

ALLIANCE FOR CLEAN
TECHNOLOGY INNOVATION



Information Technology Industry Council
Leading Policy for the Innovation Economy



April 19, 2011

The Honorable Ronald Kirk
United States Trade Representative
Executive Office of the President
600 17th Street NW
Washington, DC 20508

The Honorable Karel De Gucht
European Commissioner for Trade
European Commission
B-1049 Brussels

Dear Ambassador Kirk and Commissioner De Gucht:

We seek your urgent engagement on the issue of intellectual property rights in global trade negotiations, which is an issue of vital importance to the competitiveness and economic vitality of our companies and the economy, as well as to long-term global climate and energy security policy.

It is our understanding that in the World Trade Organization's (WTO) ongoing environmental goods and services negotiations, proposals have been circulating that call for a significant weakening of existing intellectual property rights (IPR) protections for so-called "environmentally sound technologies." Some WTO member countries have gone so far as to call for "all existing patents on essential/urgent environmentally sound technologies [to be] revoked in developing countries" and for the complete exclusion of "environmentally sound technologies ... from patenting in developing countries." "Developing countries," in this context, would include successful emerging economies such as China, India, and most Latin American nations.

These proposals are similar to demands that many of these same countries have made in the United Nations Framework Convention on Climate Change (UNFCCC) global climate change negotiations. Those countries that have been trying to weaken IPR in the UNFCCC – to this point unsuccessfully – have now apparently decided that it may be more fruitful to take their fight to other international fora, including the WTO. The change of venues, however, does not make their proposals any less pernicious.

Our organizations strongly support a successful outcome of the WTO Doha Round. All countries stand to benefit from lowering of tariffs to trade in environmental goods, and all countries have an interest in a result that broadens markets. The mandate of Doha is clear, and we urge you to continue to seek an ambitious and broad-based agreement on liberalization of environmental goods and services. In doing so, however, the continued strong protection of IPR, as required under existing global trade rules, is fundamental. Our member companies, and many others, rely on the framework provided by the WTO's Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement to protect our investments and promote free and fair trade. Proposals that weaken these protections must be swiftly and forcefully rejected.

Strong IPR protection is critical from an economic, competitiveness, and employment perspective. IPRs are a key prerequisite for private sector investment and innovation. They allow investors and manufacturers to capture the value of innovation, to engage in the kind of long-term planning necessary for commercial actors to make long-term decisions, and to participate in trade, foreign investment and global supply chains. They are a critical part of our global trade and investment regime, and are key to achieving the very environmental and energy objectives that an environmental goods agreement would seek to attain.

Our organizations have invested heavily in developing cleaner, more energy-efficient and lower emission technologies. From an environment perspective, active private sector involvement is key to achieving global climate change goals. Two-thirds of green innovation is financed by private companies and the private sector plays a central role in technology development, deployment and dissemination. IPR protection is key. Effective protection of clean technology IP rights, moreover, allows countries around the world to attract the investment and commercial funding needed to build and operate the relevant energy-related infrastructure and to enable the broad deployment and use of innovative, new and more energy-efficient or lower-emission technology solutions.

Special assistance is of course critical for the poorest and most vulnerable countries to address climate change. IPRs, however, are not the problem and weakening them is not the solution. Instead, a real commitment to development and climate change financing (to be disbursed under fair, transparent and non-discriminatory rules); focused and effective capacity building efforts; reducing and eliminating tariff and non-tariff barriers on environmental goods, services and investment; real support for lower-emission infrastructure; and steady, predictable rules are critical and should be pursued. We would support such efforts, both at home and abroad.

We have actively worked with you and your colleagues to oppose calls for weakening IPR in the UNFCCC and to support and propose more positive, market opening solutions and mechanisms instead. We remain appreciative of your strong support for protecting innovation globally. With further rounds of negotiations and discussions coming up within the WTO, and the continued focus on IPR in the UNFCCC, we urge you to take a strong stand against any attempts to undermine IPR. We look forward to working with you and trust that we can rely on your continued strong support.

Please let us know should you have any questions.

Sincerely,

Alliance for Clean Technology Innovation
Biotechnology Industry Organization
Business Council for Sustainable Energy
Coalition of Service Industries
Croplife International
Emergency Committee for American Trade
Information Technology Industry Council
National Association of Manufacturers
National Electrical Manufacturers Association
National Foreign Trade Council
U.S. Chamber of Commerce
United States Council for International Business