

Statement of Senator Carl Levin
Congressional Executive China Commission hearing
“Will China Protect Intellectual Property? New Developments in Counterfeiting, Piracy and
Forced Technology Transfer.”
September 22, 2010

I commend the Chairman and Cochairman of the CECC for holding this important hearing. Despite nearly 10 years as a member of the WTO, China continues to engage in unfair trade practices. Two areas of concern I would like the Commission to look at are the actions China is taking to favor its domestic renewable energy technology sector and automotive parts counterfeiting.

We should all be alarmed by China’s attempts to dominate the renewable energy industry through measures that discriminate against foreign manufacturers. China does this by requiring the use of domestic suppliers and production for green and renewable technology. This was validated in USTR’s 2009 Special 301 report on China which noted U.S. industry concerns about the possibility that Chinese laws or policies in a variety of fields might be used to unfairly favor domestic intellectual property over foreign intellectual property. The report stated the concerns are, “*especially acute in light of Chinese Government policies that appear to establish a procurement preference for domestically innovated products.*” China also requires a significant percentage of these products be exported, in order to guarantee that its domestic companies will dominate this important sector.

China is trying to have it both ways: protecting its home market while exporting most of its production. The *New York Times* reported that China protects its domestic producers by requiring that 80 percent of the equipment used in Chinese solar power plants be made in China. At the same time, over 95 percent of China’s solar panel production is exported to the United States and Europe.

China also has designs to dominate clean car technology. According to the Wall Street Journal, China is preparing a 10-year plan to turn China into the world’s leader in developing and producing battery-powered cars and hybrids. The draft plan suggests that China could compel foreign auto makers who want to produce electric vehicles in China to transfer critical technology by requiring those companies to enter into joint ventures where the foreign auto maker would be limited to a minority stake. I agree with the foreign auto executive that said it is, “tantamount to China strong-arming foreign auto makers to give up battery, electric-motor, and control technology in exchange for market access.” With such government mandated policies in place, once all of the technology is transferred the Chinese joint venture partner will become a competitor.

At a time when American manufacturers are working hard to compete in the emerging field of green technologies, China must not be allowed to unfairly or illegally undermine those efforts. The United Steel Workers of America has filed a trade petition accusing China of

violating the WTO by subsidizing exports of clean energy equipment. I have urged the administration to investigate these allegations.

I am also concerned about the counterfeiting of auto parts, concerns that extend beyond monetary losses to U.S. firms and directly impact human health and safety. A counterfeit auto part could be the wheel or the brakes on your car. Since counterfeit parts are often substandard and produced with inferior materials, they put lives at risk. The Motor & Equipment Manufacturers Association (MEMA) recently testified that most counterfeits appear to be made in China.

The Gates Corporation, headquartered in Denver, Colorado, with operations in Michigan, is a major manufacturer of a range of belts used in motor vehicles and has faced a number of cases of counterfeit belts worldwide. When Gates tested pirated timing belts it found they were inferior to the genuine part with a significantly shorter lifespan. A counterfeit timing belt may wear and fail prematurely with serious cost, health, and safety consequences. A consumer advocacy group in China relying on Chinese media reports estimates that 70 percent of aftermarket auto parts in China are counterfeit and that approximately 13% of car accidents are due to fake auto parts.

In addition to the safety issues, American companies' investments in innovation and technology development are at risk. The auto parts industry's losses due to counterfeiting are enormous. MEMA conservatively estimates that counterfeit goods cost motor vehicle suppliers up to \$12 billion globally in lost sales every year. Market researchers Frost and Sullivan estimated in 2006 that the global losses to motor vehicle suppliers due to counterfeiting would be as high as \$45 billion in 2011. In 2007 Ford Motor Co. stated that counterfeit auto parts cost it nearly \$1 billion a year. We cannot continue to allow these types of American investments and innovations to be stolen by foreign competitors.

For almost 20 years the United States has been aggressively pressing China through Section 301 trade cases to improve its intellectual property protection regime. Yet China continues to be the number one source country for counterfeit and pirated goods seized in fiscal year 2009, accounting for 79 percent or \$204.7 million of the total value seized. The USTR's 2010 Special 301 report continued to list China on the Priority Watch List and stated that China continued to be a major focus of U.S. concerns. Even though China made some progress in improving its enforcement regime, the USTR said piracy rates remained at "unacceptable levels." The Chinese Government itself estimates that counterfeits constitute between 15% and 20% of all products made in China and are equivalent to about 8% of China's annual gross domestic product.

China's trade distorting practices need to be aggressively investigated by the USTR as we work to hold China to its WTO commitments in international trade.