

International Patent Treaties

WIPO Treaties (see www.wipo.org)

- **Paris Convention** (The first major international agreement relating to the protection of industrial property rights, including patents, providing, in particular, national treatment, the right of priority and a number of common rules in the field of substantive patent law, such as the independence of patents.)
- **Patent Law Treaty** (A treaty providing common and, as a general rule, maximum requirements for many of the formality matters involved in the procedures before national/regional patent offices.)
- **Patent Cooperation Treaty** (A treaty establishing an international patent filing system.)
- **Budapest Treaty** (A treaty prescribing deposits of microorganisms at any international depository authority under the Treaty to be recognized for the purposes of patent procedure.)
- **Strasbourg Agreement Concerning the International Patent Classification** (A regularly updated international system for classifying inventions in patent applications in all fields of technology, allowing more efficient searching and retrieval of patent information.)

WTO Treaties

- The Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS)

Paris Convention

Article 1: Establishment of the Union; Scope of Industrial Property²

- (1) The countries to which this Convention applies constitute a Union for the protection of industrial property.
- (2) The protection of industrial property has as its object patents, utility models, industrial designs, trademarks, service marks, trade names, indications of source or appellations of origin, and the repression of unfair competition.
- (3) Industrial property shall be understood in the broadest sense and shall apply not only to industry and commerce proper, but likewise to agricultural and extractive industries and to all manufactured or natural products, for example, wines, grain, tobacco leaf, fruit, cattle, minerals, mineral waters, beer, flowers, and flour.
- (4) Patents shall include the various kinds of industrial patents recognized by the laws of the countries of the Union, such as patents of importation, patents of improvement, patents and certificates of addition, etc.

Paris Convention

Article 2: National Treatment for Nationals of Countries of the Union

- (1) Nationals of any country of the Union shall, as regards the protection of industrial property, enjoy in all the other countries of the Union the advantages that their respective laws now grant, or may hereafter grant, to nationals; all without prejudice to the rights specially provided for by this Convention. Consequently, they shall have the same protection as the latter, and the same legal remedy against any infringement of their rights, provided that the conditions and formalities imposed upon nationals are complied with.
- (2) However, no requirement as to domicile or establishment in the country where protection is claimed may be imposed upon nationals of countries of the Union for the enjoyment of any industrial property rights.
- (3) The provisions of the laws of each of the countries of the Union relating to judicial and administrative procedure and to jurisdiction, and to the designation of an address for service or the appointment of an agent, which may be required by the laws on industrial property are expressly reserved.

Paris Convention

Article 3: Same Treatment for Certain Categories of Persons as for Nationals of Countries of the Union

Nationals of countries outside the Union who are domiciled or who have real and effective industrial or commercial establishments in the territory of one of the countries of the Union **shall be treated in the same manner as nationals of the countries of the Union.**

Article 4bis, Paris Convention

Patents: Independence of Patents Obtained for the Same Invention in Different Countries

- (1) Patents applied for in the various countries of the Union by nationals of countries of the Union **shall be independent of patents obtained for the same invention in other countries**, whether members of the Union or not.
- (2) The foregoing provision is to be understood in an unrestricted sense, in particular, in the sense that patents applied for during the period of priority are independent, both as regards the grounds for nullity and forfeiture, and as regards their normal duration.
- (3) The provision shall apply to all patents existing at the time when it comes into effect.
- (4) Similarly, it shall apply, in the case of the accession of new countries, to patents in existence on either side at the time of accession.
- (5) Patents obtained with the benefit of priority shall, in the various countries of the Union, have a duration equal to that which they would have, had they been applied for or granted without the benefit of priority.

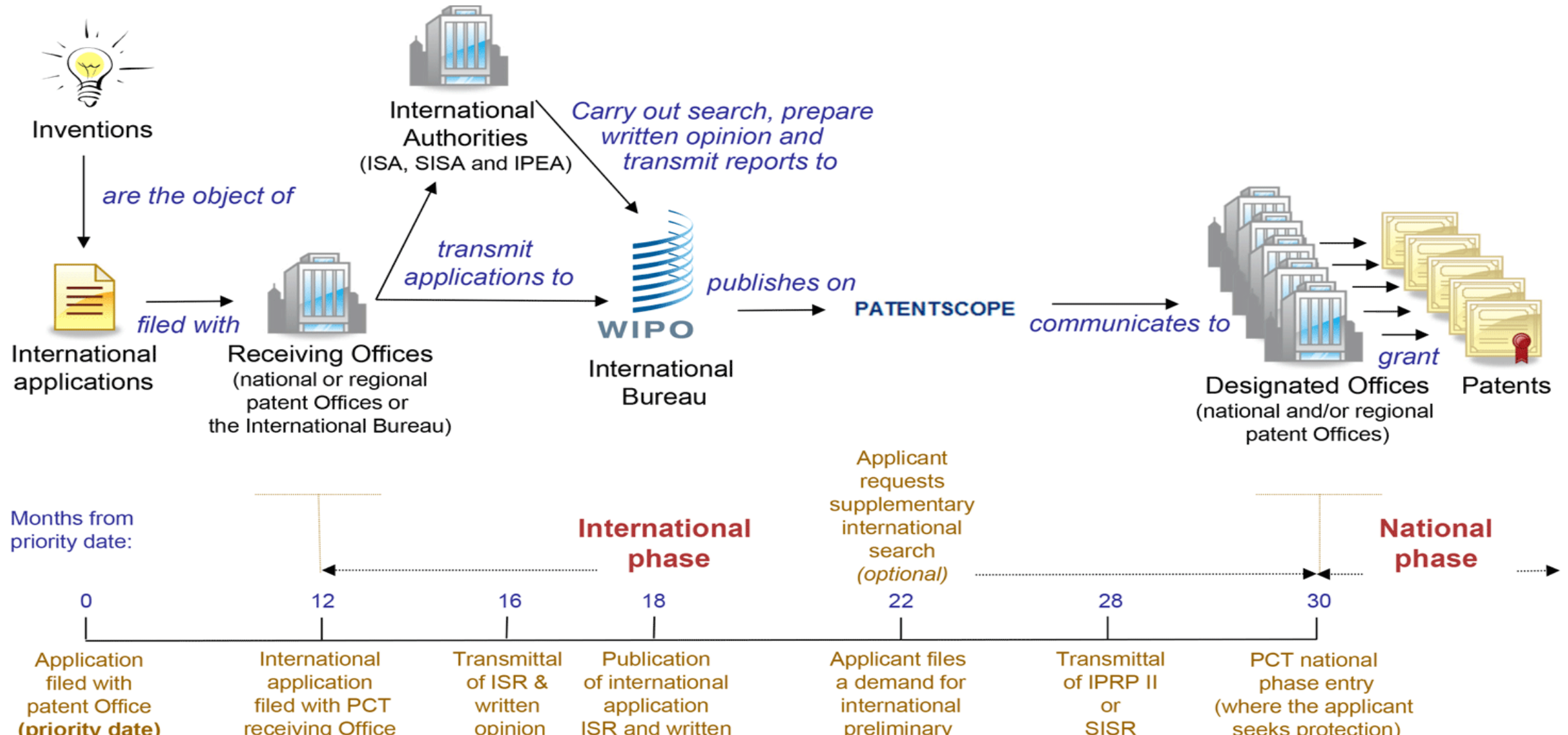
Paris Convention: Article 5A

Patents: Importation of Articles; Failure to Work or Insufficient Working; Compulsory Licenses

- (1) Importation by the patentee into the country where the patent has been granted of articles manufactured in any of the countries of the Union shall not entail forfeiture of the patent.
- (2) Each country of the Union shall have the right to take legislative measures providing for the grant of compulsory licenses to prevent the abuses which might result from the exercise of the exclusive rights conferred by the patent, for example, failure to work.
- (3) Forfeiture of the patent shall not be provided for except in cases where the grant of compulsory licenses would not have been sufficient to prevent the said abuses. No proceedings for the forfeiture or revocation of a patent may be instituted before the expiration of two years from the grant of the first compulsory license.
- (4) A compulsory license may not be applied for on the ground of failure to work or insufficient working before the expiration of a period of four years from the date of filing of the patent application or three years from the date of the grant of the patent, whichever period expires last; it shall be refused if the patentee justifies his inaction by legitimate reasons. Such a compulsory license shall be non-exclusive and shall not be transferable, even in the form of the grant of a sub-license, except with that part of the enterprise or goodwill which exploits such license.
- (5) The foregoing provisions shall be applicable, mutatis mutandis, to utility models.

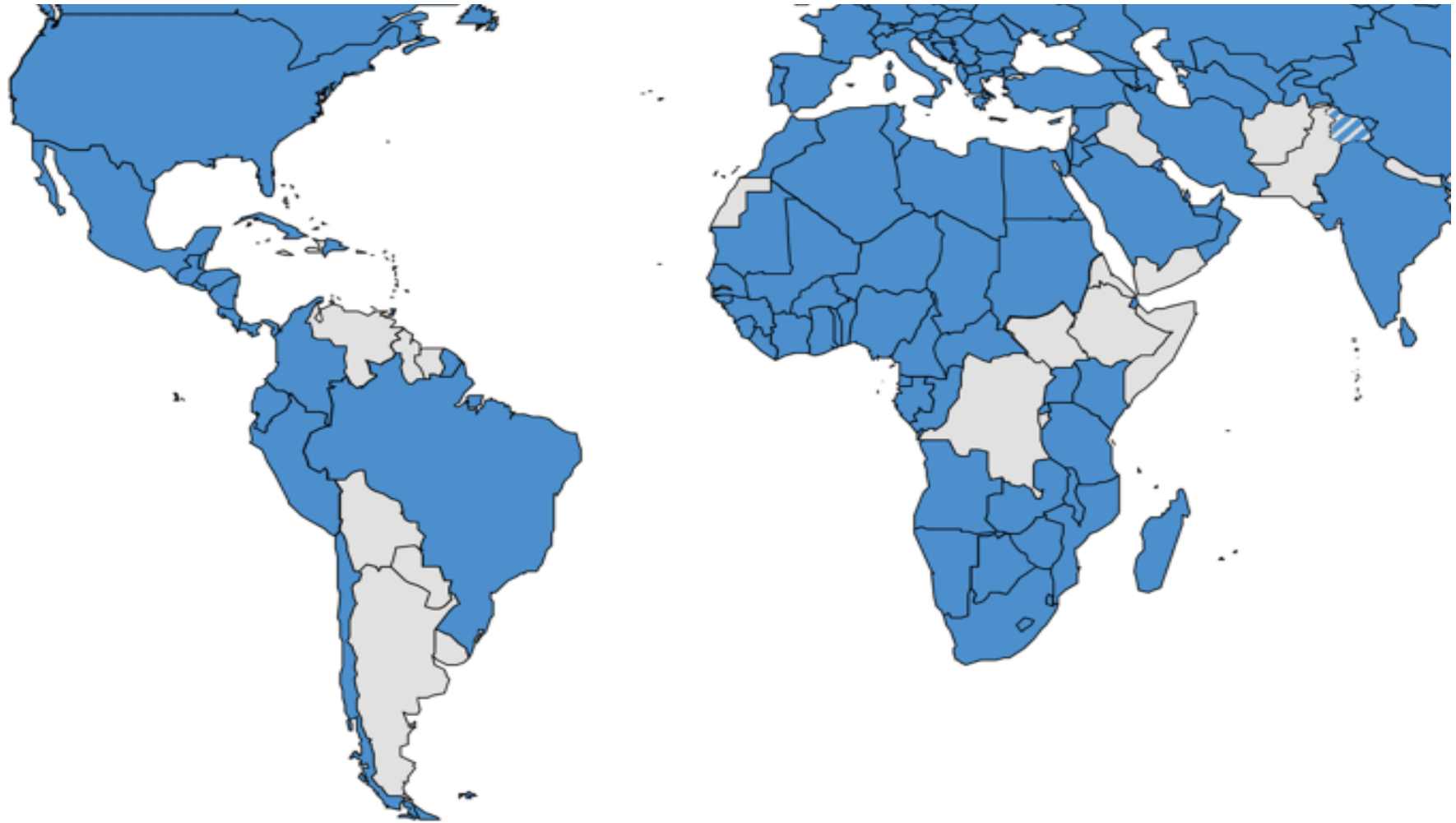
WIPO - Overview of the PCT System

(available at www.wipo.org)



153 PCT Member States*

(as of January 4, 2019)



2019 PCT Statistics

- According to WIPO, the PCT “passed a record-breaking quarter-million (253,000) filing mark in 2018, a 3.9% increase over 2017. **U.S.-based inventors filed the greatest number of PCT patent applications in 2018, trailed closely by China, which is expected to surpass the U.S. within the next two years on current trends.”**
- In 2018, Asia-based innovators filed more than half of all international patent applications with significant growth from China, India and the Republic of Korea.