

INTELLECTUAL PROPERTY RIGHTS IN BILATERAL AND REGIONAL TRADE AGREEMENTS

TRADE, INVESTMENT AND INNOVATION DIVISION

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Observations: the Role of the Multilateral Framework

Part 1

Part 2

Part 3

Part 4

Observations: the Role of the Multilateral Framework

TRIPS contains not only **minimum standards**, but also **flexibilities** and limits to IP protection (**ceilings**). Art.7 & 8 TRIPS express this **balance** and guide TRIPS interpretation

Bilateral and regional treaties amongst WTO Members addressing IP are **inter-se modifications** of the WTO/TRIPS framework

As such, they may not derogate from TRIPS rules which are crucial for giving effect to the object & purpose of TRIPS. Thus, **flexibilities crucial for the balance which Article 7 establishes should not be restricted.**

TRIPS Article 7 & 8

Article 7 *Objectives*

The protection and enforcement of intellectual property rights should contribute to the **promotion of technological innovation and to the transfer and dissemination of technology**, to the **mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare**, and to a balance of rights and obligations.

Article 8 *Principles*

1. Members may, in formulating or amending their laws and regulations, adopt measures necessary to **protect public health and nutrition**, and to promote the public interest in sectors of vital importance to their socio-economic and technological development, **provided that such measures are consistent with the provisions** of this Agreement
2. Appropriate measures, provided that they are consistent with the provisions of this Agreement, may be needed to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology

IPRs in FTAs Index 2016 Overview

Part 1

Part 2

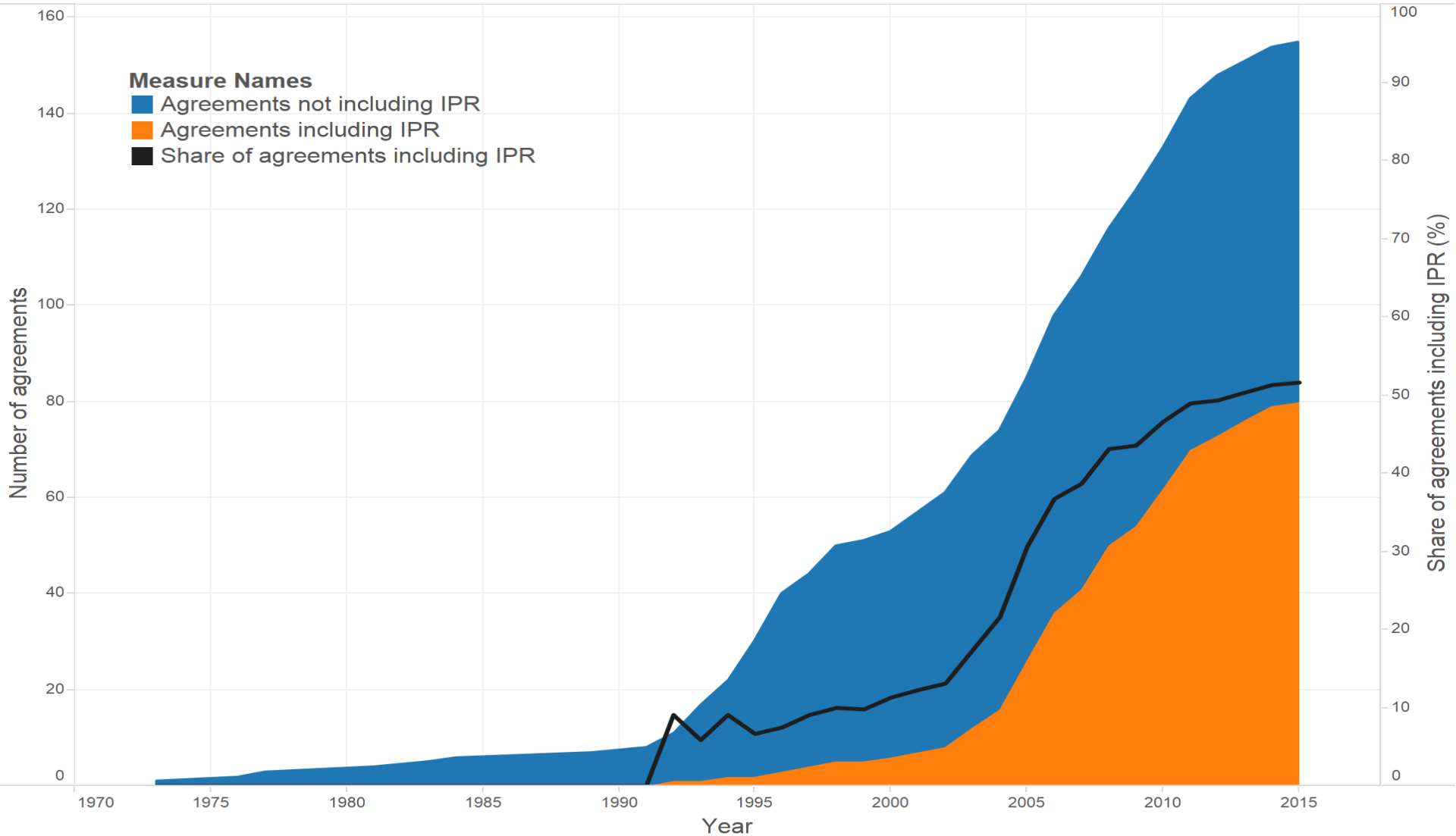
Part 3

Part 4

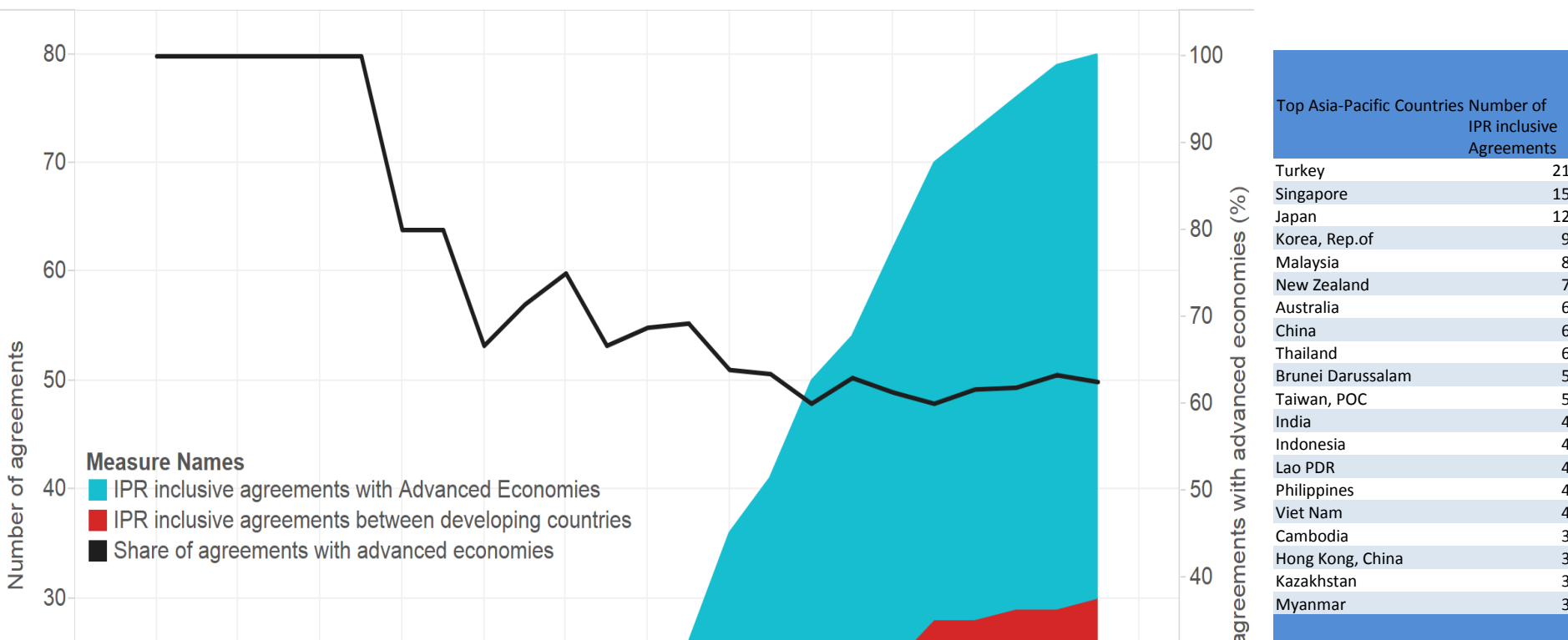
The IPRs in FTAs Index

- **Caveat! This is not a review of the country's IPR laws**
 - **We therefore cannot say the extent an agreement may surpass TRIPS or any existing domestic laws**
- Calculated for the 80 agreements that include IPR provisions
 - Scaled to range from 0 to 100
- Based on tallying points for the presence of provisions concerning:
 - Cooperation
 - Reaffirming international obligations
 - WTO coverage
 - Commitments to technology transfer and access to technology
 - Competition and consumer protection
 - Coverage of the different types of IPR (1-3 scale)
 - Enforcement

Proliferation of IPR Inclusive Agreements



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