



**ALLIANCE FOR CLEAN  
TECHNOLOGY INNOVATION**



**U.S. CHAMBER OF COMMERCE**

November 26, 2014

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The Honorable John Kerry  
Secretary of State  
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The Honorable Penny S. Pritzker  
Secretary of Commerce  
United States Department of  
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The Honorable Michael Froman  
United States Trade  
Representative  
Executive Office of the President  
600 - 17th Street, NW  
Washington, DC 20508

**RE: IPR-related demands in UN Climate Change negotiations**

Dear Secretaries Kerry and Pritzker and Ambassador Froman:

Despite many years of U.S. leadership in support of innovation and the enabling role that Intellectual Property Rights (IPR) frameworks play in the development of new technologies, demands to weaken, remove, or otherwise alter IPR are once again being introduced into discussions concerning the upcoming Conference of the Parties (COP20) of the United Nations Framework Convention on Climate Change (UNFCCC). As business associations representing some of the largest and most innovative companies in the United States, we ask for your urgent leadership to reject any such demands and for your help in protecting American innovation, jobs, global foreign direct investment, and trade.

IPR are comprehensively regulated in the WTO Agreement on Trade-Related Intellectual Property Rights (TRIPS) and elsewhere. Nonetheless, we see continued attempts to reintroduce divisive debates about the role of IPR and demands that IPR be weakened. Calls to weaken IPR come in many forms, ranging from straight-out requests for compulsory licensing technology, to more veiled requests for “rebalancing”, the introduction of government-led (and non-voluntary) patent pools, green technology banks, technology buy-outs or preferential licensing terms, or references to the “balance” achieved in the WTO TRIPS Agreement. Each of these and other proposals, however, is extremely risky and counter-productive from a legal and climate policy perspective, in addition to the risk they pose to U.S. competitiveness, trade, investment, and jobs. They also slow and discourage the private sector innovation that is indispensable to managing climate risks and advancing sustainable development.

Evidence shows that effective protection of patents and other forms of industrial IPR, together with other enabling factors, encourages and supports innovation and the development, dissemination, and

deployment of new technologies.<sup>1</sup> Studies confirm that IPR are key contributors to the types of climate mitigation and adaptation outcomes that parties seek to achieve.<sup>2</sup> Robust IPR protection also offers the legal certainty for innovators to engage in voluntary, market-based technology transfer in all its possible forms, and it is the lack of other enabling factors, including financing, education and worker training, and stable regulatory and legal environments that are the true barriers to technology transfer. IPR are key to improving economic growth and creating and maintaining jobs throughout the United States, helping to facilitate trade, and ensuring the continued economic competitiveness of our market, as well as those of developing and least-developed countries, which are becoming an ever-more integral part of global technology value and supply chains.

A counterproductive focus on IPR issues not only threatens to distract from the task at hand and further complicate or even derail progress towards a successful global climate accord, but also runs counter to the Environmental Goods Agreement deliberations moving ahead under the WTO. Any effort that opens the door to diminishing effective IP frameworks and protections would carry enormous commercial, economic and employment costs. This is a risk that the United States cannot afford.

We ask for your continued and steadfast leadership in support of the U.S. economy, U.S. jobs and positive climate outcomes. We trust that you will continue rejecting demands that any references to IPR be introduced into the UNFCCC negotiations or into outcomes of the 2014 Lima or 2015 Paris COPs. We appreciate the role you and your negotiators are already playing in this regard and look forward to working with you and your staff in the weeks and months ahead.

Please do not hesitate to contact us should you have any questions.

Sincerely,

Alliance for Clean Technology Innovation  
Business Council for Sustainable Energy  
Information Technology Industry Council  
National Association of Manufacturers

National Foreign Trade Council  
United States Council for International Business  
U.S. Chamber of Commerce

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<sup>1</sup> In particular, one recent study examining the economics of environmental innovation and technology transfer concluded that “studies find a positive correlation between the strength of IPRs and the domestic development of environmental innovations” and that “the transfer of technology facilitates adaptive innovation which is essential to finding appropriate technologies for local conditions.” Dr. Kristina M. Lybecker, *Innovation and Technology Dissemination and Transfer in Low-Carbon Technology Markets: The Role of Intellectual Property Rights, Trade, and Other Enabling Factors* (Colorado College Working Paper 2014-05), 4 (October 11, 2014).

<sup>2</sup> See, e.g., U.N. Framework Convention on Climate Change, *Enabling Environments for Technology Transfer* (June 4, 2003), available at <http://unfccc.int/resource/docs/tp/tp0302.pdf>; Richard Newell, *International Climate Technology Strategies*, 25-27 (Harvard Project on Int’l Climate Agreements, Discussion Paper 08-12) (2008); Walter G. Park & Douglas C. Lippoldt, *Technology Transfer and the Economic Implications of the Strengthening of Intellectual Property Rights in Developing Countries*, (OECD Trade Committee, Policy Working Paper No. 62) (2008); U.N. Conference on Trade and Development, *Foreign direct investment, the transfer and diffusion of technology, and sustainable development* (2011), available at [http://unctad.org/en/docs/ciim2d2\\_en.pdf](http://unctad.org/en/docs/ciim2d2_en.pdf).