



WORLD TRADE
ORGANIZATION



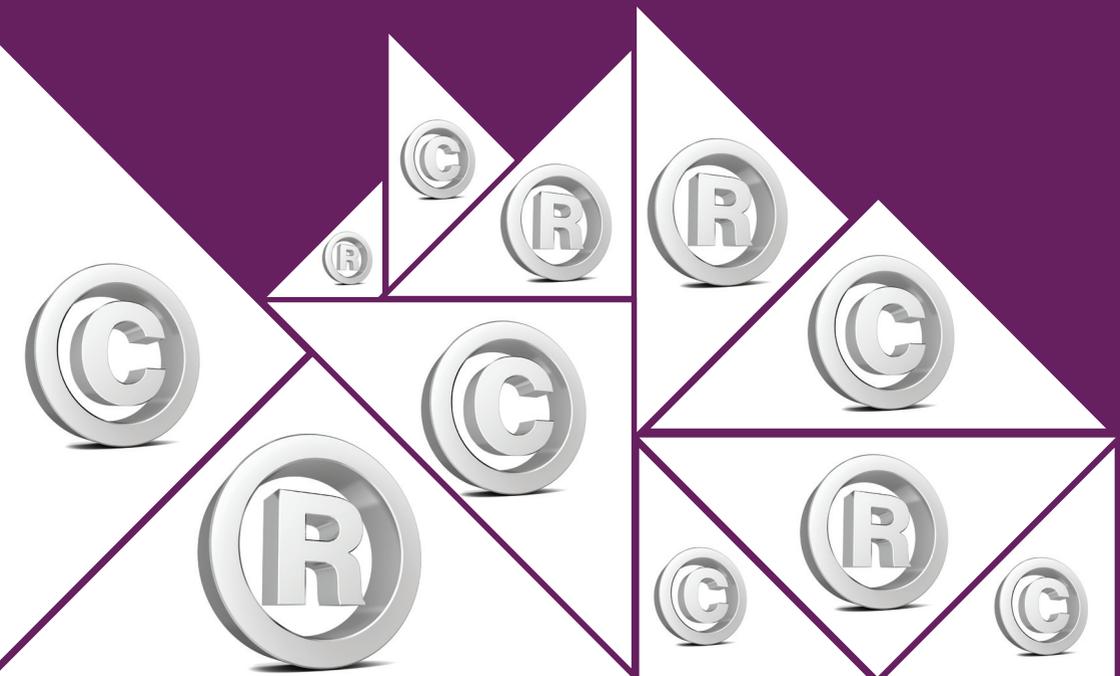
WTO | 20 YEARS

Changing the face of
IP trade and policy-making

TRIPS AGREEMENT

Did you know?

The establishment of the WTO's TRIPS (trade-related aspects of intellectual property rights) Agreement in 1995 changed the face of international intellectual property (IP) law and policy-making. TRIPS negotiators recognized that shortcomings and inconsistencies in IP protection can distort trade and impede its benefits. The TRIPS Agreement helps ease trade tensions about IP issues while leaving WTO members ample space to pursue diverse domestic policies.



Increasing participation in IP trade

The idea of trade, and what makes trade valuable for societies, has evolved beyond simply shipping goods across borders. Innovation, creativity and branding represent a large amount of the value that changes hands in international trade today. How to enhance this value and how to facilitate the flow of knowledge-rich goods and services across borders have become integral considerations in development and trade policy. The TRIPS Agreement is a legal recognition of the significance of links between IP and trade.

Since the Agreement came into force in 1995, the world of IP has been transformed. Many more are using the IP system, leading to huge diversity in how IP rights are used. Dramatic changes in IP law and policy across the globe have been accompanied by equally dramatic changes in the way that IP is traded internationally. Developing economies increasingly participate in IP trade as they tap into global value chains and enhance their innovative and creative capacities.

US\$ 300 billion

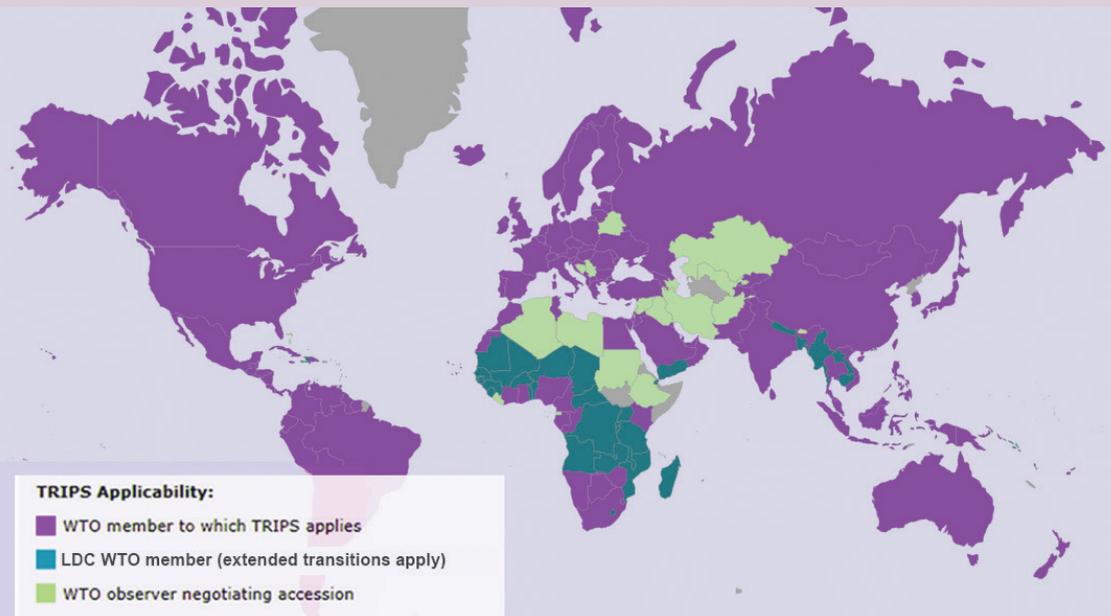
Cross-border payments of royalties
and licence fees for use of IP –
one measure of trade in IP – were
valued at US\$ 300 billion in 2014.

Setting minimum standards for IP protection

The TRIPS Agreement sets out general principles and minimum standards for the protection of IP that aim to facilitate and promote trade in knowledge-rich and value-added goods and services. But its negotiators consciously left room for manoeuvre so that governments can adapt domestic IP laws and policies to safeguard important national interests. For instance, a critical concern has been to sustain a balanced approach to the role of IP in ensuring public health, an approach affirmed by WTO ministers in the 2001 Doha Declaration on the TRIPS Agreement and Public Health, which recognizes the importance of access to medicine.

Developed countries were given until January 1996 to apply TRIPS standards in their national legal systems, while developing countries were granted a longer timeframe - until January 2000. Least-developed countries have even more time - until at least July 2021, a period which could be further extended (see Chart 1). For all WTO members – especially developing countries – implementation of TRIPS standards ushers in a process of passing new legislation or updating existing legislation, as well as strengthening the expertise and building the institutions needed to effectively administer and enforce IP.

Chart 1: Where TRIPS standards apply

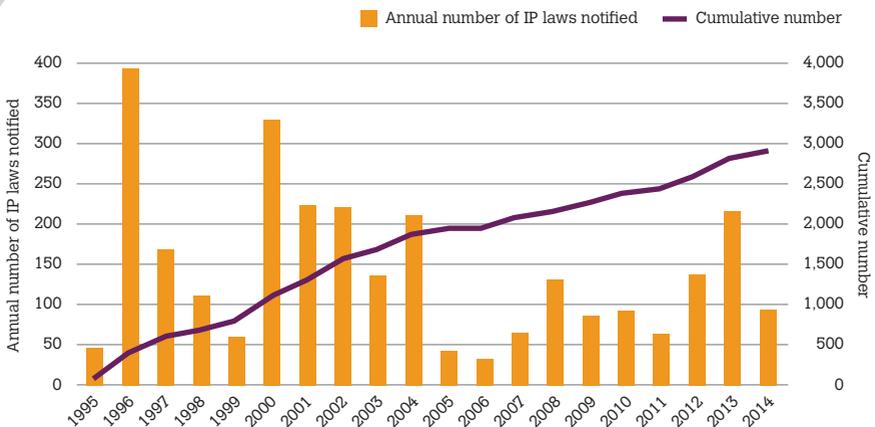


Bringing transparency to IP policy

The TRIPS Agreement requires WTO members to keep the WTO informed about national laws, regulations and enforcement mechanisms in the area of IP. Over the last 20 years, 142 WTO members have submitted notifications about laws and regulations, providing a unique picture of diverse national approaches to IP law and policy. Notifications peaked in 1996 when developed countries provided information about existing laws and the amendments they had undertaken to accommodate TRIPS standards.

Notifications from 2000 onwards have been dominated by developing countries, bringing the cumulative total of laws notified to some 3,000 legal texts (see Chart 2). In the early years, these mostly constituted a comprehensive overhaul of IP law in response to the establishment of the TRIPS Agreement. More recently, the legislation has tended towards a greater focus on evolving policy needs, applying TRIPS standards in diverse ways in response to national priorities and technological, social and commercial changes.

Chart 2: IP laws notified under the TRIPS Agreement



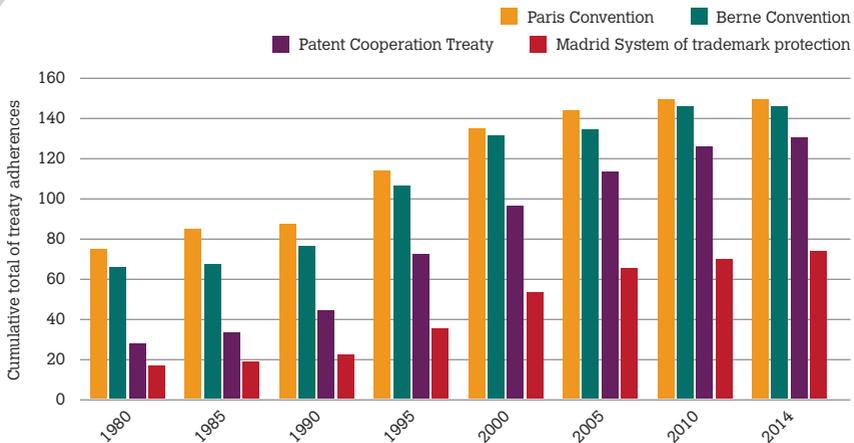
Source: WTO

Adding to the international legal system

The TRIPS Agreement introduced IP standards to international trade law, building upon the existing international legal system developed and administered by the World Intellectual Property Organization (WIPO). Initially, concerns were expressed that the advent of the TRIPS Agreement would fragment international IP law; but in practice WTO members have significantly increased their adherence to WIPO treaties: the core Paris and Berne Conventions as well as administrative treaties such as the Patent Cooperation Treaty and the Madrid system of trademark protection (see Chart 3).

When the TRIPS Agreement has been cited in disputes brought to the WTO, the dispute settlement panels have taken a coherent approach, referring to WIPO diplomatic records to inform their analysis of key legal issues.

Chart 3: WTO members' adherence to WIPO treaties

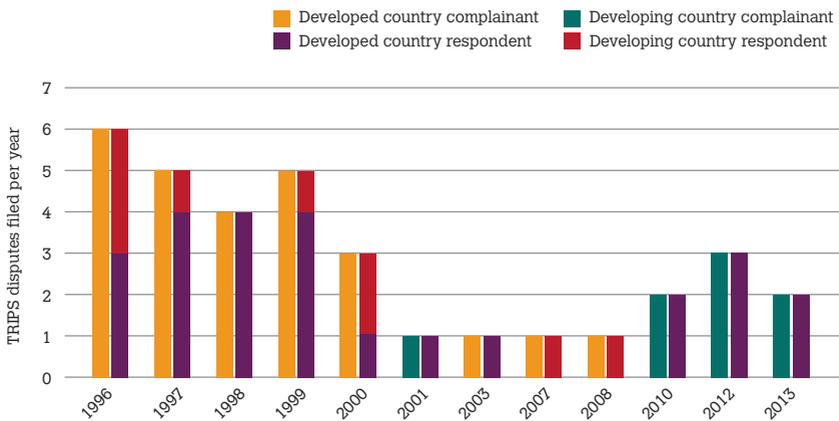


Source: WTO and WIPO

Easing trade tensions over IP issues

The TRIPS Agreement was intended to ease trade tensions over IP issues by creating a rules-based transparent process for settling disputes. Since the establishment of the WTO, 34 disputes have cited the TRIPS Agreement, representing approximately 7 per cent of the total number of disputes brought to the WTO. Most TRIPS disputes – 26 of them – were brought against developed economies, contrary to earlier expectations. The majority of recent TRIPS cases have been brought by developing countries against developed economies (see Chart 4). Three developing countries also used TRIPS in other WTO disputes to leverage access to agricultural and services markets in the developed world.

Chart 4: Disputes citing the TRIPS Agreement by year

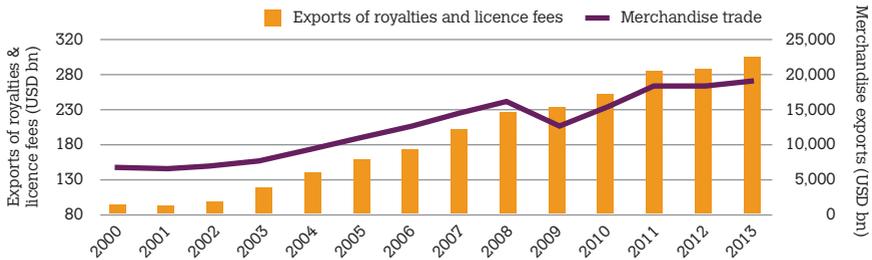


Source: WTO

Facilitating “trade in knowledge”

Implementation of the TRIPS Agreement has progressed in parallel with dramatic changes in the way IP is used in commerce and with unprecedented growth in the use of the international IP system. The TRIPS Agreement is an important element of the increasingly integrated global system for obtaining and exercising IP rights, providing a stable platform for trade in knowledge products. Payments of royalties and licence fees for use of IP are only one measure of the complex pattern of trade in IP. These payments rose to almost US\$ 300 billion in 2014, and increased more than threefold (3.4 times) between 2000 and 2013, exceeding the 2.9 times increase for merchandise exports. As Chart 5 shows, this trade was more resilient than trade in goods during the 2008-09 economic crisis.

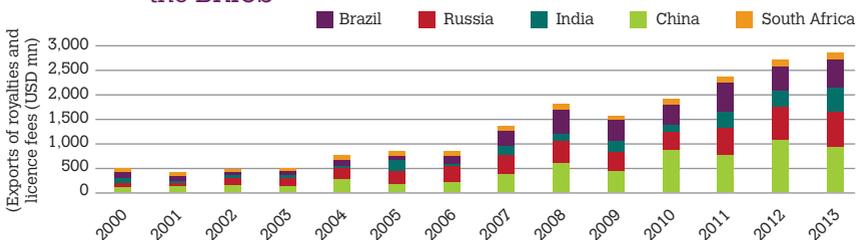
Chart 5: IP exports: receipts of royalties and licence fees vs trade in goods



Source: WTO

Few countries are net exporters of IP, and developing countries in particular mostly import IP. However, as Chart 6 shows, emerging and diversifying economies such as the BRICs (Brazil, Russia, India, China and South Africa) are growing in importance as recipients of IP royalties and licence fees.

Chart 6: IP exports: royalties and licence fees received by the BRICS



Sources: ITC, UNCTAD, WTO joint dataset.

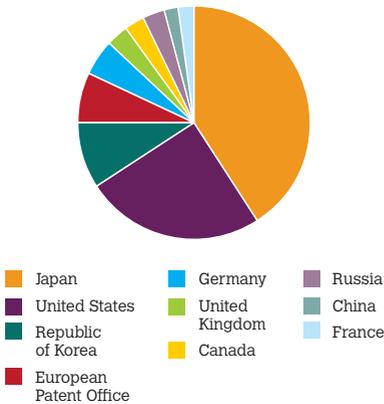
Note: Calculations based on national source, International Monetary Fund, Organisation for Economic Co-operation and Development (OECD) statistics.

Patent applications on the rise

Patent applications filed in WTO members' IP offices have risen sharply, from 1 million in 1995 to 2.5 million in 2013. The geographical spread of this activity has evolved and diversified significantly.

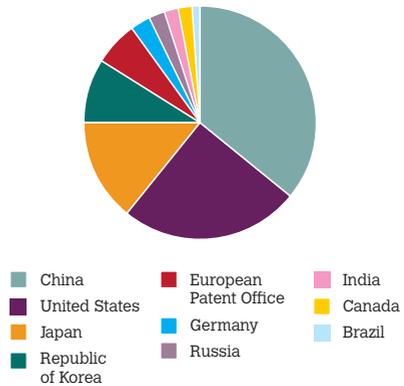
Charts 7 and 8 show the increasing proportion of applications filed by developing countries, driven by growth in innovative capacity in the developing world. China's patent office has now become the world's busiest while developing country innovators are also increasingly seeking patent protection abroad.

Chart 7: Top 10 patent filing offices in 1995



Source: WIPO statistics database. Last updated: March 2015

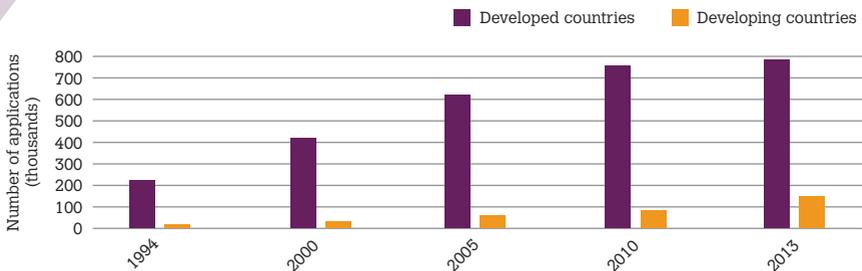
Chart 8: Top 10 patent filing offices in 2013



Source: WIPO statistics database. Last updated: March 2015

Chart 9 shows how developing countries' share of filings in other countries has tripled from 5 per cent prior to the TRIPS Agreement to around 15 per cent today.

Chart 9: International patent filing activity by WTO members



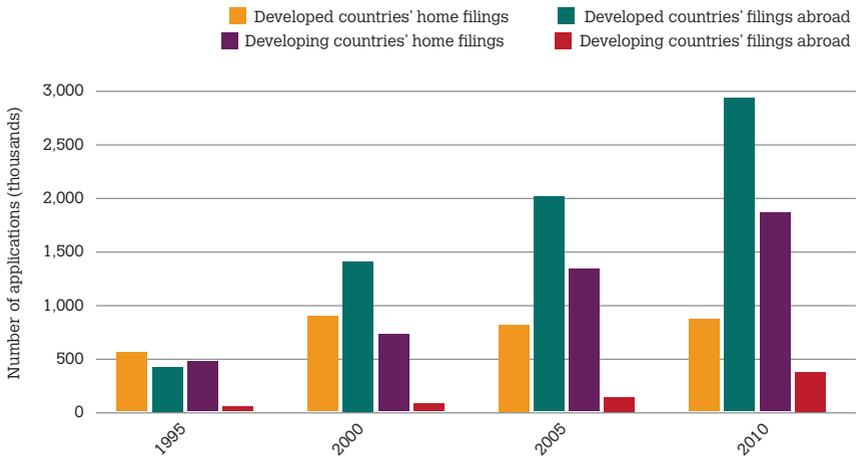
Source: WIPO statistics database

Trademark activity is becoming more diverse

Trademark activity is also becoming more diverse, as firms in developing countries increasingly protect their brands in overseas markets. Chart 10 illustrates how their international filings increased twelvefold from 1995 to 2010, compared with a threefold rise in domestic activity.

Firms in developed countries continue to dominate trademark activity but developing countries are increasingly closing the gap – their share of overseas filings rose from 5 per cent in 1995 to 10 per cent in 2010.

Chart 10: International trademark filing activity by WTO members



Source: WIPO statistics database

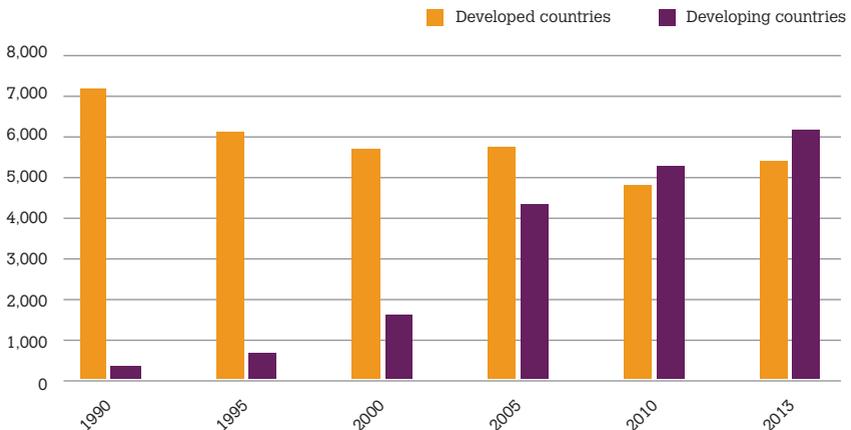
Increase in plant protection filings

The TRIPS Agreement requires WTO members to protect new plant varieties but leaves open the mechanism for applying such measures. One approach chosen by many members is the system established by the International Union for the Protection of New Varieties of Plants (UPOV) Convention. Almost all developing countries in the UPOV system joined after the conclusion of the TRIPS Agreement.

The statistics collected by UPOV illustrate significant shifts in the protection of plant varieties since 1990. An overall decline in filings by developed countries contrasts with a sharp rise in developing country activity, with those countries now exceeding the developed countries' level of filings (see Chart 11).

This shift in activity takes place against the background of increasing engagement by a number of developing countries in exports of plant varieties such as flowers and ornamental plants.

Chart 11: Total applications for plant-variety protection by WTO members



Source: International Union for the Protection of New Varieties of Plants (UPOV)

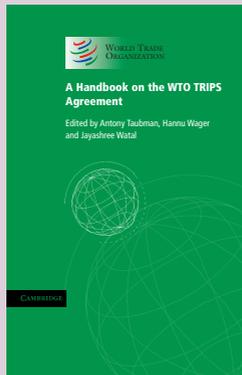
Conclusions

The increase in IP legislative activity and the rapid uptake in the use of IP rights covered by the TRIPS Agreement, particularly in developing countries, confirms the importance of the TRIPS Agreement in the multilateral trading system. IP lies at the centre of efforts to gain benefits from innovation and creativity in today's global economy, while the TRIPS Agreement continues to play a critical role in facilitating trade in knowledge, in resolving trade disputes over IP, and in assuring WTO members the latitude to achieve their domestic objectives.

Further information on the TRIPS Agreement



The Making of the TRIPS Agreement: Personal Insights from the Uruguay Round negotiations



A Handbook on the WTO TRIPS Agreement



Promoting Access to Medical Technologies and Innovation: Intersections between public health, intellectual property and trade

TRIPS Agreement on the WTO website: www.wto.org/trips

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