



December 7, 2010

The Honorable Hillary Clinton
Secretary of State
United States Department of State
2201 C Street, NW
Washington, DC 20520

The Honorable Todd Stern
Special Envoy for Climate Change
United States Department of State
2201 C Street, NW
Washington, DC 20520

Re: IPR and Technology discussions at Cancún Climate Change Talks

Dear Secretary Clinton and Ambassador Stern:

At this very moment, language is circulating at the UNFCCC climate change meeting in Cancún that proposes to continue negotiations on Intellectual Property Rights (IPR) while agreeing on other parts of a UNFCCC technology mechanism. Any such outcome would leave IP protections vulnerable and damage U.S. competitiveness and our ability to create new jobs and employment. Any agreement on a technology mechanism, instead, must be accompanied by a clear agreement that IPR is off the table and, in fact, plays a positive role in encouraging innovation and enabling the worldwide development and diffusion of clean technologies.

We and many of our member companies and fellow trade and industry associations, as well as the U.S. Congress, have previously urged you to take a strong and principled stand for innovation and the role of advanced technology in solving the climate change challenge. We have also urged you to do so in a way that safeguards U.S. competitiveness and the creation of American jobs. Technology and IP rights are key.

Any early harvest agreement in Cancún, including on a technology sub-chapter, should therefore be conditional at most, tied to the absolute absence of any language that weakens or threatens to weaken IPR, or that creates or references IPR “flexibilities”. This includes references to existing international IPR frameworks which have no place in a climate change accord and would cause substantial legal and economic confusion and uncertainty. Agreement on a technology mechanism without a firm agreement that any requests for IPR weakening are off the table, would significantly reduce the leverage of the United States and other like-minded countries; would rationalize IPR as a legitimate concern; and would open the door to endless future discussion on the topic.

Rather than weakening IPR through vague compromise language, a firm statement should be agreed, at least among willing and IPR-friendly delegations, that IPR is critical to address climate change. Any form of IPR weakening or policies aimed at appropriating or indigenizing IP must be condemned. Strong IPR protection is key to achieving the innovation and worldwide technology deployment necessary to reach climate change goals. It is also essential for the continued competitiveness of American companies, to safeguard our continued economic growth and prosperity, and to create high-value American jobs.

As industry associations representing innovative U.S. businesses and those who have invested heavily in the creation and commercialization of advanced clean energy and energy-efficient technologies, we believe the U.S. government should insist upon strong protections of intellectual property and would oppose any framework or discussion that does not include such provisions.. Congress has previously expressed similar concerns, including in the form of a 423-0 House vote in June of last year. As you continue your efforts in Cancún, we trust that you will take these concerns to heart.

Yours sincerely,

Alliance for Clean Technology Innovation (ACTI)
Biotechnology Industry Organization
Emergency Committee for American Trade (ECAT)
National Association of Manufacturers (NAM)
National Foreign Trade Council (NFTC)
U.S. Chamber of Commerce
United States Council for International Business (USCIB)