

A Modernized NAFTA Must Protect Intellectual Property

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As Congress awaits an agreed-upon text of a newly modernized North American Free Trade Agreement, it is important to recognize the critical role intellectual property protection plays in America's innovation economy today. Modern technology and the spread of global value chains have drastically altered what trade, trade agreements and the 21st century labor market look like.

The mobility of trade is unprecedented. Who is trading (the market expansion of small and medium enterprises), what is traded (smart manufacturing such as 3D printing) and how we trade (America's app, cloud, and sharing economies) have all changed in the digital age. Now more than ever, in an increasingly competitive and information-based world economy, it is imperative that our policymakers and trade negotiators embrace agreements that strengthen IP safeguards and support American innovators and creators.

Originally ratified by Congress in 1993, NAFTA has fundamentally reshaped North American economic, social and cultural relations. The trade agreement linked the economies of the United States, Canada and Mexico to create the world's largest trading bloc of over 450 million people, an economic powerhouse of \$20 trillion.

NAFTA was established to drive up investment, increase market access and align regional objectives through the elimination of trade barriers, tariffs and non-tariff barriers. The agreement placed a major focus on liberalization of trade in agriculture, textiles, and automobile manufacturing sectors. However, having been negotiated during an era of Bronze Age consumer electronics and the early beginnings of "the information superhighway," NAFTA fails to provide language capable of rulemaking, regulating and enforcing IP in today's innovation economy.

It is no question that America's No. 1 asset, IP, is the life blood of our nation's continued prosperity and growth. As discussed [previously](#), IP industries drive American economic and global competitiveness. America's IP is currently worth \$5.8 trillion, more than the nominal gross domestic product of any other country in the world. IP industries account for over 40 million U.S. jobs. The biopharmaceutical industry alone has created more than 4.7 million American jobs and about \$1.2 trillion to the U.S. economy. The software industry contributes over \$1 trillion to the economy. Wages in IP industries stand approximately 30 percent higher than non-IP industries, at \$51,000 annually versus \$39,000 for other industries. IP industries account for almost 52 percent of what the United States sends abroad. It is our IP standards — patent, copyright, and trademark protections — which incentivize and inspire our inventors and creators to provide solutions to global challenges through research and development, technological advancement and medical breakthroughs.

The renegotiation of NAFTA provides an ample opportunity to empower and benefit the interests of the 21st century worker through policies critical not only to their success and prosperity, but also the short- and long-term success of the U.S. economy. According to the Global Innovation Policy Center's 2018 International IP Index, which measures 50 countries against 40 IP indicators, the United States ranked first in overall scores, with Canada in the 17th spot, and Mexico taking the 24th position.

Given this stark contrast, U.S. Trade Representative Robert Lighthizer must ensure the highest possible IP protection standards are honored our trading partners. Specifically, it is imperative that our negotiators prioritize the standards of patent eligibility, harmonized criminal copyright infringement penalties and improved enforcement efforts to combat the illicit trade in counterfeit goods. If these policies are not respected, it is our American inventors, scientists, filmmakers, composers and musical artists who have the most to lose.

We cannot allow American ideas, which spur greater investment, job creation and economic growth, to diminish. Do we really want to continue to depend on a text drafted at a time when dial-up computers, floppy disks and car phones were the new hot technology? It is clear NAFTA is largely outdated and does not address the needs of the modern global economy. A modernized NAFTA with an updated IP chapter will serve to support the growth of innovative and creative industries across North America.

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