

**INTERNATIONAL**

# IP INDEX

**RECOVERY THROUGH INGENUITY | 2021 NINTH EDITION**



**EXECUTIVE SUMMARY**

## EXECUTIVE SUMMARY

The COVID-19 pandemic upended life as we knew it. As global citizens adjusted to living through a global pandemic, intellectual property played an essential—if oftentimes underappreciated—role in the creation and development of technological and creative solutions.

Treatments and vaccines for coronavirus were developed in record time as a result of the scientific community's ability to make high-risk, high-capital investments in R&D. As we adjusted to the way we work, teach, and connect with others, IP-enabled digital technologies allowed us to remain connected to one another, even if in isolation. And while many of us spent much of the year in quarantine, the development of new streaming services and creative content provided both a welcome escape and brought us together. Throughout

the pandemic, transparent and predictable IP rights have also provided the legal and economic basis for an unprecedented level of highly successful collaborations between government, industry, academia, and non-governmental organizations.

In this context, being able to measure how equipped economies are to generate and safeguard innovation and creativity is more important than ever before. Now in its ninth edition, the International IP Index benchmarks the IP framework in 53 global economies across 50 unique indicators. An effective IP system, as outlined by the criteria evaluated in the Index, will be critical to rebuilding healthy communities, getting citizens back to work, and reinvigorating the global economy.

## GEOGRAPHIC COVERAGE

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

## KEY FINDINGS

**Over recent years, the international IP environment has continued to strengthen, despite some negative developments resulting from certain governments' responses to COVID-19.**

- In the 2021 report, 32 of the 53 economies benchmarked had positive improvements in their scores.
- Since the second edition of the Index in 2014, the aggregated score of the economies benchmarked has improved 6.24%.
- Of the BRICS economies included since the inaugural edition of the Index in 2012, China and India have improved the framework for IP-driven innovation and creativity. In that time, China's score has increased 18.34% while India's improved 13.44%. However, despite this positive progress, significant challenges remain for IP rightsholders in both markets.

**Trade agreements continue to substantively improve national IP frameworks.**

- These changes, if implemented effectively, should improve China's domestic IP framework. However, ongoing market access barriers, uneven enforcement, measures requiring forced technology transfer, and serious deficiencies in the rule of law continue to make the business environment in China highly challenging for rightsholders.
- As a result of the implementation of some commitments in the U.S.-Mexico-Canada Agreement (USMCA), Mexico had the second largest overall increase in score - at 3.87% - due to legislative changes to improve copyright and trademark protection and the commercialization of IP assets. However, Mexico forfeited more substantive gains for life sciences IP protection when critical protections were removed from the final agreement.

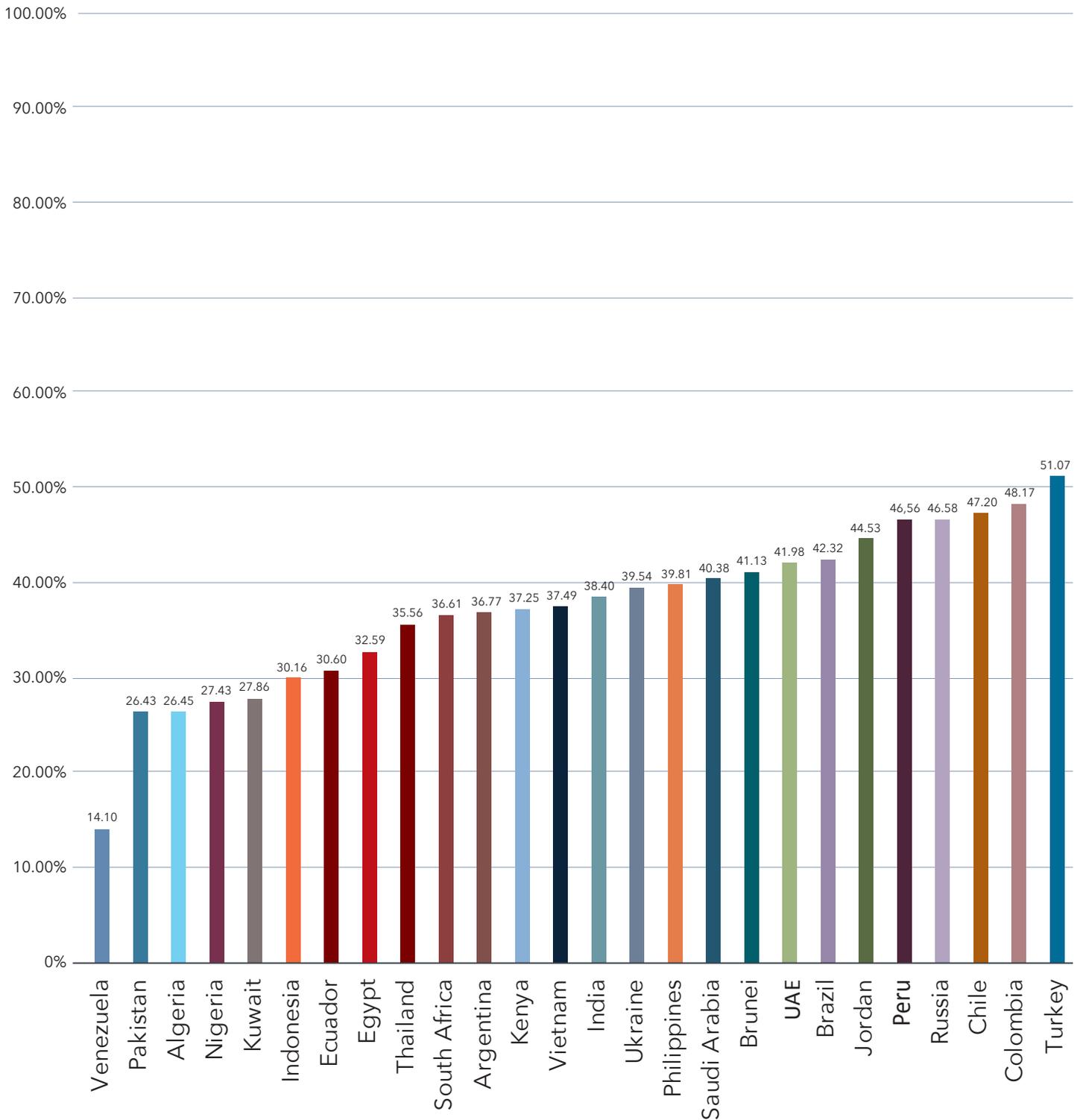
**IP enabled the development of a pipeline of therapeutics solutions to combat COVID-19.**

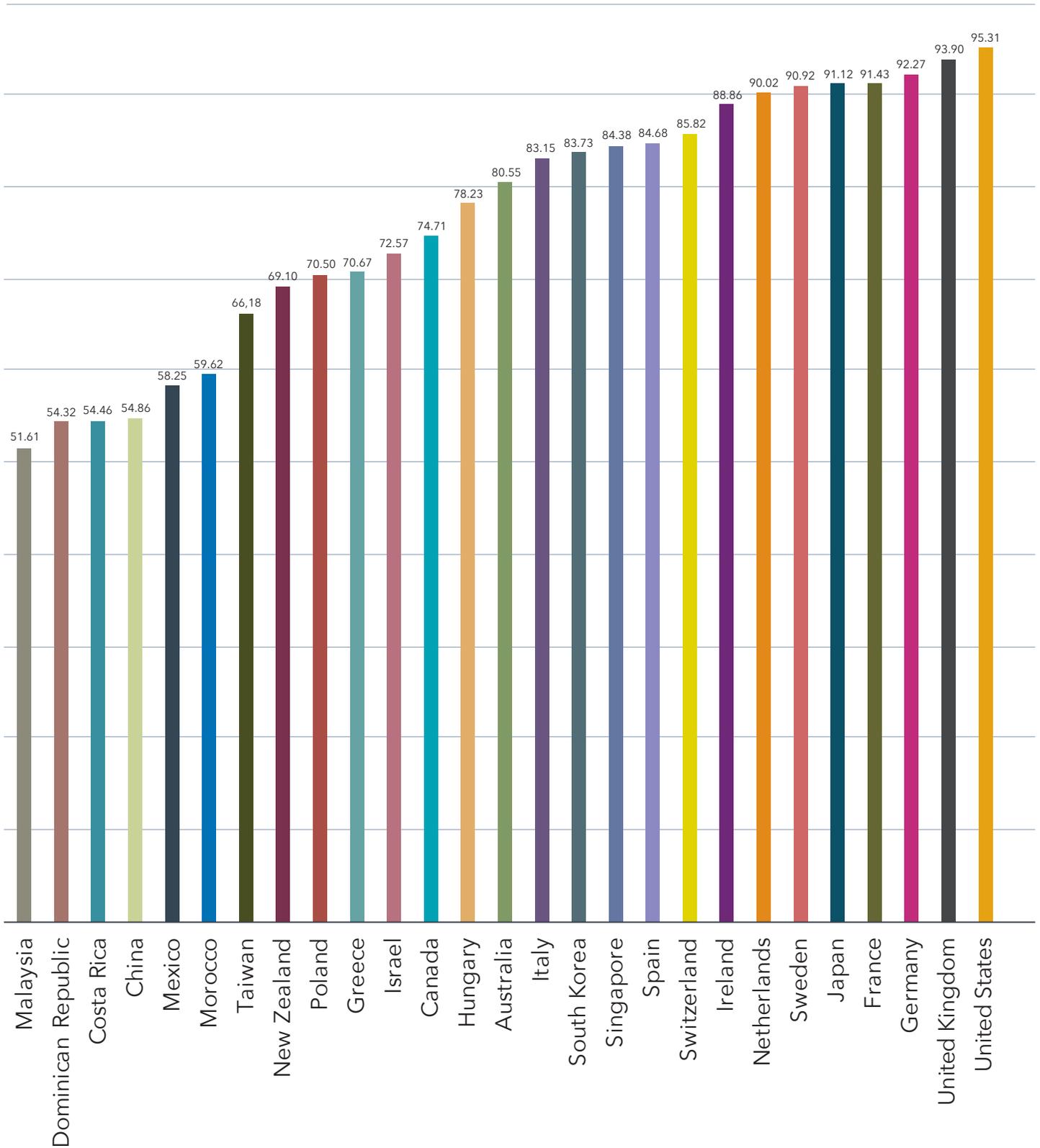
- While the vaccines currently authorized for use against COVID-19 use novel technologies, they are the result of decades of scientific research - made possible by effective IP - that has now been successfully applied during the pandemic.
- Of the over 1,600 active COVID-19 clinical trials, almost two-thirds tested existing medicines registered for a different indication, illustrating the ways IP enables follow-on innovation.
- Vaccines and therapeutics were developed at unprecedented speed because of the unprecedented scale of public-private partnership. As governments pivot their focus to the distribution of the vaccine, IP will be critical to facilitating licensing and technology transfer while also expediting the manufacturing and delivery of vaccines and therapeutics.

**While IP was critical to the global response to COVID-19, economies took steps to undermine the framework that successfully enabled coronavirus-related innovation.**

- In Israel, Hungary, and Russia, governments issued compulsory licenses for COVID-19 therapeutics.
- Other economies, including Chile, Colombia, and Indonesia called for or enacted new laws that expand the criteria for compulsory licensing.
- At the World Trade Organization (WTO), India and South Africa issued a proposal to waive IP rights on all COVID-19 related medicines, devices, and technologies through the TRIPS Council waiver.

## 2021 OVERALL SCORES



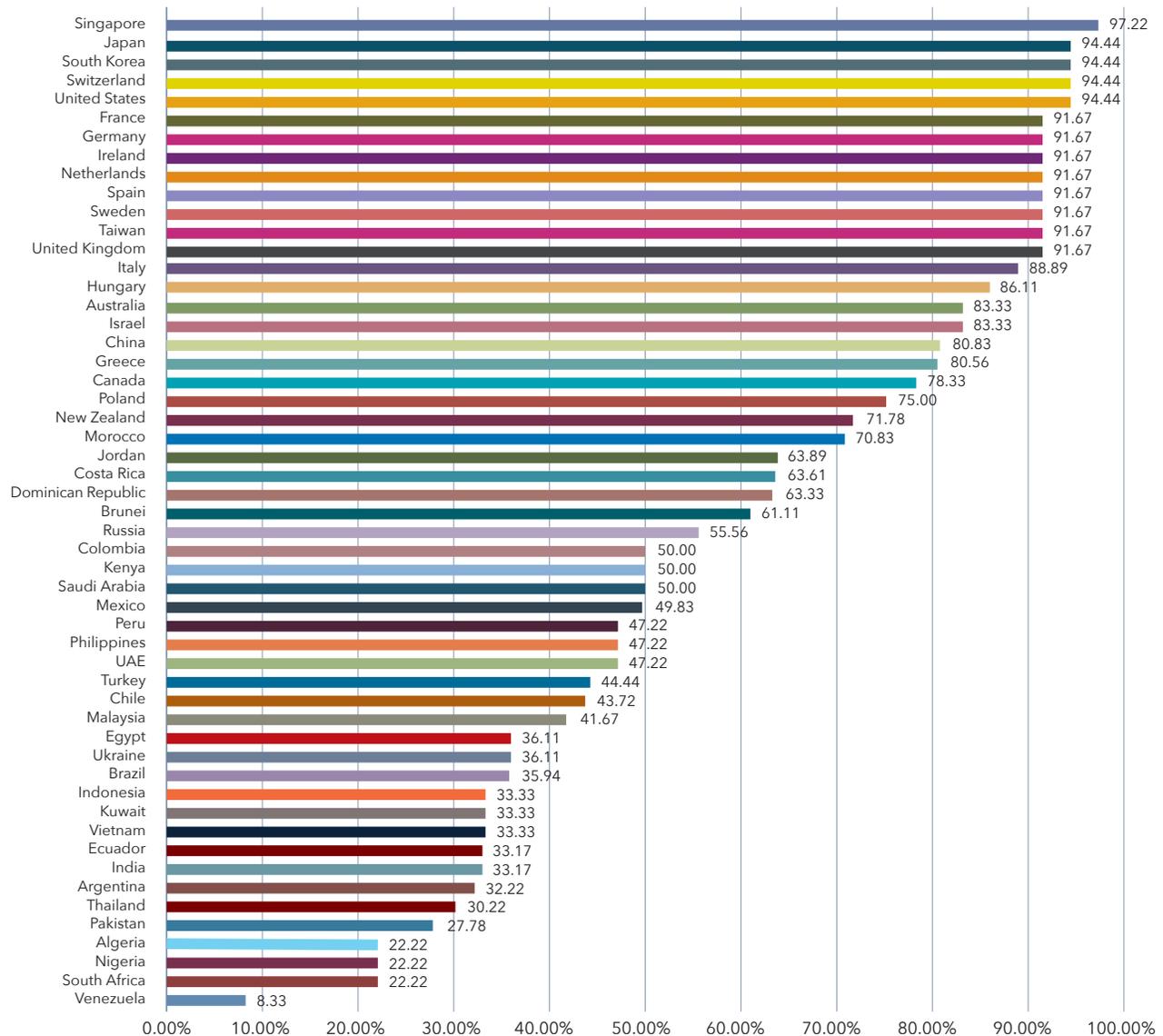


## CATEGORY-BY-CATEGORY RESULTS

### Patents, Related Rights, and Limitations

Twenty-one economies achieve a score of 70% or more of the available score and 31 economies in total achieve a score of over 50%.

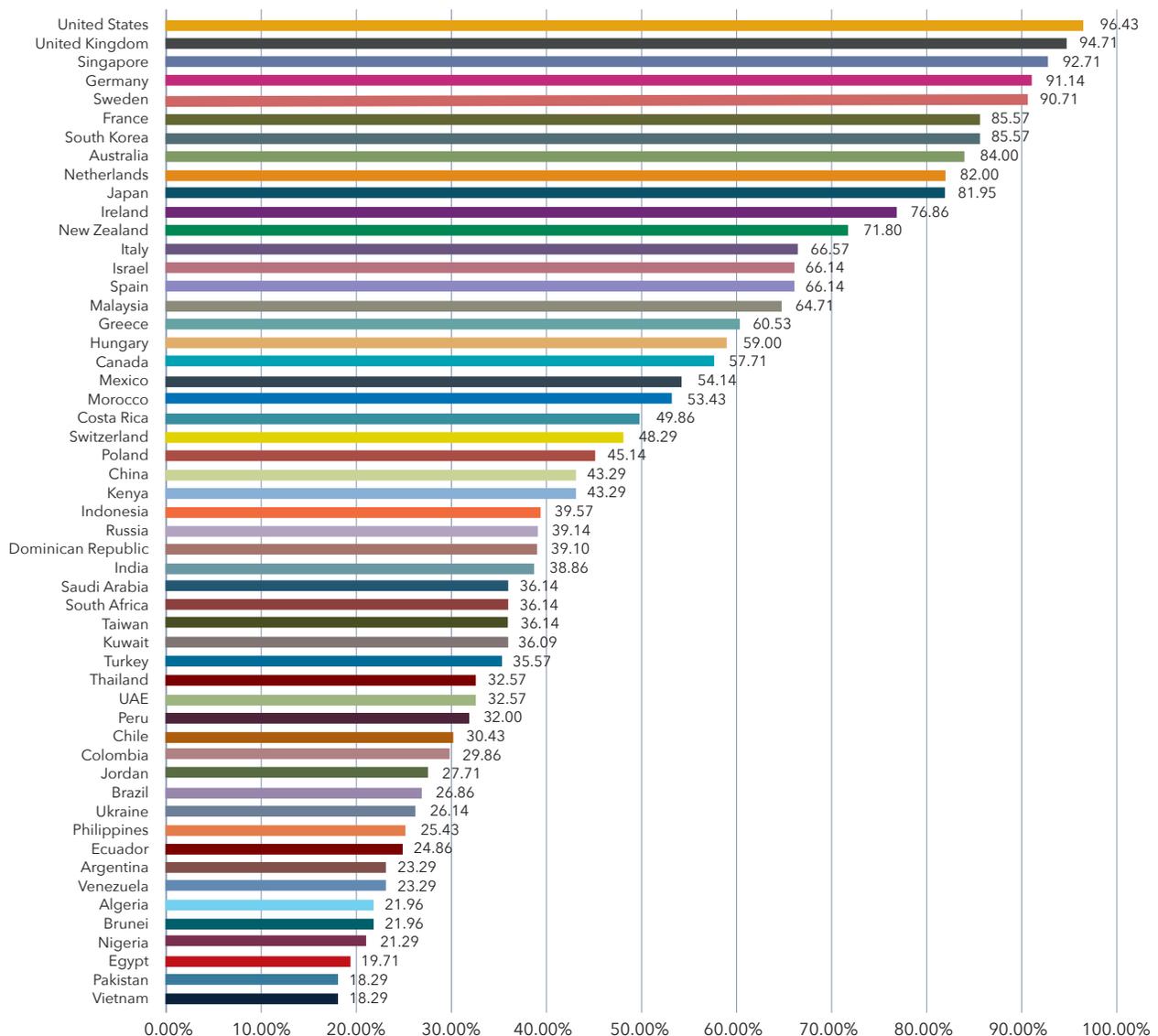
- In the United States, the U.S. Patent and Trademark Office (USPTO) guidance on patent eligible subject matter led to a statistically significant decrease in the first office rejections for *Alice*-related technologies. Additionally, USPTO proposed changes to the *inter partes* review process on patent validity challenges.
- In China, the government passed amendments to the Patent Law which outline China’s new patent linkage regime and introduce patent term restoration for biopharmaceuticals.
- In Australia, the government announced their intention to create an early patent notification framework to create an opportunity for resolution of patent disputes before a generic is listed on the Pharmaceutical Benefits Scheme.
- In India, the government streamlined reporting requirements for patent holders under the Form 27 scheme.



## Copyrights, Related Rights, and Limitations

The global environment for creators and copyright holders continues to be challenging, with 32 of the 53 economies failing to reach 50% of the total available score. However, there were a number of positive copyright reforms in Index economies over the last year.

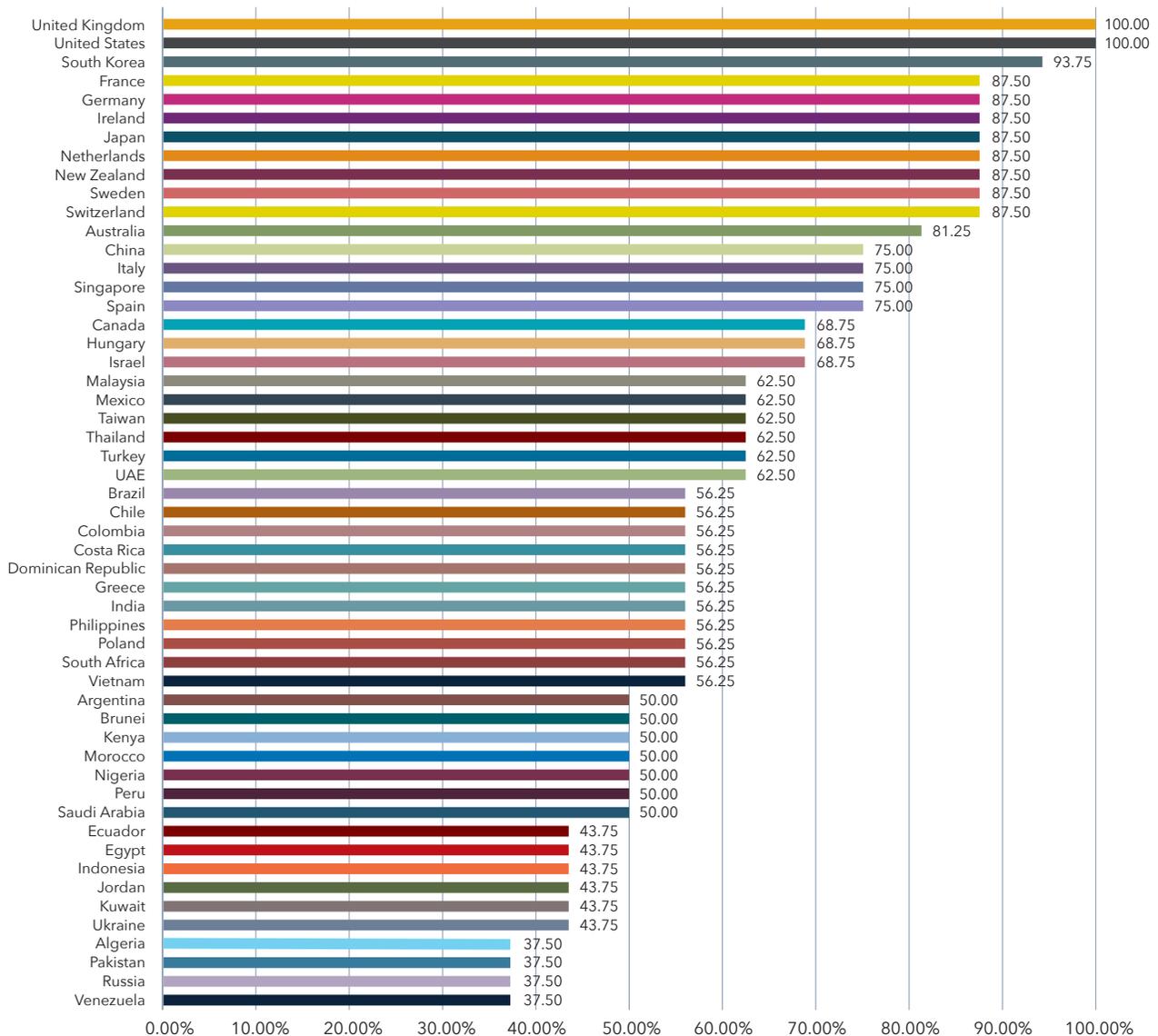
- As a result of the USMCA, both Mexico and Canada introduced copyright reforms. While the Canadian government extended the term of protection for some copyrighted works, the Mexican government introduced more substantive reforms to the Federal Law on Copyright.
- New amendments to the Chinese Copyright Law strengthened the legal framework for sound and broadcasting, improved provisions on technological protection measures (TPMs) and digital rights management (DRM) and increased statutory damages for copyright infringement.
- In Costa Rica, the government developed a new software asset management platform to ensure that all central government ministries use fully licensed software.



### Trademarks, Related Rights, and Limitations

Online shopping increased dramatically during the COVID-19 pandemic, leading to a corresponding increase in the online sale of counterfeit goods. While many economies lack the appropriate resources to combat the increase sale of counterfeit goods online, there were a series of positive developments in 2020.

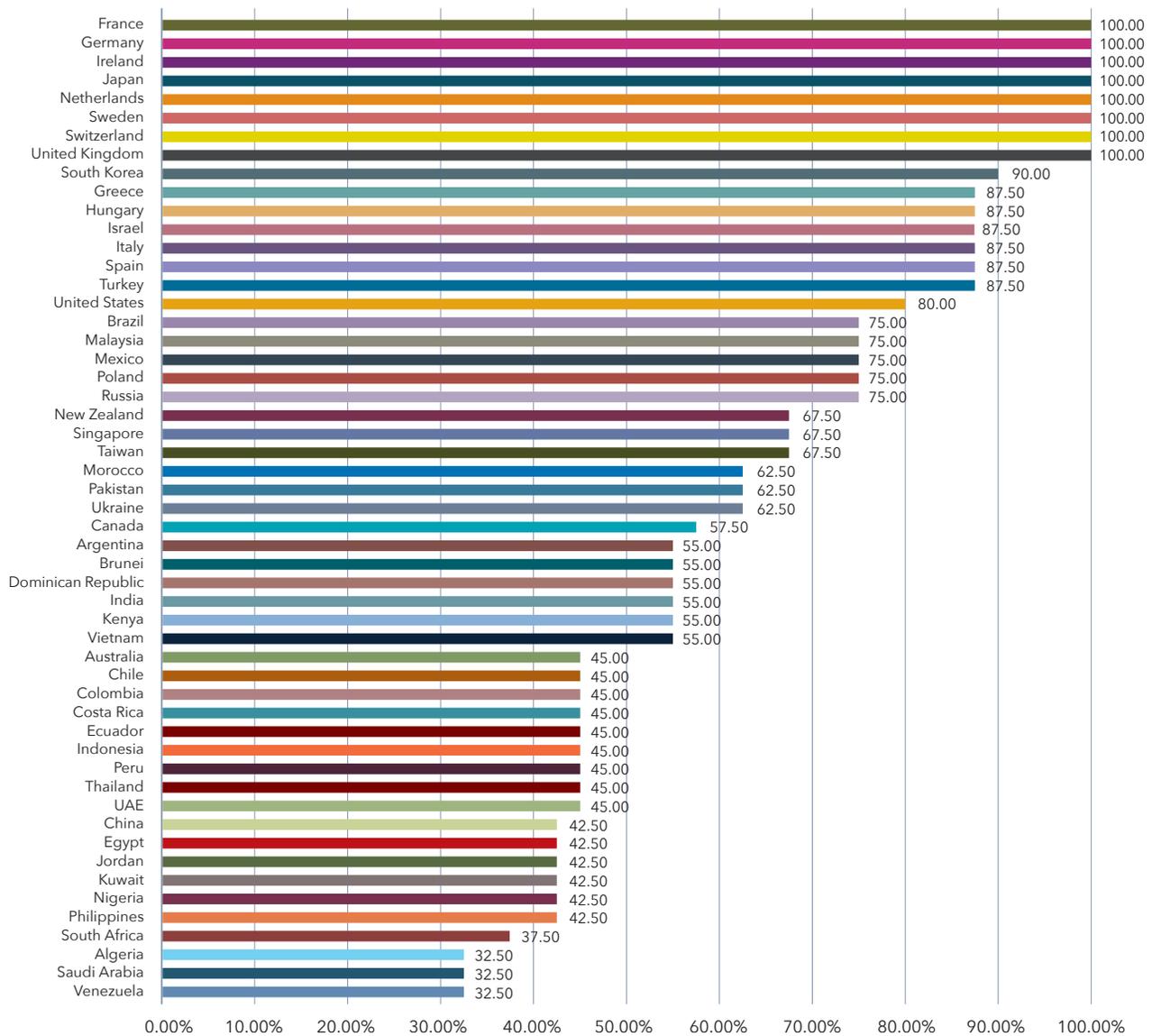
- In Thailand, the government applied an injunctive-style relief mechanism to disable access to websites with trademark-infringing content.
- In Mexico, the revised Industrial Property Law included a mechanism whereby injunctive-style relief can be obtained directly from the national IP office for online trademark violations.
- In Malaysia, the Parliament passed the Trademarks Act which expands the type of marks that can be registered, improves enforcement provisions against trademark-infringing goods, and makes Malaysia a contracting party to the Madrid Protocol.



## Design Rights, Related Rights, and Limitations

Many of the Index economies have some form of design rights protection in place, with an average score of 64.95% in this category.

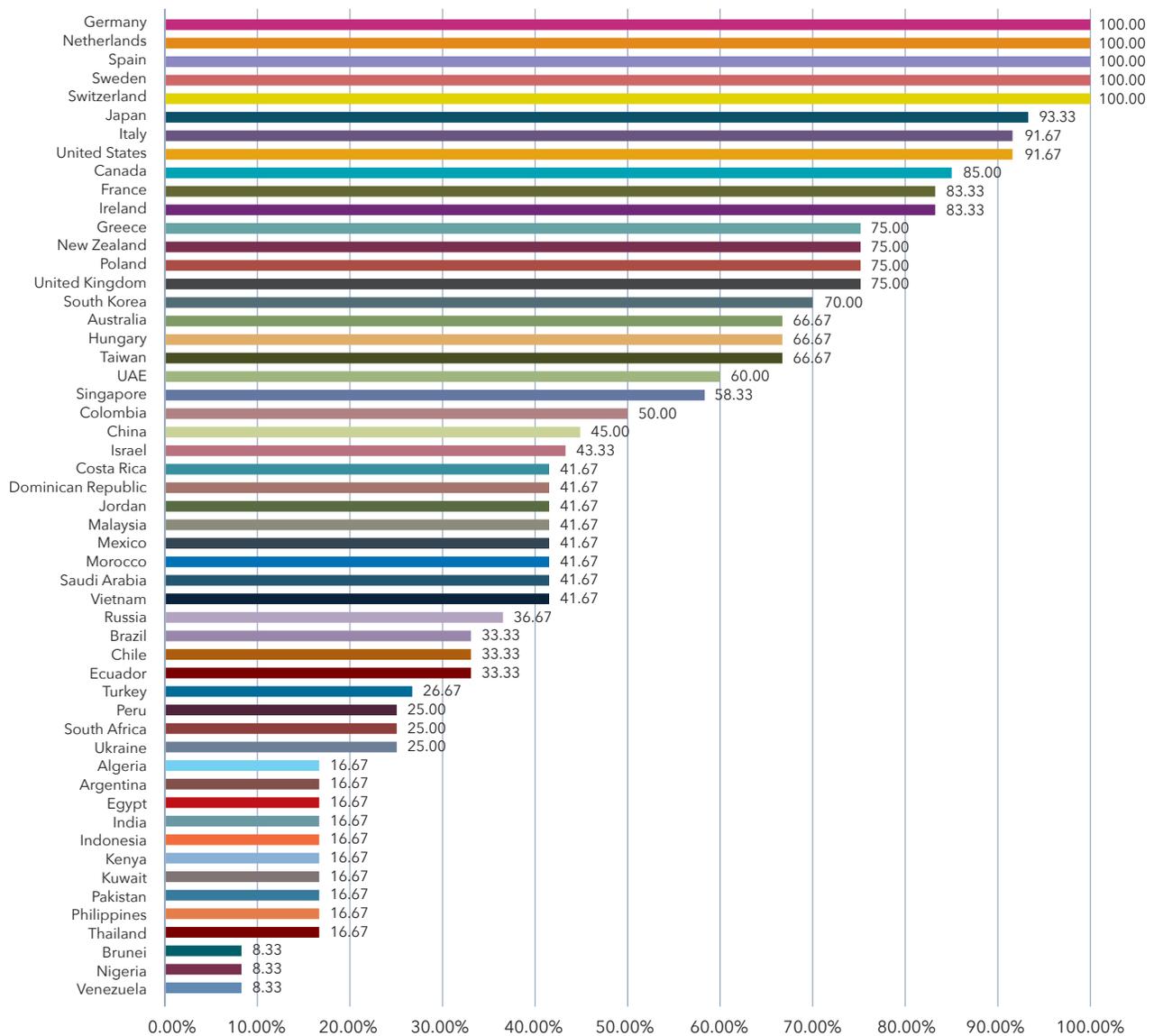
- In 2020, China, Japan and the Ukraine all increased the available term of protection for design rights.
- In the EU, design rights holders can file a request for customs action in individual Member States as well as all Member States specifying both registered and unregistered design rights be protected.



### Trade Secrets, Related Rights, and Limitations

Many Index economies do not have specific trade secrets legislation in place, with an average score of 49.40% in this category.

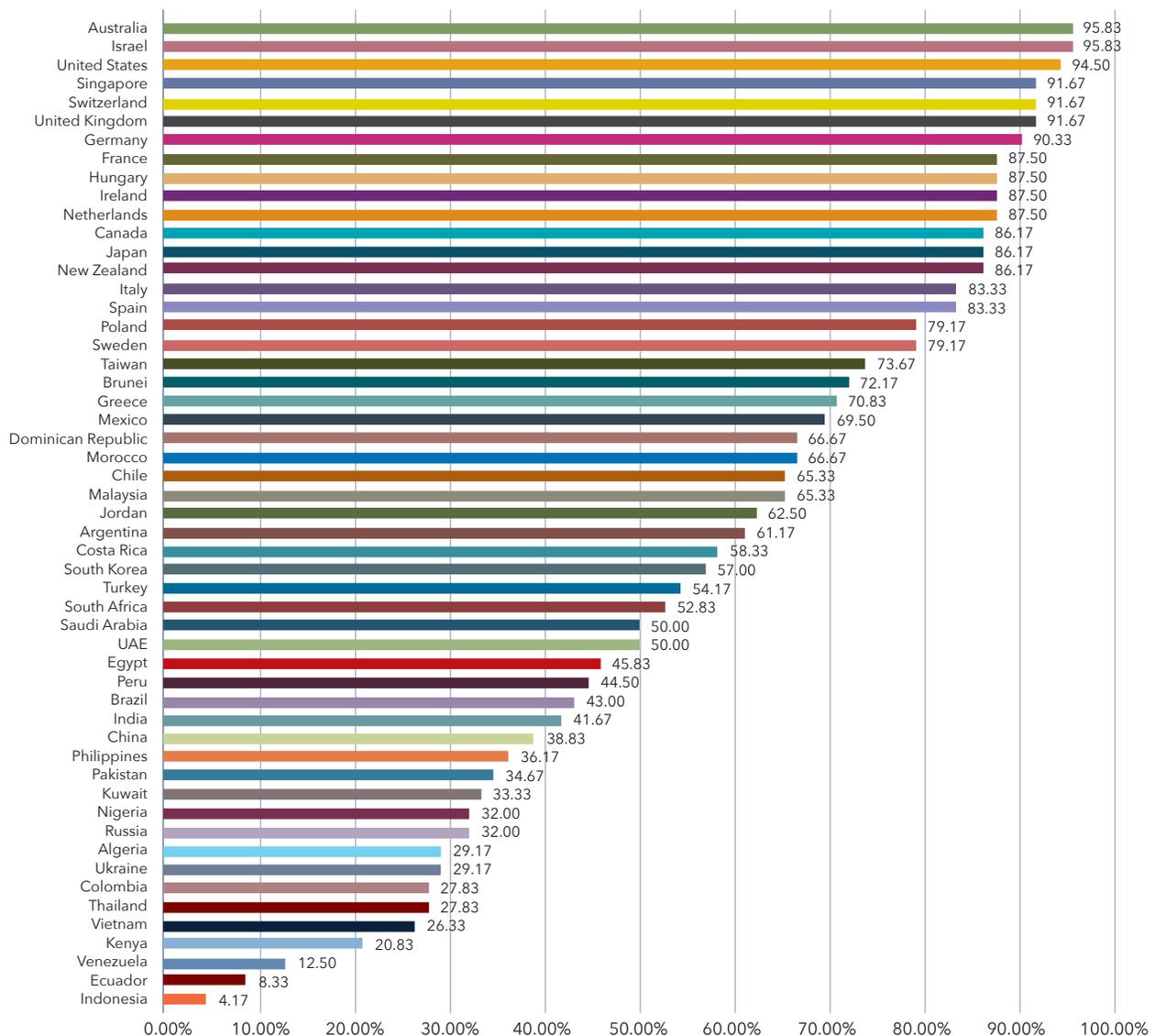
- In Canada, Parliament passed new criminal provisions, including a 14-year prison term, for the theft and misappropriation of trade secrets as part of its USMCA implementation.
- In Taiwan, the Legislative Yuan passed a new trade secrets law that provides stronger safeguards for foreign rights-holders and better protection for confidential information during criminal investigations.
- While the UAE introduced an 8-year term of regulatory data protection (RDP) for pre-clinical and clinical data, new draft implementing regulations in Saudi Arabia will limited the availability of RDP in the market.



## Commercialization of IP Assets

Many of the economies benchmarked in the Index have introduced policies that limit market access or commercialization of IP assets, with an average score of 59.42% in this category.

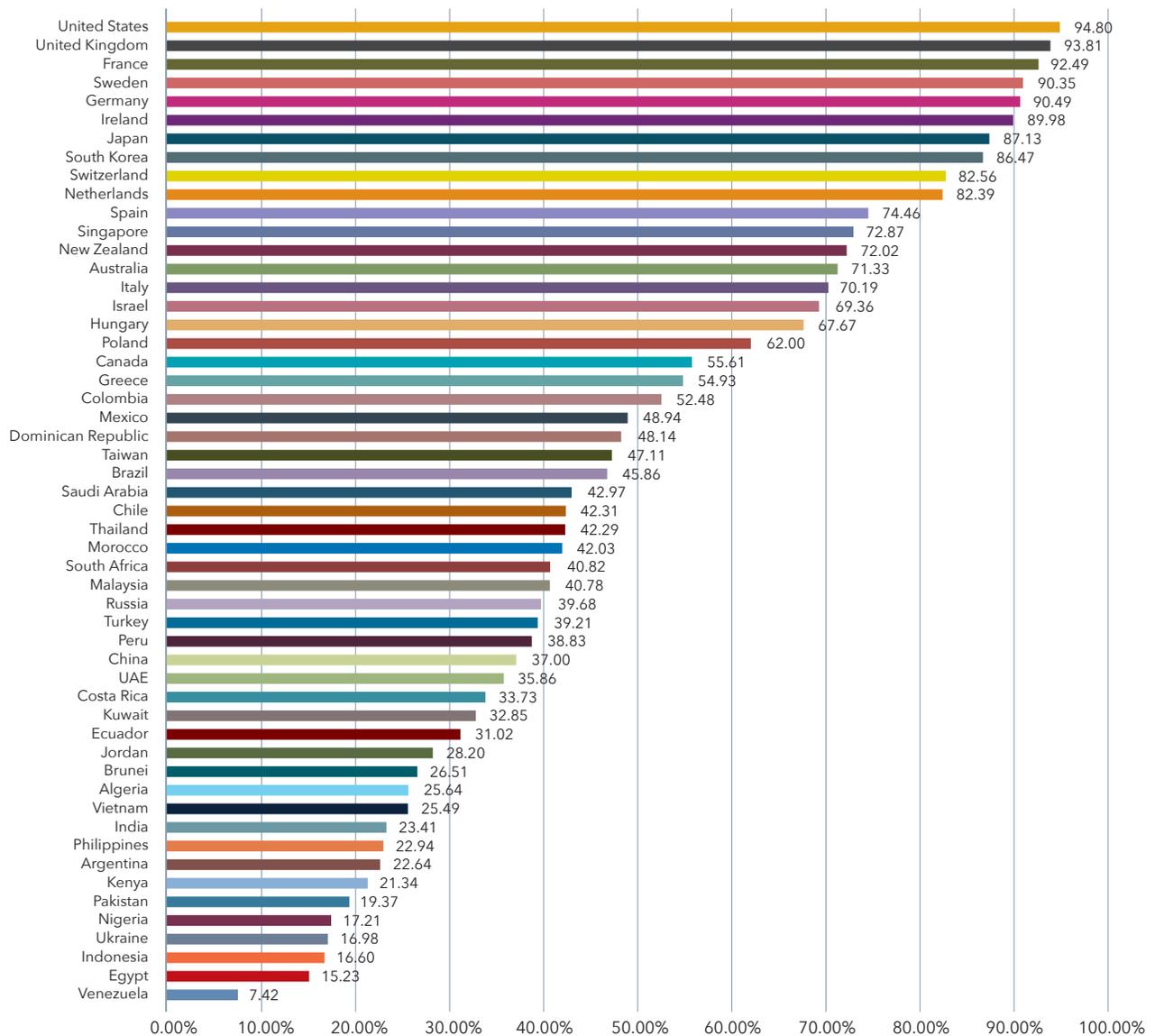
- While Algeria has historically had a poor environment for commercialization, the 2020 Finance Law removed the 51-49% ownership requirement for non-strategic industries.
- In Turkey, the Parliament passed amendments introducing new local data storage requirements for social media services.
- In Nigeria, the government introduced new guidelines and amendments that strengthen existing localization requirements for multinational software companies and the oil and gas industry.



## Enforcement

Enforcement against IP theft continues to be a challenge for rights holders operating in global markets. Twenty-one economies (39.62%) achieve a score of 50% or more on this category, and only 10 economies achieve a score of 75% or more.

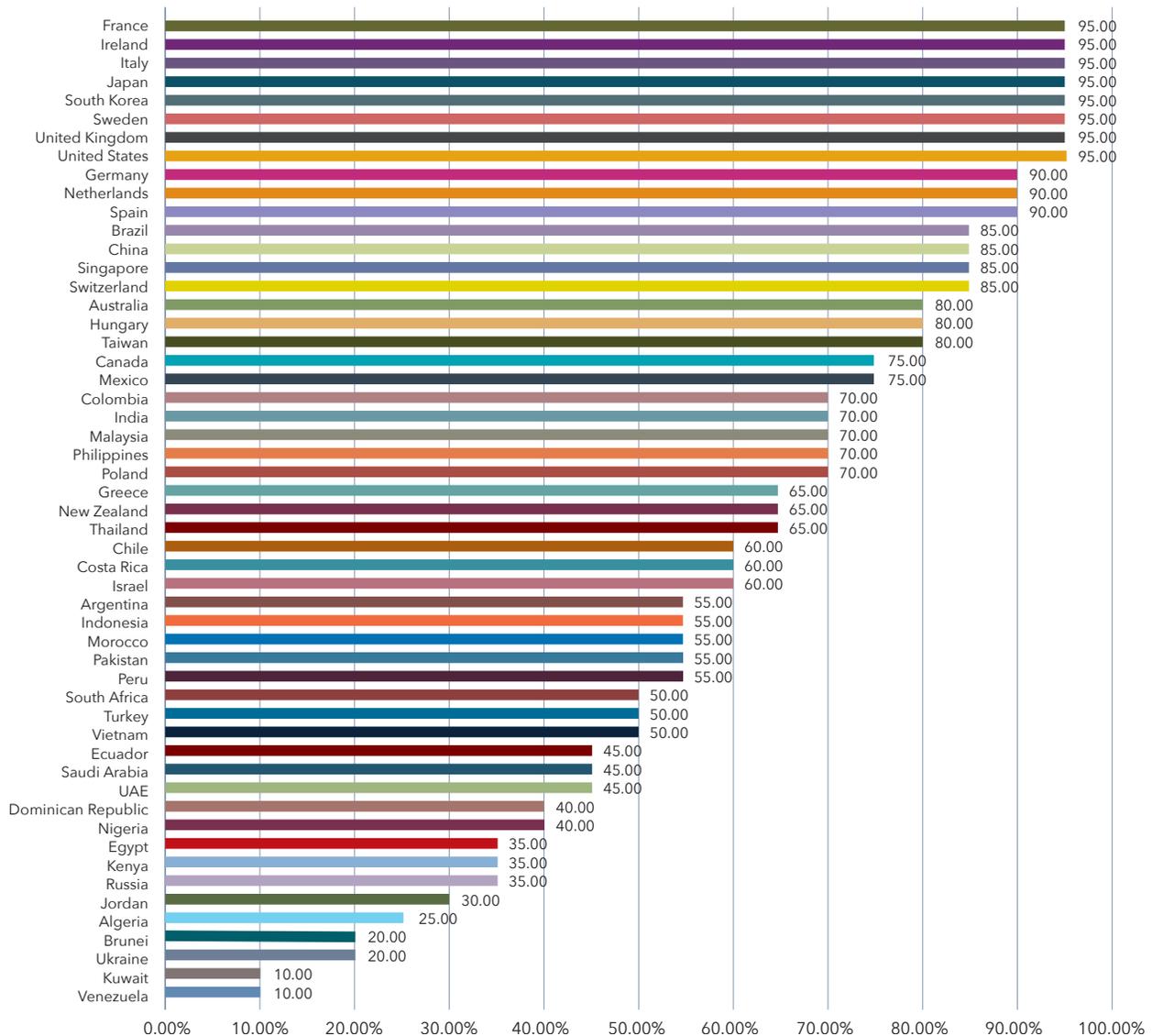
- Only 16 of the 53 economies sampled in the Index regularly publish data on customs actions taken against suspected counterfeit goods.
- However, in 2020, Algeria, Chile and South Korea issued new reports issued or transparency measures on counterfeit goods seizures.
- As part of its implementation of the USMCA in 2020, Canada passed new provisions providing *ex officio* authority to detain all suspected counterfeit goods, including those in-transit.



## Systemic Efficiency

Many Index economies score well in the Systemic Efficiency indicators, with only 14 economies failing to achieve a score of 50% or above and an average category score of 63.11%.

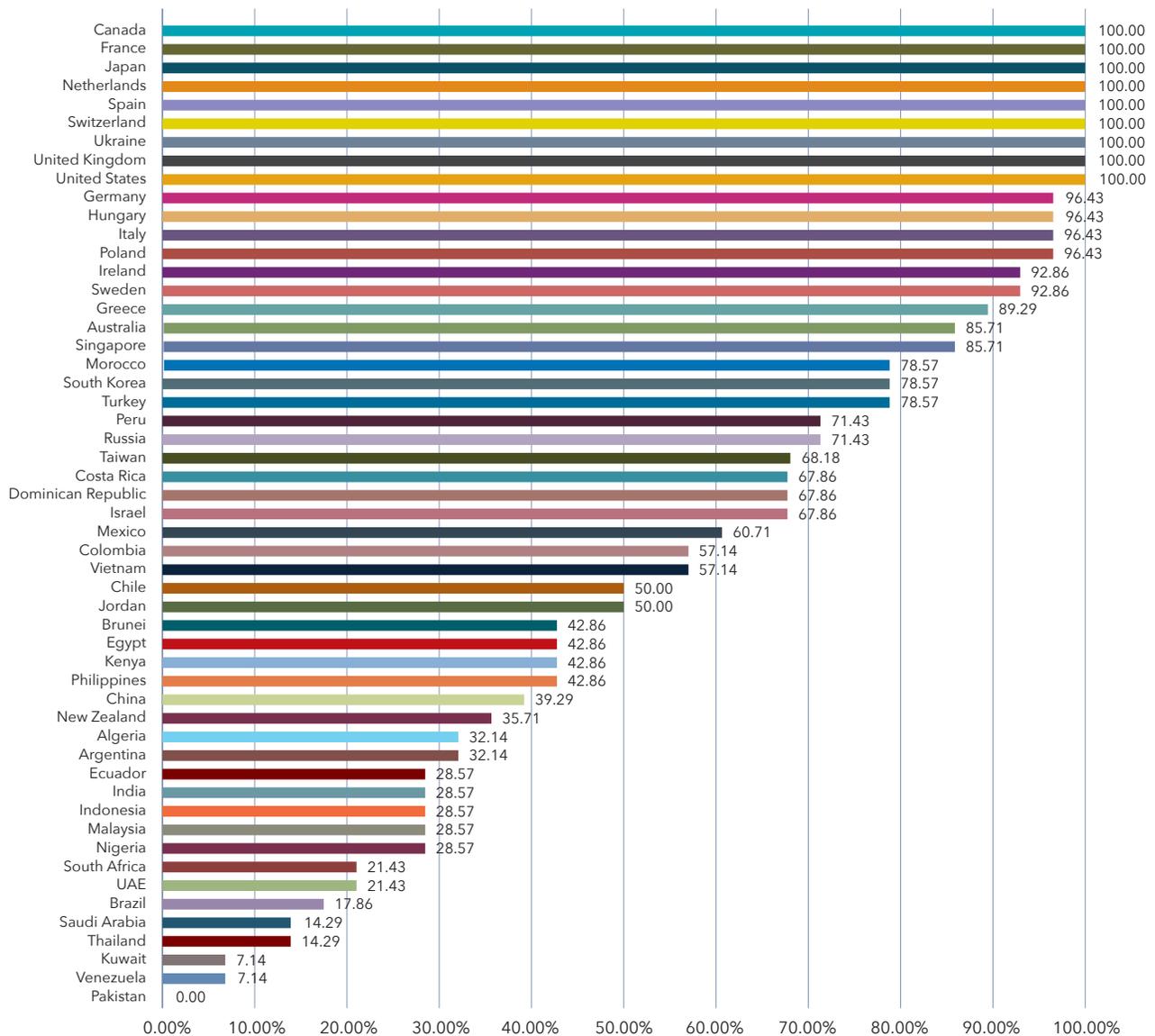
- In Costa Rica and Argentina, the national IP offices expanded existing public awareness campaigns.
- In Saudi Arabia and Ecuador, the national IP authorities launched new initiatives to help SMEs register and commercialize their IP assets.
- In Australia, the national IP offices issued a report that maps the contributions of IP-intensive industries to the Australian economy.
- Brazil concluded consultations for its first-ever National Intellectual Property Strategy—which will guide the country’s IP policy for the next 10 years—and kicked off a National Innovation Strategy.



### Membership and Ratification of International Treaties

While the numbers of treaties benchmarked in the Index has expanded over the nine editions of the report, many economies are not contracting parties to the majority of the treaties included. Twenty-one economies fail to achieve a score of 50% or more in this category.

- New trade agreements in China, Mexico, and Vietnam resulted in score increases for each of those three economies.
- In Egypt, the government acceded to the International Convention for the Protection of New Varieties of Plants, act of 1991.
- In Colombia, the government ratified the Convention on Cybercrime in March 2020, and the agreement is now in force.



## ECONOMIES WITH **EFFECTIVE IP SYSTEMS**



Are **38% MORE LIKELY** to attract venture capital and private equity



Have **2X MORE** innovation output



Have **OVER 550 MORE** high-value inventions patented per million population



Almost **5X MORE** knowledge output in scientific and technical journals



Host over **10X MORE** clinical trials



**2X THE ACCESS** to new music through legitimate and secure platforms