



Mr Karel De Gucht
Commissioner for Trade
European Commission
200 rue de la Loi
1049 Brussels

14 April 2011

Dear Commissioner,

BUSINESSEUROPE would like to draw your attention to an issue of vital importance to the competitiveness and economic vitality of our economies, as well as climate change-related technology challenges.

In the context of the ongoing environmental goods and services negotiations within the framework of the World Trade Organisation (WTO), proposals have been circulating that call for and would result in significant weakening of the existing Intellectual Property Rights (IPR) framework 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 calls are an extension of similar attempts to weaken IPR in the context of the global climate change negotiations under the auspices of the United Nations Framework Convention on Climate Change (UNFCCC). They could erode the existing IPR protection framework, as laid down in the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS), on which European companies, as well as many others, fundamentally rely. Therefore, they should be vigorously and immediately rejected.

BUSINESSEUROPE strongly supports a successful outcome of the WTO Doha Round. In particular, all countries stand to benefit from lowering of tariffs to trade in environmental goods and thus all countries should participate in a broad market-opening result. 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. The continued strong protection of IPR as required under existing global IPR rules, is fundamental.



First, IP rights are a key driver of private sector investment. They allow investors and manufacturers to capture the value of innovation, and to engage in the kind of long-term planning necessary for commercial actors to make long-term decisions, and engage in trade, foreign investment and global supply chain deals. They are a critical part of our global trade and investment regime. From an environmental 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.

Second, effective protection of clean technology IP rights is also vital to allow 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. IPR protection encourages and enhances technology dissemination and deployment, rather than preventing it or making it more costly.

Finally, IPR protection is essential from an economic, competitiveness and employment perspective as well. Chinese and Indian companies are already at the forefront of global clean technology markets. Brazil's biofuels sector is another key example. With millions of jobs as well as key first-mover and technology advantages on the line, the clean technology battle is one that the EU cannot afford to lose.

We recognise, of course, that special assistance is 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 is needed (to be disbursed under fair, transparent and non-discriminatory procurement rules), combined with focused and effective capacity building, reducing and eliminating tariff and non-tariff barriers on environmental goods, services and investment, real support for lower-emission infrastructure; and fixed, predictable rules.

With further rounds of negotiations and discussions coming up within the WTO, and the continued focus on IPR in the UNFCCC context, we ask once more for your continuous and strong support to oppose calls for IPR-weakening and propose more positive, market opening solutions and mechanisms instead.

We look forward to continue working with you and your services on this key issue and remain at your disposal if you want to discuss this further.

Yours sincerely,

Philippe de Buck