

# China`s trade disputes

[Economics](#), [Trade](#)



## China's Trade Disputes Disputes over protection of Intellectual Property

Complainant: United States Respondent: China Before China Joined the GATE

(General Agreement on Tariffs and Trade) in 1986, it was a planned economy. What that does mean? It means that the government was in charge of the production, investment and prices. In other words, the government was in charge of running the economy. By that time, China almost had no international commerce but only with socialist countries such as the former USSR and Yugoslavia.

It was not until 1992, that China began to lower its tariffs. As a result of that, China began to grow steadily and in 2001 China Joined the WTO (World Trade Organization). According to Professor David W. Conklin and Danville Caddie (China's Trade Disputes, Richard Ivey School of Business, The University of Western Ontario, 2009) China had a 42.9% tariff rate in 1992; 16.6% in 2001 and since then it has been around 9.8%. These figures show how China the decreased its tariff rates since 1992 to the present.

According to the WTO (World Trade Organization), the average Chinese tariff rate in 2011 was 9.6%.<sup>1</sup> China joining the WTO had its own repercussions; on one hand, it was a new market with a rapidly growing population, which was attractive for many international investors. On the other hand, China's export increased extremely fast, this rapid growth affected many industries in advanced economies. What is the reason behind this outcome? There were several issues regarding China's commerce policies that caused a stream of trade disputes between China and other economies.

In spite of having the Trade Related Aspects of Intellectual Property Rights (TRIPS), many Chinese producers were accused of racy and counterfeiting. The purpose of the Trips was to provide protection in the wide area of intellectual property. However, that was not the case in China; even though, the Chinese government based its Intellectual Property Rights on U. S. And EX. countries, they were not applying those policies effectively.

Counterfeiting and piracy in China were estimated to be around 15% to of all the products made in the local market. These type of illegal activities composed 8% of China's GAP. 5 The main issue regarding Intellectual Property is the fact that for most developing countries, he easiest way to achieve competitiveness is through counterfeiting successful products and by copying business practices. Why is this a major problem? The answer is simple; these developing economies have as their competitive advantage: low wage rates.

If they copy a product and produce it with those low salaries, they are able to sell it with a price lower than the original one. There is no doubt that these type of products are going to steal market share from the companies that originally produced them affecting not only those companies but also the economies that purport them. The main purpose of International laws that protect Intellectual Property is not only to secure fair business but also to keep Jobs in the domestic market not to offshore all those Jobs to other foreign countries.

We know that weak PR polices and lesser penalties are factors that allow the spread of counterfeiting and piracy within an economy. Furthermore, a

deficient legal system can be a cause of this too. However, according to John Lehman, this issue might be caused by a different factor: he said that Intellectual Property was not part of the " Traditional" Chinese legal code. He concludes that the main problem about Intellectual property in China is not caused by a deficient legal system nor economy but from intellectual and cultural factors. After the creation of the WIPO (World Intellectual Property Organization) in 1970, the WTO functioned as a forum for the negotiation of international policies on major issues. However, violations concerning PR (Intellectual Property Rights) proved to be extremely difficult to handle. Especially with technological products that use to have very short product cycles. Overall, with all the genealogical advances, it was really hard to create an accurate legislation to address all of these new type of problems.

There is a thin line between counterfeiting and using the product as a base to improve it, issues like that were a headache for the WTO. On April 2007, the United States demanded a consultation with China relating to the protection of PR in China. The matters that were discussed during this series of consultations were: the lack of an efficient criminal procedure and set of penalties for commercial piracy, the prohibition to let counterfeited products to be released onto foreign markets and the boundaries in which a copyright piracy consists in of an unauthorized copying. The panel concluded that, to the extent that the Copyright Law and the Customs measures as such are inconsistent with the TRIPS Agreement, they nullify or impair benefits accruing to the United States under that Agreement, and recommended that China bring the Copyright Law and the Customs measures into conformity with its obligations under the TRIPS Agreement". 8 On April 2010, China and

U. S. Informed the Dispute Settlement Body (ADS) that the agreed procedures were effectively in progress. Opinion: The protection of PR is one of the most important things for developed countries.

I agree that counterfeiting and piracy should be severely punished. However, in this case I found an interesting opinion: " Why should these countries honor the property ownership of other when their own manufacturers could create Jobs and nurture domestic prosperity through piracy and counterfeiting? " This is obviously the other side of the coin it involves a social issue. But I think that copying (not counterfeiting not piracy) can be useful sometimes. I remember reading that after WI, Japan sent several of this workers to work in U. S. In order to get the American know-how.

What they did was not counterfeiting because they didn't copy the products but they used the models as their base in order to improve it. That's an interesting idea, especially for developing economies. Recently I watched a documentary about the race between China and India. The main difference between both economies was that India was using innovation in order to grow; on the other hand, China was relying more on copying products than innovating. The same documentary showed that in the present counterfeiting laws are stronger in China but it is still an issue.