INTRODUCTION

The phenomenon of direct foreign investment (DFI) in China (PRC) has emerged only very recently. Since its foundation in 1949 to the early 1970s, China has never utilized DFI in her economic development. Considering the lack of experience in how to absorb and regulate foreign investment, even at the end of 1970s, it is remarkable that China now has not only established a formal framework of law, but also has gained experience from legislation and administration. The results are impressive. By the end of 1993, China has approved more than 100,000 foreign investment contracts with a total committed value of over $200 billion.\(^1\) Given the enormous amount of DFI, the issue of protecting the intellectual property rights of foreign investors and technology suppliers is of considerable importance. From China's perspective, a better intellectual property law regime and effective enforcement agencies in this area will facilitate more DFI into its economy and avoid friction with other countries. This article argues that, whilst the intellectual property legal framework has been substantially improved, serious efforts have to be made to strictly enforce the intellectual property laws and regulations so that the intellectual property regime will be more compatible with China's objective of introducing foreign technology and DFI to develop

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\(^1\) ALMANAC OF CHINA'S FOREIGN ECONOMIC RELATIONS AND TRADE. (Hong Kong: China Resources Advertising Co. Ltd., 1984-1994)
its economy. Section A discusses the development of China's intellectual property laws in its response to the need of utilizing DFI in and channeling foreign technology to China. Section B examines China's legal framework for the protection of intellectual property rights. Cases and statistics are provided to demonstrate the seriousness of infringements of intellectual property rights. Section C analyses the impact of the adequacy of protection of intellectual property rights on different kinds of foreign investors.

A. DEVELOPMENT OF THE INTELLECTUAL PROPERTY LAW REGIME

Before 1979, the concept of technology transfer was associated with the importation of large and complete plants. This phenomenon has been characterized by three peaks. During the first period, throughout the 1950s, technology transfer was conceptually linked to large projects. As the development strategy then emphasized heavy industry at the expenses of agriculture, over 90 percent of China's foreign exchange spending was applied towards turnkey projects from the Soviet Union and the East European countries. Because of the ideological rift with the Soviet Union and the failure in agriculture, the high-speed of economic growth could not be sustained. As a result, technology transfer into China dropped to a low level.

The second wave of technology transfer took place between 1972 and 1977 when China improved its relations with some Western countries. During this period, the imports included contracts with American firms, notably Pullman-Kellogg, from whom the Chinese purchased eight large ammonia plants worth US $215 million in 1972. The transactions of this period emphasized large sets, large series, high speed, high efficiency, automatic control and the highly integrated use of thermal energy. As the importation of large plants was not well integrated into the Chinese economy, it caused dislocation problems. These problems included lack of technical staff to run and maintain these sophisticated equipments, inadequate supply of electricity, and irregular supply of raw materials. In addition, absorption of technology from these large plants

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