Executive Summary

The sixth edition of the U.S. Chamber International IP Index "Create" is a blueprint for countries seeking to become true knowledge-based economies through an effective intellectual property (IP) architecture. Every individual economy represents a blank canvas, with policymakers using broad strokes in the form of IP policy to paint their country's innovative and creative futures.

The Index benchmarks economies using 40 indicators in eight categories. New indicators in the areas of commercialization and systemic efficiency provide a more complete, bottom-to-top picture of the investments countries are making in support of domestic innovation and creativity. The 2018 Index includes five new economies – Costa Rica, Ireland, Jordan, Morocco, and the Netherlands – bringing the total number of economies benchmarked to 50.

Key Findings

Recognizing the benefits that robust IP systems provide, the majority of economies benchmarked in the Index took steps to strengthen their IP framework. Significant, positive developments include:

- The **U.S.**, **UK**, and **EU** economies remain atop the global IP rankings. In particular, the U.S. and the UK rank so closely together in the 2018 Index that it has become clear the countries stand side-by-side as global leaders in IP protection and enforcement.

- Throughout 2017, courts utilized recent legislative changes to bolster protection for copyrighted content online. In **Australia**, the federal court applied the 2015 Copyright Act in five landmark cases to secure injunctions against Internet service providers (ISPs) hosting pirated content. A number of EU economies – including **Ireland**, **Italy**, and **Sweden** – and the **UK** also applied existing legislation and judicial precedents to block access to pirate websites, marking a significant step forward in anti-piracy efforts across the continent.

- The majority of the economies benchmarked in the Index are building more effective foundations for IP policy. **Indonesia**, **Thailand**, and **Vietnam** each have long-standing programs to enhance coordination among government agencies responsible for IP enforcement.

- In **India**, the July 2017 Guidelines on the Examination of Computer-Related Inventions significantly improved the patentability environment for technological innovations. Additionally, the government created IP awareness workshops and technical training

programs for enforcement agencies, implementing key deliverables of the National Intellectual Property Rights Policy. However, India's score continues to suggest that additional, meaningful reforms are needed to complement the Policy.

- A number of countries introduced policies to enable innovators and creators to utilize IP as an economic and commercial asset and encourage legitimate technology transfer. In **Malaysia**, the government placed an emphasis on encouraging the dissemination of IP as an asset in successive national innovation plans. In **Saudi Arabia**, technology transfer framework underpinned the growth of technology startups and national research centers.

In some countries, the results were mixed, with significant steps forward in some areas and steps back in others. Challenges include:

- While the **U.S.** remains at the top of the 2018 Index rankings, innovators and creators face a challenging environment for protecting their IP under current U.S. law. The U.S. strengthened border enforcement efforts through the Trade Facilitation and Trade Enforcement Act; however, U.S. patentability standards and patent opposition procedures continue to create uncertainty for rightsholders.

- **China** adopted proposals to strengthen biopharmaceutical innovation through its patent linkage opinion and expanded regulatory data protection proposal, yet IP-intensive industries continue to face significant market access barriers.

- Throughout 2017, obstacles to securing effective patent protection for innovative products emerged in a number of key global markets, which undermines the fair value of innovative biopharmaceutical products. In the **EU**, the supplementary protection certificate (SPC) manufacturing exemption for European generic and biosimilar manufacturers undermines existing IP protection for innovative biopharmaceuticals. Additionally, both the **Australian** and **Saudi Arabian** governments weakened their patent enforcement mechanisms through Australia's market-sized damages policy and Saudi's 2017 approval of a competing generic product for a medicine with a valid patent.

- **South Africa** published a draft IP policy that includes proposals to weaken patent protection, expand the use of compulsory licensing, and replicate the recommendations of the United Nations High Level Panel on Access to Medicines Report. The proposed recommendations are at odds with South Africa's goal of attracting greater biopharmaceutical investment and transitioning toward a knowledge-based economy.

- The Supreme Court of **Canada** overturned the long-standing patent utility doctrine in its June 2017 decision in *AstraZeneca Canada Inc. v. Apotex Inc.* Yet, despite this positive landmark ruling and a strong Federal Court decision on digital rights management, the Canadian government's insistence on suspending many of the IP provisions in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership

(CPTPP) among the 11 remaining negotiating countries calls into question the government's commitment to embracing more effective IP policies.

Statistical Support for Importance of Strong IP Policies

An updated Statistical Annex provides empirical evidence across 21 specific metrics to illustrate the importance of strong IP policies to the achievement of socio-economic goals. Notably, innovative output, access to innovation, and job creation in knowledge-intensive industries all show a consistently strong correlation to IP system strength without regard to size, region, or level of development.

Conclusion

Economies flourish and the public prospers when governments recognize the value of placing a robust IP system at the core of their legislative, regulatory, and judicial frameworks. The Index provides a blueprint for creating innovative and creative sectors through an effective IP architecture.