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Dear Chief Negotiators,

We the undersigned non-profit organizations from the U.S., Canada, and Mexico call upon the negotiating teams to strengthen the intellectual property provisions in the North American Free Trade Agreement beyond those envisioned in the Trans-Pacific Partnership. Since NAFTA was enacted in 1994 the world has changed dramatically. The rise of the internet and the digital economy has made plain the shortcomings of some current aspects of IP law. Thus, NAFTA should set the gold standard for IP protection in trade agreements, and help usher in a new era of economic growth, creativity and innovation for our region.

Between pharmaceuticals, transportation machinery, medical equipment, computers, chemicals, and creative works like music, movies and television shows, the majority of trade in the NAFTA bloc are IP-intensive products representing billions in value and millions of high paying jobs. IP sectors have been key to economic growth and they must continue to be protected in the 21st century.

Numerous studies have found that countries with strong protections for IP also perform well in economic indicators such as household income, Gross Domestic Product and Foreign Direct Investment. In fact, countries with the strongest IP protections enjoy an income per capita thirteen times greater than those with the weakest protections.

Strong intellectual property rights and contractual freedom also promote free and competitive markets by leaving decisions to willing buyers and sellers. Decisions regarding what gets made and purchased are left to the market, rather than allowing government to put a thumb on the scale and pick winners and losers. Clearly-defined property rights allow innovators and creators to devise business models that best serve consumers, foster competition, and benefit the economy as a whole.



What’s more, strong IP protections will be a win-win-win for all NAFTA parties. By harmonizing and strengthening IP standards, trade agreements allow local innovative and creative industries to flourish by putting them on equal footing with foreign industries. Therefore, strong IP protections are integral to all trade agreement negotiations, including NAFTA.

Some stakeholders are arguing that NAFTA should expand exceptions and limitations to IP rights to “balance” the rights of innovators and creators against those who wish to exploit their works. This notion undermines IP rights, which are fundamental Human Rights, enshrined in Article 27 of the Universal Declaration of Human Rights of 1948 that states: “everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.” Moreover, reasonable and flexible guidelines for exceptions and limitations are already enumerated in international agreements such as TRIPS and the Berne Convention. Thus, calls to include parochial ideas of “balance” in NAFTA are unwise, and should be ignored.

We encourage you to include robust and strong IP protections in NAFTA. Advanced economies have long understood that by protecting the proprietary rights of artists, authors, entrepreneurs, innovators, and inventors, they were promoting the greater public welfare. The continued protection of these fundamental rights is essential to North American innovation, creativity, and competitiveness.

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