

## 2020 INTERNATIONAL IP INDEX EXECUTIVE SUMMARY

The 2020 U.S. Chamber International IP Index creates a template for economies that aspire to become 21st century, knowledge-based economies through more effective IP protection. With a robust IP ecosystem, economies can unleash the Art of the Possible, taking the ideas and creations of the mind and transforming them into the next generation of technologies, medicines, and creative works that enrich our lives. Economies large and small and developed and developing can leverage effective IP standards to foster innovation and creativity, attract greater foreign direct investment (FDI), and stimulate economic and global competitiveness.

### Geographic Coverage

In its eighth edition, the Index maps the IP ecosystem in 53 global economies, representing over 90% of global GDP. Three new economies added this year are in bold.

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Algeria	France	Mexico	Spain
Argentina	Germany	Morocco	Sweden
Australia	<b>Greece</b>	Netherlands	Switzerland
Brazil	Hungary	New Zealand	Taiwan
Brunei	India	Nigeria	Thailand
Canada	Indonesia	Pakistan	Turkey
Chile	Ireland	Peru	U.S.
China	Israel	Philippines	UAE
Colombia	Italy	Poland	UK
Costa Rica	Japan	Russia	Ukraine
<b>Dominican Republic</b>	Jordan	Saudi Arabia	Venezuela
Ecuador	Kenya	Singapore	Vietnam
Egypt	<b>Kuwait</b>	South Africa	
	Malaysia	South Korea	

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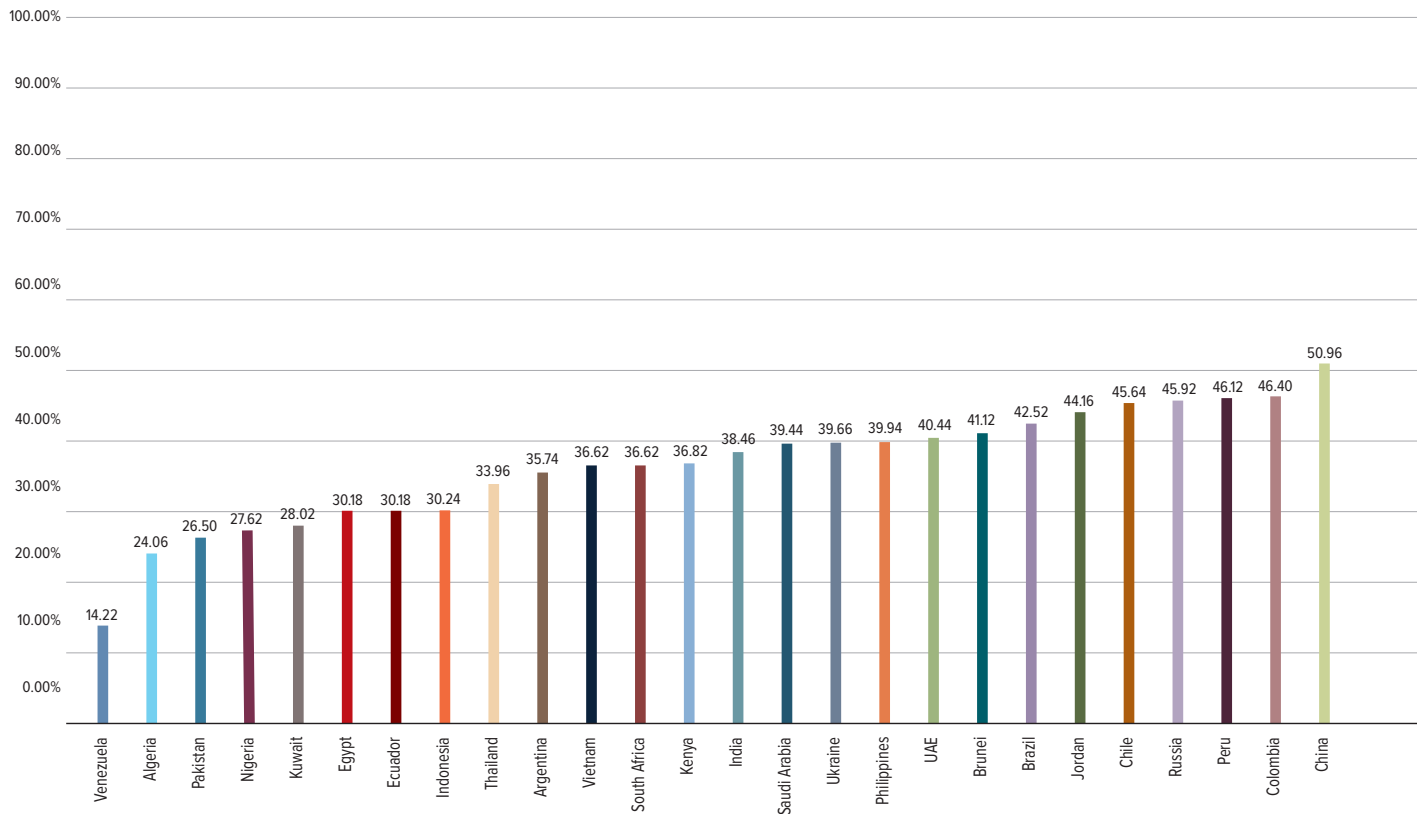
The Index evaluates the IP framework in each economy across 50 unique indicators which industry believes represent economies with the most effective IP systems. The indicators create a snapshot of an economy's overall IP ecosystem and span nine categories of protection: patents, copyrights, trademarks, design rights, trade secrets, commercialization of IP assets, enforcement, systemic efficiency, and membership and ratification of international treaties.

## New Indicators

The Index is a continuously evolving tool that seeks to benchmark the emerging challenges IP owners face in global markets around the world. The 2020 Index includes five new indicators and two additions to existing indicators:

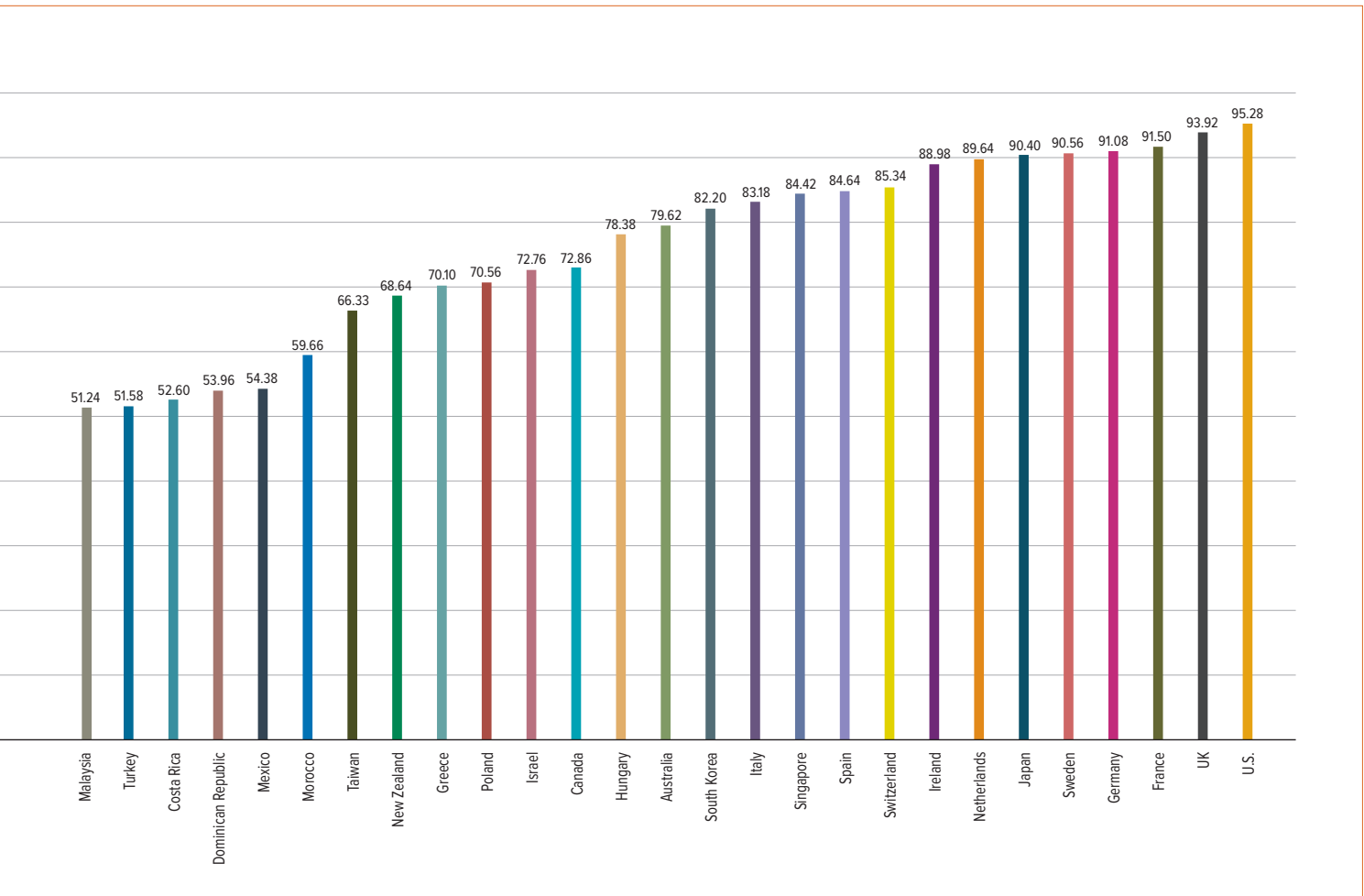
- Plant variety protection, term of protection (Indicator 4)
- IP-intensive industries, national economic impact analysis (Indicator 43)
- Membership of the International Convention for the Protection of New Varieties of Plants, act of 1991 (Indicator 47)
- Membership of the Convention on Cybercrime, 2001 (Indicator 48)
- The Hague Agreement Concerning the International Registration of Industrial Designs (Hague Agreement and Geneva Act) (Indicator 49)
- Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Added to Indicator 45)
- Patent Cooperation Treaty (Added to Indicator 46)

2020 Overall Scores



## Key Findings

- IP remained at the crux of the China trade dispute.** The United States and China signed a Phase One trade agreement on January 15, 2020. The agreement includes reforms to better protect against trade secrets theft, pharmaceutical-related IP and patent infringement, and bad faith trademarks. The agreement also includes provisions to strengthen judicial enforcement of IP and commitments to combat counterfeiting and piracy. The Phase Two agreement is expected to focus on IP reforms—many of which are noted in the Index—and will create an opportunity to continue to improve IP protection globally.
- Several emerging markets made progress towards implementing a range of pro-IP measures in order to attract investment, though challenges remain.**
  - In anticipation of the Phase One agreement, China introduced a number of IP reforms, including measures to strengthen the licensing and technology transfer environment, amendments to increase fines for bad faith trademark applications, and new legal protections for trade secrets.
  - In addition to IP reforms in China, both **India** and **Brazil** passed a series of reforms and issued precedential court rules that strengthen IP enforcement, address administrative inefficiencies, and increase penalties for IP infringement.

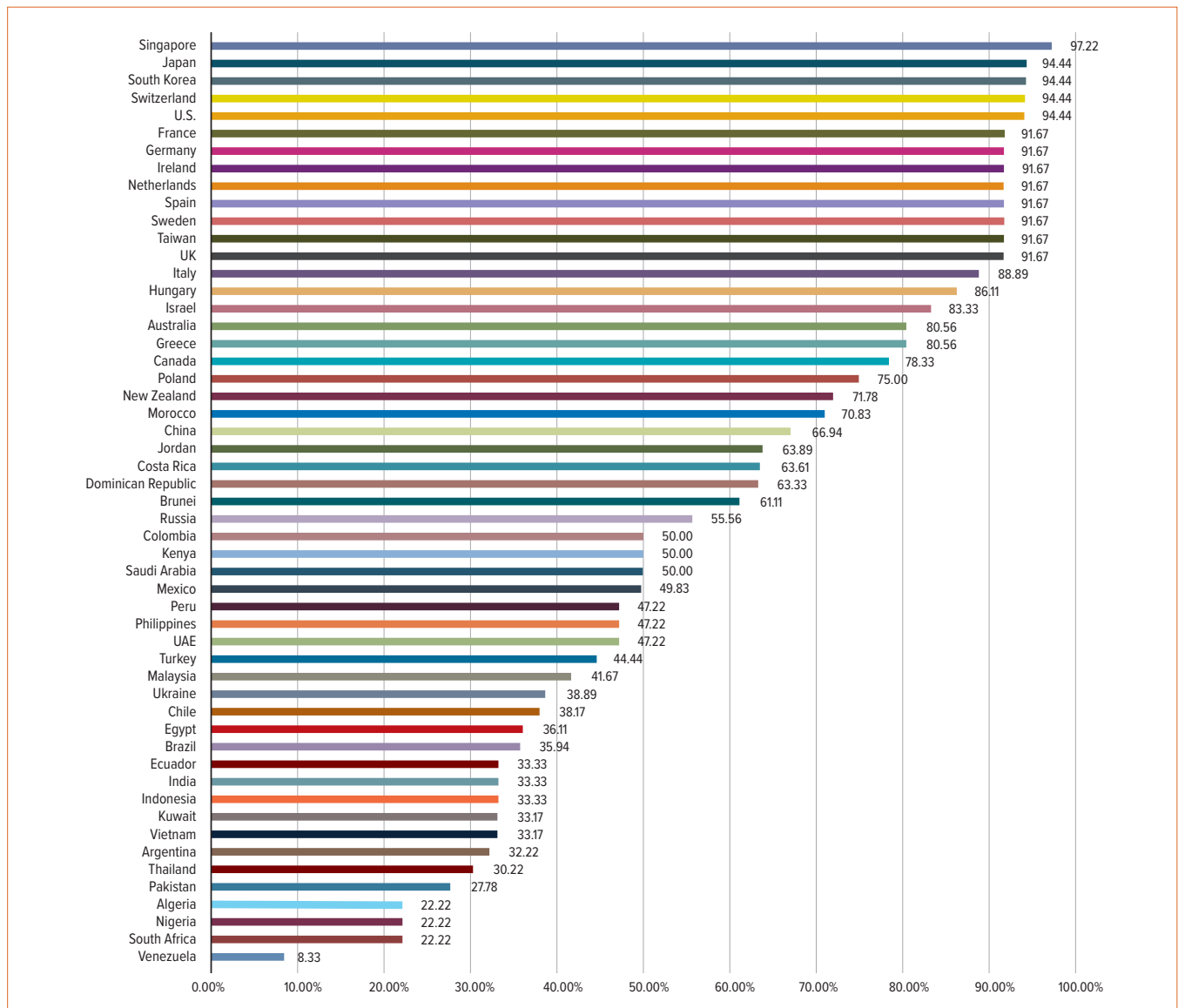


- **Peru** achieved the greatest overall score improvement of the Latin American economies benchmarked in the report. Additionally, **Vietnam's** score increased the most out of the Asian economies as a result of legislation to increase damages awarded for IP infringement and participation in a number of international IP treaties.
- **Developed and developing economies alike are undermining biopharmaceutical innovation, which reduces access to life-saving medicines and technologies and is the wrong approach to address health care costs.**
  - In the **EU**, the Supplementary Protection Certificate (SPC) manufacturing and export exemption entered into force in July 2019, resulting in a .25 point drop for the EU economies benchmarked in the Index. Designed specifically to bolster the European generics industry, in practice, the export exemption will significantly undermine the investment in developing new treatments and cures in the EU.
  - Economies of all levels of development – from the **Netherlands to Greece to Chile** – expanded the grounds on which compulsory licenses can be issued. Utilizing compulsory licenses as a tool for domestic cost containment fundamentally undermines the legal certainty which effective IP systems provide.
  - Recent proposals by some **U.S.** policymakers to use compulsory licenses as a cost-containment tool risk killing the model of innovation that since the mid-1980s has been providing Americans, and patients around the world, with new and better health technologies and medicines. Taken together with proliferating proposals for artificial price controls, such as HR 3, and importation of international pricing indexing and foreign-sourced medicines, the use of these licenses poses an existential threat to the United States' position as the undisputed global leader in biopharmaceutical innovation.
- **Recent free trade agreements (FTAs) have failed to strengthen global IP standards, and future agreements must do more to raise the bar for IP protection.**
  - The final **United States-Mexico-Canada Agreement** represented a significant missed opportunity to elevate IP protection for innovators and creators across North America. While the original USMCA included many critical, high-standard IP protections, key life sciences IP protections were removed from the final deal struck in December 2019.
  - A number of FTAs passed in recent years – including the **EU-Mercosur Association Agreement**, the **Indonesia Australia Comprehensive Economic Partnership Agreement**, and the **Comprehensive and Progressive Agreement for Trans-Pacific Partnership** – omit many IP standards included in other 21st century, post-TRIPS FTAs.
- **Emerging markets are increasingly using international treaties to signal that their economy is willing to engage and abide by international IP standards.**
  - Several major emerging economies – including **Argentina, Brazil, India, and Peru** – joined Patent Prosecution Highway (PPH) agreements to expedite patent examination and address backlogs.
  - Nearly all the economies benchmarked in the Index are a contracting party to one or more of the treaties benchmarked in the Index, sending a strong signal that economies of all levels of development are willing to participate in the global IP system.

## Category-by-Category Results

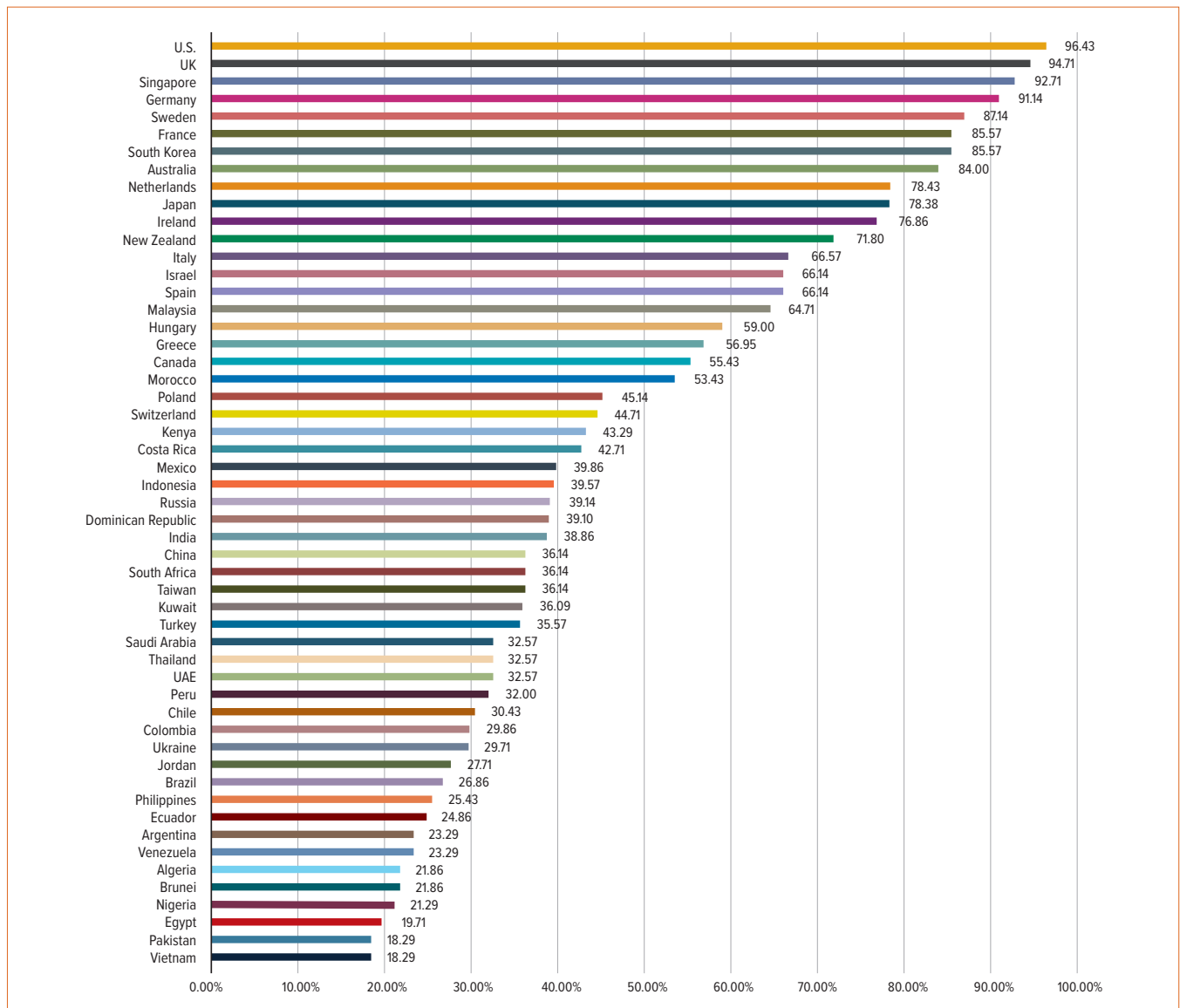
### Patents, Related Rights, and Limitations

- While 13 high-performing economies receive over 90% of the overall score, with Singapore leading the way, challenges remain to securing effective patent protection in even the most developed economies.
  - In the **United States**, U.S. Patent and Trademark Office Director Andrei Iancu sought to address long-standing uncertainty through new guidelines on patentable subject matter and reform of the inter partes review (IPR) process.
  - **Canada's** Patented Medicine Prices Review Board (PMPRB) guidelines and the limited patent term restoration framework weaken the environment for biopharmaceutical innovators seeking to invest in R&D and undermine access to the newest innovative medicines in Canada.



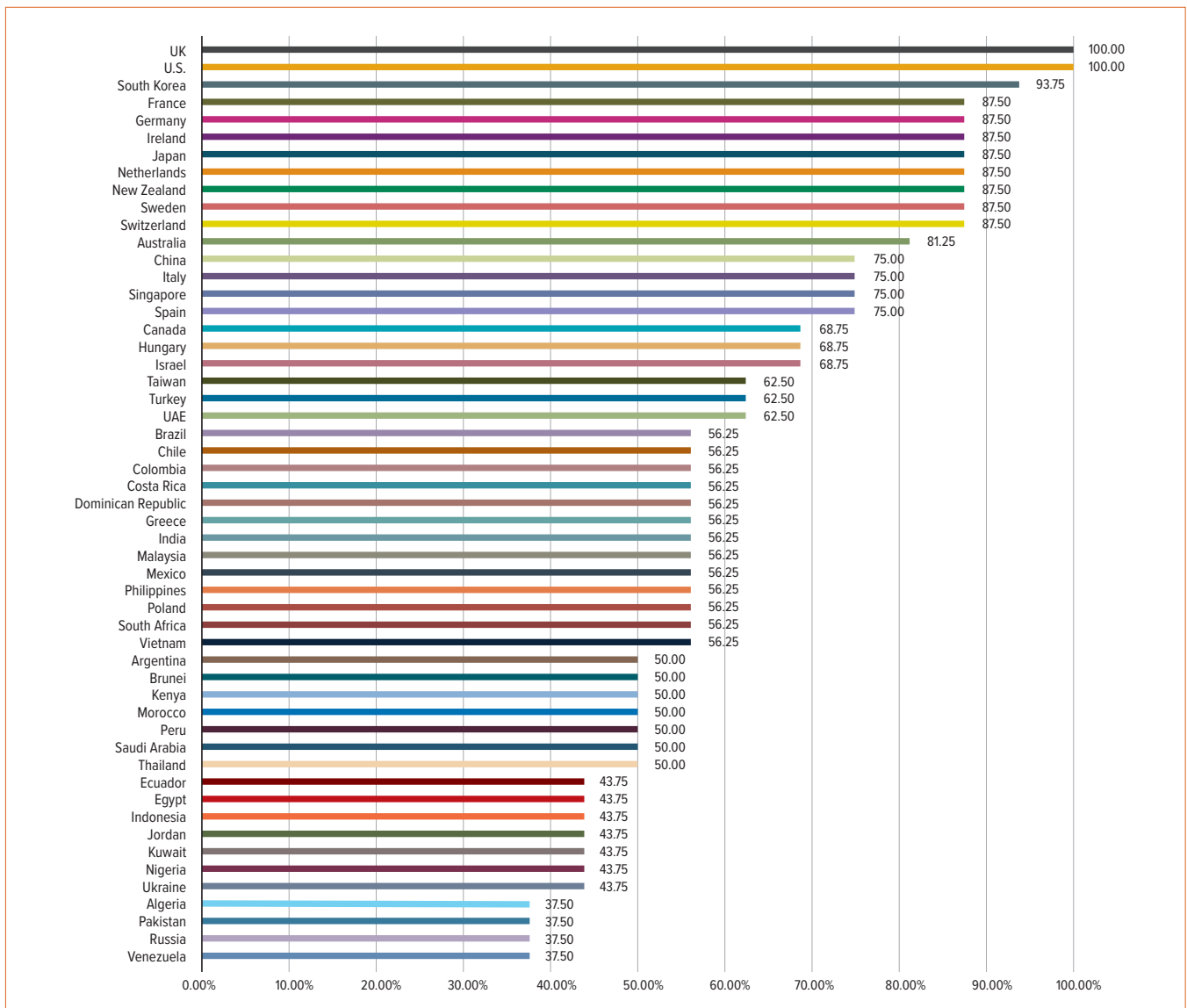
**Copyrights, Related Rights, and Limitations**

- Creators continue to face significant obstacles to securing effective copyright protection in global markets, with 33 of the economies benchmarked failing to achieve 50% of the available score.
- However, a number of economies took steps to bolster protection for copyrighted content online. **Ecuador, Greece, India, Israel, and Peru** utilized injunctive relief, anti-piracy legislation, or administrative orders to disable access to pirated content provided through copyright-infringing sites.
- In **Malaysia**, the government used its broad authority to censor content to disable access to infringing-content provided through set-top boxes, which are an increasingly prevalent means to share pirated content throughout Asia.



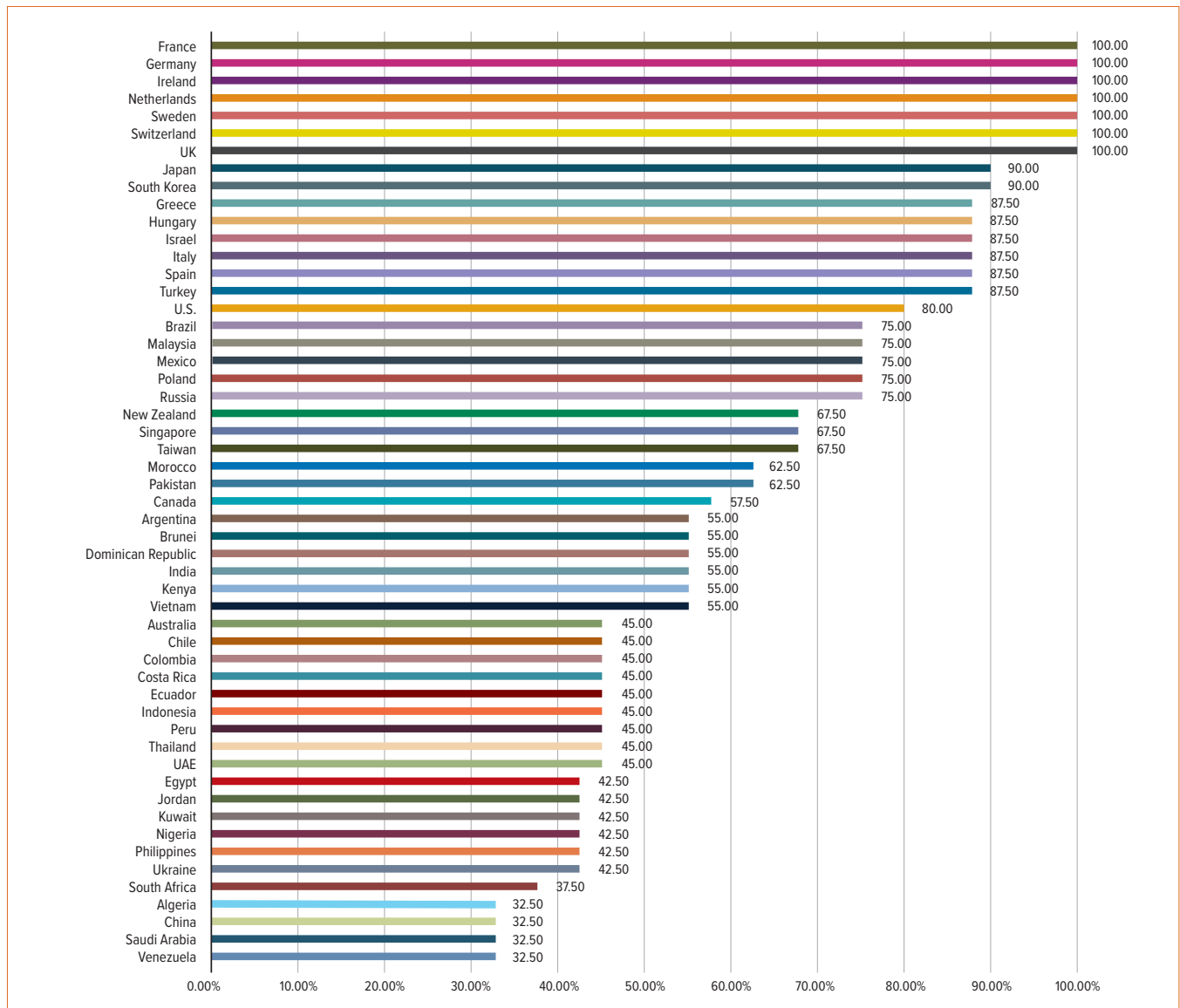
**Trademarks, Related Rights, and Limitations**

- While many of the Index economies have basic forms of trademark protection in place, the proliferation of counterfeit goods in the online ecosystem continues to create challenges for rights-holders in markets around the world. In order to better protect consumers, courts and governments in key global markets advanced stronger trademark enforcement mechanisms online.
  - In the **EU**, two European Court of Justice rulings established an obligation for online merchants to take down IP-infringing material in online auction houses.
  - In **India**, two Delhi High Court cases established a potential precedent that intermediaries and online marketplaces must remove patent-, copyright-, and trademark-infringing content upon notification from the rights-holders.



## Design Rights, Related Rights, and Limitations

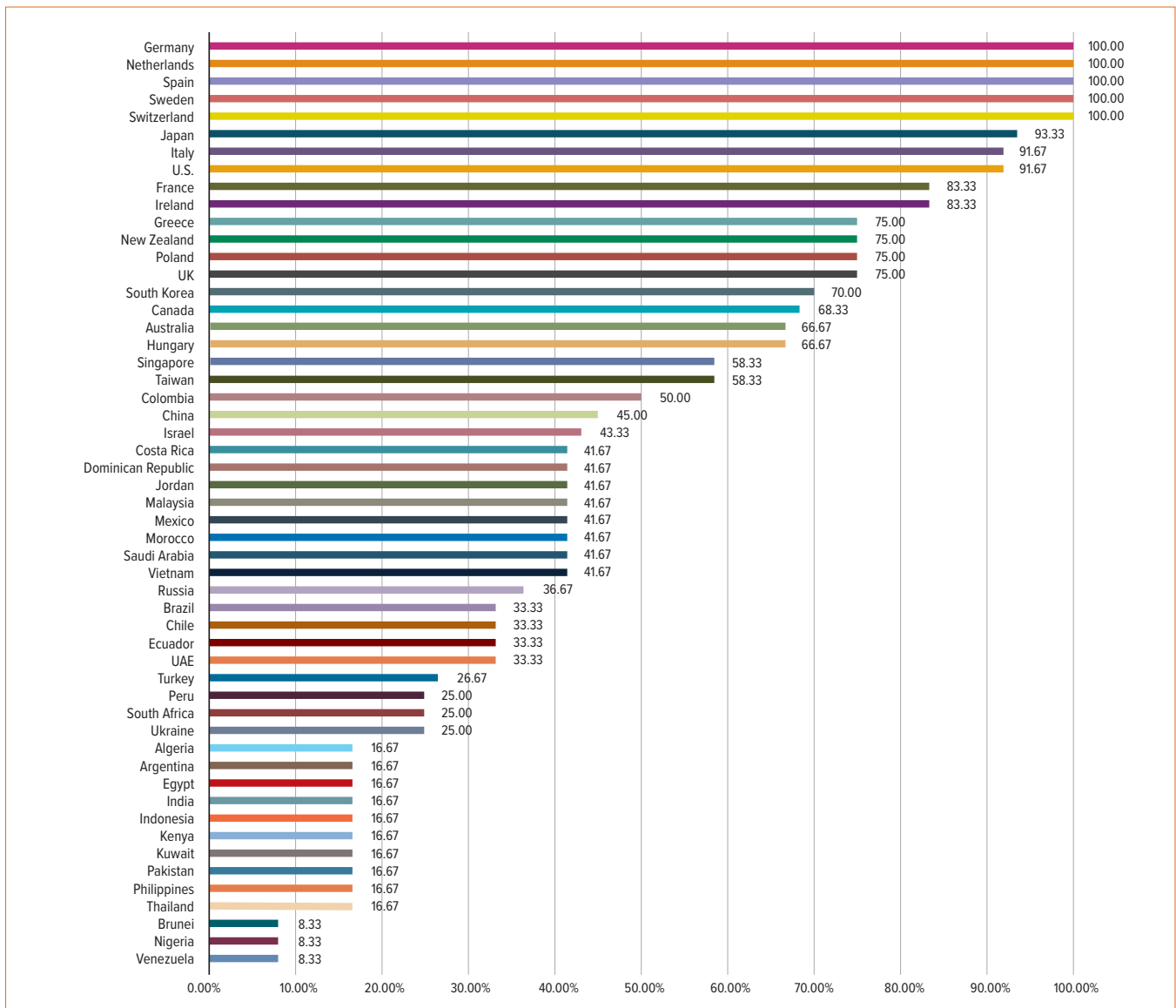
- IP rights pertaining to industrial design are becoming increasingly important to IP owners, with the number of design applications increasing from less than 200,000 in 1995 to over 1 million in 2018.
- Given the growing prevalence of design rights, many of the economies benchmarked in the Index have some protection in place, with an average score of 64.20% for all the economies benchmarked.
  - Over the last year, both **Chile** and **Taiwan** extended the design rights term of protection while **Kenya** eliminated burdensome registration requirements for design rights applications.





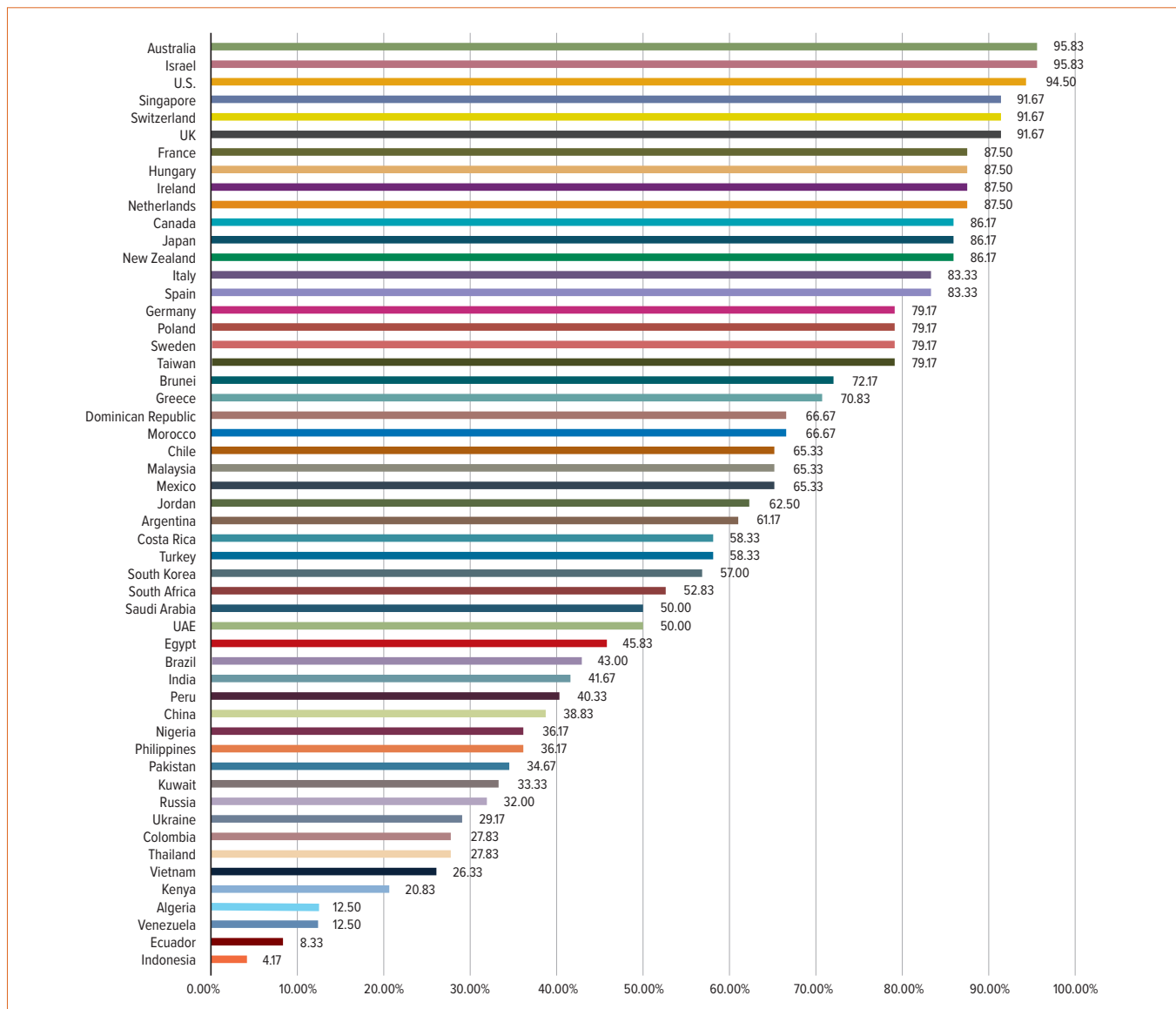
**Trade Secrets and the Protection of Confidential Information**

- Many economies do not have specific trade secrets legislation in place but instead rely on laws relating to employment contracts and disclosure of confidential information. However, a number of economies have recognized this gap and taken steps to better protect trade secrets.
  - In the **EU**, the Trade Secrets Directive sets common minimum standards for trade secrets protection and enforcement. However, the directive does not include criminal sanctions for trade secrets theft, leading to a wide variance in the availability of or absence of criminal sanctions across the EU.
  - In Asia, both **South Korea** and **China** introduced measures to bolster trade secrets protection. In South Korea, new legislation strengthened penalties for trade secrets theft while Chinese amendments to the Anti-Unfair Competition Law included a more comprehensive definition of trade secrets and increased the penalties for theft. The Phase One China agreement with the United States also has fulsome provisions on trade secrets.



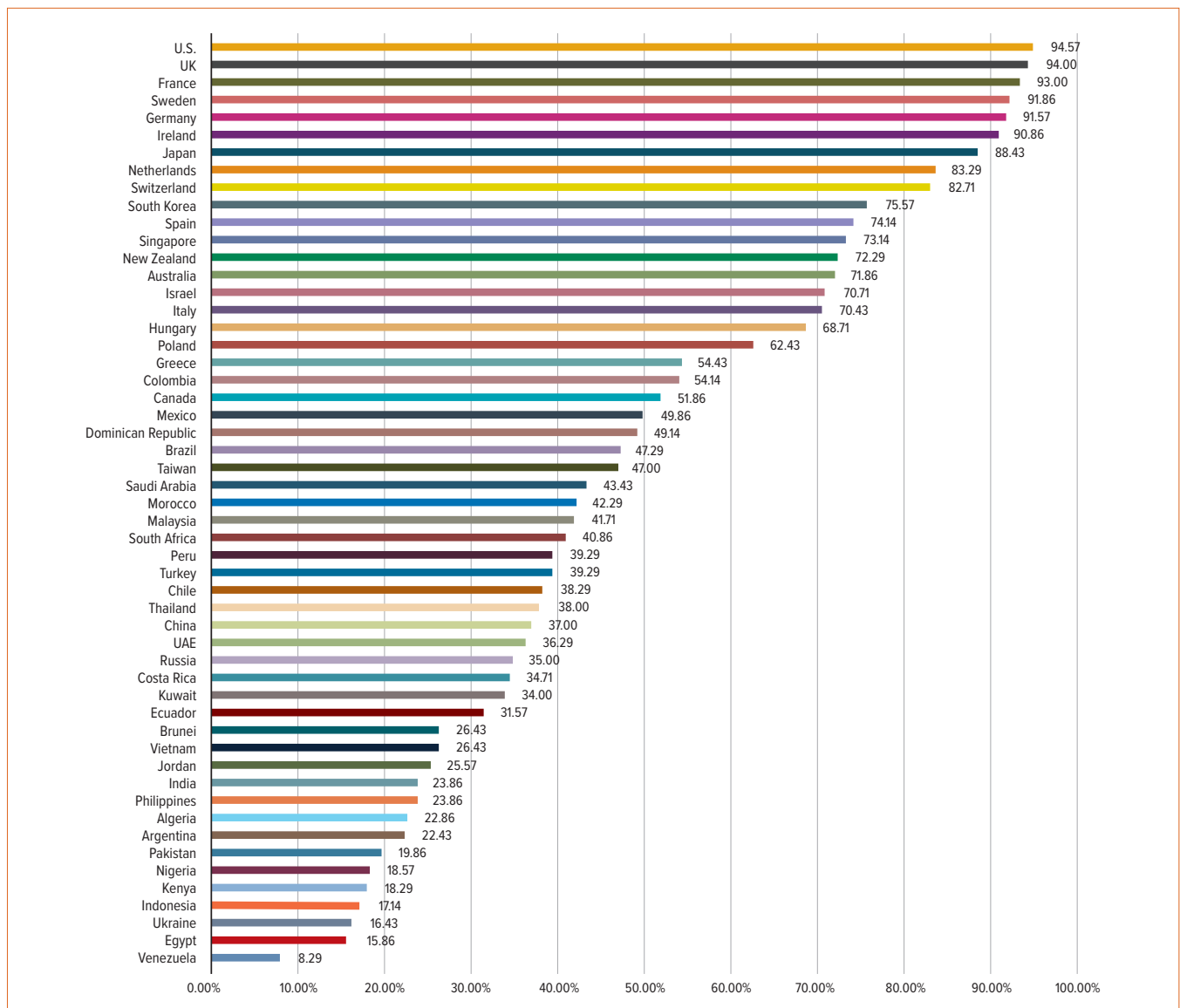
**Commercialization of IP Assets**

- Technology transfer and licensing policies are critical mechanisms that translate the newest innovative and creative ideas into commercially available products. The most effective technology transfer systems are underpinned by IP frameworks that minimize barriers and facilitate market-based partnerships.
  - Recognizing the importance of an efficient technology transfer framework, both **China** and **UAE** introduced reforms to eliminate barriers to market entry in order to facilitate voluntary technology transfer and licensing agreements.
  - Additionally, **Singapore** and **Switzerland** introduced new R&D and IP-based tax incentives to facilitate investment in innovative and creative goods and services.
  - However, a number of economies' governments – including **Algeria, Indonesia, Nigeria, Russia, Thailand,** and **Turkey** – continue to intervene in the setting of licensing terms, which create barriers for foreign innovators and creators seeking to operate in the market.



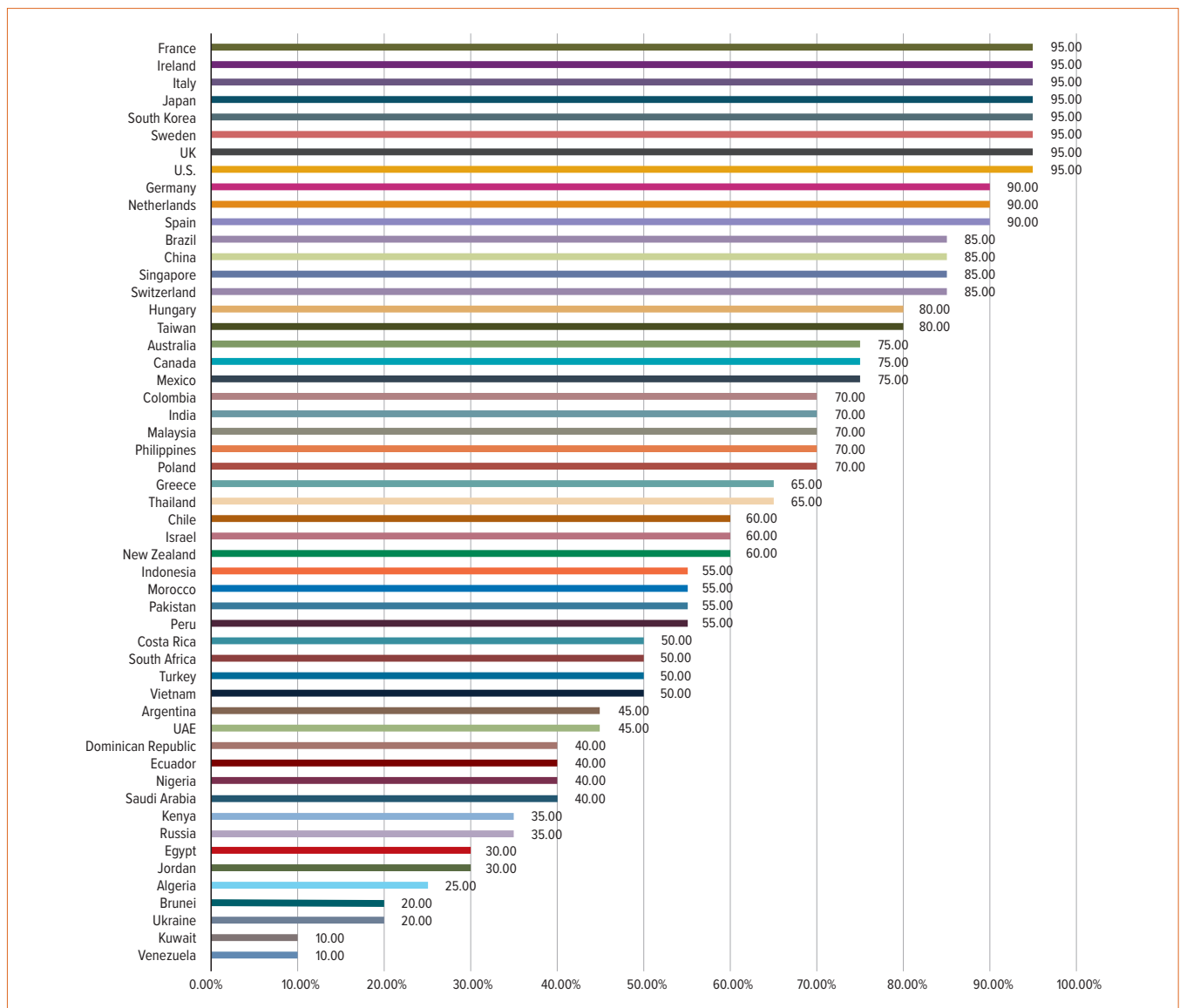
**Enforcement**

- Enforcement of IP rights continues to be a challenge across global markets, with only 21% of the economies included achieving a score of 50% or more. However, a number of markets took steps to strengthen IP enforcement in 2019.
  - While the government of **Brazil** introduced a new criminal enforcement initiative, the government of **India** strengthened civil enforcement measures and awarded substantive damages in two IP infringement cases.
  - In **South Korea**, the government further strengthened its IP enforcement framework with amendments that increased the basis for which damages can be awarded for patent infringement and trade secrets theft.



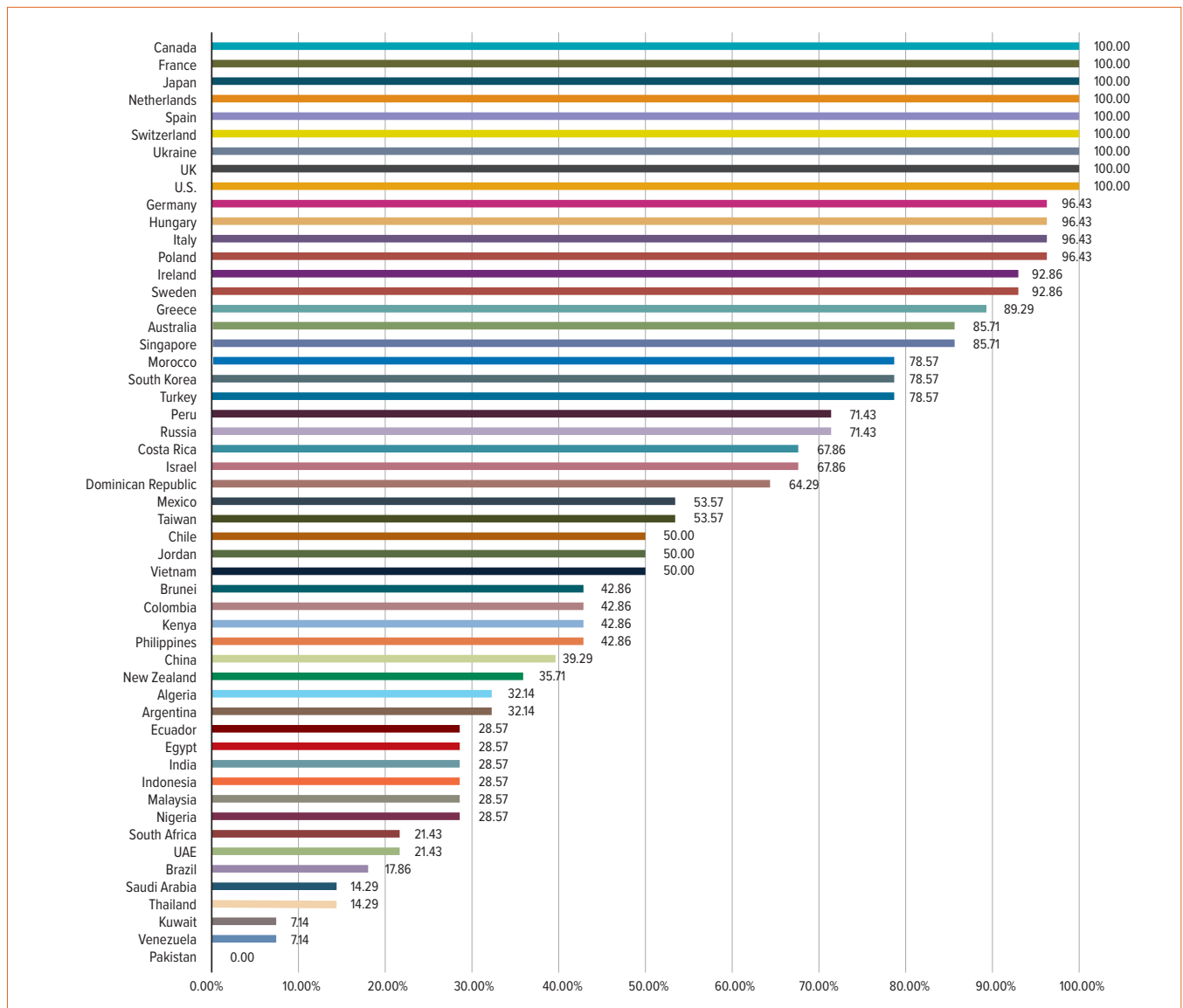
**Systemic Efficiency**

- Many economies benchmarked in the Index have committed to implementing a strong foundation for IP policy through measures to enhance systemic efficiency.
  - In **Saudi Arabia**, the government introduced new IP awareness campaigns and held public consultations on IP policy. Similarly, in **Brazil**, the government created an Interministerial Group on Intellectual Property to coordinate the government’s IP policy and conduct public consultations on the policy-making process.
  - While many of the developed Index economies benchmark the economic impact of IP-intensive industries, a number of emerging markets – including **Argentina, Malaysia, Mexico, Morocco, and Taiwan** – also measure the relationship between IP rights and economic activity.



**Membership and Ratification of International Treaties**




- Participation in international treaties reflects an economy’s willingness to join the international IP community and embrace high-standard IP protection.
  - While many countries struggle to provide adequate copyright protection, 77% of the economies included in the Index have signed and ratified the **WIPO Internet Treaties**, illustrating that the effective implementation of the tenants of the treaty continues to create challenges for copyright-intensive industries operating in global markets.
  - Less than half of the economies benchmarked in the Index have signed and ratified the **Membership of the Convention on Cybercrime** and the **Hague Agreement Concerning the International Registration of Industrial Designs**, two of the new treaties added to the Index in 2020.



## Conclusion

As economies aspire to stimulate economic growth and foster greater global and region competitiveness, effective IP protection will be key to achieving this goal. With a robust IP framework, economies can unleash the Art of the Possible and harness the limitless benefits that effective IP systems provide.

### ECONOMIES WITH EFFECTIVE IP PROTECTION

-  39% more open for business and attractive to foreign investment
-  70% more likely to produce more innovative output
-  33% more likely to have greater private-sector investment in R&D activities
-  38% more likely to attract venture capital and private equity
-  Have 26% greater global competitiveness
-  Have 14 times more clinical trial activities and 12 times more clinical research on biologic therapies
-  Provide 2-3 times greater access to licensed music content
-  Have 6 times more high-skilled researchers and 78% increase in the competitiveness of human capital.

**Notes**



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