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BILL	DATE	PAGE(S)
H.R.5324	APR 3 '84 (42)	E1392

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PROTECT AMERICAN PRODUCTS FROM COUNTERFEITERS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1984

● Mr. DOWNEY of New York. Mr. Speaker, in the final hours of the first session I introduced H.R. 4502, legislation which uses special trade preferences as a lever to stop industrial counterfeiting by developing countries.

Today, along with 14 of my colleagues, I am introducing a bill which makes several improvements to the original. Most importantly, it affords the same protection for published products as the first bill provided for manufactured goods, and therefore it has the expanded backing of the American publishing industry. Additionally, this new bill uses language similar to that already enacted as part the Caribbean Basin Initiative, language proved successful in halting the pirating of textbooks in the Dominican Republic and of cable television signals by Jamaica. Finally, this new bill is very similar to a bill working its way through the Senate.

Industrial counterfeiting by foreign nationals is a serious and growing economic problem for us. A recent International Trade Commission study estimated that American companies are losing from $6 to $8 billion in sales each year and at least 131,000 jobs.

Many counterfeit goods are sold abroad, cutting into needed markets for American goods. A wide variety of products are popular targets including clothing, precision tools, drugs, farm chemicals, and high technology equipment to name a few.

While the impact on our American manufacturers is clear, there is little they can do legally. This bill attempts to solve the problem at its source. Under the generalized system of preferences (GSP), certain countries such as Taiwan, Brazil, and South Korea qualify for duty-free tariff treatment in import dealings with our country in order to promote their economic development. This program has been beneficial to the countries known to be the source of the most notorious counterfeiters. The bill I am introducing today ties future GSP benefits to the willingness of each country to enact and enforce stricter laws protecting intellectual property rights. The GSP is due to be renewed before the end of the year and I intend to add this bill as an amendment. I invite my colleagues' support and ask that a copy of the new version be printed here:

Section 502 of the Trade Act of 1974 (19 U.S.C. 2462) is amended—

(1) by striking out "and" at the end of subsection (b)(6);

(2) by striking out the period at the end of subsection (b)(7) and inserting in lieu thereof "; and";

(3) by adding at the end of subsection (b)(7) the following:

"(8) if such country fails to provide under its law adequate and effective means for foreign nationals to secure, exercise and enforce exclusive rights in intellectual property, including patent, trademark and copyright rights, unless the President receives assurances satisfactory to him that the country is taking appropriate steps to provide such means and he submits a written report to both houses of Congress detailing the nature of those assurances.";

(4) by amending the last paragraph of subsection (b) to provide:

"Paragraphs (4), (5), (6), (7) and (8) shall not prevent the designation of any country as a beneficiary developing country under this section if the President determines that such designation will be in the national economic interest of the United States and reports such determination to the Congress with his reasons therefor.";

(5) by striking out the "and" at the end of subsection (c)(3);

(6) by striking out the period at the end of subsection (c)(4) and inserting in lieu thereof "; and";

(7) by adding at the end of subsection (c)(4) the following:

"(5) the extent to which such country is providing under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property, including patent, trademark and copyright rights."; and

(8) by adding at the end of section 502 the following:

"(e)(1) Not later than January 1, 1986, the President shall determine whether each beneficiary developing country designated as of the effective date of this Act satisfies the requirements of section 502(b)(8) and he shall report to Congress his determination and the reasons therefor. If the President determines that any such country fails to satisfy these requirements, he shall terminate such designation consistent with the provisions of section 502(a)(2).

(2) With respect to any country for which the President has received assurances under section 502(b)(8), the President shall, not later than January 1, 1987, and annually thereafter, report to Congress the extent to which such assurances have been satisfied."●