

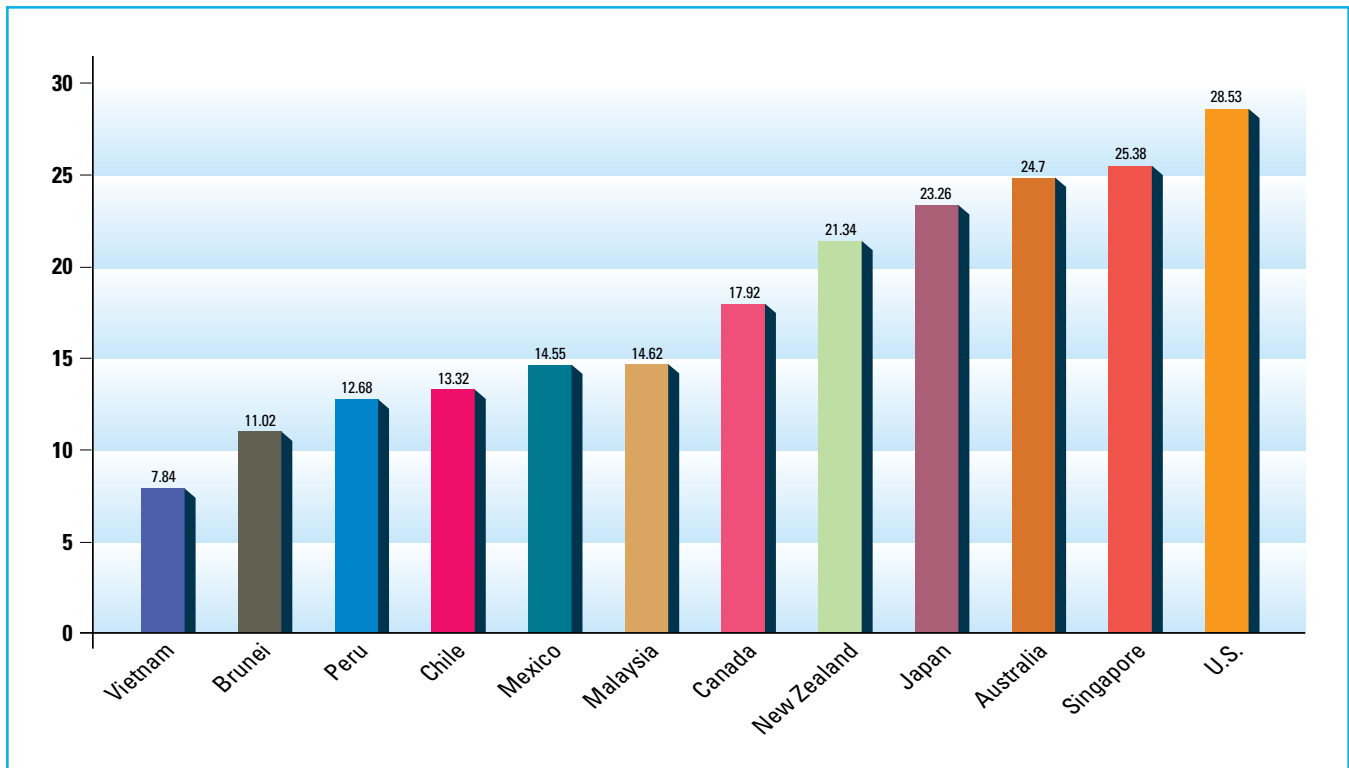
# UP

# Unlimited Potential

Intellectual Property in the  
Trans-Pacific Partnership (TPP)



**GIPC**  
Global Intellectual Property Center  
U.S. CHAMBER OF COMMERCE



The Global Intellectual Property Center’s International IP Index<sup>1</sup> measures the intellectual property environment in 30 economies<sup>2</sup>, including each of the Trans-Pacific Partnership (TPP) negotiating countries. The GIPC Index illustrates that the strength of intellectual property laws varies widely among TPP parties. Further, the index demonstrates direct linkages between a strong IP environment and the achievement of a number of highly desirable socio-economic goals; accordingly, an investment by the TPP parties in a strong, well-rounded intellectual property chapter would be likely to bring significant and direct benefits to each country.

**A strong outcome on intellectual property in the TPP would include:**

- A 12-year term of regulatory data protection for biologics;
- Enhanced patent protection for innovators, including effective patent linkage mechanisms, patent term extension and restoration, and transparent marketing approval mechanisms;
- Criminalization of illegal cam-cording and related content theft;
- Effective provisions for Internet Service Provider (ISP) liability to combat online content theft;
- Criminalization of trade secret theft.

**Related benefits to the TPP parties would be expected to include, among other things:**

- Increased private sector spending on research and development (40% more likely);
- Enhanced levels of domestic innovative output (50% more output);
- Workforce concentration in knowledge-intensive industries (more than double);
- Access to digital technologies (20% greater).

<sup>1</sup> The “GIPC Index” – 3rd Edition, Feb. 2015 ([www.theglobalipcenter.com/gipcindex](http://www.theglobalipcenter.com/gipcindex))

<sup>2</sup> Argentina, Australia, Brazil Canada, Chile, China, Colombia, France, Germany, India, Indonesia, Japan, Malaysia, Mexico, New Zealand, Nigeria, Peru, Russia, Singapore, South Africa, South Korea, Switzerland, Taiwan, Thailand, Turkey, UAE, Ukraine, United Kingdom, United States, Vietnam

<p style="text-align: center;"><b><u>AUSTRALIA</u></b></p> <p>Australia enters the TPP negotiations with a relatively strong IP environment, yet notable weaknesses with respect to the term of data protection afforded innovative products; unparalleled restrictions on trademark rights; and weak enforcement mechanisms for copyright infringement.</p> <p style="text-align: center;"><b>Rank on the GIPC Index: 7</b></p>	<p style="text-align: center;"><b><u>BRUNEI</u></b></p> <p>Brunei has started on a path of major IP reforms including establishing a dedicated IP office. However, IP rights for life sciences and enforcement against copyright infringement are lacking. Brunei also has yet to enter into a free trade agreement with substantive IP provisions- a gold-standard TPP would likely help raise their score on this.</p> <p style="text-align: center;"><b>Rank on the GIPC Index: 24</b></p>	<p style="text-align: center;"><b><u>CANADA</u></b></p> <p>Despite acceding to a number of free trade agreements, Canada's intellectual property rights regime ranks well below its peers. Notably, Canadian innovators and entrepreneurs are challenged by onerous patentability requirements; the absence of a takedown mechanism for online copyright infringement; and poor application and enforcement against counterfeiting and piracy.</p> <p style="text-align: center;"><b>Rank on the GIPC Index: 11</b></p>
<p style="text-align: center;"><b><u>CHILE</u></b></p> <p>Despite an existing free trade agreement with a strong IP chapter, the Chilean environment is marked by several deficiencies, including no effective patent linkage; no patentability for computer-related inventions; weak legal framework for piracy prevention; and, poor legal protection against trade secret theft.</p> <p style="text-align: center;"><b>Rank on the GIPC Index: 17</b></p>	<p style="text-align: center;"><b><u>JAPAN</u></b></p> <p>Among the top 10 rated intellectual property environments globally, Japan is nevertheless a limited participant in international treaties that establish the modern standards for IP protection. Additionally, Japan has relatively weak protections for online content.</p> <p style="text-align: center;"><b>Rank on the GIPC Index: 9</b></p>	<p style="text-align: center;"><b><u>MALAYSIA</u></b></p> <p>Malaysia has initiated forward movement in protecting IP, specifically in ramping up efforts to combat online copyright infringement. However, many IP challenges remain, specifically de facto regulatory data protection is not offered to new products, patent term restoration is absent, and ex officio powers remain unused by customs officials.</p> <p style="text-align: center;"><b>Rank on the GIPC Index: 12</b></p>
<p style="text-align: center;"><b><u>MEXICO</u></b></p> <p>Mexico is a top performer on IP among middle-income countries. Opportunities for further gain lie in stronger prosecution of trade secret theft; enhanced patent linkage mechanisms; patentability of computer-related inventions; and, providing a legal basis for ISP liability related to copyright infringement.</p> <p style="text-align: center;"><b>Rank on the GIPC Index: 14</b></p>	<p style="text-align: center;"><b><u>NEW ZEALAND</u></b></p> <p>New Zealand ranks in the top third for overall IP environments. Despite this, significant obstacles and deficient terms of protection in the life sciences sectors undercut its innovative abilities. Furthermore, it faces challenges in effective customs enforcement and low restitution for infringement cases.</p> <p style="text-align: center;"><b>Rank on the GIPC Index: 10</b></p>	<p style="text-align: center;"><b><u>PERU</u></b></p> <p>While the U.S.-Peru Trade Promotion Agreement (USPTPA) included a number of IP provisions, Peru has yet to meet the USPTPA obligations. The TPP could be a catalyst for action and can address Peru's rudimentary copyright regime, lack of regulatory data protection for biologics, and weak enforcement environment.</p> <p style="text-align: center;"><b>Rank on the GIPC Index: 18</b></p>
<p style="text-align: center;"><b><u>SINGAPORE</u></b></p> <p>Singapore has taken proactive steps to establish itself as a global IP leader, including through the passage of a comprehensive copyright law in 2014. Nevertheless, rates of software piracy and trademark counterfeiting remain high.</p> <p style="text-align: center;"><b>Rank on the GIPC Index: 5</b></p>	<p style="text-align: center;"><b><u>UNITED STATES</u></b></p> <p>Though the U.S. leads in establishing and protecting intellectual property rights, the American system can work to its full potential if more best practices are adopted globally, making a 21st-century IP chapter in the TPP all the more important. Notably, the U.S. ranks fourth in IP enforcement.</p> <p style="text-align: center;"><b>Rank on the GIPC Index: 1</b></p>	<p style="text-align: center;"><b><u>VIETNAM</u></b></p> <p>Vietnam perhaps has the most to gain from the TPP negotiations. As the party with the lowest Index ranking, a high-standard IP chapter would be a significant boon for its innovative and creative economies. Currently, Vietnam's regulatory data protection framework is vague while on the copyright side, major holes in exceptions and limitations continue to exist.</p> <p style="text-align: center;"><b>Rank on the GIPC Index: 29</b></p>



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