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# A Convergent approach to International Investment and Intellectual Property Laws

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### Abstract

*This paper aims at examining the international investment in the regime of intellectual property laws, further it tries to dive into the intricate connection between the two. The acceleration in the Globalization has led to shaping of new technologies in the society. The connection between the International Investment and the Intellectual Property is increasing and in turn leading to interdependency on one another. This has ultimately become so complex that an intervention on solving the situation is the need of the hour. Hence this paper aims to explore the potential options available in resolving the conflicts that arise when harmonizing the international investment in the field of intellectual property and how the nations today can adopt measures to find better opportunities through a convergent approach.*

**Keywords:** *International Investment, Global Standards, Dispute Resolution Mechanism, Intellectual Property, Foreign Direct Investment.*

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## INTRODUCTION

International investment in this global era plays a pivotal role in driving global economy as it involves cross-border capital flows and enables countries to access and exchange the capital, technology, expertise, etc., international investment can also be called as Foreign Direct Investment (FDI). FDI is where a company invests its money, labor and capital in foreign business, leading to the creation of technology, economic development and job creation.<sup>2</sup> International Investment also includes Portfolio investment. International investment is a concept of huge risk as there is a possibility of potential economic instability and fluctuation. The nations usually frame attractive foreign policies in order to attract foreign investment. International Investment Agreements (IIAs) is a legal framework for international investment agreements and provides protection by addressing global disputes and promoting stable investment. IIAs also foster cross-border economic

activity contributing to sustainable development.<sup>3</sup> The intellectual property rights are very crucial for the protection and fostering of innovative minds, further promoting economic growth. The IP laws also provide a framework for the intense incentive in the investments for driving advancement in technological fields, also protecting the intellectual assets.

## INTERTWINED RELATIONSHIP

The relationship between international investment and intellectual property rights is complex and intertwined. Intellectual property rights protect the creative works and innovative ideas; foreign investors acquire these rights. Intellectual property is a valuable asset that can be further protected under international investment frameworks.

Foreign direct investment or International Investment has an important role in the area of technology transfer, licensing, and royalties pertaining to intellectual

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<sup>2</sup> Organisation for Economic Co-operation and Development, The Digitalization of Science, Technology and Innovation: Key Developments and Policies, OECD, <https://www.oecd-ilibrary.org/docserver/788565713012.pdf?expires=1733765660&id=id&accname=guest&checksum=E1E6A62EDCB4ABB94F1A3A616264C647> (last visited Dec. 9, 2024).

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<sup>3</sup> UNCTAD, International Investment Agreements Navigator, <https://investmentpolicy.unctad.org/international-investment-agreements> (last visited Dec. 9, 2024).

properties.<sup>4</sup> Many times, disputes arise and mechanisms such as arbitration settle these disputes, particularly if there are issues of technology transfer and intellectual property laws protection within relevant countries. This interplay requires the proper protection of intellectual property rights of the holders so that their assets are protected. International licensing agreements allow these rights to be exploited in other countries' markets, and yet transactions involving collaboration very often fall within both domestic and international investment treaties. This will give rise to disputes involving foreign investments and intellectual property rights. In such situations, international dispute resolution bodies play a very important role in dealing with issues of international investment and intellectual rights. As a result, policymakers, businesspeople, and investors have to go through a complex landscape to achieve harmony in international trade and investment. International investment is governed by a number of treaties regarding intellectual property provisions. Notably, the Agreement on Trade-Related Aspects of

Intellectual Property Rights (TRIPS) concluded during the Uruguay Round of trade negotiations under the World Trade Organization sets standards for member countries to follow.<sup>5</sup> There are also numerous bilateral investment treaties (BITs) and preferential trade agreements (PTAs) that work to protect intellectual property rights in the context of international investment. Under BITs, intellectual property is covered under the definition of investment, reflecting the importance of protecting intangible assets in international investment operations. Intellectual property is now recognized as a vital asset, especially in rapidly developing industries and technologies. International Investment within Intellectual Property (IP) Laws is the mobilization of resources within the International Intellectual Property (IP) framework to enhance and protect economic growth, international trade, and innovation becomes increasingly intricate and dynamic. Globalization accompanying trade and investment amplifies the significance of intellectual property laws.<sup>6</sup>

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<sup>4</sup> UNIDO, Role of Intellectual Property Rights in Technology Transfer and Economic Growth (2009), [https://www.unido.org/sites/default/files/2009-04/Role\\_of\\_intellectual\\_property\\_rights\\_in\\_technology\\_transfer\\_and\\_economic\\_growth\\_0.pdf](https://www.unido.org/sites/default/files/2009-04/Role_of_intellectual_property_rights_in_technology_transfer_and_economic_growth_0.pdf) (last visited Dec. 9, 2024).

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<sup>5</sup> UNCTAD, Information Economy Report 2007: Science and Technology for Development – The New Paradigm of ICT (2007), [https://unctad.org/system/files/official-document/ite1\\_en.pdf](https://unctad.org/system/files/official-document/ite1_en.pdf).

<sup>6</sup> "How Does Intellectual Property Affect International Trade?" *IP Law USA*,

## 1. International IP Treaties and Agreements:

There are many international treaties and conventions that deal with IP laws and provide a framework for the protection and enforcement of intellectual property rights across borders. These agreements promote uniformity in IP laws and facilitate cross-border investments. Agreements include:

First, Paris Convention for the Protection of Industrial Property (1883): This is one of the oldest international IP treaties administered by World Intellectual Property Organization (WIPO).<sup>7</sup> It concerns patents, trademarks, industrial designs, and unfair competition, making national intervention in the protection of these rights possible. The convention gives investors from member countries a right to secure IP protection in other member states free from discrimination. Second, Berne Convention for the Protection of Literary and Artistic Works, (1886):<sup>8</sup> Besides being WIPO's administered convention, it enshrines minimum standards to copyright protection and related rights, including protection

against unauthorized reproduction of literary, artistic, musical and other creative works. National treatment is also introduced wherein works of foreign origin are afforded the same protection as the works of a country within that member country. Third, The Trade-Related Aspects of Intellectual Property Rights Agreement, also known as the TRIPS Agreement of 1994: This very important international agreement is included within the agreements of the WTO. TRIPS establishes the minimum standards for protection and enforcement of IP within every member state, such as patents, copyright, trademarks, industrial designs, and trade secrets. Enforcing IP rights is also addressed in TRIPS, comprising civil and administrative procedures, border measures, and procedures for dispute settlement. TRIPS-plus provisions are negotiated bilaterally in symmetric trade agreements and exceed the minimum standards of TRIPS for the protection and enforcement of IP.

iv. The Hague System for International Registration of Industrial Designs 1999 This system allows entities and investors to register their industrial designs internationally by filing a single application

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<https://iplawusa.com/how-does-intellectual-property-affect-international-trade/> (last visited Dec. 3, 2024)

<sup>7</sup> Paris Convention for the Protection of Industrial Property, Mar. 20, 1883, 21 U.S.T. 1583, T.I.A.S. No. 6903

<sup>8</sup> Berne Convention for the Protection of Literary and Artistic Works, Sept. 9, 1886, S. Treaty Doc. No. 99-27.

with WIPO to grant IP protection in multiple jurisdictions.<sup>9</sup>

**v. Patent Cooperation Treaty (PCT) (1970):**

The PCT offers a system under which patent applicants can seek protection in many countries through a single international application. This greatly simplifies the process of obtaining patents worldwide and is often used by investors seeking to protect technical innovations around the world.<sup>10</sup>

**vi. Madrid Agreement (1891)<sup>11</sup> and Protocol to the Madrid Agreement (1989):<sup>12</sup>** These agreements deal with the international registration of trademarks. The Madrid System allows an investor to obtain trademark protection in several countries by submitting a single application, which reduces the complexity and cost of obtaining trademark protection in various jurisdictions.

## 2. Legal Regime

IP is a significant driver of international investments as intellectual property provides crucial protection to intellectual assets by encouraging innovations and setting an

appropriate legal platform that facilitates safeguarding long-term investments through industries in the high-risk sectors like technology, medicines, media, and consumer goods.

**i. IP as Security for Financing:** Increasingly, companies use their IP assets as collateral for securing funds and loans in international markets. IP-backed financing will provide businesses the ability to capitalize on patents, trademarks, or copyrights to attract funding or investment. Of all sectors that lack substantial assets, the technology, biotechnology, and creative sectors especially need such an approach in order to raise alternative funds for capitalization.

**ii. International Enforcement and Jurisdiction of IPs:** International investment is also bothered about enforcement. Investors are very anxious in regard to how such an IP law would be enforceable in the jurisdiction or jurisdictional area abroad- be it in relation to judicial remedies like damages or other relief mechanisms available at courts of law or else- through administrative mechanisms for infringement of IP rights. Mechanisms for cross border settlements include the WTO's dispute settlement body under TRIP's agreement. These rights also depend on domestic legal systems for enforcement and so can

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<sup>9</sup> Hague Agreement Concerning the International Registration of Industrial Designs, July 2, 1999, 2110 U.N.T.S. 3

<sup>10</sup> Patent Cooperation Treaty, June 19, 1970, 28 U.S.T. 7645, T.I.A.S. No. 8733.

<sup>11</sup> Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, Apr. 14, 1891, 828 U.N.T.S. 3.

<sup>12</sup> Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, June 27, 1989, 28 I.L.M. 1301.

significantly differ from one country to another.

**iii. Transfer of Technology and Market Accession:** Technology transfer is often in the form of licensing or selling IP assets to foreign firms or governments. It becomes relatively easy for businesses to penetrate emerging markets with a softer IP regime from the perspective of the country where such foreign businesses are intending to do business.<sup>13</sup> Various incentives offered by some countries include establishing a favorable IP regime, tax breaks for investments that are based on IP, and ensuring quick enforcement and effective enforcement of their rights to IP.

### **3. Cross-Border Investments on the Intellectual Property:**

Just as the digital economy is blossoming, protecting digital resources such as software, data, algorithms, and new media becomes more critical for outward investment.

**i. Copyright and Licensing:** Content authors be they film writers, musicians, or book writers—require robust protection. Their work is shared largely across borders

through the Internet so that they receive proper acclaim and remuneration in return.

**ii. Data Protection and Privacy:** With cross-border investment, data protection laws come into the picture, especially because of our world being extremely tech-driven with AI, Big Data, and Internet of Things (IoT). Various countries are implementing these specific regulations, such as the General Data Protection Regulation (GDPR) in the EU, that guide one on how personal data should be collected, processed, and shared with other countries.<sup>14</sup>

### **4. Cognitive Decision making :**

As developing countries experience economic growth, they are becoming increasingly attractive destinations for foreign investments in intellectual property. However, these areas often face hurdles when it comes to enforcing laws and building the infrastructure needed to support IP rights.

**i. Effectiveness of Intellectual Property Laws:** One of the concerns of investors is whether or not the intellectual property protection laws of a particular country are

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<sup>13</sup> UNIDO | UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION, *Role of Intellectual Property Rights in Technology Transfer and Economic Growth* (2009), [https://www.unido.org/sites/default/files/2009-04/Role\\_of\\_intellectual\\_property\\_rights\\_in\\_technology\\_transfer\\_and\\_economic\\_growth\\_0.pdf](https://www.unido.org/sites/default/files/2009-04/Role_of_intellectual_property_rights_in_technology_transfer_and_economic_growth_0.pdf) (last visited Dec.3, 2024).

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<sup>14</sup> AI and Privacy: The Privacy Concerns Surrounding AI & Its Potential Impact on Personal Data," *The Economic Times*, <https://economictimes.indiatimes.com/news/how-to/ai-and-privacy-the-privacy-concerns-surrounding-ai-its-potential-impact-on-personal-data/articleshow/99738234.cms> (last visited Dec. 9, 2024).

effective. Investors want to be assured that their investments are safe.

ii. Public Policy: In some developing countries, there is emphasis on public access to knowledge and innovation, which sometimes costs strict IP protections. Such a policy may influence investment levels that businesses are willing to make.

### 5. Mechanism on Regional IP Cooperation and Investment:

Many regional organizations have come forward to develop frameworks that strengthen IP protection and facilitate investment across borders. Some of the examples are:

i. The European Union (EU): The EU has created a single trademark system, known as the European Union Trademark, or EUTM, and a patent system through the European Patent Convention. This makes it easier for businesses to protect their IP rights across several countries within the EU.<sup>15</sup>

ii. African Intellectual Property Organization (OAPI)<sup>16</sup> and African Regional Intellectual Property Organization (ARIPO):<sup>17</sup> These

organizations aid African countries in coming together to harmonize their IP laws, making it easier to invest and creating a more secure climate for innovation across the entire continent.

### III. INTELLECTUAL PROPERTY AS AN INTERNATIONAL INVESTMENT:

Many international investment agreements (IIAs) recognize intellectual property rights (IPRs) as a form of investment. This means that when a foreign company invests in another country, its IP rights, like patents, trademarks, and copyrights, are protected under these agreements.

Historically, this trend started after World War II with Friendship, Commerce, and Navigation treaties. The first bilateral investment treaty (BIT), between Germany and Pakistan in 1959, explicitly included patents and technical knowledge as investments. Modern IIAs often go further, explicitly defining various forms of IP, such as copyrights, trademarks, and patents, as investments.<sup>18</sup> While this recognition offers significant protection to foreign investors, it's important to note that IP rights serve a

<sup>15</sup> European Patent Convention, Oct. 5, 1973, 1065 U.N.T.S. 199.

<sup>16</sup> Agreement Revising the Bangui Agreement on the Creation of the African Intellectual Property Organization, Mar. 14, 2015, 54 I.L.M. 1255.

<sup>17</sup> Protocol on Patents and Industrial Designs within the Framework of the African Regional Intellectual Property Organization, Dec. 9, 1982, OAU Doc. AHG/Res. 237 (XX).

<sup>18</sup> Michael J. Trebilcock, The Protection of Intellectual Property Rights Through Bilateral Investment Treaties, WORLD TRADE INSTITUTE (2008), [https://www.wti.org/media/filer\\_public/c5/47/c5475d4a-f97c-4a8b-a12a-4ae491c6abb3/the\\_protection\\_of\\_ips\\_through\\_bits.pdf](https://www.wti.org/media/filer_public/c5/47/c5475d4a-f97c-4a8b-a12a-4ae491c6abb3/the_protection_of_ips_through_bits.pdf).

broader societal purpose: to encourage innovation and creativity. This can sometimes clash with the interests of foreign investors, leading to complex legal questions about the extent of IP protection under investment treaties. One popular strategy is licensing. Companies can license their patents, trademarks, or technologies to other companies in foreign markets. For example, a software company might license its software to companies in other countries, earning royalties without having to establish offices or factories there.

Mergers and acquisitions are another important way to leverage IP. Companies with valuable IP, like strong brands or innovative technologies, become attractive targets for acquisitions. This can lead to significant financial gains for the selling company and help the acquiring company expand its market reach. Foreign direct investment (FDI) is another way to use IP for international expansion. By transferring IP rights to foreign subsidiaries, companies can benefit from lower taxes, cheaper labor, and access to new markets. This also protects IP rights in foreign jurisdictions.

Franchising is a strategy that relies heavily on IP. By licensing their brand, business model, and IP to franchisees, companies can expand into new markets with minimal

investment. This allows them to maintain brand control while benefiting from local knowledge and expertise.<sup>19</sup>

International IP agreements like TRIPS play a crucial role in protecting IP rights globally. These agreements provide a framework for enforcing IP rights and resolving disputes, ensuring that companies can protect their intellectual assets in foreign markets.<sup>20</sup>

IP has become an essential asset for businesses seeking global expansion. By understanding how to leverage IP, companies can unlock new opportunities, reduce risks, and achieve sustainable growth in the global marketplace.

### **CONCORDING INTERNATIONAL INVESTMENT AND IP LAWS.**

The coordination of the laws of international investment and intellectual property is very complex yet essential in easy facilitation of trade, innovation, and investment into the global economy. It is a difficult balancing in which the interests of safeguarding intellectual property rights as well as their free flow across borders worldwide under disparate legal and economic conditions come into play. There has to be a co-

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<sup>19</sup> World Intellectual Property Organization, IP Panorama: 13 Learning Points, WIPO, [https://www.wipo.int/export/sites/www/sme/en/documents/pdf/ip\\_panorama\\_13\\_learning\\_points.pdf](https://www.wipo.int/export/sites/www/sme/en/documents/pdf/ip_panorama_13_learning_points.pdf).

<sup>20</sup> Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, 1869 U.N.T.S. 299.



influence between the legal, economic, political, and technological variables through processes that serve both the investors' interests as well as public interest. Approaches and strategies to concord international investment and IP laws:

### **1. Robust International Legal Regime:**

One should start with international treaties and conventions as the basis for implementing uniform IP law frameworks throughout borders. There are several developed frameworks that can be molded or expanded to bring more consistency between policies on protections of IPs and investments in place.

**i. Strengthening of TRIPS Agreement:** The TRIPS administered by the World Trade Organization is the minimum requirement establishing the protection of intellectual properties. Even though TRIPS has established a world-wide base, the TRIPS-plus<sup>21</sup> provisions, usually found in free trade agreements, tend to be higher than the minimum requirements stipulated under TRIPS. This has created a degree of inconsistency. There should be a balance between minimum requirements and the ability of countries to pursue their development requirements.

**ii. WIPO and Multilateral Treaties:** This is building on the role of the World Intellectual Property Organization (WIPO),<sup>22</sup> which provides a series of treaties including the Patent Cooperation Treaty (PCT), Madrid System for trademarks, and the Hague Agreement for industrial designs, that would make easier international IP protection and enforcement. The more harmonized and comprehensive international treaties in IP would minimize the disparate standards and procedures among different jurisdictions.

**iii. Bilateral and Regional Agreements:** The provisions regarding protection and dispute settlement in investment treaties, for example, in BITs and RTAs, shall be stronger on IP rights. This is to the effect that investors will have consistent standards and IP rights will not be undermined through varying levels of protection under different jurisdictions.

### **2. Formulation of International standards for Investment and IP Protection:**

At the intersection of IP protection and investment, global norms or best practices can be developed to encourage consistency in how countries treat IP in the context of foreign investment, thus addressing issues

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<sup>21</sup> North American Free Trade Agreement, Dec. 17, 1992, U.S.-Can.-Mex., 32 I.L.M. 289.

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<sup>22</sup> World Intellectual Property Organization, <https://www.wipo.int>.

such as access to knowledge, public health, and the environment.

**i. Inclusive Policy-making:** Developed and developing countries must be involved in the development of global norms. Developing countries must have a seat at the table so that international rules do not disadvantage them or hinder their economic development. This can include setting clear exceptions for certain sectors, such as public health and access to medicines.

**ii. Investment and IP Impact Assessments:** Countries can do impact assessments to understand how intellectual property laws impact foreign direct investment. Some countries worry that overly protective IP will stifle innovation or foreclose access to essential things, such as medicines, educational materials, or lifesaving technologies. International rules of thumb to help navigate these competing issues would improve the balance.

**iii. Implementation Flexibility:** Some IP treaties, such as TRIPS, allow for implementation flexibility by member states. This flexibility should be preserved and even extended to accommodate the ability of countries to adapt their IP laws to meet local needs, especially in sectors such as health, education, and agriculture.

### **3. Facilitation of Technological advancements and innovations via IP laws:**

IP laws can play a multifaceted role while protecting the rights of inventors, they may be helping to promote technology transfer and innovation. A harmonized system should ensure that these types of protections encourage technology and knowledge sharing across borders, particularly in areas that contribute to sustainable development.<sup>23</sup>

**i. Encourage Licensing and Collaboration:** International frameworks should foster the licensing of IP and promote collaborative linkages between multinationals and local firms in developing countries. It can even offer incentives for foreign investors to share technology with industries or governments in the local country.

**ii. Technology Transfer Mechanisms in Investment Treaties:** Investment treaties may include technology transfer provisions where foreign investors are obliged to contribute to the local knowledge economy.<sup>24</sup> For example, they could be

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<sup>23</sup> World Intellectual Property Organization, Technology Transfer, WIPO, <https://www.wipo.int/en/web/technology-transfer> (last visited Dec. 2, 2024).

<sup>24</sup> Organisation for Economic Co-operation and Development, The Digitalisation of Science, Technology and Innovation: Key Developments and Policies, OECD, <https://www.oecd-ilibrary.org/docserver/7103eabf-en.pdf?expires=1733764670&id=id&accname=guest>

encouraged or mandated to license their technologies to local firms such that the host country reaps from the transfer of technological know-how and innovation.

**iii. Access to Knowledge:** In pharmaceuticals, for instance, IP harmonization must strike a balance between the demand for innovation and public health concerns. Countries must be permitted to issue compulsory licenses or import in parallel critical medicines without violating their investment treaty obligations when public health objectives are at stake.

#### **4. Solidify Dispute Resolution Mechanisms:**

A reliable, transparent, and accessible mechanism of dispute resolution will ensure that conflicts between investors and host countries over IP rights are dealt with efficiently. Harmonized rules for dispute resolution will boost investor confidence and prevent IP-related conflicts from escalating.

**i. Establish Unified IP Investment Dispute Resolution Forums:** International arbitration bodies, like ICSID<sup>25</sup> or any specialized body within WIPO, may be used for the resolution of IP investment disputes between investors

and the government. A specialized body dealing with IP and investments would ensure that disputes would be resolved with the application of both expertises.

**ii. Clear terms of investment contracts:** The parties to the international investment agreement should agree that clear and transparent terms shall be maintained between the parties concerning the IP rights, thus eliminating confusion and subsequent conflict.

**iii. Clarity of TRIPS Enforcement:** This would make the enforcement under TRIPS sound and more stringent with well-defined and consistent procedures of settling disputes about IP between states and foreign investors more standardized globally.

#### **5. Public Policy Imperatives and Development Goals:**

It is crucial that the IP rights be balanced with the development needs of the countries in order to ensure that the IP laws serve broad-based, sustainable development, while promoting international investment.

**i. IP Law Flexibilities:** TRIPS contains some important flexibilities (compulsory licensing, inter alia) that enable the countries to give a higher preference to public health, education, or food security above strict

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[checksum=D466A5C80731915A4022E981A86106A9](https://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1136&context=cybaris) (last visited Dec. 4, 2024).

<sup>25</sup> Brian R. Warren, Artificial Intelligence and the Future of Copyright Law, 10 CYBARIS: INTELL. PROP. L. REV. 1 (2020), <https://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1136&context=cybaris>.

enforcement of IP.<sup>26</sup> Expanding such flexibilities and incorporating them into international investment agreements can ensure that laws on IP do not thwart a country's ability to pursue its development objectives.

**ii. Public Domain and Open Access:** To trigger innovation and investment, parts of knowledge in R&D can be put into public domain or open access. Open source technologies and collaborative IP models are beneficial for investors and global publics as they foster innovation but respect IP rights.

**iii. Inclusive IP Development:** IP coordination will focus on the needs of poorer countries or sectors (like low-income countries, the indigenous community). For example, protection of traditional knowledge and cultural expressions can be found under IP laws to ensure a balance in global IP protection systems being just and equitable.

#### **6. Transnational IP enforcement:**

IP enforcement mechanisms are essential for international investment. Investors should be confident of their capacity to protect intellectual property sufficiently abroad. Where there is a high level of counterfeiting

or piracy, weak enforcement of the IP laws will likely undermine investor confidence.

**i. Border Enforcement International IP treaties,**<sup>27</sup> like TRIPS, mandate countries to have provisions for border enforcement of IP rights. Then, at the borders, customs may seize counterfeit and pirated products. Such provisions are highly relevant for luxury goods industries, mainly high-tech and entertainment. Their brand value might get adversely affected because of violation of IP.

**ii. International Cooperation:** Countries need to cooperate internationally to deal with the issues of IP theft and piracy. Such cooperation usually occurs within frameworks such as WIPO, INTERPOL,<sup>28</sup> and the WTO that work in tandem to strengthen efforts towards better global IP enforcement and assist countries in improving their domestic IP laws and practices in enforcement.

#### **7. Investment and Public Policy Concerns:**

International investment in IP rights should also take into account the public policy concerns of the host country, such as access

<sup>26</sup> World Intellectual Property Organization, TRIPS: Policy and Legislative Assistance, WIPO, [https://www.wipo.int/ip-development/en/policy\\_legislative\\_assistance/advice\\_trips.html](https://www.wipo.int/ip-development/en/policy_legislative_assistance/advice_trips.html) (last visited Nov 29, 2024).

<sup>27</sup> European Parliament, The Role of Intellectual Property in the EU's Digital Economy, IPOL-STU(2021)703387, at 1 (2021), [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/703387/IPOL\\_STU\(2021\)703387\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/703387/IPOL_STU(2021)703387_EN.pdf).

<sup>28</sup> INTERPOL, <https://www.interpol.int/en> (last visited Dec. 3, 2024).

to knowledge, affordable medicines, or public health. In the pharmaceutical sector, for instance, the IP laws can sometimes come into conflict with the public health goals because of the high prices of life-saving drugs.

**i. Public Health Exceptions:** The TRIPS agreement has a number of flexibilities, including the freedom of countries to grant or issue compulsory licenses for patented products in the event of any public health crisis. So, countries can balance strong IP protection with the paramount public interest, such as access to necessary medicines or technologies.<sup>29</sup>

## CONCLUSION

International investment and intellectual property laws are critical for economic growth in today's world, especially in industries that are innovation, technology, and creativity-based. Intellectual property has become an essential asset in global investments, with IP laws forming the foundation for protecting and utilizing these assets across borders. International investment and IP laws interlink each other

in such an intricate way as far as protection, enforcement, technology transfer, and dispute resolution are concerned. All the factors affect one another.

Strong IP protection is highly connected to a good investment climate. A well-developed IP system inspires foreign investment due to its strong system, because it guarantees protection for the intellectual assets created so that investors realize the fruits of their innovations. In turn, investment in IP—be it via licensing agreement, joint venture, or technology transfer—is what spurs the globe-wide dissemination of knowledge and innovation. It forms a positive cycle between the effective laws on IP and that of investment and vice versa: investment feeds into new technology and innovation as well.

It will have to be pursued by international, regional, and national cooperation coordinating between investment and IP laws, respectively. Through agreements such as the TRIPS Agreement, WIPO treaties, and other investment treaties, a more standard IP protection approach has been brought on by law. Still, in some ways, the strict structures established here must be adaptable for differences to be accommodated concerning countries' needs and priorities. A balanced system should both take care of investor interests and

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<sup>29</sup> South Centre, Public Health-Related Flexibilities in the TRIPS Agreement, SOUTH CENTRE, <https://ipaccessmeds.southcentre.int/wp-content/uploads/2018/12/Public-Health-Related-Flexibilities-in-the-TRIPS-Agreement.pdf> (last visited Dec. 9, 2024).

accommodate public policy concerns, allowing for a balance between matters such as access to vital medicines and knowledge and the stimulation of innovation. The key challenge is therefore how to balance the protection of IP rights with broader social needs. While IP protection coordination does exist through agreements as long-standing as TRIPS and WIPO and newer bilateral investment treaties, differences continue to appear in terms of enforcement, the local legal system, and economic priorities. Therefore, a balance would be required to overcome the obstacles in terms of flexibility concerning licensing, technology transfer, and dispute resolution in such a manner that the global IP system supports both investment and broader social and development purposes.<sup>30</sup> In the final analysis, the global IP framework needs to move forward further to cultivate an environment where innovation is fostered, intellectual property is sufficiently protected, technology can be shared across borders, and disputes are resolved fairly. When that balance is reached, international investments in IP shall not only benefit investors but also

contribute to the greater good of society by driving global development and progress.

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<sup>30</sup> Daniel Castro, The Way Forward for Intellectual Property Internationally, INFORMATION TECHNOLOGY AND INNOVATION FOUNDATION, <https://itif.org/publications/2019/04/25/way-forward-intellectual-property-internationally/> (last visited Dec. 9, 2024).