerce stated in Congressional testimony before the House Judiciary Committee in May of this year, "intellectual property rights (IPR) violations in China now severely affect virtually all industries, from consumer and industrial goods – including medicines, autos and auto parts, food and beverages, and cosmetics – to copyright works."

As a result, on April 29, 2005, the USTR announced that it had placed China on the Special 301 Priority Watch List because of its failure to significantly improve IPR protection.

## Opening Statement, Chairman Tom Coburn, M.D.

And last month, the Administration took an even stronger step forward when the U.S. Government filed through the WTO, an official request (Article 63) to have China explain in writing what changes it is making in its legal system to fix the problem of IPR theft, and to also inform the U.S. how many cases of IPR theft have been filed by U.S. companies in China. China has until January (90 days) to provide this information, which could be helpful to the U.S. in building a case against China in the WTO.

Various American companies have reported over and over the struggles they are facing to have the Chinese government to take the proper legal action to protect their intellectual property rights.

Take for instance the example of the manufacturing company Zippo that produces lighters. As was reported by Assistant Secretary of Commerce William Lash during his press conference on April 14, 2005, it was discovered during a raid in China that 40,000 Zippo lighters had been counterfeited. However, because they valued these lighters at 0.5 to 1.2 RMB (6 to 15 cents), the case "fell under the criminal threshold," for legal action. [usinfo.state.gov]

So, therefore, the Administration is to be commended for taking this step forward at the WTO as such actions communicate to China and the rest of the world that the United States will protect its innovator companies, workers and investors.

After all, this problem is not going away.

The U.S. trade deficit with China has grown significantly in recent years, due largely to a surge in U.S. imports of Chinese goods relative to U.S. exports to China. That deficit rose from \$30 billion in 1994 to \$162 billion in 2004. [Source: U.S. Department of Commerce.]

As my good friend, Ambassador Rob Portman, U.S. Trade Representative, stated in his confirmation hearing testimony, "part of that deficit is because the Chinese do not always play by the rules".

China is now the sixth largest market for U.S. exports and America's third largest trading partner overall.

The U.S. trade deficit with China is now larger than that of any other U.S. trading partner. If current trends continue, the total U.S. trade deficit with China in 2005

## Opening Statement, Chairman Tom Coburn, M.D.

could hit \$213 billion. [Source: U.S. Department of Commerce 2005 projection based on January-August 2005 data.]

USTR testified before Congress this past May that “[U.S.] companies report billions of dollars in lost revenue, irreparable harm to their brands and future sales, all of which ultimately affects U.S. workers who design and produce legitimate products forced to compete against Chinese fakes.”

According to USTR, in 2004, the value of Chinese counterfeits seized before entering U.S. markets rose from \$94 million to \$134 million. And, U.S. Customs and Border Protection estimates that counterfeit merchandise worldwide is responsible for the loss of more than 750,000 American jobs.

The bottom line is – America’s leaders in Washington need to get serious about how to handle this problem and take the necessary steps to put an end to it. American’s jobs are at stake and America’s economy is vulnerable.

So how do we do that?

### ***World Trade Organization (WTO)***

Well, as I previously mentioned, one way to address this problem is through the World Trade Organization. The WTO was established to be an international trade organization that would help facilitate coordination and order among international trading partners.

When China joined the WTO a few years ago, they agreed to fully comply with trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement obligations. But China has not kept its promise to Americans.

As I mentioned, the Administration has filed a request to require information back from China on what it is doing to fix the problem. Of course, it will be incumbent on the Administration to make sure that China meets the deadline of 90 days and provide the required information in January when it is due. At that point, the Administration will also have to make the decision based on the information it receives about whether or not the clock has run and the time has come for the United States to file against the Chinese government at the WTO.

There is been much discussion on if and when the U.S. Trade Representative should proceed in moving forward with this action, but to date, the USTR has held back.

## Opening Statement, Chairman Tom Coburn, M.D.

### *History of Trade with China*

Let's not forget that when we debated the decision to grant China Permanent Most-Favored Nation status – a prestigious designation that means that we trust you as a good-faith trade partner – some argued that it was asking for trouble to get into financial bed with a communist government that does not recognize individual rights. Individual rights are what property rights are based on. They also, of course, are what human rights are based on and we all know China's deplorable record on that front.

To my mind, it should come as no surprise the communist Chinese regime has violated Americans' rights – given that it does not even recognize its own citizens' rights.

### *U.S. Needs to Ensure Other Countries Don't Follow Suit*

I'm also concerned that the problem we face in China could set a dangerous precedent for our other trading partners. There are other not-so-reliable actors out there watching closely to see how we respond to China. We need to ensure the U.S. is not sending the wrong message to other potential or existing international violators of American intellectual property rights by appearing to be lackadaisical in our response to China. The question of how the U.S. Government needs to respond to China is a major point of discussion today.