THE RESPONSES OF THE UNITED STATES OF AMERICA IN ADDRESSING INTELLECTUAL PROPERTY INFRINGEMENT REGARDING MOVIE PIRACY BY PEOPLE’S REPUBLIC OF CHINA (2013-2016)

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THESIS ADVISER RECOMMENDATION LETTER

Thesis entitled “THE RESPONSES OF THE UNITED STATES IN ADDRESSING INTELLECTUAL PROPERTY INFRINGEMENT REGARDING MOVIE PIRACY BY PEOPLE’S REPUBLIC OF CHINA (2013-2016)” prepared and submitted by Regina Khoirunnisa in partial fulfillment of the requirements for the degree of Bachelor of Art in the Faculty of Humanities has been reviewed and found to have satisfied the requirements for a thesis fit to be examined. I therefore recommend this thesis for Oral Defense.

Cikarang, Indonesia, March 2018,

Recommended and Acknowledged by,

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DECLARATION OF ORIGINALITY

I declare that this thesis entitled “THE RESPONSES OF THE UNITED STATES OF AMERICA IN ADDRESSING INTELLECTUAL PROPERTY INFRINGEMENT REGARDING MOVIE PIRACY BY PEOPLE’S REPUBLIC OF CHINA DURING (2013-2016)” is, to the best of my knowledge and belief, an original piece of work that has not been submitted, either in whole or in part, to another university to obtain a degree.

Cikarang, Indonesia, March 2018,

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ABSTRACT


As the largest developed country, the United States has many potential industries, including in the field of Intellectual Property. One of the most lucrative and oldest industries in this field is US movie industry. Hence, it becomes one of US concerns in conducting trade with other countries. In this industry, China is the largest market for US export movie. However, in entering Chinese market, US movie industry face challenges due to Chinese government regulation that gives limitation to foreign movies to enter Chinese market. Besides, rampant movie piracy also harm US movie industry. This study will provide explanation about the response of US government in addressing intellectual property infringement regarding movie piracy by China during 2013 – 2016. In this research, the theories used are complex interdependence theory by Robert Keohane and Joseph Nye to describe US – China trade relations and intellectual property concept provided by World Intellectual Property Organization (WIPO) to give understanding about intellectual property and movie as one of artistic work protected by copyright.

Keywords: Intellectual Property, China, US, Bilateral Trade Relations
ABSTRAK

Judul: Respon-respon Amerika Serikat dalam Mengatasi Pelanggaran Kekayaan Intelektual mengenai Pembajakan Film oleh Republik Rakyat Tiongkok (2013 – 2016)


Kata Kunci: Kekayaan Intelektual, China, AS, Hubungan Perdagangan Bilateral
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LIST OF ACRONYMS

DBS  Dispute Resolution Body
GDP  Gross Domestic Product
IP   Intellectual Property
IPRs Intellectual Property Rights
JCCT Joint Commission on Commerce and Trade
MPAA Motion Picture Association of America
PFC  Priority Foreign Country
PWL  Priority Watch List
SARFT The State Administration of Radio, Film, and Television
USITC United States International Trade Commission
USTR United States Trade Representative
WIPO World Intellectual Property Organization
WCT WIPO Copyright Treaty
WTO World Trade Organization
CHAPTER I
INTRODUCTION

This Chapter introduces to the reader what research topic is being investigated. It describes the reasons why the research is being conducted, and how the research contributes to an understanding of the topic being investigated. Literature or studies that strengthen and substantiate the arguments for the study are presented.

I.1 Background of Research

People’s Republic of China and the United States has been engaging bilateral relations since long time ago. Despite they are situated in the different continents, their economic and trade relations has existed more than two hundred years. Since the United States is China’s largest trading partner, China has a huge contribution to the US economic development and vice versa. To provide the legal guarantee of the cooperation and deal with trade disputes, China and the United States are bound to legal international institution, World Trade Organization (WTO).

According Research Report on China-US Economic and Trade Relations by Ministry of Commerce of the People’s Republic of China in 2017, globalization is the main reason behind the development of economic and trade cooperation between China and the United States.\(^1\) Globalization stimulates economic activities and technology to develop. As a result, Intellectual Property, as product of the development of technology, economic activities, as well as creativity, develop too.

Today, Intellectual Property becomes one of the main concerns in economy worldwide in conducting economy and trade cooperation, such as in the cooperation between the United States and China. The United State IP has always been one of

the biggest United States’ main concerns in conducting trade relations with China. The issue regarding IP protection between the US and China began in 1979 when China implemented “Open Door Policy”. This policy aimed to boost its national economy by attracting foreign investors. The United States, as one of China’s partner in trade, had a Bilateral Agreement on Trade Relations to protect the U.S. copyright in China since it is one of the largest sector contributing to the U.S. gross domestic products. To show its goodwill to the U.S. in the IP protection, China joined WIPO one year later.

In the early 1900s, Bush administration put China as PFC, which is the worst rate for IPR infringement assessment, on its Special 301 Provision and threatened to give sanction to China for $2 billion and China responded it by willing to subject tariff to the US goods. However, they decided to negotiate and reached an agreement afterwards, which is called as The 1996 Agreement. In 2003, the Congress pushed the government to focus on reducing trade deficit worth to $124 billion and on the U.S. made China’s delegation, Wu Yi, give a statement that China would be tougher to fight against the IPR infringement on the meeting of Joint Commission on Commerce and Trade (JCCT). As a result, IP enforcement in China showed a significant improvement. In 2005, the U.S. even put China as PWL list, which means that China got better rate at IP infringement, by the Special 301.

During Obama’s presidency, in addressing IP infringement, the government does not only concern on large companies, but also small companies including start-up companies. President Obama’s 2012 State of the Union explained about the importance of start-up companies within society as it stimulates innovation and opens more jobs. Indeed, in the globalization era, innovation, as it is related to

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3 Ibid.
4 Ibid.
5 Ibid.
6 Ibid.
original idea and intellectual property, has a major role in the economic development. Innovation, nowadays, can be in any fields including in the field of knowledge, such as books and journals, and entertainment, such as music, motion pictures and video games. As technology faces rapid development, people can easily get anything from internet and it causes online piracy becomes inevitable.

Since Intellectual Property has contributed much in US economy, it is no wonder that Intellectual Property becomes one of US major concerns during Obama’s presidency in doing cooperation with other countries, including China. According to Intellectual Property and the U.S. Economy: 2016 Update by United States Patent and Trademark Office, IP-intensive has contributed to 27.9 million jobs in 2014 where Trademark has 23.7 million jobs, Copyright has 5.6 million jobs and patent has 3.9 million jobs.\(^8\) Besides, in terms of GDP, IP industries are worth to $6.6 trillion in 2014, which is increasing about 30 percent compared to in 2010.\(^9\)

Based on the report, it is seen that how much IP-intensive accounted for million jobs in US, as well as GDP.

The Commission on the Theft of American Intellectual Property, an American independent bipartisan, published a report about intellectual property infringement during Barack Obama’s second term, in May 2013. The report is divided into some chapters about Intellectual Property infringement including the types of intellectual property infringement, the U.S. Government response, China’s IP policy and recommendations offered by The Commission. According to the report, the U.S. losses on IP infringement is worth to 600 billion every year and China is one of countries with the largest number of IP infringers\(^10\). Furthermore, China is one of countries listed in Priority Watch List in the Special 301 Report, a

\(^9\) Ibid.
report published by United States Trade Representative focusing on the IP enforcement worldwide.\textsuperscript{11}

There are various types of IP infringement, as well as forms and method, according to The Commission on the Theft of American Intellectual Property Report, which are patent, trade-secret, copyright, and trademark. For over years, copyright is one of the largest US IP infringement done by China.\textsuperscript{12} This copyright includes books, movies, paintings, computer software, audio recordings and movies.\textsuperscript{13} Moreover, nowadays, internet can be accessed easily and it causes IPR infringement increasing. As the most populous country in the world, China has a large number of internet users. In 2012, China approximately has 500 million internet users who can access and download movies and television shows easily.\textsuperscript{14}

I.2 Problem Identification

As a developed country, the United States is a leading country in high technology and innovation including IP. Contributing up to one-third of The U.S. Gross Domestic Product, IP-intensive industries is one of the largest sectors in its national economy. Due to its major contribution in American economy, the protection of IP overseas is one of the government’s major concern especially in conducting trade with other countries. If the government cannot handle the American IP infringement, it will give a great loss of revenue to businesses, as well as losing millions of jobs, and slow the improvement of innovation within society which will give impact to economic development.

In the globalization era, where advanced technology supports internet in high speed connection, digital piracy is inevitably increasing. Movies, as one of the highest Chinese IPR infringement regarding copyrights infringement, become one

\textsuperscript{13} Ibid.
\textsuperscript{14} United States Trade Representative, "2013 Special 301 Report."
of priorities of the United States in IPR infringement by China. The Internet traffic commissioned by NBC Universal in the report of the United States International Trade Commission (USITC) in 2011 provides four digital piracy mechanisms which one of them, called Cyberlockers, has more than 90 percent of the files are illegal. Through these sites, people are able to copy and download file such as movies illegally. Besides, they can share the link of download to any forums which will increase the number of piracy. Based on report from the United States movie industries, there are no less than 100 large cyberlocker sites operate from China. From more than 70 million downloads, 46 million movies were downloaded illegally, causing China becomes the second largest digital piracy.

During Obama’s presidency, China is always on Priority Watch List in Special 301 Report due to its large scale in IP infringement including in online piracy such as films and music. In 2013, from all websites publishing movies illegally from China, Silu HD is the website accused of being the largest website for movie piracy in 10 years in a row which has approximately more than 1 million registered users. The head of China’s State Intellectual Property Office, Tian Lipu gave statement that the government of People’s Republic of China was not in denial that piracy in China still remains high due to the demand from its people and the government has done some measures to fight against it. Whereas, the infringement of IPRs is prohibited and can be subjected to sanction such as damages as written in the WTO TRIPS Agreement article 45. Besides, China has a legal framework

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16 Ibid.
17 Ibid.
that regulates about IPRs which protects three areas including Copyright Law, Patent Law and Trademark Law. In the area of Copyright, it is regulated in Order of the President of the People’s Republic of China No. 26 of 2010 on Amending the Copyright Law of the People’s Republic of China. This law contains prohibition of infringement of Copyright in creative works as it is written in Article 29 and people who do the infringement, for instance illegally publishing a creation, will be subject to sanction and they will be fined to the damage as it is written in the Article 47.\(^\text{21}\) In spite of having a national legal framework in Copyright, copyright piracy still becomes one of the highest IPRs infringement in China. Thus, it raises question the US responses in addressing this issue.

1.3 Statement of Problem

**Topic:** This research is about identifying the response of U.S. in addressing intellectual property infringement regarding Movie Piracy by China during 2013-2016.

**Question:** How did the U.S. respond in addressing intellectual property infringement regarding movie piracy by China during 2013-2016?

1.4 Research Objective

The objectives of this research are as follows:

1. To investigate the factors of US intellectual property infringement regarding movie piracy by China during 2013-2016
2. To identify the impacts of US intellectual property infringement regarding movie piracy by China during 2013-2016 to US economy

3. To find out the response of US in addressing American Intellectual Property infringement regarding movie piracy by China during 2013-2016

4. To identify the impacts of US intellectual property infringement regarding movie piracy by China during 2013-2016 to the bilateral relations between US and China

1.5 **Significance of the Study**

Through this research, the researcher hopes to be able to:

1. To elaborate the importance of intellectual property protection and enforcement to the U.S and China economic development.

2. To elaborate understanding on the U.S. diplomacy strategy in responding intellectual property infringement of movie piracy.

3. To elaborate understanding the impacts of US IP infringement by China regarding movie piracy to the bilateral relations between U.S. and China.
1.6 Theoretical Framework

Figure 1.1. The correlations between Complex Interdependence Theory and Intellectual Property Rights in the case of US IP infringement regarding movie piracy by China

1.6.1 Complex Interdependence

Complex interdependence is originally from Robert O Keohane and Joseph S. Nye. This theory came as a response to structural and traditional realism which concerns on military and economic means in analyzing state
behavior.\textsuperscript{22} This theory explains the raising of transnational actors in the Globalization era, including International Organizations and Multinational Corporations, as it promotes trade in foreign policy matters which will lead to economic development.\textsuperscript{23} According to Complex Interdependence theory, globalization creates dependence between actors in all sectors, especially in economics. Under dependency situation, the interaction between actors can be in a form of either cooperation or competition. Since all actors are dependent to each other, policies and actions taken by an actor can give effects to other actors and makes them respond in a form of action or policies.

Furthermore, complex interdependence theory argues that not all interdependence can be defined as mutual dependent where all actors are equal in terms of needs and position. Therefore, it is possible if one actor is more likely to be more dependent than the other actors in the situation of interdependence and creates asymmetrical relations. In this situation, bargaining position can help to decide whether one actor is more dependent than other actors or not. Indeed complex interdependence theory argues that economy plays a huge role in deciding bargaining positions, but military is also important.\textsuperscript{24}

To identify a complex interdependency, Robert O Keohane and Joseph S. Nye gives three key characteristic as what they wrote in ‘Power and Interdependence: World Politics in Transition’.\textsuperscript{25} The first characteristic is multiple channels, where it connects all societies, states and all stakeholders in international affairs. In this situation, Complex Interdependence highlights interstate relations, trans-governmental relations and transnational relations such as MNCs and banks. Secondly,

\textsuperscript{23} Ibid.
\textsuperscript{24} Ibid.
\textsuperscript{25} Ibid.
there is no hierarchy of the issues. Since there are multiple channels in complex interdependence, the diplomatic agenda becomes various in accordance with the needs and interest of actors. Different from realist where military and security becomes their main concern, in complex interdependence, any issues can be the main diplomatic agenda. Thirdly, since the issues in globalization era are wider and mostly related to economic, military force is not relevant in resolving the issues. In complex interdependence, the actors reduces the use of military force as it is costly and may trigger to war which may threat business and economic activities. However, military force is needed.\textsuperscript{26}

In brief, Complex Interdependence theory provides explanation how states can be dependent on each other caused by trade relations and in resolving disagreement, they prefer to negotiate instead of using military force. This theory can be related to trade relation between US and China and how interdependence affects their response and behavior. Since The United States is China’s largest trading partner, it causes interdependency and causes both states to prefer negotiation in resolving dispute instead of using military power. For instance, in IPR dispute in the early 1990s, U.S. threatened China to pay for compensation worth to billion dollar to IPR infringement but China threatened would give whole tax to all US products. However, they prefer negotiation to resolve the conflict, as it is described in complex interdependence theory.

I.6.2 Intellectual Property Rights

Intellectual Property nowadays has important key in economy of a country, especially in this globalization era where technology supports the development of intellectual property and encourages freedom of expression and thoughts. According to World Intellectual Property Organization, Intellectual Property (IP) can be defined as creations came from individual’s

\textsuperscript{26} Ibid.
mind. It can be artistic works, images, name or even symbols in commerce. Generally, IP is divided into two groups which are Industrial Property and Copyright. It can be tangible or intangible. While Industrial Property protects patents, industrial designs, trademarks and geographical indications, Copyright protects artistic works such as films, novels, drawings and paintings. Property rights refers to rights that protect and give benefit to inventors of trademarks, copyright and patents as outlined in Article 27 of the Universal Declaration of Human Right in scientific, literary or artistic works. Furthermore, according to WIPO Handbook, infringement of copyright occurs when a party tried to use the work without authorization from the right holder. If the party used this artistic work in order to get benefit, such as copying and sharing it, then it is called as piracy and the right holder has right to get remedies as compensation from this loss.

Due to its important role in economy, there are some international organizations dealing with IP issues including the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO). These organizations are aiming to encourage IP legislation and implementation in international level. The World Intellectual Property Organization (WIPO) is one of the 16 specialized agencies of the United Nations. Meanwhile, WTO is international organization concerning on the rules of trade of states. WTO, in 1970, made the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) in Uruguay Round

28 Ibid.
29 Ibid.
31 Ibid.
which sets requirement for member states that they must accomplish in the protection of intellectual property rights (IPR).\textsuperscript{32}

According to United States International Trade Commission (USITC), IP is divided into four principal types. First, a trade secret right focuses on the protection towards business information that is kept away from public due to its secrecy in order to give profit to the inventor. Secondly, trademarks focuses on the uniqueness or differences of products to make it different from other products. The protection of trademarks aim to protect a name of product being misused by companies that want to plagiarize or make fake products with the same name. Thirdly, patents right means that a right to protect a creation or product in a period of time. Fourthly, copyrights focuses on creative creations such as artistic work, graphic designs, movies and music. The protection aims to avoid the creations being copied without asking for permission from the inventor.\textsuperscript{33}

World Intellectual Property Organization, in its document book \textit{What is Intellectual Property?}, explains that Copyright protects literary and artistic works and ideas such as newspaper, poems, novels, films, paintings and photographs. Not only giving benefit to the inventors, copyright also gives benefit to the producers, broadcasting organization in television and radio, as well as to performers. By having copyright law, the creators can use their creations such as to publish and reproduce. Furthermore, the creators can have a cooperation with companies who could sell their works to industries so the creators get royalties as benefit to them. Not only the creators, but their heirs will also get benefit on their creations following the agree terms and regulations.


Based from the explanation of the theories above, this theory can be related to the case of the United States Intellectual Property infringement by China regarding Movie Piracy because movie is one of the art works protected by IPR, in specific in copyright. The infringement of copyright, called as copyright piracy can be subjected to sanction. However, in accordance with complex interdependence theory, in resolving issue, states have tendency to use negotiation. Therefore, in the case of the United States Intellectual Property infringement by China regarding Movie Piracy, US can respond to address this issue by giving sanction to China and conduct negotiation. Moreover, both states are the member of two international organizations which promote IPRs, WTO and WIPO.

1.7 Scope and Limitations of the Study

In this research, the author will focus on the response of the government of the United States in addressing intellectual property infringement regarding movie piracy by China during 2013-2016 where it was the second term of Obama’s administration and intellectual property infringement still becomes an issue between two states and also in international institution such as WTO.

The scope of this research covers the US intellectual property infringement done by China regarding movie piracy. The reason why the writer chose China is because China is the United States’ largest trading partner, but at the same time China is listed in Priority Watch List in the Special 301 Report which means that the United States intellectual property infringement in China still remains high and it causes major loss to the United States economy.

1.8 Literature Review

According to the journal by Chun-Shuo Chen and Terrence A. Maxwell, *Three decades of bilateral copyright negotiations: Mainland China and the United States*(2010), copyright piracy has become diplomatic agenda by China
and the United States since long time ago, especially since China implemented Open Door Policy in the late 1970s. This journal consists of several parts including the explanation about the dynamics of negotiations between both countries in overcoming the issue, how the United States responded the issue for three decades from 1970s until 2009, the reasons behind the issue and also the actors dealing with the issues.

Based on *Three decades of bilateral copyright negotiations: Mainland China and the United States* (2010), it was quite hard to implement IPR in China because the citizens still have not realized yet the importance of IPR. Moreover, they also believe in Confucianism which prioritizes public before individuals and believe that it is better to share our idea to public, instead of keeping it privately. Furthermore, this journal provides actors dealing with the issue such as government of U.S. and China, domestic (non-U.S. and U.S.) industries, domestic (non-U.S. and U.S.) citizens, as well as international institution, World Trade Organization (WTO).

The journal by Bryan Mercurio “*The Protection and Enforcement of Intellectual Property in China since Accession to the WTO: Progress and Retreat*” (2012) describes IPR infringement in China and factors that cause IPR enforcement failed. Besides, Mercurio explains his argument on the central government’s ability to fight against IPR infringement that gives benefit to the locals. Furthermore, this journal provides explanation about the progress of IP enforcement in China after deciding to join WTO in 2001. Accordingly, China is already aware of the importance of innovation, technology and IPR enforcement as it becomes an industrializing country. However, in enforcing IPR, China faces some problems causing China as the largest IP infringer.

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35 Ibid.
36 Ibid.
Bryan Mercurio in the journal gives an explanation about the history of IP in China since 1949 when Chairman Mao ruled China. At that time IP was not an important issue because it was not in accordance with the country’s ideology. However, 30 years later, China started to put IP as an important issue due to its trade relations with US. Afterwards, China decided to sign some agreements related to IPRs such as Madrid Agreement (1989), decide to emerge the State Intellectual Property Office (SIPO) and put IPRs into its judicial process.38 In 2001, after China decided to join WTO, China decided to take some actions to show its commitment in IPR enforcement such as by restructuring its IP laws by covering more areas in protecting IP such as adding architectural works, compilations and databases into copyright. After restructuring IP laws for IPRs enforcement and dealing with a number of agreements, the author argues that China’s problem is not merely about the IP laws, but China’s lack of seriousness to protect IP.39

In understanding the trade relations between US and China, a journal “U.S.-China Trade, 1971–2012: Insights into the U.S.-China Relationship” (2013) by Dong Wang will provide an explanation about trade relations between these two states for over 40 years. This journal is divided into four parts based on the timeline, including the first decade starting in 19700s, second decade, third decade (1900s until 2001) and fourth decade of the trade relations with some subparts highlighted important issues. Back then in 1980s, China was just the fourteenth largest trading partner and surprisingly it becomes the largest one.40 Not only explaining the dynamics of trade relations, but the author also gives explanation about the role of WTO, in dealing with trade dispute and making the trade growth between both states. Accordingly, US products to China increased more than 80 percent and Chinese products increased more than 90 percent.41

In the first decade, the trade relation was focused on removing trade barriers and also promoting travel, as a part of commerce, called as “Ping-Pong”

38 Ibid.
39 Ibid.
41 Ibid.
diplomacy.\textsuperscript{42} Entering the second decade, US-China trade relations was focused on the increasing number of products transferred between both states. As a result, in 1980s, US became the third largest trading partner of China and today it becomes the largest trading partner.\textsuperscript{43} During the 3\textsuperscript{rd} decade, the author highlights the important moment when China decided to join WTO in 2001 after US tried to push China joining WTO for over ten years. In the fourth decade, US-China trade relations improves, making China became the largest trading partner of US. Nonetheless, US-China trade relations face some challenges such as US trade deficit and IPR enforcement.\textsuperscript{44}

In understanding the theory about complex interdependence in this thesis, a journal by Waheeda Rana (2015), \textit{Theory of Complex Interdependence: A Comparative Analysis of Realist and Neoliberal Thoughts} provides explanation about a theory of complex interdependence. The journal begins with the explanation about the role of economy and technology in the era called as the post-Cold War. Different with realist that prioritizes hard power, complex interdependence argues that there is something more powerful than military force, which is economy.\textsuperscript{45} After explaining about the theory of complex interdependence, the author provides the debate of Neoliberalism perspective against realism perspective.

This journal contributes to give understanding about complex interdependence theory by providing the definition of complex interdependence, as well as its characteristic. The author argues that, since power is not only about military force, but also economy and technology, so any issues can be the main concerns of a state to do cooperation with other states.\textsuperscript{46} Thus, this economic cooperation will cause interdependency among the actors. As a result, policies and actions taken by an actor will give effect to other and makes them respond in a particular way. The theory and its characteristics are similar with the economic

\textsuperscript{42} Ibid.
\textsuperscript{43} Ibid.
\textsuperscript{44} Ibid.
\textsuperscript{46} Ibid.
and trade relations between The United States and China where economic cooperation, especially in trade, causes the United States is dependent to China and vice versa. As a result, a response taken by the United States, which in this case is regarding IP infringement, will affect China significantly.

In the book of \textit{China-U.S. Trade Issues} (2018), Wayne M. Morrison explains about trade relations of U.S. and China for over decades. This book is divided into some parts including U.S. trade such as the products, U.S. investment, issues related to trade between the two states and approach used by U.S. in the current moment. Before giving a further explanation about China-U.S. Trade Issues, Wayne M. Morrison provides a brief explanation of bilateral relations between U.S. and China since 1979. In the subpart of the main concerns in trade relations between US and China, this book mentions IPR issues as one of the main priorities.\footnote{Wayne M. Morrison, "China-U.S. Trade Issues," Congressional Research Service, 2018.}

Accordingly, U.S. firms argue that the IPR implementation is still weak in China. This statement is agreed by Chinese officials that said that despite IPR enforcement had been improved, the law regarding the issue is still low. They also argue that apparently IPR is not only the problem of U.S. or other states that do business in China, but IPR is also a major issue damaging the local enterprises as well. In this book, Wayne M. Morrison also gives one of the reasons why IPR piracy, especially in movie, becomes one of the highest IPR infringement. Accordingly, China gave limitation to foreign movies where in 2001 it only gave permission to 20 movies and during Obama’s second term, the movies are increased into 34 movies.\footnote{Ibid.}

To understand the dynamics of bilateral relations between U.S. and China, \textit{Conflict and Cooperation in Sino-US Relations (2015)} by Jean-Marc F. Blanchard and Simon Shen. This book provides information about conflict and cooperation between China and The United States that has happened for more than four decades. Not only focusing on economy and trade, but this book also focuses on some
security issues in Asia region including North Korea and South China Sea. In terms of economy, this book provides a debate about economic relations of U.S. and China which either can be friends causing interdependency or can be competitor.  

Although China reported that they have punished many cases of IPR infringement, U.S. argues that the piracy still remains high. To respond the problem, U.S. has brought this issue to WTO and in 2007, China lost the dispute. As a result, the government of China must allow more U.S. movies into China. This book shows that despite China has been the member of WTO for over decades and had signed the agreement, China still has some trade dispute issues including IPR enforcement. Blanchard and Shen in this book gives explanation that Obama, during his administration, responded the IPR infringement in China by regulating some policies regarding IP enforcement. Thus, by looking at the response by U.S. in the past, it shows that U.S. used international organization to resolve its trade dispute with China.

In the book “US-China Relations: Perilous Past, Uncertain Present” (2017) by Robert G. Sutter, gives a review about one of the greatest bilateral relations, US-China relations, for decades. This bilateral relations covers economic, political, and security issues. In explaining the issues, the author uses some major international relations perspective including realism, liberalism and constructivism. Furthermore, Robert G. Sutter provides the internal and external factors that gives influence to the dynamics of US-China relations until the administration of Obama and Xi Jinping. According to the book, trade deficit, interdependence and intellectual property rights infringement become priority under Obama’s administration in dealing with China.

In tightening US-China relations, the author mentions that Hu Jintao and Obama conducted in meetings. As a result, there are various collaborations done by

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50 Ibid.
US and Chinese government agencies. According to the book, this improvement is in accordance with liberalism perspective that sees the bilateral relations in a form of cooperation will give positive impact to US in facing the issue of interdependence. Regarding about the tension between US and China, Robert G. Sutter informs in the book that Obama, after 6 years did not criticize Beijing much, finally gave a statement that US has taken some actions as response to some issues in conducting bilateral relations with China. In economic issue, these actions include pushing China to improve the enforcement of IPR.\textsuperscript{52}

1.9 \textbf{Research Method}

Research can be defined as an activity of seeking for knowledge on a particular topic by collecting for facts.\textsuperscript{53} Since research is an academic activity, it should be written systematically and scientifically. Research consists of some parts such as analyzing an issue, fact findings and even giving solutions on a particular problems. There are some types in doing research, including descriptive versus analytical, conceptual versus empirical, applied versus fundamental, quantitative versus qualitative and other types.\textsuperscript{54} This type of research is used by the researcher in writing.

For this thesis, the author will use qualitative method. Qualitative research focuses on qualitative phenomenon such as analyzing about human’s thought or behavior.\textsuperscript{55} By investigating, the researcher hopefully can find out the reason people’s behavior. Since this research will be using qualitative method, all the data will be collected from reliable sources. The source used to search for knowledge and information on this particular topic will be from journals, books, news, reliable websites, institutions reports, and other reliable documents.

\begin{flushleft}
\textsuperscript{52} Ibid.
\textsuperscript{53} C. R. Kothari, "Research Methodology: Methods and Techniques (Second Revised Edition)," New Age International Publisher, 1990.
\textsuperscript{54} Ibid.
\textsuperscript{55} Ibid.
\end{flushleft}
1.10 Structure of Thesis

Chapter I: Introduction
This first chapter will give an overview of the researched topic. This chapter will consist of some parts including the background of the study, problem identification, statement of the problems, research objectives, significance of study, theoretical framework, scope and limitation of the research, literature review, research method and also structure of thesis.

Chapter II: US-China Trade Relations (2013 – 2016)
This chapter consists of the information about U.S. – China long-term relations in terms of trade, the economic and trade cooperation between U.S. and China during 2013-2016, IP industries between the two states.

Chapter III: US Intellectual Property Infringement Regarding Movie Piracy by China
This chapter consists of the explanation of the U.S. intellectual property infringement regarding movie piracy by China and the time will be limited from 2013 to 2016.

The fourth chapter is the main part of this thesis because this chapter provides the information of the response of U.S. towards China in fighting the intellectual property infringement regarding movie piracy.

Chapter V: Conclusion
The last chapter of this thesis concludes the findings of the research about the particular topic from the introduction chapter to the analysis chapter. These findings eventually will answer the research question.
CHAPTER II

This chapter will provide explanation about the US-China trade relations. Furthermore, this chapter will focus on the transfer of products in entertainment industry, the US entertainment industry, the development of US entertainment industry in China and US movie industry in China during 2013 – 2016.

II.1. US – China Trade Relations

According to President Barrack Obama, US-China bilateral relations is the most essential relations in this century. Nonetheless, the relations between US-China has been facing some ups and downs, mostly in economic and security issues. Historically, US began to start its official diplomatic relationship with People’s Republic of China in 1979. As China becomes a largest developing country and the second largest GDP in 2016, which is worth of more than $11,199 billion, China plays an important role in global economy and security in Asia-Pacific, making diplomatic agenda between US and China become more complex. The GDP of China compared to other countries, including the United States, will be shown in the table below.

57 Ibid.
In conducting bilateral relations, China-US cover some important issues such as in the area of education, technology, environment, foreign direct investment, trade and security. Not only conducting bilateral relations, US-China also conduct in the same international organization including World Trade Organization. After China decided to join WTO in 2001, there are numerous bilateral dialogues between US and China regarding trade, as well as investment. As a result, there were some dialogues held such as the U.S.-China Joint Commission on Commerce and Trade, the U.S.-China Strategic and Economic Dialogue and the U.S.-China Comprehensive Economic Dialogue. By having numerous of dialogues through WTO, US hoped that it will help to improve trade and investment between them and help to resolve disputes in such areas.

Not only having numerous dialogues, China’s membership to WTO also improves US-China trade relations. In 2004, US exports significantly rose 81 percent, while China exports increased 92 percent. After 15 years of China’s

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60 Ibid.
membership, China-US trade relations continued to grow. In 2016, U.S.-China trade were worth to $648.5 billion. From the total, US exports to China were worth to $169.8 billion, while China exports to US were around $478.8 billion. As a result of US-China trade relations, it opens more than 900,000 jobs in 2015 based on the data from the U.S. Department of Commerce. Furthermore, China also has a great contribution to US economy by giving debt worth to approximately $1.2 trillion by November, 2017. Despite contributing much to US economy, US faced trade deficit in trading with China over the $347 billion in 2016. Trade imbalance has been one of President Obama’s main concerns since his first term administration. At that time, US aimed to increase exports to China into twofold.

However, US could not achieve the target. US trade deficit was increased year by year since 2011 until 2015. This trade imbalance caused 3.4 million jobs lost in fourteen years since 2001. There are several factors causing US failed to achieve trade surplus with China. First, unfair trade and business by China such as hacking America’s companies and public sector still happened. According to USTR factsheet in 2015, The Obama Administration has documented 11 trade enforcement complaints against China by American business and entrepreneur. Secondly, regulations set by the government of China also hamper American

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62 Ibid.
63 United States Trade Representative, "The People's Republic of China."
64 Ibid.
68 Foreign Trade Data Dissemination Branch, "Foreign Trade - U.S. Trade with China."
70 Joshua P. Meltzer, "A Trade Policy for President Obama’s Second Term."
businesses which operate in China to develop. For instance, investors who want to do business in China complained that they had to do an agreement contract with Chinese partner and for foreign industries, they have to fulfill many requirements.\textsuperscript{71} The regulations, which are seen hampering the development of US trade and investment, are not only regarding the requirements of doing business in China, but also regarding the products. For instance, agricultural sectors are not allowed to be exported to China.\textsuperscript{72} For other products, the government of China still limits the quota, for example is foreign movies.

\textbf{II.1.1 US Movie Market in China (2013 – 2016)}

Figuring out that China becomes the largest market for US movie is not a surprising due to its large population and culture. Watching movies at cinema has become a lifestyle of Chinese, mostly teenagers and young adults who are looking for a perfect place to go on a date recently.\textsuperscript{73} Besides, since the country’s economy is improving, buying box office movie tickets become more affordable. It also becomes a reason why Chinese people have a great interest in watching movie at cinema. Moreover, in this globalization era where movies are supported by sophisticated technology, the moviegoers in China also expect high quality movies. Thus, those three reasons can be a great opportunity for US movie industry to expand its business in China.

\textsuperscript{71} Roger Yu, "U.S.-China Trade Scorecard: Advantage China."
\textsuperscript{72} Ibid.
Figure II.2 The Chinese offices in dealing with Censorship and Foreign Movies

To enter the Chinese market, US filmmaker should pass the censorship process by the Chinese government offices and business entities. In general, these government office are divided into three main functions, which are setting regulation, monitoring and implementing the regulations in the movie industry. The highest office in China for media and information is called as Central Propaganda Department. Generally, CPD has a duty to monitor media in general whether it is in accordance with the country’s ideology or not. Under this office, it has two government offices, which are the State Administration of Radio, Film, and Television and Ministry of Culture. While Ministry of Culture has authority to monitor foreign film as
well as its distribution, SARFT is making rules and regulations for films in cinema.\textsuperscript{74} Under these two offices, there is a body called as the China Film Corporation. This body is the country’s biggest enterprise in movie industry which has a duty to make regulations on distribution movies, not exception the foreign ones.\textsuperscript{75} Then, under the China Film Corporation, there are the China Film Import and Export Corporation and also the China Film Distribution and Exhibition Bureau. While the China Film Import and Export Corporation deals with foreign movies and movies sent abroad issues, The China Film Distribution and Exhibition has a role to set release, price or anything related to cinema in the practical way since they are the owner of almost all cinemas in China.\textsuperscript{76}

Recently, US movie industries has a large contribution to US foreign trade. In 2016, US total import is worth of $1,454 billion and from movie industry.\textsuperscript{77} From various sectors in imports, movie industry contributes $16.3 billion.\textsuperscript{78} Based on the data from Motion Picture Association of America, US foreign trade in movies is surplus since the number of exports movie is larger than the imports. The total of movie exports was $16.3 billion while the import was only worth of $3.2 billion, which means that it results surplus worth of $13.1 billion in 2016 for the country. As a result, US movie industry contributes six percent from the total trade surplus in the area of services to US trade.

From US movie exports in global, China has always been the largest in contributing to US movie industry revenue each year during 2013-2016, making China become the most lucrative market for US movie industry.

\textsuperscript{74} Jessica Grimm, "THE IMPORT OF HOLLYWOOD FILMS IN CHINA: CENSORSHIP AND QUOTAS."
\textsuperscript{75} Ibid.
\textsuperscript{76} Ibid.
With almost 1.4 billion people, China becomes the most populated nations on earth making it as an attractive market.\textsuperscript{79} In 2016, from 11.4 billion in total US movie industry in box office worldwide, China contributes $6.6 billion.\textsuperscript{80} It means that more than 50 percent from US export movies revenue in box office was from the Chinese market.

However, in trading movies with China, US faces some challenges due to strict regulations set by the Chinese government towards imported movies and other reasons including the taste of the locals towards movies. The Chinese government totally supports and protect its own movies. Back then in the early 2000s, the government of China strictly gave limitation to foreign movies. Only 20 movies per year are allowed to come to China and during Obama’s second term, the movies are increased into 34 movies allowed.\textsuperscript{81} As a result, despite China is the largest market for US export movies, there were only three US movies out of ten movies with the largest revenue in the Chinese market in 2016.\textsuperscript{82} The other reason why the US movies in China does not gain income as much as the US filmmakers expect is because most of the local people has different taste and interest in watching movies. In general, the locals are more interested to watch movies with simple plot telling stories about Chinese life with its culture. Thus, to enter the Chinese market, US movie industry needs to follow the locals’ interest.

II.2 The Role of US Entertainment Industry to US Economy during 2013 - 2016

Nowadays, entertainment becomes a promising industry as it is supported by advanced technology. Moreover, entertainment becomes one of the daily needs
for people, especially those who are living in urban area. From all the sources of entertainment industries, movie industry gives a large contribution worth to billions dollars each year. In US GDP, entertainment, arts, foods, accommodation and recreation contributes to 4 percent, making it the 10th largest industry based on GDP.83 Movies, as a part of entertainment sector in US industry, play a major role in contributing to US GDP. According to World Bank, in 2016, US GDP was more than $18,624 billion.84 Since it is one of the largest industries in the contribution to US GDP, no wonder this sector becomes one of the main concerns of the US government. Revenue from this industry shows positive growth each year. In 2016, the revenue from box office in international scale was even worth of $38.6 billion.85 Accordingly, this positive growth of income in this industry is due to an increase number of digital cinema screens, people’s interest in watching movies, and films released.86

As the oldest movie industry in the world, the United States gets income over billions dollars per year, making it as the largest film industries in the world according to statistics of Theatrical Market.87 Furthermore, National Endowment for the Arts senior deputy chairman, Joan Hingekawa, gave a statement that culture and art, has an essential role in US economy in the innovation economy, job opportunities and also US GDP.88 Accordingly, most of the income came from major actors such as Paramount Pictures, Metro-Goldwyn-Mayer and 20th Century Fox.89 From all US large studios, Buena Vista has the largest revenue from this

84 The World Bank, "GDP."
85 Motion Pictures Association of America, "Theatrical Market Statistics 2016."
86 Ibid.
89 World Atlas, "Largest Film Industries in the World."
industry in box office, worth of $3 billion followed by Warner Bros., as the second largest and 20th Century, as the third.  

Historically, movie industry becomes one of US government main priorities since the Cold War era with political background behind it. Back then, movies were used to promote soft power of US. However, today the reason why US government supports movie industries is more likely to be considered as economical motive. According to Theatrical Market Statistics by Motion Picture Association of America, the income from Hollywood industry has been facing up and down each year during 2013-2016. In 2013, the income from box office in this industry is $10.9 billion. However, a year later, the income is decreased into $10.4 billion. Fortunately, in 2015, the income is increased into $11.1 billion. The industry’s income continued to increase into $11.4 billion in 2016. The income from box office during 2013 – 2016 will be shown in the graphic below.

95 Motion Pictures Association of America, “Theatrical Market Statistics 2016.”
Thus, if the box office contributes $11.4 billion in 2016, therefore it contributes to 1.6 percent out of total US GDP. Moreover, with its rapid growth in this industry, it is predicted that the revenue in 2019 will be worth of $35.3 billion. Not only contributing to US GDP, movie industries also stimulates business investment in the United States. Based on the data provided by US–China Economic and Security Review Commission, investors are attracted to invest their money worth of $250 million for every big Hollywood movie. As a result, US movies industry contributes to an increase number of job opportunities. According to the data from Motion Picture Association of America, this industry domestically contributes to 1.9 million job opportunities for people and give salaries worth of $47 billion. Because of its huge contribution in US GDP and job opportunities, it

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96 Motion Pictures Association of America, "Theatrical Market Statistics 2016."
97 Statista, "Topic: Movie Industry."
98 Giuseppe Richeri, "Global Film Market, Regional Problems."
is no wonder that Hollywood becomes one of the most beneficial industries in US economy in this century.\textsuperscript{100}

\section*{II.3 The Development of US Movie Industry in China}

The development of US movie industry in China has been happening since China’s membership to WTO in 2001. This event caused China has to open its market to any goods and services, even the ones came from overseas including the United States. When China entered WTO, China signed an agreement that said that China had to give an equal opportunity for foreign and local business in conducting trade and business in China.\textsuperscript{101} However, in reality, US, as well other countries, faced some challenges in entering Chinese market in the sector of entertainment because China makes exception in Cultural and information fields.\textsuperscript{102} Despite signing the agreement, foreign countries, including European countries and US, argued that China could not commit to the agreement at some points and caused them make a document about complaints against China six years after China joined WTO.\textsuperscript{103}

As a result, in 2012, China signed a Memorandum of Understanding which consisted of four points. Firstly, Chinese government allowed 20 foreign movies to enter Chinese market each year.\textsuperscript{104} Secondly, the director will get up to 25 percent from the movie revenue.\textsuperscript{105} Before the agreement, the director only get up to 13 percent from the total revenue.\textsuperscript{106} Thirdly, local companies must register themselves to get license to distribute foreign movies.\textsuperscript{107} Fourthly, the agreement, especially

\textsuperscript{101} Giuseppe Richeri, "Global Film Market, Regional Problems.”
\textsuperscript{102} Jessica Grimm, “THE IMPORT OF HOLLYWOOD FILMS IN CHINA: CENSORSHIP AND QUOTAS.”
\textsuperscript{103} Giuseppe Richeri, "Global Film Market, Regional Problems.”
\textsuperscript{104} Ibid.
\textsuperscript{105} Ibid.
\textsuperscript{106} Ibid.
\textsuperscript{107} Ibid.
between US-China, will be set up again after five years.\textsuperscript{108} The government of US gave statement that there was a significant progress following the Memorandum of Understanding (MoU). However, US was not satisfied enough with the progress and aimed to improve more on entertainment industry by reducing or even eliminating the challenges that may be faced by US movie industries. Generally, there are four main points which are assumed by US government as Chinese government’s effort to hamper US movie industry to enter the Chinese market. Those points are including censorships, tax incentives, limitation of number (quota) of movies and also challenges in movie distributions in China.\textsuperscript{109}

Regarding Censorship by China, US entertainment business entities complained about the difficulty obtaining permission from the State Administration of Press, Publication, Radio, Film and Television (SAPPRFT, formerly SARFT) that will give them the license to enter the market.\textsuperscript{110} Basically, there are two main reasons that are suspected by US as the reason why the Chinese government hamper foreign movies to enter Chinese market. Firstly, it is because the Chinese government assumed that the particular movies are not in accordance with the Chinese cultural and social value.\textsuperscript{111} Secondly, it is because the Chinese government prevents US movies industry dominating the Chinese market that will give disadvantages to the local movie industry.\textsuperscript{112} Basically there are three steps in getting license from this censorship agency. Firstly, the filmmakers are obligated to collect the movie to the Censorship Board then the Board will give assessment to the movie maximum in thirty days. Secondly, the Board will give their opinion regarding the movies so the movies will be in accordance with the requirements as written in Article 25 of the Film Regulations in the Constitution of the P.R.C. Despite US movie industry faced some challenges in obtaining permission from Chinese government, US would obey the regulations, for instance by changing a

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\textsuperscript{108} Giuseppe Richeri, “Global Film Market, Regional Problems.”
\textsuperscript{110} Giuseppe Richeri, "Global Film Market, Regional Problems.”
\textsuperscript{111} Ibid.
\textsuperscript{112} Ibid.
little of the dialogues or actions in the movies so it will be in accordance with cultural or social values of China, due to the important role of Chinese market to US movie industry income. Thirdly, after the moviemakers changed some parts of movie, as well as the script of the dialogues that they have to change, they have to recollect it to the Board and wait until the Board gives them the license. The regulations of the movies Article 25 of the Film Regulations in the Constitution of the P.R.C, including prohibition of;\(^\textsuperscript{113}\)

1. Threatening the unification, sovereignty and territorial integrity of the State;
2. Leaking State secrets, threatening the security of the State, or harming the prestige and interests of the State;
3. Provoking hatred and discrimination among ethnic groups, harming their unity, or violating their customs and habits;
4. Propagating cults and superstition;
5. Disrupting public order and undermining social stability;
6. Propagating obscenity, gambling or violence, or abetting to commit crimes;
7. Insulting or slandering others, or infringing upon the legitimate rights and interests of others;
8. Threatening social ethics or fine national cultural traditions.\(^\textsuperscript{114}\)

In distributing movies in China, US movie industry should follow the regulations based on the foreign investment catalogue. Basically, this catalogue was made by the Chinese government in conducting trade and investment with the United States. This catalogue covered various sectors such as machinery, agricultures, infrastructure and entertainment industry. In the 2011 Catalogue, any foreign investors are not allowed to do investment in movie sectors, including movie distributions.\(^\textsuperscript{115}\) Currently, foreign investors can do joint venture with the local companies with at least 25 percent of the budget is from the local company and the cooperation is no longer than thirty years.\(^\textsuperscript{116}\) In 2015, the catalogue was

\(^{113}\) Dezan Shira, “Navigating Restrictions in China's Film Industry.”
\(^{114}\) Ibid.
\(^{115}\) Ibid.
\(^{116}\) Ibid.
revised by the Chinese government. However, the regulations regarding the movie was not changed. The foreign investors in movie industry were still not allowed to operate cinema unless they did a joint venture with the Chinese companies.¹¹⁷

In controlling the influence of foreign movies, China also promotes local movies by encouraging cinema to increase the number of local movies audiences.¹¹⁸ In return, the tax for the cinema will be reduced by five percent only if they can increase 55 percent. Furthermore, the cinema will get extra bonus if they can increase by more than 60 percent. The government also has a right to decide to date for foreign movies to release its movie in China and decided a period of time for foreign movies are prohibited to be released.¹¹⁹ This period can be three times a year depending on the government’s decision.

In allowing foreign movies to enter the country, the development of quota for movies had already happened since 1994. At the beginning, China only allowed ten foreign movies per year. Afterwards, China allowed twenty movies to enter the market in 2001. In 2012, based on the MoU, China did not change the quota. However, after the negotiation with President Obama in US-China Film Agreement conducted by both states in 2012, both states agree to increase the quota into 34.¹²⁰ Besides, China also gives extra quota for 30-40 movies for movies that they considered as low-budget movies.¹²¹

II.4 US Movie Industry in China during 2013 - 2016

Despite facing some challenges in entering the Chinese market, based on the data from Motion Picture Association of America in Theatrical Market Statistics during 2013-2016, China has always been the largest market of US movie

¹¹⁸ Dezan Shira, “Navigating Restrictions in China’s Film Industry.”
¹²⁰ Dezan Shira, “Navigating Restrictions in China’s Film Industry.”
¹²¹ Ibid.
industry each year in box office and the second largest in movie industry in international level. The graphic below will show the income of US movie export industry in the global market according to the data from Motion Picture Association of America in Theatrical Market Statistics in 2013.

![Figure II.4 US movie industry income in international box office market in 2013](image)

According to the data from Motion Picture Association of America in *Theatrical Market Statistics* during 2013-2016, the gap of box office income between the market in China and other countries is huge. Whereas, in 2010, China was only the 8th largest market of box office compared to other countries including USA, Japan and India. However, in 2013, China successfully became the largest. Compared to Japan, as the second largest country, the income of China was even

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123 Ibid.
three-fold larger in 2016. The table below will show the income of US movie industry in international market in 2016.

![2016 Top 20 International Box Office Markets – All Films (US$ Billions)](image)

Figure II.5 2016 Top 20 International Box Office Markets of US Movies

Thus, this large gap between China and other countries show how important the Chinese market to US movie industry. During 2013-2016, US movie market gained the highest revenue in box office in China in 2015, $6.8 Billion. The table below will provide the contribution of the Chinese market to US movie industry during 2013-2016 in box office.

<table>
<thead>
<tr>
<th>Year</th>
<th>All Films (US Billions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>$3.6</td>
</tr>
<tr>
<td>2014</td>
<td>$4.8</td>
</tr>
<tr>
<td>2015</td>
<td>$6.8</td>
</tr>
<tr>
<td>2016</td>
<td>$6.6</td>
</tr>
</tbody>
</table>

Table II.1 US movie industry in China’s market.

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124 Motion Pictures Association of America, "Theatrical Market Statistics 2016."
125 Ibid.
126 Ibid.
127 Ibid.
The success of US movie industry in China to gain the highest revenue in movie industry, especially in box office, is not only due to the effort of US filmmakers, but it is also due to the increasing number of cinemas that increased its cinema up to 886 percent during 2004 until 2014.\textsuperscript{128} The graphic below will show the increasing number of cinema in China in more than a decade.

![Graphic showing increasing number of cinemas in China](image)

Figure II.6 The number of Cinema in China during 2012-2014.\textsuperscript{129}

Basically, there are some categories of US movies in entering the Chinese market, including being rejected by the government, accepted after changed some parts in accordance with censorship, accepted but pulled out afterwards and accepted without any critics.\textsuperscript{130} An example for a movie being rejected by the Chinese government is “Noah”, due to its religious background.\textsuperscript{131} Besides, the play

\begin{footnotesize}
\textsuperscript{128} Stephen Follows, "How Important is International Box Office to Hollywood?."
\textsuperscript{129} Motion Pictures Association of America, "Theatrical Market Statistics 2016."
\textsuperscript{130} Jessica Grimm, "THE IMPORT OF HOLLYWOOD FILMS IN CHINA: CENSORSHIP AND QUOTAS."
\textsuperscript{131} Ibid.
\end{footnotesize}
date of the movie is not in the right moment so the government rejected “Noah” to be released at cinemas in 2014. At that time, the government focused on increasing the local movies. An example for a movie which could enter the Chinese market but it needed to change in accordance with the government is “World War Z” (2013). The government asked the filmmaker to cut a part in the movie where it showed that the virus causing the zombie in the movie comes from China. After the filmmaker of this movie cut that part, “World War Z” could enter the market and be released at Cinema. Then, Outcast (2014) could be an example of a US movie which was being pulled over by the Chinese government even it has not been released yet at cinema due to its plot that tells about two fighters in China living in 12th century.

Since China is the largest market for US movies in box office, following Chinese people’s interest is one of US movie industry main concerns. There are some Hollywood movies that could be great example to show the success of US in entering the Chinese market and being accepted by the Chinese government. Firstly, “Transformers 4” was released in 2014. Surprisingly, it gained revenue worth of $300 million from China because there was a part in the movie located in Hong Kong with Chinese atmosphere. The movie even becomes the largest US movie revenue in Chinese history. The revenue gained from China was even larger than from the United States itself. Secondly, when the United States released Rogue One: A Star Wars Story in 2016, there were two Chinese actors in the list of the movie cast members, Jiang Wen and Donnie Yen, because they wanted to attract more Chinese market to watch the movie.

Besides following the interest of the locals, the way to enter the market with less barrier is by establishing partnership with the Chinese companies. This way is

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132 Ibid.
133 Ibid.
136 Hannah Beech, "How China Aims To Takeover Hollywood."
seen by some US filmmakers as the best way to get benefit from this industry recently. For example, US filmmakers, Joe and Anthony Russo established a partnership with the Chinese company creating a movie called “Wolf Warrior 2” that becomes one of the all-time biggest films in China.\textsuperscript{137} Despite facing some regulations in doing business in China, they gave statement that the market is too lucrative to give up on.\textsuperscript{138} If they gave up, they would lose millions dollar.


CHAPTER III

US INTELLECTUAL PROPERTY INFRINGEMENT REGARDING MOVIE PIRACY BY CHINA DURING 2013 – 2016

This chapter consists of the explanation about the overview of IPR including the definition of IPR and Copyright in artistic work, which in this case is movie. Furthermore, this chapter will examine the US intellectual property infringement regarding movie piracy by China during 2013 – 2016.

III.1 Overview of Intellectual Property Rights

III.1.1 Intellectual Property Rights

It is inevitable that globalization has shifted the priority of issues in various aspects, including in economic field. Back then, people only prioritize the ownership of tangible asset such as land. However, in this digital era, intangible assets such as Intellectual Property (IP) becomes more essential and valuable, even compared to the tangible asset, such as land.\footnote{Theodoros Papaioannou, “Can Intellectual Property Rights be Morally Justified? The Case of Human Gene Patents,” Home — Birkbeck, University of London, last modified March 8, 2006, http://www.bbk.ac.uk/innovation/publications/dime/docs/WP08-IPR.pdf.}

As people more concern on IP, the importance of Intellectual Property Rights (IPRs) is also raising. Based on legal Basically, IPRs can be defined as the legal rights that protect intellectual activities covering various areas, including artistic, literary, industry and science.\footnote{World Intellectual Property Organization, "What is Intellectual Property?."}

In general, by emerging IP system or IPRs enforcement, it can enhance creativity, as well as innovation, which can lead to economic growth.\footnote{Olivier Keshavjee, "Globalization and Intellectual Property: How does the TRIPS agreement affect developing nations."}
Within a state, IPRs are enforced due to several purposes. Firstly, IPR is a reflection of government’s appreciation to the intellectual activity by supporting the creators to get economic benefit from such intellectual activity. Secondly, these legal rights can prevent any infringements toward the intellectual activity such as piracy and counterfeiting of the products which can harm the right holders. Thus, by enforcing IPRs and IP Law, fair trading can be achieved.

Not only giving benefit to the creators, IPRs also give benefit to society or consumers of the creations. Since IPRs aim to prevent piracy or any infringement, the consumer can get the original products that they want without any doubt whether it is fake products or not. Generally, IPRs are divided into two main categories; Industrial Property and Copyright. Patents, industrial designs, trademarks and geographical indications are included into Industrial Property. Meanwhile, artistic works belong to Copyrights.

Patent can be used as a means to protect a discovery in a particular time. Mostly, this right lasts for 20 years. By registering the product to patent rights, it can prevent others to sell, use or create without asking for permission of the product from the inventor. Furthermore, by enforcing patent rights, an inventor can get benefit. As a result, it motivates others to create an innovation in order to gain material benefit too that will lead to people’s prosperity. As long as the patent right is still owned, an inventor can freely decide who can use it.

Trademark can be defined as a unique symbol or any sign to personalize a product by the owner. These marks can be in a form of words, letters, drawings and even symbols. By registering their trademark,
the owner has privilege to use the mark to personalize their products so it can be different with others and get benefit from the buyers. Not only giving benefit to the right holders, trademark also can give benefit to buyers as it can minimize their search cost.\textsuperscript{146} By having trademark, consumers can recognize the product when they want to buy it as what they want or need.

In this industrialized era, protecting industrial design becomes important. Industrial design can be a unique two or three-dimensional feature with particular color or shapes which can be used in industrial products such as in form of luxury products, textiles and also vehicle.\textsuperscript{147} If someone or a company wants to register an industrial design, they have to make sure that the product has not been made by someone yet. This protection aims to prevent unfair trade such as the product being counterfeited or being used without a permission from the creator.

Not only trademark and design, geographical indication also matters in identifying products. In practice, geographical indication sometimes are used as the name of products or referred as a place where the products are made in.\textsuperscript{148} If it is referred to the name of product, it should be outlined in trademark law.\textsuperscript{149} However, if it is referred to location, it should be categorized as geographical indication. By providing location of country where a product is made, it determines the quality of products and affects perception of consumers.\textsuperscript{150} For example, Switzerland is well-known as a producer of high quality watches and Germany is well-known as a producer of luxury cars. By protecting geographical indication of products, it makes

\begin{footnotesize}
\textsuperscript{147} World Intellectual Property Organization, "What is Intellectual Property?."
\textsuperscript{149} Calestous Juma “Intellectual property rights and globalization: implications for developing countries.”
\textsuperscript{150} World Intellectual Property Organization, "What is Intellectual Property?."
\end{footnotesize}
consumer confident to buy products which will give benefit to the producers in a particular place or country.

Besides Industrial Property, protecting Copyright and related rights becomes important in the enforcement of IPRs. Basically, Copyright aims to protect the owner of works that have artistic value such as authors and artists.\textsuperscript{151} For related rights, it has broader parties such as performers and producers or other parties that involve in the process of making an art work.\textsuperscript{152} By registering themselves in copyright protection, it will prevent their artistic work being pirated by other parties which can cause economic loss.

### III.1.2 Copyright As a Means to Protect Artistic Works

As one of two categories in IPRs protection, Copyright becomes one of priority issues regarding IPRs enforcement in international trade in this globalization era. In general, copyright is referred to a legal term of the right that protects creations in expression.\textsuperscript{153} These works can be novels, films, music, and also computer programs.\textsuperscript{154} According to the United States Copyright Office, Copyright consists of some basics information such as what creation that can be protected, what rights the right holder can get, who can be the owner of this right and time period of this right.\textsuperscript{155} In order to get protection of copyright, the creator should be the right holder by registering the product to the government where it is originally made in.\textsuperscript{156}

Being the right holder of Copyright means that an individual or a party has a legal right to reproduce, publish and distribute the creation as

\textsuperscript{151} Olivier Keshavjee, “Globalization and Intellectual Property: How does the TRIPS agreement affect developing nations.”
\textsuperscript{152} World Intellectual Property Organization, "What is Intellectual Property?.”
\textsuperscript{153} William Fisher, “THEORIES OF INTELLECTUAL PROPERTY.”
\textsuperscript{154} Ibid.
\textsuperscript{156} Ibid.
the creator wants.\textsuperscript{157} If any infringement happens to the product that has
been registered, the right holder has a right to get damages from it as a compensation.\textsuperscript{158} Thus, other parties allow to use the work, such as copying, sharing, reproducing and distributing, only if it is being authorized by the right holder to do so.\textsuperscript{159} For the time requirement, each states has different period for Copyright. For the United States, Copyright can be authorized by the right holder even up to seventy years after the death of the creator.\textsuperscript{160} However, in international level, according to WIPO regulation, for the right holder of Copyright the right holders has authority of their artistic works up to 50 years after death and for related rights, the owners can get material benefit for 50 years after the works.\textsuperscript{161}

Recently, industrialization has touched every aspects, including in artistic works. In order to maximize the reproduction and republishing of works, most of the right holders prefer to transfer the creations to a big company which has financial investment to be able to do such things. For companies or other parties who want to get transferred of such artistic works, it is an obligated to get a sign from the right holder as a permission to reproduce and distribute of the works in accordance with the right holder.\textsuperscript{162} As a result, the right holders will get material benefit, called as royalties.

By having this right, the creators or right holders will be more encouraged to create another work because it can give material benefit to them.\textsuperscript{163} Therefore, the more artistic works they create, the more material benefit that they get. Besides, since it contains protection and security, it

\begin{itemize}
\item \textsuperscript{157} Jeanne C. Fromer, "AN INFORMATION THEORY OF COPYRIGHT LAW," Emory Law | Emory University School of Law | Atlanta, GA, accessed February 27, 2018, http://law.emory.edu/elj/_documents/volumes/64/1/articles/fromer.pdf.
\item \textsuperscript{158} United States Copyright Office, “Copyright Basics.”
\item \textsuperscript{159} Olivier Keshavjee, “Globalization and Intellectual Property: How does the TRIPS agreement affect developing nations.”
\item \textsuperscript{160} United States Copyright Office, “Copyright Basics.”
\item \textsuperscript{161} World Intellectual Property Organization, "What is Intellectual Property?.”
\item \textsuperscript{162} United States Copyright Office, “Copyright Basics.”
\item \textsuperscript{163} Jeanne C. Fromer, “AN INFORMATION THEORY OF COPYRIGHT LAW.”
\end{itemize}
prevents others to copy without authorization. Not only giving material benefit, Copyright also gives non-material benefit such as giving authority to prohibit other parties who want to change their works that may give impact to the reputation of the owner.

Not only giving profitable reward for the right holders, copyright and related rights also give advantage to society. Enforcing such rights can be seen as an appreciation to the owner of works. Hence, Copyright and related rights will lead to fair economic. For society, the protection of Copyright gives more opportunity to enjoy culture, entertainment and knowledge. Furthermore, by protecting Copyrights and related rights, it encourages society to improve innovation and creativity. For companies, through the IPRs enforcement, it also stimulates them to invest more in the field of artistic works. Thus, this investment will lead to economic growth and prosperity of people.

Lately, copyrights and related rights has developed following the enhancement of technology. In one hand, this advanced technology makes it easy for the right holders to reproduce, publish and promote their own creations, even overseas. However, on the other hand, the ease of producing compact disc and accessing internet allows people to easily do copyright piracy regardless where the artistic work is originally made. One of the most common types of the infringement regarding artistic works is piracy. In general, this term can be referred as an action such as copying, and sharing the artistic works, for example films or files, without authority of the right holders. Hence, the ease of accessing internet accelerates production increase of pirated goods. The purpose of copyright protection

164 Ibid.
165 World Intellectual Property Organization, "Copyright."
166 World Intellectual Property Organization, "What is Intellectual Property?."
is to maintain a positive incentive to new creations that will give advantage to society.\textsuperscript{169}

III.2 The Enforcement of Intellectual Property Rights at The International Level

Due to its importance in morality and benefit of people regardless its nationality, IPR is even mentioned in Article 27 of the Universal Declaration of Human Rights, as follows.\textsuperscript{170}

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.\textsuperscript{171}

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.\textsuperscript{172}

At the international level, the importance of the enforcement of IPRs results numerous international conventions since 19\textsuperscript{th} Century. Due to legal differences of each country causing the difficulty of applying the IPR, conventions regarding IPRs were held to resolve this issue. Paris Convention for the Protection of Industrial Property was held in 1883 was the first convention regarding IPRs, then followed by the Berne Convention for the Protection of Literary and Artistic Works in 1886.\textsuperscript{173} In general, Paris Convention for the Protection of Industrial Property concerns on protection covers various fields such as patents, trademarks and trade names that is applicable to all countries.\textsuperscript{174} Meanwhile, Berne Convention concerns

\textsuperscript{171} United Nations, “Universal Declaration of Human Rights.”
\textsuperscript{172} Ibid.
\textsuperscript{173} World Intellectual Property Organization, "What is Intellectual Property?."
on copyrights, especially the equality of treatment and protection of each creations despite the creations are being published overseas. Thus, these conventions became the pioneer of the establishment of Intellectual Property Organization (WIPO) in 1967.

Both conventions are followed by a number of treaties, agreements and other conventions, as follows:

1. The WIPO Copyright Treaty (WCT) in 1996, focusing copyright in digital era.
2. The Patent Cooperation Treaty (PCT), held in 1970 aiming to protect patents in international level.
4. The Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks in 1989 in order to protect marks applied globally.

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5. The Hague Agreement Concerning the International Registration of Industrial Designs in 1925 focusing on the protection of industrial design.\textsuperscript{182}

6. Trademark Law Treaty (TLT) in 1994 in order to set the regulation on trademark application.\textsuperscript{183}

7. Patent Law Treaty (PLT) in 2000 outlining the registration of patent.\textsuperscript{184}

8. Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations protecting the industry related to phonogram and broadcasting in 1961.\textsuperscript{185}

9. The WIPO Performances and Phonograms Treaty (WPPT) in 1996 giving a protection to creations in phonogram in digital era.\textsuperscript{186}

10. Trade-Related Aspects of Intellectual Rights ("TRIPS") Agreement in 1994, involving WTO members, that concerns on various fields of IPRs such as IP and Related Laws, Copyright, Patents and Trademarks.\textsuperscript{187}

According to WTO, The TRIPS Agreement is the only international agreement providing specific and clear explanation about the enforcement of IPRs.\textsuperscript{188} TRIPS Agreement, as one of the most essential agreement held by WTO regarding the enforcement of IPRs in international level. Due to its importance in


international trade, it is compulsory to each member to apply this agreement. In running its function, WTO has a special body called as The TRIPS Council which has a duty to monitor all members. Despite it is originated from WTO, WIPO also takes a part in the implementation of this agreement as a consultant.\textsuperscript{189} As an international organization which has 164 members, TRIPS Council, under WTO, applies a principle called as Most-Favored-Nation ("MFN").\textsuperscript{190} By applying this principle, The Trips Council and each member treats all the members equally so all states get the equal benefit in trade.

III.3 Copyright Law under WIPO and WTO

For the last decades, the enforcement of Copyright becomes more challenging due to a rapid technology. Copyright even becomes one of the largest fields in IPRs harmed by infringement in digital era. Previously, Copyright protection regarding moral value and material benefit was mentioned in Article 27 of the Universal Declaration of Human Rights verse (2). Besides, Copyright protection is also written in various agreements and treaties by two international organizations concerning about the enforcement of IPRs, WTO and WIPO.

Regarding Copyright protection, WIPO has an international forum called as The Standing Committee on Copyright and Related Rights (SCCR). In general, this forum gives opportunity for the members to have discussion and observation on copyright issues in order to fulfill the needs of people. Recently, WIPO has held a number of treaties and conventions related to Copyright, as well as related area, such as:

1. The WIPO Copyright Treaty (WCT) in 1996, focusing copyright in digital era.\textsuperscript{191}

\textsuperscript{190} Ibid.
2. Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations protecting the industry related to phonogram and broadcasting in 1961.192

3. Brussels Convention Relating to the Distribution of Program-Carrying Signals Transmitted by Satellite. This convention makes all the member states to set regulations in order to prevent distribution of pirated goods by the help from satellite.193

4. Beijing Treaty on Audiovisual Performances in 2012 aiming to cover audiovisual from infringement.194

5. The WIPO Performances and Phonograms Treaty (WPPT) in 1996 giving a protection to creations in phonogram in digital era.195

6. Berne Convention for the Protection of Literary and Artistic Works, held in 1886, mentioning about the protection of artistic works in general.196

7. Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms aiming to obligate states to protect copyright related to phonograms.197

Copyright and related rights are not only the priority of WIPO, but also international trade organization WTO. Through Agreement on Trade-Related Aspects of Intellectual Property Rights, WTO regulates some basic principles and

standard in the enforcement of IPRs including Copyright. According to the agreement outlined in the Part II Section 1 Article 9 (1), Copyrights and related rights should be in accordance with the Berne Convention.\textsuperscript{198} This agreement also provides the explanation about the prohibition of copyright piracy and such actions may be subject to sanction.

In the Section 4 Article 51 mentioned that member states should set regulations about procedure of import products and registration of products in order to prevent the infringement such as piracy.\textsuperscript{199} In Article 51 also mentioned a term "pirated copyright goods" as products which is being reproduced without permission from the right holder and that product would be subject to an infringement of copyright or related rights.\textsuperscript{200} For sanction for the parties who do an infringement of copyright, the member states are obligated to provide criminal procedure and penalties as it is mentioned in Section 5: Criminal Procedures in Article 61.\textsuperscript{201} Between member states, it is a must to cooperate to combat against infringement of copyright such as by exchanging information related to this issue as it is written in Section 5: Criminal Procedures in Article 69; International Cooperation.\textsuperscript{202}

\textbf{III.4 Copyright Piracy Regarding US Movie Piracy by China (2013 – 2016)}

Since art works are covered by Copyright and related rights, other parties cannot use or take the works without asking for authorization from the right holders. This misusage of art works can be called as copyright piracy such as counterfeit or piracy. Therefore any infringement can be subject to sanction. Recently, many art

\textsuperscript{199} Ibid.
\textsuperscript{200} Ibid.
\textsuperscript{201} Ibid.
\textsuperscript{202} World Trade Organization, "AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS."
works are victimized by such infringement done by parties seeking for financial benefit. Supported by technology, Copyright piracy becomes more inevitable. The USITC even gave statement that the largest US IP loss from China is coming from Copyright industries due to high number of Copyright piracy. Movie, as one of art works covered by Copyright, also becomes a target of Copyright piracy.

As the largest movie industry, US faces Intellectual Property infringement regarding movie piracy for over decades by some countries, including from the most populated country, China. As the country having more than 1.38 billion people in 2016, more than 52 percent, or 700 million people, of the Chinese population are internet users. The number of internet users is increasing from 600 million people to 700 million or around 5 percent during 2013 until 2016. Since China has a large number of population and with its culture that interests in watching movies, it is no wonder movie piracy rate remains high in this country. In 2007, U.S. movie industry lost $20.5 billion due to movie piracy. The graphic below will show the increased number of Chinese internet users within 11 years.

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205 Ibid.
206 Ibid.
At that moment, China had shown its effort in combating movie piracy, such as by doing raids and breaking the fake compact disc, as well as its factories. However, US government assessed that it is not enough to reduce movie piracy. Later on, even in 2013 up to 2016, intellectual property right infringement done by China to US products including movies still becomes one of US concerns in conducting bilateral relations with China. In 2015, it is predicted that US loss worth

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209 Ibid.
of $160 Billion due to illegal movies.\footnote{Frontier Economics Ltd., "THE ECONOMIC IMPACTS OF COUNTERFEITING AND PIRACY," Frontier Economics Ltd, accessed March 6, 2018, https://www.inta.org/communications/documents/2017_frontier_report.pdf.} According to USTR Report in 2013, a large number of copyright piracy to US products is due to increased usage rates of internet users, CDs, media box, flash drives, camcorded and gadgets such as cellphones and tablets. In China, people can easily get the pirated movies, regardless they are internet users or not.

For internet users in China, they can easily enjoy pirated movies through camcorded. Camera-recorded, or commonly called as camcorder, is referred to an activity to record movies in Cinema without asking for permission to the right holders and then share it to internet so everyone can access and enjoy the movies. As a consequence, this activity can jeopardize and inflict a financial loss to the original and other countries where the movies are being played at Cinema. According to USTR Report book in 2015, camcorded is one of the common sources for people who want to get pirated movies in China because they can easily access on Internet the movies that they want.\footnote{United States Trade Representative, "2015 Special 301 Report," United States Trade Representative, accessed March 6, 2018, https://ustr.gov/sites/default/files/2015-Special-301-Report-FINAL.pdf.} In addition, most of the cases regarding movie piracy through this source happened in the South of China.\footnote{Ibid.}

Furthermore, the Internet users in China can get the pirated movies easier by a devices called as media box, or sometimes called as Digital Media Player (DMP).\footnote{United States Trade Representative, "2013 Special 301 Report."} Media box is a device which can be used to stream online unauthorized movies and videos. By using this device, people can freely open websites containing pirated movies and plug into their televisions. Through this advice, they can not only watch it, but also download it. Based on USTR 2014 Report, China has the largest number of people who open websites and applications containing illegal movies through this device.\footnote{United States Trade Representative, "2014 Special 301 Report," United States Trade Representative, accessed March 6, 2018,} In general, there are four mechanisms to enjoy unauthorized movies easily for internet users in China.
Firstly, people can get the movies through p2p system, which stands for peer to peer. This technology enables people to communicate with each other without connecting to central server. Then, this system makes people able to transfer files, even in a large size such as movies. To enjoy unauthorized movies through this technology, people have to install application that gives them ability to find the movies that they want from others and after that, they can download it. Ironically, the number of platform through this system is increasing each year. According to U.S. International Trade Commission, the most common used through this system in China are Xunlei and BitTorrent. Xunlei, one of the largest internet companies based in China, in 2014 even has gained 300 million visitors each month. However, Motion Pictures Association of America reported that this website has many illegal movies contents. Similarly, BitTorent has more than 100 million people access this system in 2012 and this number is going to increase each year. In 2015, 47.8 Billion illegal movie downloads accessed by BitTorent. Graphic below will show the number of platforms through this mechanism in China within six years starting from 2010.

https://ustr.gov/sites/default/files/USTR%202014%20Special%20301%20Report%20to%20Congress%20FINAL.pdf.
220 Sean B. Karunaratne, "The Case against Combating BitTorrent Piracy through Mass John Doe Copyright Infringement Lawsuits."
221 Frontier Economics Ltd., "THE ECONOMIC IMPACTS OF COUNTERFEITING AND PIRACY."
Secondly, people in China can watch movie illegally through Cyberlocker. This is referred to technology which facilitates the users to share files, including movies, to each other. These websites provide links so that people can stream movies that they want. Furthermore, those websites enable the link of pirated movies shared on internet worldwide and enable movies to be downloaded by the users. Based on the data provided by U.S. International Trade Commission, there are over 100 large websites, such as Rayfile, in this system from China that provide US pirated movies contents.\(^{223}\)

Thirdly, the mechanism used by people in China to get illegal movies is through accessing streaming websites. If Cyberlocker system facilitates people to download, these streaming websites also enable people to watch the movies online.

\(^{222}\) Statista, “China: Online P2P Lending Platform Count 2010-2016.”
without being able to download. In 2014, Motion Picture Association of America reported some large websites in China offering motion pictures online from US movies, including Sohu.com. In streaming websites, Sohu is the largest website offering motion pictures from US, operating in China. In 2014, there are 500 million motion pictures played per day through this website. Until 2016, this website could get benefit worth of more than 500 million of dollars from US movie industry. Not only watching Hollywood movies, people in China use this system also to watch live sports competition such as NBA and US TV Channels. A party who facilitates this service gets benefit through promotion of products or advertisement. The US TV Channels that commonly being pirated by China are the Disney Channel and HBO.

The last mechanism used by people in China in accessing movies illegally is through deep linking. This kind of mechanism can be defined as a link provided by websites that connect to other websites that provided unauthorized movies. US Hollywood industry reports that many large websites coming from China spreads link to access unauthorized movies. It is reported that the largest pirated movies are offered by Baidu that connect the link to iQiyi website. In 2015, this website even provides more than a thousand illegal movies from US. Just like streaming websites, a party who facilitates this service will gain material benefit through payment from advertisement.

Besides through internet, people in China also can easily get illegal movies through other sources. These sources can be in a form of CDs or devices such as

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226 Ibid.
227 Ibid.
229 Ibid.
flash drives or cellphone which has memory card. This mechanism is seen as the easiest and cheapest way to get movies for free. People can get pirated CDs only for about $1.\textsuperscript{231} The buyers of devise such as flash drives automatically get pirated products such as music and motion pictures (movies) inside the device when they buy it. For the CDs, it is easy to find CDs contains pirated movies in China.\textsuperscript{232} People can easily get them anywhere on streets because those CDs are sold freely.\textsuperscript{233} Due to a rampant pirated US movies through CDs, US movie industry has lost hundreds of millions of dollar.\textsuperscript{234}

Furthermore, the widespread of copyright piracy in China, including movie piracy is due to its cultural value.\textsuperscript{235} In general, many Chinese people believe in Confucianism. This belief promotes common interest before personal interest. Since common interest is their main priority, then if someone can create or invent something, it is better to spread it for free. Hence, enjoying pirated products, including movies, is a natural thing for Chinese people. They do not see it as a wrong thing. Because of deeply rooted cultural background, US face difficulty in enforcing and protecting their IPRs in China.\textsuperscript{236}

According to MPAA, in general, US movie industry lost worth of more than $6 billion due to unauthorized movies in general.\textsuperscript{237} According to U.S. International Trade Commission, despite US has been severely disadvantaged by movie piracy by China entities during 2013 - 2016, but there is no exact number of how much the loss that US had, in terms of material benefit and employee in China.\textsuperscript{238} This is caused by several reasons. Firstly, US movie companies and filmmakers are not

\textsuperscript{231} USA TODAY, "China Video Sites Confident Public Will Pay for Content."
\textsuperscript{232} United States Trade Representative, "2014 Special 301 Report."
\textsuperscript{233} USA TODAY, "China Video Sites Confident Public Will Pay for Content."
\textsuperscript{236} Ibid.
transparent in giving exact number of how much they lost from movie piracy by China. Secondly, US movie companies and filmmakers are not transparent in giving data about how many workers they lost as a consequence of movie piracy. Thirdly, the companies only predict how much they lose based on the numbers of people who access illegal movies in China.\textsuperscript{239} Whereas, if they cannot access those websites, it is not certain that they will pay for watching movies in Cinema or buy the authorized ones.\textsuperscript{240} Although US movie companies and filmmaker get disadvantage due to movie piracy by China, most of them do not report the case to legal institution because the damages that they get were too low compared to money they spent to report the case.\textsuperscript{241}

\textsuperscript{239} Ibid.
CHAPTER IV
RESPONSE OF THE UNITED STATES OF AMERICA
IN ADDRESSING US MOVIE PIRACY BY CHINA
DURING 2013 – 2016

The fourth chapter is the main part of this thesis because this chapter provides information in order to answer the research question. In general, this chapter will provide an explanation about the response of the United States in addressing the intellectual property infringement regarding movie piracy, along with other IPR infringements, by China during 2013 – 2016.

IV.1 US Response in Addressing US Movie Piracy by China through the United States Trade of Representative (USTR)

In addressing IPR infringement, US government, through United States Trade of Representative (USTR), subcommittee of the Trade Policy Staff Committee established Special 301 Report. USTR is a government agency of the United States established in 1962 which aims to expand US trade overseas so that US will get as many as advantage it can.\(^\text{242}\) In general, USTR primarily gives suggestion and recommendation for trade policy and regulations, especially for to executive office, President. At the international level, the representative of this office has a responsibility to conduct negotiations and as a representative of US in the field of trade. The representative of USTR during Obama second administration was Michael Froman.\(^\text{243}\) When US faced challenge and dispute in trade with other


states, USTR will run its function to resolve the dispute, either through bilateral meeting or WTO.\textsuperscript{244}

In practice, USTR covers fourteen fields of area, including Industry & Manufacturing, Trade Organizations and Intellectual Property. In general, in the field of Intellectual Property, USTR has several responsibilities. Firstly, USTR needs to conduct in the negotiation, conduct in dialogues and watch the enforcement of intellectual property in accordance with trade agreements and trade policy with US trading partners. Secondly, USTR has a duty to establish Special 301 Report each year. Thirdly, USTR has responsibility to resolve trade issues regarding US IP through international organization WTO.

\textbf{IV.1.1 USTR Special 301 Reports}

As a response in addressing US IP infringement abroad, each year USTR made Special 301 Report. This report aims to monitor the enforcement of IPRs and protecting US Intellectual Property overseas. This report provides information about challenges faced by US in IPRS enforcement, the reasons behind rampant movie piracy, development of IPR enforcement and also mention what US government has done in IP issues each year. This report covers some issues, such as trademark, counterfeit goods, and online piracy. In handling IP issues, this report made a list of countries based on how serious IP infringement occurred there. For the countries who have the most IP cases, USTR put them on Priority Watch List. During 2013 – 2016, from ten countries, China is one of them with one of the largest in internet piracy, including music and movies.\textsuperscript{245} Hence, USTR shows its commitment to take a serious action to China in addressing

\textsuperscript{244} United States Trade Representative, "Mission of the USTR."
IP issues by cooperating with China and monitoring the enforcement of IP law and regulations in China.\textsuperscript{246}

In 2013 Report, regarding online piracy by China, USTR mentioned the largest source of US entertainment industry piracy, is from websites. Then, these websites are accessed through media box and people can enjoy pirated movies freely. Based on USTR investigation, the most of these websites and media boxes were from China.\textsuperscript{247} As a response to this piracy, US government has done and will do several actions. Firstly, US government warned the Chinese government to enhance the legal framework in order to protect copyright. Secondly, US pushed China to take actions to those who conduct movie piracy by recording the US movies at cinemas in China illegally and take actions to shut down the websites that provide illegal US movies.\textsuperscript{248}

In 2014 Special 301 Report, USTR concerns more on judicial process of copyright piracy overseas. In the case of movie piracy conducted by parties in China, US pushed China to implement criminal procedure and impose sanctions to parties who conducted movie piracy.\textsuperscript{249} USTR also sets penalties for those who do such piracy. Those sanctions can be in a form of imprisonment and material penalty. Besides, US government also set regulations about what products can be considered as piracy. Regarding compact discs, US pushed China to stop the CDs containing illegal US movies through law enforcement and direct action such as by raids and destructions of those pirated products. In helping other states, including China, US provides direct assistance to trading partner in the area of law enforcement and destruction of unauthorized products.\textsuperscript{250}

\textsuperscript{246} Ibid.
\textsuperscript{247} United States Trade Representative, “2013 Special 301 Report.”
\textsuperscript{248} Ibid.
\textsuperscript{249} United States Trade Representative, “2014 Special 301 Report.”
\textsuperscript{250} United States Trade Representative, “2015 Special 301 Report.”
For 2015 Special 301 Report, USTR mentioned that US government engaged in bilateral cooperation with its trading partners including China regarding US copyright industry, in addressing IPR infringement such as piracy by giving recommendations and pushing them to implement WIPO Internet Treaties. This treaty was signed in 1996 and started to be implemented in 2002 which is about the protection in the area of copyright and related rights through cyberspace. This agreement also included law protection of copyright and sanctions imposed by parties who do IPRs infringement. As a result, USTR explained that there are 4,400 online piracy cases who are imposed sanctions by courts in China, including large website providing unauthorized US movies such as Baidu, QVOD and SiluHD. As a consequence, QVOD must get fined worth of $42 million due to its content which has a lot of illegal movies, including from US. For illegal recording at cinema, US has urged China to give watermarking at movies on theatre so it will be easier for courts to do investigation which theater that is placed to record the movies. As a response, USTR gave a statement in the report that US warned the Chinese government to put more effort to fight against IP infringement in its country.

On 2016 Special 301 Report, USTR did an investigation of sources used by parties in China to do steal US IP industry, including US movies piracy. Based on Special 301 analysis, it mentioned that media box, pirate servers, camera recording, application and websites are the sources of people get pirated Hollywood movies. Despite US has urged China regarding illegal recording at its theaters by imposing sanctions but it does not affect much on the number of movie piracy cases regarding illegal

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251 United States Trade Representative, "2016 Special 301 Report."
253 United States Trade Representative, "2015 Special 301 Report."
254 United States Trade Representative, "2015 Special 301 Report."
256 United States Trade Representative, "2016 Special 301 Report."
recording at theaters. 2016 Report even showed that the number of illegal recording at cinema is increasing in China. As a response, US pushed China to update its IP law so that China regulates about illegal recording at cinemas and enforce the law.

**IV.1.2 USTR Notorious Market List Reports**

Becoming a part of USTR Report, Notorious Market List Report is separated from its main USTR report, Special 301 Report. The first Notorious Market List Report was launched by USTR in 2006. Basically, Notorious Market List Report explains a particular specific issues in conducting bilateral trade with its trading partner deeper. If Special 301 Reports cover all US IP issues, The Notorious Markets List explains more about copyright piracy and counterfeiting trademark conducted by US trading partner. This report provides information about the markets of US IP industry, especially in the area of copyright and trademark that becomes major concern of US government due to the rampant IP infringement cases. Regarding the publication, this report has been launched each year during 2013 – 2016.

In Notorious Market List Report 2013, USTR shows some websites operating in China that provide unauthorized US movies. The list of those websites are as follows.

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257 United States Trade Representative, “2016 Special 301 Report.”
258 United States Trade Representative, “2017 Special 301 Report.”
1. Aiseesoft.com becomes one of websites that enables people to convert video to compact disc and misused by parties or companies to produce pirated CDs.\textsuperscript{261}

2. Kuaibo.com becomes one of the largest website offering illegal movies, including Hollywood and In 2012, the users were surprisingly even more than 20 million in China.\textsuperscript{262}

3. Kankan.com offers unauthorized movies through several mechanism including p2p, cyberlocker and deep linking.\textsuperscript{263} For deep linking, it connects to Xunlei website.\textsuperscript{264}

Thus, these websites become priority of US in monitoring IPRs enforcement, which is a response of US government in addressing Hollywood movie piracy. Furthermore, US government pushed these website to put more effort on IPRs enforcement and protection, especially to US movies. US even encourages the Chinese government and some large website, including Xunlei, to shut down website that are indicated as infringing website.\textsuperscript{265}

Since Xunlei shows its good faith in cooperating with US government in addressing movie piracy, Xunlei was no longer shown in the priority list of website to USTR in Notorious Market List Report 2014. Nonetheless, US did two actions in addressing US movie piracy by China through this website in 2014. Firstly, USTR urged the website to conduct meeting with filmmakers and business entities from US movie industry to get license and permission to publish those movies.\textsuperscript{266} Secondly, USTR commit to watch the improvement of this website in showing effort on IPR

\textsuperscript{262} Ibid.
\textsuperscript{263} Ibid.
\textsuperscript{264} Ibid.
\textsuperscript{265} Ibid.
enforcement.\textsuperscript{267} Furthermore, as response to movie piracy, USTR gave statement that US struggled to monitor the other websites’ efforts in IPR enforcement and urged the Chinese government to fight against copyright piracy, especially through cyberspace.

On 2015 Out-of-Cycle Review of Notorious Markets Report, websites and applications from China indicated provide illegal movies content are not in the list.\textsuperscript{268} It means that websites of China had shown good improvement, compared to other websites providing US illegal movies from other countries, such as 4Shared in Brazil. Despite already showing an improvement, USTR still kept watching those website to prevent them to put US movies back to their websites and applications. The other point USTR provided in this 2015 Report is that USTR would provide its assistance to those US citizens or movie industries who have authority of their artistic works.\textsuperscript{269} This assistance is in a form of criminal procedure and complaint for their works, including pirated movies, by offering link that informs complaint procedure.

On Notorious Market List Report 2016, USTR added new app called BeeVideo from China.\textsuperscript{270} This application provided US movies and US cable channels that can be accessed by people through two mechanisms, including media box and gadget. In responding to movie piracy, US gave statement that US government has taken some actions, either to the Chinese government or the local business entities.\textsuperscript{271} Besides, USTR also urged US movie industry entities conducted business in China to cooperate with US government to combat movie piracy. Moreover, USTR would not stop its effort to fight against movie piracy in China by watching the websites that

\textsuperscript{267} United States Trade Representative, ”2014 Out-of-Cycle Review of Notorious Markets.”
\textsuperscript{269} Ibid.
\textsuperscript{271} Ibid.
become in this report, even those who are no longer on the list because there is a probability that such websites would do the same infringements in the future.\textsuperscript{272}

\textbf{IV.2 US Response in Addressing US Movie Piracy by China through the US - China Joint Commission on Commerce and Trade (JCCT)}

The US - China Joint Commission on Commerce and Trade is forum held by China and US each year which are essential for trade relations between both states, especially regarding the enforcement of IPRs. In 1983, US and China established forum called US Joint Commission Commerce and Trade (JCCT) facilitating discussion between both states related to trade.\textsuperscript{273} This forum was continued to run during President’s Obama second administration. The 27\textsuperscript{th} JCCT forum was the last economic and trade forum in bilateral relations between US and China during Obama second administration.\textsuperscript{274} In 2013 – 2016, Under Obama second presidency, each year this forum was used as a place to discuss about IPRs issues. Each year, from US side, this forum is led by U.S. Commerce Secretary, named Penny Pritzker, along with U.S. Trade Representative, Michael Froman and from China side, it was led by the Wang Yang who is a Chinese Vice Premier.\textsuperscript{275}

On December 19th – 20th, 2013, US and China held its 24\textsuperscript{th} JJCT meeting in Beijing. On this year meeting, The United States tried to put forward some its concerns related to the enforcement of IPRs in China, including criminal procedures related to IP infringement. As a result, this economic forum produced MoU signed

\textsuperscript{272} United States Trade Representative, "2016 Out-of-Cycle Review of Notorious Markets."
by U.S. Trade and Development Agency (USTDA) and China’s Ministry of Commerce. In general, this MoU aimed to make sure that Chinese government would be serious in improving its capacity, either its government or law enforcement, in the IP enforcement.\(^{276}\) In addressing IPRs infringement by China, US government, even provided workshops and trainings.\(^{277}\) During this program, US will provide information about how to enforce IPRs and also provide solution for obstacles that may happen in enforcing IPRs. Technically, US Trade Representative will give assistance to this program.

For the JCCT 25\(^{th}\) meeting, the forum was conducted by both states in Illinois, US, on December 16-18, 2014.\(^{278}\) In addressing some infringements of IP, US pushed China to commit in some points generated in the agreement. The United States has made sure that China will also focus on finding the best way to encourage the market to buy authorized works considered as IP, including copyright such as movies and music.\(^{279}\) As a result, this forum generated agreement consisting of several points. Firstly, both states commit to give the equal treatment on the rights holders regardless they are from domestic or abroad.\(^{280}\) Secondly, business entities have freedom to get rights such as license from their creations, regardless they are from local or foreign industry.\(^{281}\) Thirdly, both states strive to enforce IPRs, including by encouraging local business entities to innovate and avoid infringing other’s creation.\(^{282}\)

The 26\(^{th}\) JCCT forum was conducted by US and China on November 21-23, 2015 in Guangzhou, China.\(^{283}\) In this opportunity US gave statement that the US is

\(^{276}\) Ibid.
\(^{277}\) Ibid.
\(^{279}\) Ibid.
\(^{280}\) Wayne M. Morrison, "China-U.S. Trade Issues."
\(^{281}\) Ibid.
\(^{282}\) Ibid.
a country that applies the principle of equality before the law including in the case of IP, in accordance with applicable law.\textsuperscript{284} The US also expressed its full support for IPR enforcement in China. Since China is listed on the Notorious Markets List in the USTR report, the United States will apply equal treatment to all countries that has a lot of US IPRs infringement cases, including China. Furthermore, US also showed its willingness to hold high-level bilateral dialogue between US and China regarding this issue.\textsuperscript{285} Regarding criminal procedure, The US expressed its support to courts in China that has collected evidence and reports related to IPRs infringement conducted by the Chinese parties and process the criminal action afterward.\textsuperscript{286}

The 27\textsuperscript{th} JCCT forum was held on November 21-23, 2016, Washington D.C.\textsuperscript{287} It was the last JCCT forum during 2013 – 2016, Obama second administration. In this meeting, one of the main topics was about the streaming movies. At that time US showed its dissatisfaction with the law applied in China, especially regarding protection of art works, and its regulations regarding license registration in China. Furthermore, US insisted China to apply copyright law to US movies and videos and do criminal process against parties who conducted in unauthorized Hollywood movies and videos. 288 As a result, China agreed to try to conduct dialogue with US regarding copyright protection in this field on the next year.\textsuperscript{289}

\textsuperscript{284} Ibid.
\textsuperscript{285} United States Trade Representative, "U.S.-China Joint Fact Sheet on the 26th U.S.-China Joint Commission on Commerce and Trade."
\textsuperscript{286} Ibid.
\textsuperscript{288} Ibid.
\textsuperscript{289} Ibid.
IV.3 President Obama’s Direct Statement in Addressing US Movie Piracy by China

In addressing US movie piracy along with other US IPR infringement on internet by China, President Barack Obama gave his direct statement on Business Roundtable meeting on September 16, 2015.\textsuperscript{290} This meeting was attended by business leaders in US. From some topics, cyber infringement by China becomes one of primary concerns of US business leaders. This meeting was held one week before he had press conference regarding cyber infringement and IP issues with President Xi Jinping. During the meeting, someone asked to President Obama regarding cybersecurity by China, and President Obama responded as follows.

“We consider an act of aggression that has to stop. And we are preparing a number of measures that will indicate to the Chinese that this is not just a matter of us being mildly upset, but is something that will put significant strains on the bilateral relationship if not resolved, and that we are prepared to some countervailing actions in order to get their attention. That requires I think some tough negotiations. That won’t be a one-year process, but we’d like to see if we can -- if we and the Chinese are able to coalesce around a process for negotiations, then I think we can bring a lot of other countries along.”\textsuperscript{291}

Based on the statement above, President Obama said that IPRs infringement is not only about US disappointment toward Chinese behavior. However, this issue will give more complex consequence as it will give impact to both states trade relations if China cannot overcome soon. Furthermore, US was considering some actions against China regarding this issue so China would put it as priority and US would take a tough negotiation with China as the beginning. However, this


statement got disagreement from Patrick M. Cronin, the leader of the Asia-Pacific Security Program at the Center for a New American Security. This organization has function analyzing US diplomacy and defense in Asia Pacific. He gave criticism to the president who want to get many advantages from China but at the same time doing coercive action by pushing China to and even about to impose China sanction regarding this issue as the statement below:

“The administration is, on the one hand, looking for as much cooperation as they can get from Xi Jinping and China’s leadership and, at the same time, saying: ‘Here is the stick of sanctions. We’re not going to use it right now; we’re going to wait to see what you say at the summit about good-faith progress on cyber rules of the road, but if we’re not satisfied, sanctions will follow,’ ”

Thus, this condition put US in dilemma. On one side, IPR infringement by China harms US economy. However, on the other side US could not take coercive actions such as pushing hard Chinese government to protect US IP and imposing tough sanction to the infringers. This is because US and China has interdependent relations where China needs US and vice versa. As it is explained in complex interdependence theory that if countries start to be dependent to each other, one country’s action will affect others. Furthermore, in solving problem, countries prefer to use negotiations instead of coercive actions that will harm their economy.

In general, US economy is dependent to China as it is one of the largest US trading partner. US exports many products to China and it gets many products from China. Moreover, US has more than a trillion US dollars debt to China.

296 Ibid.
In specific, in US movie industry, China is the largest market for their import movies. If US pushed China too hard or imposed harsh sanction, it will exacerbate their bilateral relations. As a consequence, it is possible if China chose another country as their trading partner or reduce their import quota from US. If it happened, US would lose the largest market in movie industry as well as other industries. Therefore, the best action is through negotiation as it will not raise tension between US and China but at the same time US still can convey its opinion regarding this issue. It can explain why US mostly use negotiation and dialogue as a response in addressing this issue rather than using coercive actions such as imposing and enforcing tough sanction and material fined to all IPRs infringement cases by China.

IV.4 US Response in Addressing US Movie Piracy by China through Press Conference by President Obama and President Xi Jinping

In general, in addressing infringement of US intellectual property on internet, The Obama Administration focused on the improvement of its cyber security, improve laws and regulations regarding this issues at domestic and international level, maximize the utilization of its tools and also cooperate with other states.\(^{298}\) In conducting trade relations with China, IPRs infringement through internet which harm US IP has been a major problem and it even had been one of important issues of both states’ meeting at Sunnyland in 2013.\(^{299}\) Two years later, on September 24, 205, President Obama gave his response regarding this issue through his speech during press conference which is attended by President Xi Jinping.\(^{300}\) From five points, President Obama even put IPRs infringement issue as the first, aside with other issues including climate change, security, tourism and

\(^{298}\) United States Trade Representative, "2013 Special 301 Report."


\(^{300}\) Ibid.
human rights issues. At that time he expressed his concern on rampant US intellectual property infringement by China through internet that harms US industries. He even encouraged China to fight against IPRs infringement on internet of US intellectual property, as what China has committed.\textsuperscript{301} Moreover, he hoped that US and China can cooperate together to fight against IPRs infringement, or even cooperate with the United Nations or other parties in the enforcement of IPRs.

Besides pushing China to enforce IPRs and combat IPRs infringement in cyberspace, President Obama also mentioned US response in addressing IP infringement by China. Firstly, President Obama gave a statement that he had already shown an improvement in addressing US IPRs infringement by China by utilizing its tool, including enforcing legal regulations, as well as the sanctions, and making US investigators to cooperate with the Chinese entities in addressing this issues.\textsuperscript{302} He assumed that agreement was not enough to show how serious US government response in addressing IPRs infringement through internet, so that President Obama will directly monitor the enforcement of IPRs by China, especially US IP protection through internet by China.\textsuperscript{303} Furthermore, as a response to the infringers, President Obama said that US has established law that also regulates criminal procedures over this issue through executive order 13694.\textsuperscript{304} By having executive order, it means that US has legal right to give sanctions to parties who are proven engaging in US IPRs infringement.

Secondly, President Obama explained that he understood the difficulty faced by President Xi Jinping in enforcing IPRs in China. With its over-populated, it is not easy to enforce IP, fight IPR infringement through internet and impose sanction to each of them. Hence, President Obama insisted that, if the government could not control all the people there to not commit to IPR infringement, at least

\textsuperscript{302} The White House President Barack Obama, "Remarks by President Obama and President Xi of the People's Republic of China in Joint Press Conference."
\textsuperscript{303} Ibid.
they do not support the IP infringement, even it will give them material benefit.\textsuperscript{305}

As a consequence, people in China who conducted to IPRs infringement, especially to US IP, they will get sanction in accordance with US law and US executive order regarding IPRs infringement on internet.\textsuperscript{306}

After both states conducted in the bilateral meeting, the United States and China agreed on some points. In general, both states are willing to participate in IPRs enforcement and agree to not supporting IPRs infringement on cyberspace. In enforcing IPRs, both states agree to do direct actions and through law enforcement.\textsuperscript{307} For the direct actions, both states commit to do investigation and exchange information for activities and products considered as IPRs infringement.\textsuperscript{308} For the law enforcement, both states agree to strengthen its legal enforcement regarding IPRs, especially in cyberspace.\textsuperscript{309}

\textbf{IV.5 US Response in Addressing US Copyright Piracy and other Intellectual Property Infringement by China through World Trade Organization (WTO)}

Since WTO is a large trade organization with over 160 member states, WTO gives more opportunities for US to address IP issues by promoting the protection and the enforcement of IP because as a member state it is a must to fulfill qualification and put effort in the IP protection, as mentioned in TRIPS Agreement.\textsuperscript{310} Furthermore, WTO provides Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS Council) which has responsibility to monitor IPR enforcement of its each member state.\textsuperscript{311} Besides, in order to resolve trade dispute among member states, WTO has Dispute Settlement Body. This agency is

\begin{footnotesize}
\textsuperscript{305} The White House President Barack Obama, “Remarks by President Obama and President Xi of the People's Republic of China in Joint Press Conference.”
\textsuperscript{307} Ibid.
\textsuperscript{308} Ibid.
\textsuperscript{309} Ibid.
\textsuperscript{310} United States Trade Representative, “2017 Special 301 Report.”
\textsuperscript{311} Ibid.
\end{footnotesize}
a mediator in resolving dispute by states who report or complains trade issues. In trade and business cooperation with China, US has noticed some issues in their trade bilateral relations caused by the Chinese government and business entities which hamper US business and trade activities in China. In addressing those issues, US has taken several responses by utilizing WTO.

Firstly, in addressing IP issues including in the area of copyright piracy by China, US has been using Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement as a tool to make China commit to protect and enforce IP issues. As members of WTO, it is compulsory for both states to obey the regulations written in TRIPS Agreement. The implementation of agreement includes law enforcement regarding copyright piracy (In the Section 4 Article 51), setting criminal procedure for those who conduct in copyright piracy (in Section 5: Criminal Procedures in Article 61) and cooperation of states in addressing this issues (in Section 5: Criminal Procedures in Article 69).312 Furthermore, in responding to rampant IPR infringement overseas harming its Intellectual Property, USTR engages in the discussion and review of the enforcement of this agreement in every member state worldwide which is held by WTO TRIPS Council.313 Hence, US, through USTR report in 2013 - 2016, urges China to commit to implement TRIPS Agreement in order to protect US Intellectual Property in China to prevent and reduce IP infringement, including in the area of copyright piracy.

Secondly, WTO has been used as a mediator for US to resolve trade dispute with its trading partners. According to USTR, since China joined WTO in 2001, US has 21 complaints against China, making US become a state that contributes the most against China in WTO through Dispute Resolution Body (DSB).314 These complaints cover various issues in trade, including IP enforcement, which has been becoming US concerns for over decades. These complaints are as including currency

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312 World Trade Organization, "AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS."
313 United States Trade Representative, "2015 Special 301 Report."
tax, automobile parts, reductions of taxes, IPR enforcement, distribution of entertainment works, information system, loans, raw materials, electronic payment, anti-dumping on steel, power equipment, broiler, rare earths, anti-dumping on automobile, aluminium and agriculture. Regarding IPRs, US has made complaint to WTO on DS542: China — Certain Measures Concerning the Protection of Intellectual Property Rights where US asked for assistance from WTO to help them in IPR protection. The last consultation of US regarding this issue to WTO is March 23rd, 2018.

In this area, US has highlighted some issues such as patents, trade secret and online piracy. In 2013, US asked for assistance from WTO Dispute Resolution Body to resolve issue regarding imported products. US assumed that the Chinese government’s behavior has been hampering US industries in the process of entering Chinese market and distribution for some art works. This issue covers the industry of movies, music and other entertainment industries. In this issue, US shows its objection to Chinese government policy that bans all non-Chinese enterprise to import art works, offers complicated requirement for movies to enter the market and the distribution of foreign movies in China which only enables the local enterprise to do it. US assumed that Chinese regulations regarding import art works including movies caused the number of IP infringement, including piracy to US movie, is increasing in China.

Besides, in addressing IP issues including in the area of copyright piracy, US actively support events conducted by TRIPS Council for over years. In 2014, US has been successfully and actively support several event. One of the events is discussion among member states in order to raise awareness in IP issues for all the member states and the citizens of the member states because citizens also play a

315 Ibid.
317 Ibid.
318 United States Trade Representative, “2016 Special 301 Report,”
319 United States Trade Representative, “2013 Special 301 Report,”
320 Ibid.
321 United States Trade Representative, “2017 Special 301 Report,”
role in the IP enforcement.\textsuperscript{322} On the other event, US also actively supported discussion engaged by global universities.\textsuperscript{323} This discussion aimed to encourage universities to do more innovation and gave information the benefit of innovation to the prosperity of society. By encouraging students to do more innovation, US as well as other WTO members including China, hope that it will help the government in the enforcement of IPRs.


At global institutional level, US not only put much effort on the enforcement and protection of IP through WTO, but also through WIPO. In addressing IP infringement through WIPO, US has done several response such as conducting in training program, trying to fight against IP issues and reminding other states to enforce Copyright Treaties and Internet Treaties by WIPO. In general, WIPO Copyright Treat Treaty (WCT) provides protection for the right holders of artistic works. This treaty covers in several fields including in the field of literature, software, music and films in this digital era.\textsuperscript{324} This treaty is an improvement of treaty regarding copyright, the Berne Convention that is no longer accordance with current situation. Based on data from USTR in 2014, 92 states have signed this treaty.\textsuperscript{325} As one of US trading partner, China signed WIPO Copyright Treaty in 2007.\textsuperscript{326}

As the world entered globalization era, WIPO also improved its treaty in accordance with the recent condition. The fact that internet can be easily accessed

\textsuperscript{322} United States Trade Representative, "2015 Special 301 Report,"
\textsuperscript{323} Ibid.
\textsuperscript{325} United States Trade Representative, "2014 Special 301 Report,"
\textsuperscript{326} United States Trade Representative, "WIPO Internet Treaties: WIPO Performance and Phonograms Treaty (WPPT) and the WIPO Copyright Treaty (WCT)," United States Trade Representative, accessed March 13, 2018, https://ustr.gov/sites/default/files/asset_upload_file983_11127.pdf.
worldwide in inevitable. On one side, it brings the advantages for society. However, on the other side, it brings disadvantages to some entities due to many piracy cases happen on internet. As a result, WIPO establish WIPO Internet Treaties in 2002. In general, this treaty provides exclusive rights to the right holders of copyright on internet. In the implementation of the treaty, WIPO require all member states to sign to legalize this agreement.\textsuperscript{327} By signing this treaty, it means that the member states agree to be bound in this agreement, to protect IP through legal system and agree to impose sanctions as well as criminal procedures for those who conduct in copyright piracy on internet.

Increased number of states that sign Internet Treaties annually showed that states put effort to improve its business environment so they can attract more countries to cooperate with them in trade and business area. Since WIPO Internet Treaties has an important role in the copyright enforcement, US encouraged its trading partner to sign the treaty in addressing copyright piracy, including movie piracy along with other IPRs infringement by China.\textsuperscript{328} As a result, China signed the agreement in 2007.\textsuperscript{329} Not only making According to US, WIPO Internet Treaties has a role in helping US to protect its Intellectual Property, especially from copyright piracy on internet. In practice, US urged other states to take action in the area of technological protection that may be used as a mechanism to do copyright piracy.\textsuperscript{330} Hence, Since China has signed these two treaties, US always urges China to commit and enforce Copyright through internet, as it is written in WIPO Copyright Treaties and WIPO Internet Treaties as US mentioned in USTR Special 301 Report each year during 2013 - 2016.

Besides, US has cooperation with WIPO in conducting conference called International Copyright Institute Training for Copyright Officials.\textsuperscript{331} These

\textsuperscript{328} United States Trade Representative, "2014 Special 301 Report,"
\textsuperscript{329} United States Trade Representative, "WIPO Internet Treaties: WIPO Performance and Phonograms Treaty (WPPT) and the WIPO Copyright Treaty (WCT)."
\textsuperscript{330} United States Trade Representative, "2013 Special 301 Report,"
\textsuperscript{331} United States Trade Representative, "2016 Special 301 Report,"
conference was held once in two years. In 2013 – 2016, US has conducted two conferences in 2014 and 2016 which both of them are attended by China. The 2014 meeting was attended by government worldwide, business entities, and experts focusing on the issue in the field of copyright.\textsuperscript{332} The concerned issues were including challenges faced by government and business in enforcing copyright in digital era and good will from the government to enforce copyright law and policy.\textsuperscript{333} In 2016, the parties involving in the conference learned about the system of copyright registration in this digital era, difficulties in protecting and enforcing copyright challenges and take actions in addressing copyright issues.\textsuperscript{334}

Despite copyright piracy, including movies, became US concerns in conducting trade relations with China during 2013 – 2016, US could not take criminal procedures to all infringers because not all US movie industries open up the problem faced by their companies. Moreover, due to interdependency, US think tank assumed that if US pushed China too hard in this issue, it would exacerbate their bilateral relations and then it would bring negative impact in the future as a consequence.\textsuperscript{335} However, after US gave several response in addressing this issue, it does not give positive result to US economy where US movie industry income from Chinese market went down from $6.8 billion to $6.2 billion in the end 2016.\textsuperscript{336} Besides, movie piracy revenue even increased from $6.7 billion in 2010 to $26.7 billion in 2016.\textsuperscript{337} This movie piracy revenue even kept increasing in 2017, accounted for $31.8 billion.\textsuperscript{338}

\textsuperscript{333} Ibid.
\textsuperscript{336} Motion Pictures Association of America, "Theatrical Market Statistics 2016."
\textsuperscript{338} Ibid.
CHAPTER V
CONCLUSION

V.1 Conclusion

Trade relations between US and China has been established for decades. Today, its trade relations has become more developed and important due to globalization. Recently, China becomes one of the largest US trading partners, including in movie industry. Despite being the largest market for US export movies during 2013 – 2016, US faced some challenges in conducting trade in China due to Chinese government policy that hampers US movies to enter Chinese market and rampant movie piracy in China. This research has provided the US government response in addressing US IPRs infringement regarding movie piracy by China during 2013 – 2016. In providing explanation, this research uses two theories. The first theory used is intellectual property, which will give explanation about movie as it is protected in intellectual property right, specifically in copyright, and the infringement of it, which is called as piracy. The second theory used in this research is complex interdependency theory by Robert Keohane and Joseph Nye, which can be used in describing trade relations between China and US causing both states dependent to each other. Besides, this theory is useful in determining US response in addressing US movie piracy by China.

The research question raised by the writer is “How did the U.S. respond in addressing IPRs infringement regarding movie piracy by China during 2013-2016?” Since this research is using complex interdependence theory because US is dependent on China due to China’s huge contribution in US trade and US has much debt to China, then the response will be more likely through negotiation, both in bilateral meeting or international organization in addressing the issue. The result of this research is the responses of US government in addressing US movie piracy by China are by direct statement of President, discussion on JCCT, investigation by USTR, press conference and through international organization WTO and WIPO.
However, the response of US to China in addressing IPRs infringement regarding US movie piracy in 2013 – 2016 failed to resolve this issue. The revenue from US movie industry in the Chinese market even decreased in the end of 2016 and the IPRs infringement regarding movie piracy still remains high.
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Remarks by the President to the Business Roundtable

Business Roundtable Headquarters
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11:24 A.M. EDT

THE PRESIDENT: Thank you, Randall, and thank you to everybody here at the Business Roundtable for having me today. I’m just going to say a few words and then hopefully spend a lot of time taking your questions.

Seven years ago today was one of the worst days in the history of our economy. If you picked up the Wall Street Journal that morning, you read that the shocks from AIG and Lehman were spreading worldwide. The day before, stocks had suffered their worst loss since 9/11. In the months after, businesses would go bankrupt, millions of Americans would lose their jobs and their homes, and our economy would reach the brink of collapse.

That’s where we were when I became chief executive. Here’s where we are today: Businesses like yours have created more than 13 million new jobs over the past 66 months — the longest streak of job growth on record. The unemployment rate is lower than it’s been in over seven years. There are more job openings right now than at any time in our history. Housing has bounced back. Household wealth is higher than it was before the recession. We have made enormous strides in both traditional energy sources and clean energy sources while reducing our carbon emissions. And our education system is actually making significant progress with significant gains in reducing the dropout rate, reading scores increasing, math scores increasing. And, by the way, more than 16 million people have health insurance that didn’t have it before.

So this progress is a testament to American business and innovation. It’s a testament to the workers that you employ. But I’m going to take a little credit, too. It’s a testament to some good policy decisions. Soon after we took office, we passed the Recovery Act, rescued our auto industry, worked to rebuild our economy on a stronger foundation for growth. Other countries in some cases embraced austerity as an ideology without
looking at the data and the facts, tried to cut their way out of recession. The results speak for themselves. America has come back from crisis faster than almost every other advanced nation on Earth. And at a time of significant global volatility, we remain the world’s safest, smartest investment.

Of course, I will not be satisfied -- and we as a country shouldn’t be satisfied -- until more working families are feeling the recovery in their own lives. But the fact is that what I’ve called middle-class economics has been good for business. Corporate profits have hit an all-time high. Slowing health care prices and plummeting energy costs have helped your bottom lines. Manufacturing is growing at the fastest clip in about two decades. Our workforce is more educated than ever before. The stock market has more than doubled since 2009, and 2015 is on pace to be the year with the highest consumer confidence since 2004. And America’s technological entrepreneurs have continued to make incredible products that are changing our lives rapidly.

Now, you wouldn’t know any of this if you were listening to the folks who are seeking this office that I occupy. (Laughter.) In the echo chamber that is presidential politics, everything is dark and everything is terrible. They don’t seem to offer many solutions for the disasters that they perceive -- but they’re quick to tell you who to blame.

I’m here to say that there’s nothing particularly patriotic or American about talking down America, especially when we stand as one of the few sources of economic strength in the world.

Right now, we’ve got the chance to build on progress that we have made and that is acknowledged worldwide. We have a chance to grow the economy even faster, create jobs even faster, lift people’s incomes and prospects even faster. We just have to make some sensible choices. And I’m going to focus on one particular example. America’s next fiscal year is almost upon us, which means that Congress has about two weeks to pass a budget. If they don’t, they will shut down America’s government for the second time in two years.

Democrats are ready to sit down and negotiate with Republicans right now, today, as we speak. But it should be over legitimate questions of spending and revenue -- not unrelated ideological issues. You’ll recall that two years ago Republicans shut down the government because they didn’t like Obamacare. Today, some are suggesting the government should be shut down because they don’t like Planned Parenthood. That’s not good sense and it’s not good business. The notion that we’d play chicken with an $18 trillion economy and global markets that are already skittish all because of an issue around a women’s health provider that receives less than 20 cents out of every thousand dollars in the federal budget, that’s not good policymaking.

The last time Republicans shut down the government, it cost our economy billions of dollars; consumer confidence plummeted. I don’t think anybody here thinks that’s going to be good for your business.

I’ve always believed what our first Republican President, a guy from my home state named Abraham Lincoln, believed -- that through government we should do together those things that we can’t do as well by ourselves. Funding infrastructure projects. Educating the best workforce in the world. Investing in cutting-edge research and development so that businesses can take that research and take some risks to create new products and new services. Setting basic rules for the marketplace that encourage innovation and fair competition that help a market-based economy thrive. Creating a safety net that not only helps the most vulnerable in our society but also frees all of us to take risks and protect against life’s uncertainties. And welcoming, rather than disparaging, the striving immigrants that have always been the source of continued renewal, economic vibrancy and dynamism in our economy.

So my hope is that Congress aims a little higher than just not shutting the government
down. That’s a good start, we’d like them to achieve that, but I think we can do better. We can actually do some things to help the economy grow. After the last shutdown, both parties came together and unwound some of the irrational cuts to our economy and military readiness that’s known as sequester. That agreement expires in two weeks as well. And for those of you who are not steeped in federal budget terminology, sequester basically are automatic topline cuts that don’t discriminate, don’t think through what are good investments and what is waste. And if we don’t reverse the cuts that are currently in place, a lot of the drivers of growth that your companies depends on -- research, job training, infrastructure, education for our workforce -- they are going to be reduced effectively at a time when other countries around the world are racing to get ahead of us. On the other hand, if Congress does reverse some of these cuts, then our own budget office estimates it would add about half a million jobs to our economy next year alone, about 0.4 percent to GDP.

And keep in mind that we can afford it right now -- all the things I said at the front in terms of the recovery that we’ve made. We’ve also reduced the deficit by two-thirds. Right now it’s about 2.8 percent of GDP. We’ve reduced our deficit faster than some of those countries that pursued strict austerity policies and weren’t thinking about how to grow the economy. And so we are well positioned without adding to the deficit. I want to repeat -- since I took office, we’ve cut the deficit by more than two-thirds. And the good news is we might actually be moving beyond some of the stale debates we’ve been having about spending and revenue over the past several years if what economists and people who are knowledgeable about the federal budget are listened to as opposed by this being driven by short-term politics.

People in both parties, including some of the leading Republican candidates for President, have been putting out proposals. Some I agree with, some I don't. I’ll give you one example, though. You’ve got two leading candidates on the Republican side who have said that we should eliminate the carried interest loophole. Now, there’s disagreement in this room around that. But I will tell you that keeping this tax loophole, which leads to folks who are doing very well paying lower rates than their secretaries, is not in any demonstrable way improving our economy. On the other hand, if we close the tax loophole, we could double the number of workers in America’s job training programs. We could help another 4 million students afford college. These are sensible choices that if you were running your business and you took a look at it, you’d make that decision. Well, America should too. And this is an example of how we can maintain fiscal responsibility while at the same time making the investments that we need to grow.

So the bottom line is this: Seven years ago, if we had listened to some politicians who said we could only cut our way to prosperity, the fact is we’d be worse off today. If we listen to them now, then we're going to be worse off tomorrow. I hope that you will talk to your friends in Congress, Democrats and Republicans alike. As Congress flirts with another shutdown, remind them of what is at stake. We will have some disagreements sometimes. I do not expect to get 100 percent of what I want in any conversation, including with my wife. But I do expect us to stay focused on why we're here, which is to help the American people and businesses like yours and your workers do better. That's our job. We're not supposed to be impeding progress. We're supposed to be advancing progress, accelerating it.

And if our leaders can put common sense over ideology and the good of the country before the good of the party, then we’ll do just fine. Despite the perennial doom and gloom that I guess is inevitably part of a presidential campaign, America is winning
right now. America is great right now. We can do even better. But the reason that I’m so confident about our future is not because of our government or the size of our GDP or our military, but because everybody in this country that I meet -- regardless of their station in life, their race, their religion, the region they live in -- they do believe in a common creed that if people work hard in this country, they should be able to get ahead. And I know that's what you believe. That's the values that you try to instill in our companies, as well. My hope is, is that that decency, that hard work, that common sense is going to be reflected here in Washington.

So with that, let me take some questions. And I’m going to start with Randall, because since he volunteered for what I’m sure is a thankless job of being head of the --

Q I’ll get it going here. I know there are a lot of other questions for you. But Leader McConnell was just here a little earlier, and he gave us all a cause to exhale, talking about the budget and seemed confident that we would get a place where we would have a budget. And in the context of that he spoke about how split government can actually provide opportunities for getting big things done that might be hard to get done otherwise. And he caused a head-snapper with all of us when he gave you a very strong compliment over --

THE PRESIDENT: My head is snapping. (Laughter.) What did I do?

Q Trade Promotion Authority, and how you worked that and you worked it very aggressively. And, by the way, all of us in here -- Mike Froman, I don’t know if he’s here, and Jeff Zients are very complimentary of the work that was done there. So now you have the authority to get a trade deal done. It’s going to have to come back to Congress, and so forth. Talk to us a little bit about your view of the opportunity to get the Trans-Pacific deal done.

THE PRESIDENT: I am confident that we can get it done, and I believe we can get it done this year. The trade ministers should be meeting again sometime in the next several weeks. They have the opportunity to close the deal. Most chapters have been completed at this point. And I’m confident that it will, in fact, accomplish our central goal, which is to make sure that we’ve got a level playing field for American businesses and American workers in the fastest-growing region of the world.

There are going to be unprecedented protections for labor standards and environmental standards, but also for IP protection, also for making sure that when any company here makes an investment, that they’re not being disadvantaged but are instead being treated like domestic companies for commercial purposes.

And so the notion here is, is that we’ve got 11 nations who represent the fastest-growing, most populous part of the world buying into a high-standards trade deal that allows us and your companies on a consistent basis to compete. And the good news is, is that with a lot of tough negotiating and a lot of pushing and pulling -- mainly by Mr. Froman, but occasionally I get called in to lob a call into one of my counterparts -- I think that we’re going to get this done.

Now, the key then, once we close the negotiations and we have an agreement, is to get TPP through Congress. We got it through. I will return the compliment of Mitch McConnell worked very hard and very creatively to get it done. We should not assume, though, that because the authority was done, that we automatically are going to be able to get TPP done.

And I’ll be honest with you, the reason is that the politics around trade are tough. And
I said this even in the run-up to getting TPA authority. A lot of Americans, when they think of trade, think of plants in their hometown or nearby shutting down and moving to Mexico or China, and American manufacturing and good-paying jobs being lost. That’s the image of trade.

And the argument that I have made consistently to Democrats has been that there may have been some mistakes made in past trade agreements in not, for example, having enforceable labor and environmental provisions that put American companies that are doing the right thing at a disadvantage; that there weren’t enough safeguards for intellectual property and the abuses of state-owned enterprises and subsidies that companies may have been involved with.

But that’s the status quo now. And if you want to correct those things, we’ve got to raise the bar. I didn’t fully persuade all my Democratic colleagues, because the politics are tough. And I was willing to take my case to the Democratic caucus and to talk to my friends in organized labor and say that we can’t look backwards, we’ve got to look forward. We’re going to have to compete in these areas.

Here’s the concern politically, is that I think within the Republican Party some of the same impulses that are anti-immigration reform, some of the same impulses that see the entire world as a threat and we’ve got to wall ourselves off, some of those same impulses also start creeping into the trade debate. And a party that traditionally was pro free trade now has a substantial element that may feel differently.

And so the BRT, I think -- you know, you got to put Engler to work over there. To their credit, both Mitch McConnell and John Boehner I think are on the right program here, but they’re going to need some help potentially with their membership, because the closer we get to political season, the tighter some of these votes get. I will tell you this, though: I am confident that if I’m presenting an agreement to Congress, that it will meet the commitment that I made that this would be the highest standard, most progressive trade deal in American history. It will be good for American business and American workers.

Q Hi, Mr. President. Thank you for being with us. I wanted to ask you about cybersecurity. You put an executive order in place earlier this week because of the issues we have with information-sharing and with liabilities. And we at the BRT are very supportive of the legislation that has passed the House and is now in progress in the Senate. And I wanted to just get your thoughts on how you’re thinking about this, and also with the upcoming visit of the President of China about cybersecurity and our relationship with China.

THE PRESIDENT: This is an issue that is not going away. It is going to be more and more important, and it is going to be very challenging. It’s challenging in part because the Internet itself, the architecture of it was not intended to carry trillions of dollars of transactions and everybody’s personal information. It was designed for a couple of professors to trade academic papers. And so the kind of security that we were looking for was not embedded into the DNA of the Internet.

And the vulnerabilities are significant and they are being exploited by not just state actors, but also non-state actors and criminal gangs at an accelerating pace. So this is something that from a national security perspective and from a business perspective we’re going to have to continue to concentrate on.

One of the big issues that you mentioned, Maggie, that we’re focused on, is this encryption issue. And there is a legitimate tension around this issue. On the one hand, the stronger the encryption, the better we can potentially protect our data. And so there’s an argument that says we want to turbocharge our encryption so that nobody can
crack it. On the other hand, if you have encryption that doesn’t have any way to get in there, we are now empowering ISIL, child pornographers, others to essentially be able to operate within a black box in ways that we’ve never experienced before during the telecommunications age. And I’m not talking, by the way, about some of the controversies around NSA; I’m talking about the traditional FBI going to a judge, getting a warrant, showing probable cause, but still can't get in.

So we’ve created a process around which to see if we can square the circle here and reconcile the need for greater and greater encryption and the legitimate needs of national security and law enforcement.

And I won’t say that we’ve cracked the code yet, but we’ve got some of the smartest folks not just in government but also in the private sector working together to try to resolve it. And what’s interesting is even in the private sector, even in the tech community, people are on different sides of this thing.

With respect to China, this will probably be one of the biggest topics that I discuss with President Xi. We have repeatedly said to the Chinese government that we understand traditional intelligence-gathering functions that all states, including us, engage in. And we will do everything we can to stop you from getting state secrets or transcripts of a meeting that I’ve had, but we understand you're going to be trying to do that. That is fundamentally different from your government or its proxies engaging directly in industrial espionage and stealing trade secrets, stealing proprietary information from companies. That we consider an act of aggression that has to stop.

And we are preparing a number of measures that will indicate to the Chinese that this is not just a matter of us being mildly upset, but is something that will put significant strains on the bilateral relationship if not resolved, and that we are prepared to some countervailing actions in order to get their attention.

My hope is, is that it gets resolved short of that, and ultimately the goal should be to have some basic international framework that won’t be perfect because there’s still going to be a lot of non-state actors and hackers who are very good, and we're still going to have to have good defense and still have to be able to find the fingerprints of those and apprehend them, and stop networks that are engaged in cybercrime.

But among states, there has to be a framework that is analogous to what we’ve done with nuclear power because nobody stands to gain. And, frankly, although the Chinese and Russians are close, we’re still the best at this. And if we wanted to go on offense, a whole bunch of countries would have some significant problems. And we don't want to see the Internet weaponized in that way. That requires I think some tough negotiations. That won’t be a one-year process, but we’d like to see if we can -- if we and the Chinese are able to coalesce around a process for negotiations, then I think we can bring a lot of other countries along.

Q And we will work with you on that too.

THE PRESIDENT: Good.

Q Thank you.

THE PRESIDENT: Ursula.

Q Thank you for being here. It’s also good to be reminded occasionally of some of the progress that we’ve made in like a complete sentence. So I think thank you for that, as well. And some recent ones -- TPA is good; even the Iran deal, really good. Health care standing up. All good. The place that we haven’t made a lot of progress but that's
really important for business and business progress is on tax and tax reform. And what we're getting to now is I think almost kind of like being backed in the corner. So since you can't get a grand deal, we're starting to talk about sub-deals. And the sub-deals in and of themselves are destructive, in the Business Roundtable's view, to the grand deal, which is total tax reform or comprehensive tax reform. So can you help us think about how we should negotiate this duality that we're in right now? And where do you think we're going to end up?

THE PRESIDENT: We put forward a proposal early on that I’m confident I could sell to this group. Not everybody would be thrilled but I think I could argue that over time would be good for business, because essentially what we proposed was the traditional framework for tax reform: close loopholes, lower rates. We’d address international taxation in ways that currently put American businesses at a disadvantage and would allow for a repatriation, but would not simply empty out the Treasury and would generate enough revenue that we could actually also pay for some infrastructure.

And our hope was that we’d get some nibbles on the other side. To his credit, Paul Ryan expressed real interest in discussions and negotiations. But your previous speaker, Mitch McConnell, has said that he is not interested in getting tax reform -- comprehensive tax reform of that sort done. So there’s still work being done. We're still in conversations with Mr. Ryan. And I know that Senator Schumer and others have still been working on the possibilities of a fairly robust package. But ultimately you're going to have to have the leader of the Senate majority party bought in to try to get this done.

I understand why tax reform is elusive -- because those of us who believe in a simpler, fairer, more competitive tax framework in the abstract sometimes look at our bottom lines and say, I don’t know, that deduction is helping us pretty good here. And even if this organization has been supportive, there are other business organizations in town that have some pretty strong influence over the Republican Party that haven’t been as wild on it, partly because their view is, is that the only kind of tax reform that’s acceptable is one that would also lower all rates, regardless of its effect on the deficit. That’s just not something that is viable. So we’re going to keep on working on it. My suggestion would be that the BRT continue to encourage Speaker Boehner, Paul Ryan, Mitch McConnell to come up with an ambitious package. And what I can assure you is, is that the White House will take it seriously. We don’t expect that everything in our original package would go forward. But the one thing that we couldn’t do -- and I get concerned sometimes that what is labeled as tax reform ends up just being cuts, you’re not closing the loopholes, and as a consequence it’s a huge drain on the Treasury. We then suddenly are accused of running up the deficit to help your tax rates, and we’re not doing enough to help grow the economy and help ordinary workers. So that’s the one direction we can’t go in.

Yes, Tom.

Q Thank you for being here. I’d love to hear your thoughts on energy policy. I know we talk a lot about all of the above, but I think what’s really changing kind of in an unprecedented way here recently are technology revolutions that are occurring either in the production of energy, or perhaps, more importantly, in the use of energy, that gives Americans I think a way to play offense in what has been a set of unprecedented challenges. What’s your thoughts on that?

THE PRESIDENT: Tom, I think you described it well. I am much more optimistic about our ability to get a handle around energy that is good for our economy, good for
business, good for consumers, good for job creation, and maybe saves the planet in the
process. I’m much more optimistic about that now than I was when I started as
President. And a good example is just when you look at what’s happened with solar. I
mean, we’re not quite at Moore’s law yet, but the pace at which the unit costs for solar
energy have gone down is stunning. We’ve seen not quite the same pace, but similar
progress around wind. Our natural gas production is unprecedented. And I have been
very supportive of our natural gas production as being not only important to our
economy but also geopolitically. It’s a huge recipe for energy independence as long as
we get it -- the methane discharge issues -- right. And I think there are ways of doing
that with sound science. So that’s on the production side. And, as you said, on the
utilization side, all of you are -- there’s not a company here that is not producing
significantly more product with less energy than you were just 10 years ago, and
certainly than you were 20 years ago. Everybody here has seen the power of tracking
utilization, identifying waste, and timing issues around when is energy expensive, when
is energy cheap. So there’s enormous progress on the commercial side. And then
individual households now with things like Nest or the equivalence, we’re able to fine-
tune our energy usage in ways that we just haven’t seen before. And then you’ve got the
whole transportation sector in which we’ve continued to make significant progress in
Detroit as well as upstarts like Tesla. There are still some distribution network issues
around the transportation revolution, although companies like UPS are doing a great job
I think already experimenting with their fleets. So that’s all good news. I would say
that the big challenge now, if we’re going to realize all the potential here, is to work
with utilities so that they have a business model in which they’re making money while
seeing this change in distribution patterns and grid, because I think that there’s still
some legitimate economic issues there that have to be sorted through. And it’s tricky
because it’s a patchwork system; we don’t have one national grid, obviously. The
second thing is, investment in basic research needs to continue. Battery technology is
greatly improved, but we still haven’t seen all the breakthroughs that I think that we can
make with battery technology that would make a huge difference in storage. And that’s
an exciting area for development.

And then I would urge the BRT and some of you individually, as companies have
already done this, view the issue of climate change and the Paris Conference that’s
going to be coming up at the end of this year as an opportunity rather than as a
problem. Because this is coming; it’s coming generationally. If you talk to your kids
or my kids, they are much more attuned to this issue. Consumers are going to be caring
about it more and more. The environmental effects that we’re seeing -- I’m going to be
calling Jerry Brown later today just to talk about California wildfires. Some of you
may have read the snowpack in the Sierra Nevada -- lowest it’s been in 200 years. The
flooding problems that we’re already seeing in places like South Florida; it’s just during
high tide. Suddenly billions of dollars of property is under water. So this is
coming. And for us to be out ahead of it and to think about how our ingenuity and our
science can solve these problems is going to give us a jump on everybody else. So
there is a pledge that some members of the BRT have organized around supporting a
strong Paris agreement. I would encourage you to sign up on that and look for
opportunities on this. And that includes companies that have been in the traditional
fossil fuel area. Because if you know how to do oil and gas well, you can figure out
how to do solar well, you can figure out to make money doing it. You can figure out
how to create efficiencies that help your bottom line. And what we’ve tried to do with
the Clean Power Plan is to give states flexibility, understanding everybody has got a
different energy mix. So, down south, we approved the first nuclear plant in a
generation, basically, because we think nuclear needs to be part of that package. I’m a big believer that there are going to be different ways to skin the cat on this thing. We just have to set a baseline in which all of us understand the direction we need to go. Instead of us spending a lot of time fighting science, let’s go with science. We usually do better when we’re on the side of facts and evidence and science. Just as a general rule, that’s proved to be our strength as Americans.

Q  If I could just turn back to China for a second. There are a lot of issues we’ve got to sort out, and you mentioned a couple of them -- cybersecurity, their feelings about TPP, their own economy. Their inward turn in the name of creating a consumer economy has had some protectionist elements that we don’t like. I think, though -- I think many in this room would like to see some kind of positive outcome from this summit, as well, that underlines our mutual benefit if we can figure out some of these things and find a way for the world’s two biggest economies to see a path forward as well as all the issues we’ve got. Do you have a comment on the tone you’re going to try to set with the President, and roles that we could play in supporting both the -- managing our relationship as well as finding a future for it?

THE PRESIDENT: My tone with respect to China has been pretty consistent. It doesn’t jump up and down depending on where the polls are. My view is that China should be and will continue to be an economic competitor; that we need to make sure that we are reaching an understanding with them about our presence as a Pacific power, but that it is in our interest for China to continue what has been dubbed a “peaceful, orderly rise.” I think that’s good for the world. China is a big place with a lot of people. And we’re better off if those people are eating and have shelter and are buying consumer goods, rather than starving and writhing on the streets. And so what I’ve consistently communicated, first to President Hu when I came into office, now President Xi, is our goal is to have them as a partner in helping to maintain a set of international rules and norms that benefit everybody; that in fact, we’re what facilitated China’s rise. They were essentially riding on our backs for the last 30 years because we were underwriting peace, security, the free flow of commerce, international rules in the financial sector. And as they have matured, what we’ve said to them is, with power comes responsibility, so now you’ve got to step up. You can’t act as if you are a third-world country and pursue protectionist policies, or engage in dumping, or not protect intellectual property at a time when we’re now -- when you’re now the second and, eventually, probably the first-largest economy in the world.

You can’t simply pursue an export-driven strategy, because you’re too big. You’re not going to be able to grow your economy at the same pace over the next 20 years that you did in the last 20 years. Once your economy reaches a certain size, there’s not enough global market to absorb that, which means that you’ve got to start thinking about transparency within your own economy, and how are you setting up a safety net so that workers have some cushion, and in turn, are willing to spend money as opposed to stuffing it in a mattress. You’ve got to be concerned about environmental issues, because you can’t breathe in Beijing. And that spills over for all of us. And as a large country with a powerful military, you can’t go around pushing your little neighbors around just because you’re bigger, but you have to start abiding by a basic code of conduct and a set of rules, because ultimately, you will be advantaged by everybody following the rules. And I think in some areas, the Chinese understand this; I think in other areas, they don’t. I think in other areas, they still see themselves as the poor country that shouldn’t have any obligations internationally. And in some cases, they
still feel that when we call them on issues like their behavior in the South China Sea, or on intellectual property theft, that we are trying to contain them as opposed to us just wanting them to abide by the same rules that helped create an environment in which they can rise.

The good news is that our fates are sufficiently intertwined, that -- and in many ways, they still need us a lot more than we need them; that I think that there are going to be continuing areas in which they move, as long as we don't resort to the kind of loose talk and name-calling that I notice some of our presidential candidates engage in -- people you know. (Laughter.) It tends not to be constructive. So bottom line, though, is, Jim, I think this summit will be useful. I think there are going to be a lot of outcomes around things like energy and climate change, around improvements in how they deal with investors that will show constructive progress. I think our military-to-military conversations have been much better than they were when I began office. The one thing I would suggest that the BRT can do -- two things. Number one -- and I think I've said this to some of you in the past -- when your companies have a problem in China and you want us to help, you have to let us help. Don't tell us on the side, we've got this problem, you need to look into it, but then -- but leave our names out of it because we want to be punished kind of thing. Typically, we are not effective with the Chinese unless we are able to present facts and evidence of a problem. Otherwise, they'll just stonewall and slow-walk issues. So if we're seeing problems in terms of the competitive environment there, in terms of protecting your IP, in terms of unfair competition that runs afoul of understanding the principles that have already been established, you've got to let us know and let us be your advocates. That's important.

The second thing I think everybody here should do is not fall into the same trap that we fell into around Japan in the 1980s, which is somehow China is taking over just like Japan was taking over, and we're in inevitable decline. This whole argument -- I'm just going to go on a quick rant here for a second -- (laughter) -- this whole notion that somehow we're getting out-competed, out-dealt, out-this, out-that, we're losing, we're in -- nobody outside the United States understands what we're talking about. (Laughter.) I mean we've got problems. We've got issues. Our biggest problem is gridlock in Washington and that's just not making some sensible policies. But overall, our cards are so much better than everybody else's. Our pool of quality businesses and talent, and our institutions, and our rule of law, and how we manage and adapt to new and changing circumstances, and our dominance in knowledge-based industries -- nobody matches us. And we attract -- the best talent around the world still wants to come here if we'd just let them come. So I think it's important for business voices to point out every once in a while America is in the driver's seat if we make some smart decisions. And that's not a partisan comment, that is just the facts. There is not a country out there, including China, that wouldn't look at us with envy right now.

And so our problem is not that China is going to out-negotiate us, or that Mr. Putin is sort of out-strategizing us. Anybody taken a look at the Russian economy lately? That's not our problem. Our problem is us, typically. We engage in -- and I'm being generous when I say “we,” -- (laughter) -- but we engage in self-inflicted wounds like this potential government shutdown. It's unnecessary. I've got time for a couple more questions. Good to see you. How you doing? How you doing, Ed? How is everybody back home?
Q Very good.

THE PRESIDENT: Good.

Q Along that, in that same vein, looking earlier this summer, the expiration of the Ex-Im Bank authorization.


Q Understand. And part of the ongoing discussion, debate here in Washington, the Senate has attached a reauthorization, as you know, to the transportation bill, which is now down at the House. And on Monday the Roundtable sent a letter to the leadership on both sides in Congress pointing out really the benefits of reauthorization, that some of those get lost in this debate. Because really, it’s been characterized as only benefitting a few companies, which ignores the thousands of people who are basically employed by our suppliers across the country, and the impact -- positive impact that has, as well as it’s a net generator revenue for the governor -- for the government. And we have plans to have further discussions later today and this week with leadership in the House. Do you have any -- we had a good discussion with your team this morning. Do you have any insights that you could share with us that would help us in getting that reauthorization?

THE PRESIDENT: It is mind-boggling that this wasn’t reauthorized a year ago. And it is this weird reversal in which the principle opponents are the tea party caucus in the Republican Party. Somehow, Ex-Im Bank has become this cause célèbre of what some of the presidential candidates called “crony capitalism.” And what’s ironic is obvious - - I think some of you know the backstory. There was I think a member of this organization that kind of started this whole thing because they were upset about some planes being sold to a competitor on a route, and suddenly this caught fire in the right wing Internet. And it’s just hard to explain. Look, Ed, I had a group of small businesses, ranging from, what, four people to a couple of hundred people, talking about how they use Ex-Im. This is the only way that they can get into these markets. And as you said, Ex-Im doesn’t cost the government. This is not a money loser for us. And I don’t have to tell Emil (ph) or Jim how important it is. I keep on telling them I expect a gold watch from them because it seems like every time I take a foreign trip I’ve got to sell some turbine or plane. (Laughter.)

And I was concerned about Jeff’s announcement that jobs that were here in the United States are now going to be overseas because we don’t get this done. But that’s true for the supply chain; it’s also true for some smaller companies that use Ex-Im directly. It’s not just that they’re part of the GE or Boeing supply chain, it’s that they’re selling tea to a country and this is the only mechanism they have to be able to make those sales. The good news is McConnell and Boehner both say they want to get it done. As you said, we’ve already shown there are sufficient votes for it in the Senate, and we actually think there are sufficient votes for it in the House. I would concentrate your attention on House Republican caucus members. And I think you have to flood the zone and let them know this is important. And that includes, by the way, talking to individual members who, in their districts, potentially have companies that are being adversely affected as long as Ex-Im is frozen. But my expectation is it gets done during the course of these budget negotiations. And we’re going to push as hard as we can to get it, though.
Mr. President, thank you for being here today. One of the issues that we deal with and we talked about last time you were here was regulations. And one of the areas that the Business Roundtable is very focused on these days is the ozone rule, which October 1, your administration will be coming out with a recommendation associated with that. The Business Roundtable position is that we need to maintain the 75 parts-per-billion. To lower that standard when technology doesn’t exist and when communities are already advancing toward the 75 goal -- if you lower it to 70, it’s going to introduce another 200 counties in this country into non-attainment, which basically is a “we’re not open for business.” And that’s our concern. Do you have any thoughts on that, or what the administration’s plans are in that regard?

THE PRESIDENT: There’s a lot of complicated technical issues involved in this, but I’ll try to simplify it as much as possible. Number one, we’re under a court order to do this. So I think there may be a misperception that the EPA can do whatever it wants here. There were lawsuits brought under the previous administration that continued into my administration. We went before a judge. We actually, I think properly, got some additional time, because there was the notion that we were going to lower standards a few years ago, and then immediately get new data and force everybody to lower them all over again. And we said, let’s just do this one time in a sensible way so that people can plan.

But we’ve got some legal constraints. This is not something that just popped out of my head full blown. And so I always enjoy seeing the advertising for “Obama’s ozone plan.” The ozone rules date back to when I was I think still in law school, before I had any gray hair. And there are some fairly stringent statutory guidelines by which the EPA is supposed to evaluate the standards. So the EPA is following the science and the statutes as best as it can. We are mindful that in some cases, because of the nature of where pollutants are generated, where they blow, that this can create a really complicated situation for certain local jurisdictions and local communities, and some states and counties end up being hit worse than others. And we’re trying to work with those states and those communities as best we can taking in their concerns into account.

So I guess the bottom line is this is -- you can legitimately go after me on the clean power plant rule because we -- that was hatched by us, and I believe that we need to deal with climate change and -- so we can have a lengthy debate about that. And on ozone, this is an existing statute and an existing mechanism, and we are charged with implementing it based on the science that’s presented to us. And that’s what we’re trying to do, but we’re taking this input into account. I recognize some of the concerns.

I will say this -- last point I’ll make on this. Even with the costs associated with implementing the ozone rule, when you do a cost-benefit, the amount of lives saved, asthma averted and so forth is still substantially higher than the costs. Now, that doesn’t necessarily resolve all the concerns that people may have about local costs being borne, whereas the savings are spread out more broadly. And those are legitimate economic issues that have to be considered. And the EPA has been listening to I think every stakeholder there. But I think what you’ll see in the analysis overall is -- we don’t issue a regulation where the costs are not lower than the benefits. And if you look at the regulations we’ve generally put forward, the costs are substantially lower than the benefits that are generated. Okay.
Q: Yes, thank you, Mr. President. Many of us are interested in Cuba. And the opening there has been positive. There is a lot of issues to get to full normal relations. Just how do you see that path happening? And what’s the future of that in your opinion? Thank you.

THE PRESIDENT: I don't think it’s going to be an overnight transformation, but I am convinced that by re-engaging Cuba, re-engaging the Cuban people, that we are creating the environment in which a generational change and transition will take place in that country. And already you're seeing conversations taking place about how is Cuba going to accommodate an influx of tourists, and how do they think about the Internet and open communications in order to be able to participate in the modern economy? And that inevitably then leads to questions about can you hire -- can a company hire a Cuban directly, a foreign investor, as opposed to going through the government? And over time, that creates space for personal freedom and I think a long-term political transition. For now, what we've said is that we will step by step look for areas and opportunities within our authorities. As long as Congress still has the embargo in place, there are certain things we can't do. But there are certain things we can do, for example, on telecommunications, and we're looking for opportunities there. And we will also continue to press the Cuban government around issues of political freedom. And when His Holiness the Pope comes, he’s going to be visiting Cuba. That I think is going to be an opportunity for more interesting conversations inside of Cuba.

My biggest suggestion would be for the BRT just to start having a conversation on a bipartisan basis about lifting the embargo. It doesn't necessarily have to happen -- or even should happen all in one fell swoop. But I think if you look at the economic opportunities that are presented, they're significant. And it doesn't make much sense that a country 90 miles off the shore of Florida that is not at this point a significant threat to us, and that has shown itself willing to at least look beyond its borders for the first time -- even if it’s still scared of what it might bring -- it doesn't make sense for us to keep sticking to the old ways of doing business. I’ll actually take one more question, and then I’ll come around and say hi to everybody. So anybody else? Yes, go ahead.

Q: Mr. President, again, thank you. And I know a topic near to your heart has been education for young folks, and you've spent a lot of time on this. And many of us have done things private-public partnerships. And you recently made a comment about computer science for all high school kids, which I think is an important point, because technology is such a broad topic. It will infiltrate all jobs in the future. So maybe a chance to make some comments about how you envision something like that actually taking root over the long term that we could make some progress with it -- on scale.

THE PRESIDENT: Well, first of all, I want to commend Ginni and IBM because you guys have done some terrific work. Anybody who wants some inspiration, go to the high school that IBM is participating in in Brooklyn where kids -- a collaboration between the public school system, the city colleges of New York, the CUNY system and IBM. And you've got kids from -- most of them, parents never went to college. A lot of them immigrant kids. And they are marching through STEM education, pre-engineering education. They’re getting essentially college credits by the time they’re sophomore or juniors in high school. They’re able to save money because in five years in high school, they come out with an associate’s degree. They then either are transferring to a four-year university with those credits, or they’re starting to work with
IBM because they’ve been apprenticing and the curriculum design has given them confidence that if they do well, they’re going to be able to get a job.

That model is something that we’re actually looking to try to duplicate all across the country. And the good news, as I mentioned at the top, is because of the strong work that Arne Duncan has done, the strong work that a lot of governors and local communities have done to increase accountability, creativity, have high expectations for kids, bust through some of the old bureaucratic obstacles. We are seeing highest reading scores, highest math scores, highest graduation rates. And part of our goal here is to improve STEM education generally. A critical element of that is understanding this computer age that these kids are immersed. And I don’t want them just to know how to use their phone to play video games; I want them to know how that phone works, and potentially code it and program it. And what’s remarkable -- I’m about the age where -- I think my high school just had, like, the first coding class when I was maybe in seventh or eighth grade. But this is what -- you had, like, those cards, and it was -- and the punch cards. And now, the way these -- the tools and resources that are available for kids starting in first, second grade -- we have these science fairs and these little Girl Scout troops come in and they’ve coded, they’ve designed their own games, and -- or simulations of entire towns with people and all kinds of scenarios that they’ve figured out.

And so it’s actually something that they naturally gravitate to. We just have to start early. It’s almost like a foreign language, where rather than try to catch kids when they’re in tenth, eleventh, twelfth grade, they get part of the broader curriculum and incorporate it into how you’re teaching math and how you’re teaching science and how you’re teaching social studies. That seems to be the way in which kids get most engaged. So we’re doing a lot of work with many of you individually as companies on this STEM education issue. We hope that you will continue to participate. You’ve been great partners on that front. I’ll just say in closing, it’s always a pleasure to be here. I want to just reiterate, as we enter into the silly season of politics, that the primary thing that is holding back a lot of potential growth, jobs, improved bottom lines, greater stability is well within our control right now, and are things that traditionally enjoyed bipartisan support -- Ex-Im Bank, getting TPP done, financing and executing on an infrastructure policy. I’ve had conversations with folks like Larry Fink and others about if we’re open to looking at new, creative ways of financing it, but the notion that we’re not doing that right now makes absolutely no sense -- investing in research and development.

These are not partisan issues. There are some areas where there have traditionally been legitimate arguments between Democrats and Republicans. There are some issues -- like on environmental regulations, or financial regulations, where Jamie and I may disagree, or Nick and I may disagree. And we can have those arguments, and we probably won’t convince each other on some of these things. But what I’m looking at is the low-hanging fruit that are no-brainers and that nobody here would argue with. And the notion that we’re not doing them right now because -- primarily because a faction within one of our parties has gone off the rails and sees a conspiracy around everything, or simply is opposed to anything I propose even if they used to propose it, that’s a problem. And I think it’s very important for all of you to just step back and take a look at it, because you still have influence on at least some of those folks. And challenge them. Why wouldn’t we do things that everybody knows make sense? Thank you, everybody. (Applause.)
Remarks by President Obama and President Xi Jinping in Joint Press Conference

Great Hall of the People
Beijing, China

12:17 P.M. CST

PRESIDENT XI: (As interpreted.) Honorable President Obama, distinguished guests, dear friends from the press, good morning. First of all, I wish to once again warmly welcome President Obama to China for this state visit. Over the past two days, I had a constructive and productive discussion with President Obama. We had sincere and in-depth exchange of views, and reached broad agreement on China-U.S. relations, major international, and regional issues of shared interest, as well as on global issues.

We reaffirmed the agreement that we reached at the Annenberg estate on developing the bilateral relations. We agreed to continue to advance the development of a new model of major-country relations between China and the United States. We had in-depth discussions on the priority areas for advancing such relationship. We agreed to accelerate the negotiations of the BIT, and we’ll make efforts to reach agreement on the core issues and the major articles of the treaty text, and to initiate the negative list of negotiations in 2015.

We have reached agreement on the ITA expansion negotiations, and we are ready to work together for the early conclusion of relevant plural-lateral talks. We fully recognize the document signed between the two departments of defense on building two major confidence-building measures, and agreed to continue to deepen military exchanges, mutual trust and cooperation on that basis, and develop a new type of military-to-military relations between the two countries. We issued a joint statement on climate change, and we jointly announced our respective post-2020 targets. We agreed to make sure that international climate change negotiations will reach an agreement as scheduled at the Paris conference in 2015, and we agreed to deepen practical cooperation on clean energy, environment protection, and other areas.

We reaffirmed our firm opposition to terrorism of all forms, and agreed to strengthen counterterrorism cooperation on intelligence sharing, terrorist financing, and cyber-terrorism. And we will work together to remove the threats of various terrorists and extremist forces. We agreed to make use of such channels as a meeting between the Chinese Ministry of Public Security and the U.S. Department of Homeland Security to have further discussions on law enforcement cooperation, which includes cracking down on transnational crimes, fugitives hunting, and recovery of criminal proceeds. We have reached reciprocal arrangements on the visa for business travelers, tourists and students. We have agreed to issue 10-year, multiple-entry visas for respective business travelers and tourists, and 5-year, multiple-entry visas for each other's students. This will greatly promote people-to-people exchanges between our two countries and will help to promote our exchange and cooperation in the various fields, and promote the long-term development of bilateral relations.
We agreed to follow such principles as mutual respect, seeking common ground while sharing differences, exchanges and mutual learning, and manage our differences on sensitive issues in a constructive way so as to ensure the healthy and steady growth of the bilateral ties. I told President Obama that China has proposed the Asian security concept at the CICA summit here in May in order to encourage Asian countries to view common security in an inclusive and cooperative spirit. At the same time, I also said that the Pacific Ocean is broad enough to accommodate the development of both China and the United States, and our two countries to work together to contribute to security in Asia. These are mutually complementary efforts instead of mutually exclusive ones. China and the U.S. should continue to enhance dialogue and coordination on Asia Pacific affairs, and respect and accommodate each other’s interests and concerns in this region, and develop inclusive coordination.

I also introduced to President Obama China’s initiatives of establishing the Asian Infrastructure Investment Bank and the Silk Road Fund. Underdeveloped infrastructure is the main bottleneck obstructing the economic development in Asia. China has initiated the AIIB in order to offer support and facility to regional infrastructure development. These proposals and initiatives are open and inclusive in Asia; they are not exclusive. We welcome the active participation of the United States and other relevant countries so that together we can promote and share prosperity and peace in Asia Pacific. We recognize the positive actions both have taken in helping African countries affected by the Ebola virus to fight against the disease. We indicated that, based on the actual needs of African countries, we will leverage our respective strength and work with the rest of the international community to help affected countries to strengthen capacity-building on health and epidemic prevention so as to place the epidemic under control as soon as possible.

I thank President Obama and the U.S. team for their support to China’s hosting of the APEC Economic Leaders Meeting. Both are willing to strengthen coordination and cooperation on multilateral forums, including APEC and G-20, and to play a positive role in promoting global economic recovery and development. China and the United States have worked closely on the negotiations of the Iranian nuclear issue, and we hope that relevant parties would persist in consensus, address differences, and make political decisions so as to promote the early conclusion of a win-win and comprehensive agreement. China is firmly committed to achieving the denuclearization of the Korean Peninsula and to peace and stability on the Korean Peninsula. We intend -- we should address the Korean Peninsula issue through dialogue and negotiations. The relevant parties should have active contact and dialogue so as to create conditions for the early launch -- for re-launch of the Six Party Talks. And the two sides also agreed to continue their exchange on the cooperation on the Afghan issue.

Ladies and gentlemen, friends, China is ready to work with the United States to make efforts in a number of priority areas and putting into effect such principles as non-confrontation, non-conflict, mutual respect, and win-win cooperation. And with unwavering spirit and unremitting efforts, we will promote new progress in building a new type model of major-country relations between the two countries so as to bring greater benefits to our two peoples and two countries. Thank you.

MODERATOR: Thank you, President Xi. I now give the floor to President Obama.

PRESIDENT OBAMA: Well, thank you, President Xi, for welcoming me and my delegation to Beijing and for the extraordinary hospitality that you and the Chinese
people have shown to me on this state visit. I also want to take this opportunity to thank the people of China for the warmth and kindness they showed my wife Michelle and our daughters, as well as my mother-in-law when they came to visit China earlier this year - - another sign of the enduring friendship between our peoples. This year marks the 35th anniversary of diplomatic relations between our two nations. I’m told that Deng Xiaoping said that we must “seek truth from facts.” On this anniversary, it is a fact that the past three and a half decades have seen an extraordinary growth in the ties between our two countries -- more trade, more collaborations between our businesses and scientists and researchers, more connections between the Chinese and the American people, from tourists to our students. And it is a fact that when we work together, it’s good for the United States, it’s good for China, and it is good for the world.

As I’ve said many times, the United States welcomes the continuing rise of a China that is peaceful, prosperous and stable and that plays a responsible role in the world. And we don’t just welcome it, we support it. For decades, America’s engagement in the Asia Pacific, including our alliances and our stabilizing presence, have been a foundation for the region’s progress, including contributing to China’s remarkable economic growth. The United States has worked to expand trade and investment with China, and to help integrate China into the global economy. And we want that progress to continue because, as I said before, it benefits all of us. I believe that President Xi and I have a common understanding about how the relationship between our nations can move forward. We agree that we can expand our cooperation where our interests overlap or align. When we have disagreements, we will be candid and clear about our intentions, and we will work to narrow those differences where possible. Even as we compete and disagree in some areas, I believe we can continue to advance the security and prosperity of our people and people around the world. That’s my vision for how we can develop the relationship between our countries. That’s the vision that we’ve advanced during this visit, which has taken our bilateral, regional and global cooperation to a new level. And I want to thank President Xi for his leadership in fostering that kind of atmosphere of cooperation.

First, President Xi and I agreed on the importance of continuing to exercise -- to increase the trade that helps grow our economies and creates jobs. More U.S. exports to a growing China means more opportunities for American businesses, workers and farmers. We agreed to work actively on a comprehensive bilateral investment treaty with high standards. And that provides the opportunity for Chinese businesses to invest in the United States, as well as opening up the opportunity for more U.S. businesses to invest here in China, creating jobs for both our countries. We reached an understanding that will allow us to work with other nations to conclude the Information Technology Agreement, which will help us boost trade in the computer and IT products that power the 21st century economy. We agreed to work together to promote innovation in agricultural and food security to help feed a growing planet. And our agreement to extend visas for business people, tourists and students will help fuel growth and create jobs for both our countries.

Second, as the world’s two largest economies, energy consumers and emitters of greenhouse gases, we have a special responsibility to lead the global effort against
climate change. That’s why today I am proud that we can announce a historic agreement. I commend President Xi, his team, and the Chinese government for the commitment they are making to slow, peak, and then reverse the course of China’s carbon emissions. Today, I can also announce that the United States has set a new goal of reducing our net greenhouse gas emissions by 26 to 28 percent below 2005 levels by the year 2025. This is an ambitious goal, but it is an achievable goal. It will double the pace at which we’re reducing carbon pollution in the United States. It puts us on a path to achieving the deep emissions reductions by advanced economies that the scientific community says is necessary to prevent the most catastrophic effects of climate change. It will help improve public health. It will grow our economy. It will create jobs. It will strengthen our energy security, and it will put both of our nations on the path to a low-carbon economy. This is a major milestone in the U.S.-China relationship, and it shows what’s possible when we work together on an urgent global challenge. In addition, by making this announcement today, together, we hope to encourage all major economies to be ambitious -- all countries, developing and developed -- to work across some of the old divides so we can conclude a strong global climate agreement next year.

Third, with respect to regional security, we agreed to a number of new measures to improve communications between our militaries in order to reduce the risk of accidents or miscalculations on the seas and in the air. President Xi and I reaffirmed our commitment to the complete denuclearization of the Korean Peninsula, and we agree that North Korea will not succeed in pursuing nuclear weapons and economic development, that it can’t have both. While the United States does not take a position on competing claims in the East and South China Seas, I made it clear that we do have a fundamental interest in freedom of navigation, and that territorial disputes in the region should be resolved peacefully, in accordance with international law. And I congratulated President Xi on the initial contacts with Prime Minister Abe of Japan to help lower tensions with respect to that issue. I reaffirmed my strong commitment to our One-China policy based on the Three Joint Communiqués and the Taiwan Relations Act. And we encourage further progress by both sides of the Taiwan Strait towards building ties, reducing tensions and promoting stability on the basis of dignity and respect, which is in the interest of both sides, as well as the region and the United States.

Fourth, I welcomed China’s contributions to international security. This includes our mutual support for a stable, unified Afghanistan; our mutual interest in seeing the terrorist group ISIL is destroyed; the potential work we can do together in other counterterrorism activities, including those that were raised by President Xi; our mutual efforts as part of the P5-plus-1 to reach a comprehensive solution that ensures Iran’s nuclear program is exclusively peaceful. We agree that Iran should seize this historic opportunity by making the tough choices that are necessary to achieve a lasting diplomatic solution. And in addition, the United States is very appreciative of China’s important contributions in West Africa in the fight against Ebola. We agreed to expand our cooperation against infectious diseases more broadly and to promote access to electricity across Africa -- more examples of the difference we can make when we work together. And finally, I reiterated to President Xi, as I have before, that America’s unwavering support for fundamental human rights of all people will continue to be an important element of our relationship with China, just as it is with all the countries that we interact with around the world. And we had a very healthy exchange around these issues. President Xi gave me his sense of how China is moving forward. I described to him by it is so important for us to speak out for the freedoms that we believe are universal, rights that we believe are the birthright of all men and women, wherever they live, whether it is in New York or Paris or Hong Kong. We think history shows that nations that uphold these rights --
including for ethnic and religious minorities -- are ultimately more prosperous, more successful, and more able to achieve the dreams of their people. In that context, I did note that we recognize Tibet as part of the People’s Republic of China. We are not in favor of independence. But we did encourage Chinese authorities to take steps to preserve the unique cultural, religious and linguistic identity of the Tibetan people.

In closing, I want to say that I am pleased that we continue to expand the ties between our peoples. The new visa extension that begins today will bring more Chinese tourists to the United States and more American tourists to see the magnificent sights of China. That will encourage more exchanges among our students. We welcome more Chinese students to the United States than from any other country. And I’m proud that this summer my “100,000 Strong” program reached our goal of more than 100,000 Americans studying in China in recent years. With these visa extensions, we’ll give more students this opportunity -- both Chinese and Americans. So every day, our people are coming to know each other better. Every day, our young people are forging friendships that will serve our countries for many decades to come. Every day some of the barriers of mistrust are broken down, mutual understanding is promoted. And that lays the seeds for cooperation, not just today, but for future generations. So, President Xi, thank you again for your hospitality, for the candid and very productive conversations, for your hosting of an excellent APEC Summit, and for our work together. As Deng Xiaoping said, we must seek facts from -- “seek truth from facts.” The truth is that we have made important progress today for the benefit of both of our nations and for the benefit of the world. The truth is that even more progress is possible as we continue to develop this important relationship. I am confident that we will be able to do so. So thank you. Xie xie. We’ve each agreed I believe to take a question from the press.

MODERATOR: Thank you both presidents. Now the two presidents have agreed to each take a question from the press. Now, first President Obama will take a question from a member of the American press.

MR. EARNEST: The first question will be from Mark Landler of The New York Times.

PRESIDENT OBAMA: Where's Mark? There he is.

Q Thank you very much, President Xi and President Obama. My first question is to President Obama. You’ve spoken a lot over the past few days about the potential of China as a partner for the United States and have concluded several agreements this week that attest to that. At the same time, there has been a surge of anti-American rhetoric in China in recent weeks, particularly in the state media. Chinese newspapers have disparaged your leadership style and have fueled speculation that the United States is a black hand behind the protests in Hong Kong. My question is whether you’re concerned that this anti-American rhetoric could impede the kind of collaboration that you wish to have with China. And to what do you attribute that?

And if I may, because I want to make sure I grab my chance with the President of China, ask a couple of questions of him. Mr. President, President Obama has sketched out a strategic pivot to Asia that includes shoring up alliances with American allies like Japan and South Korea, deploying Marines to Australia, negotiating a regional trade pact that at the moment excludes China, and speaking up -- as he did just a moment ago -- on territorial disputes between China and its neighbors. Several months ago in Shanghai at a conference, you said it is for the Asians to run the affairs of Asia. I wonder whether...
you’re concerned that this strategic pivot represents an effort to contain China. And then if I may, lastly, on a parochial issue --

PRESIDENT OBAMA: Come on, Mark.

Q On a parochial issue -- several news organizations from the United States have had issues with residency permits in China being denied, including The New York Times. I’m wondering in the spirit of these reciprocal visa arrangements that you’ve agreed to this week with business people and students, isn’t it time to extend that sort of right to foreign correspondents who seek to cover your country? Thank you both very much.

PRESIDENT OBAMA: I’m not sure I remember the question. (Laughter.) I’m teasing. First of all, with respect to press attitudes towards America or me in particular, I am always working on the assumption that the press giving me a hard time is true wherever I go, whether in the United States or China. That’s part of being a public official. And I think that it is fair to say that there are differences between the United States and China on a range of issues. On the other end, I’m a big believer in actions and not words. And this summit I think is evidence of the values that China places in the relationship between the United States and China. On a whole host of issues at this summit, we’ve shown that U.S.-China cooperation can end up not only being good for the two countries, but for the world as a whole. And I do think that one of the benefits of a summit like this is an opportunity for one-on-one conversations between the leaders of the two countries to break down some of the misperceptions and mistrust that can build up over time. So, for example, on the issue of Hong Kong, which did come up in our conversations, I was unequivocal in saying to President Xi that the United States had no involvement in fostering the protests that took place there; that these are issues ultimately for the people of Hong Kong and the people of China to decide. But I did describe for him that the United States, as a matter of foreign policy but also a matter of our values, are going to consistently speak out on the right of people to express themselves, and encourage the elections that take place in Hong Kong are transparent and fair and reflective of the opinions of people there.

And more broadly, our conversations gave me an opportunity to debunk the notion that you suggested, Mark, just now that our pivot to Asia is about containing China. I have repeatedly reiterated and displayed through the actions of our administration that we want China to succeed. And we actively encourage our friends and allies in the region to foster a strong and cooperative relationship with China. So, as I mentioned briefly, we applaud the lowering of tensions between China and Japan. We think that’s good for the region and good for both countries. And so what you left out of the list of actions that we’ve taken in this pivot to Asia is the multiple meetings I’ve had with President Xi and his predecessor, and the remarkable scope of agreements that we have reached to deepen economic, scientific, educational and security arrangements between the United States and China.

In other words, a strong, cooperative relationship with China is at the heart of our pivot to Asia. And if the United States is going to continue to lead the world in addressing global challenges, then we have to have the second-largest economy and the most populous nation on Earth as our partner. And the carbon reduction agreement that we just announced is a perfect example of why a strong U.S.-China relationship is so critical. And just in closing, I want to say that although there are going to continue to be tensions and disagreements between our countries, as is true with all countries, particularly large
countries that have a lot of interests around the globe, I’ve consistently found President Xi to be willing to engage on those differences in a frank and candid matter, and we have consistently strived to find ways to narrow those differences. I think the military-to-military cooperation announcements that we’re making today are a perfect example of how rather than try to tamp down those differences, surfacing them and then addressing them is going to be a centerpiece, a lynchpin for the kinds of cooperative agreements that I hope will continue for generations to come.

MODERATOR: Now, President Xi Jinping will take a question from a member of the Chinese press. China Daily, please.

Q (As interpreted.) China Daily. The world is watching very closely today’s summit meeting between you, President Xi, and President Obama. And the China-U.S. relationship has gone beyond the bilateral scope. It is increasingly consequential for the whole world and for this region. As China further develops, how does China see its own position and role in international affairs?

PRESIDENT XI: (As interpreted.) Thank you for your question. There are very wide areas where China and the United States need to and can cooperate with each other. And as the international situation continues to experience complex, fluid and profound changes, there will be even more areas where our two countries need to work together. In recent years, China and the United States worked together to counter the impact of the global financial crisis. We have also worked together to try and resolve some regional hotspot issues, such as the Korean nuclear issue, the Iranian nuclear issue, the situation in Syria and so on, through dialogue. We’ve also partnered with each other to address some serious challenges, including climate change, terrorism, and the Ebola epidemic. The strategic significance of China-U.S. relations is on the rise. China is a participant in, builder of, and contributor to the international system. China’s economic development is in itself an important contribution to the global efforts to address the international financial crisis and to promote the recovery and the growth of the world economy.

China has sent more personnel to U.N. peacekeeping missions than any other permanent member of the U.N. Security Council. To date, we have sent over 20,000 of our military personnel to various U.N. peacekeeping operations. And the Chinese navy has combated 45 escort missions in the piracy-ridden waters of the Gulf of Aden. And China is firm in opposing all forms of terrorism, and we have all along been supportive of international cooperation to fight terrorism. The Chinese people empathize with the Western African countries that are experiencing the Ebola epidemic. We have so far provided four tranches of assistance that is worth 750 million RMB. And even as we speak, there are over 300 Chinese medical personnel working on the ground in Africa to help the affected areas.

As China continues to develop, we will shoulder more and more international responsibilities that are commensurate with our own strengths and position. We will remain firmly committed to working with other countries to share China’s development opportunity and to address various challenges. And we will make our due share of contribution to maintaining and promoting peace, stability and development in the Asia Pacific region and the world at large. Both President Obama and I believe that when China and the United States work together, we can become an anchor of world stability and a propeller of world peace. China stands ready to work with the United States to firm up our confidence, exercise our wisdom, and take action to strengthen our coordination and cooperation bilaterally, regionally and globally; and to effectively
manage our differences on sensitive issues so that we can make new gains in building the new model of major-country relations between China and the United States, which serves the fundamental interests of our two peoples and the people elsewhere in the world.

China and the United States have different historical and cultural traditions, social systems, and faces of development. So it's natural that we don't see eye to eye on every issue. But there have always been more common interests between China and the United States than the differences between us. Both sides should respect each other's core interests and major concerns and manage our differences in a constructive fashion, full dialogue, and consultation so as to uphold the overall interests of stable growth of China-U.S. relations. And I had a candid discussion with President Obama on human rights issues. Ever since the founding of the People's Republic of China, and especially over the last three decades and more of China's reform and opening era, China has made enormous progress in its human rights. That is a fact recognized by all the people in the world.

On the question of human rights, we should never consider our work to be mission accomplished. It's always work in progress, and there is always room for further improvement. China stands ready to have dialogue with the United States on human rights issues on the basis of equality and mutual respect so that we can constructively handle our differences, deepen our mutual understanding, and learn from each other. In my talks with President Obama I also pointed out that the Occupy Central is an illegal movement in Hong Kong. We are firmly supportive of the efforts of the Hong Kong Special Administrative Region Government to handle the situation according to law so as to maintain social stability in Hong Kong and protect the life and the property of the Hong Kong residents. Hong Kong affairs are exclusively China's internal affairs, and foreign countries should not interfere in those affairs in any form or fashion. And we will protect the lawful rights and interests of foreign citizens and business organizations in Hong Kong, as well. And I think it goes without saying that law and order must be maintained according to law in any place, not just in Hong Kong, but also elsewhere in the world.

China and the United States are important countries in the world. It's perfectly normal for there to be different views expressed about us in the international media. And I don't think it's worth fussing over these different views. And I don't see any of the regional free-trade arrangements as targeting against China. China is committed to open regionalism. And we believe the various regional cooperation initiatives and mechanisms should have positive interaction with each other, and that is the case at the moment. And China protects our citizens' freedom of expression and the normal rights and the interests of media organizations in accordance with law. On the other hand, media outlets need to obey China's laws and regulations. When a car breaks down on the road, perhaps we need to get off the car to see where the problem lies. And when a certain issue is raised as a problem, there must be a reason. In Chinese, we have a saying: The party which has created a problem should be the one to help resolve it. So perhaps we should look into the problem to see where the cause lies. Thank you.

MODERATOR: This is the end of the press conference. Thank you, President Xi and President Obama. Thank you all.

END
1:07 P.M. CST