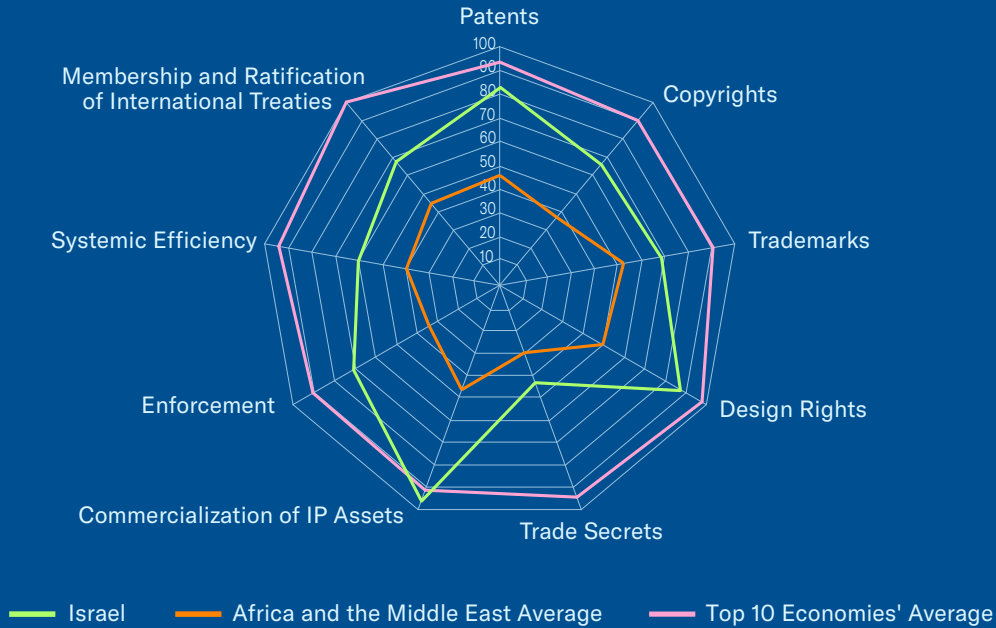
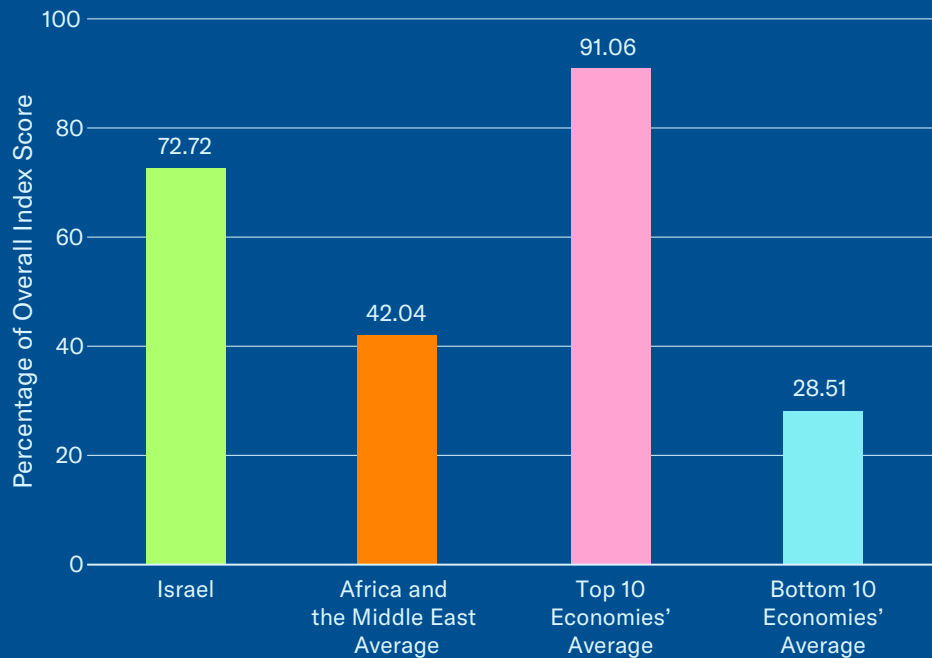


## Category Scores



## Overall Score in Comparison





## Key Areas of Strength

- 2019 copyright amendments strengthen enforcement against online infringement and introduce possibility of injunctive-style relief
- Global leader on technology transfer and international licensing activity—no administrative or regulatory barriers in place
- Generous R&D and IP-specific tax incentives in place
- Israeli Patent Office is an active participant in all major PPH tracks
- Life sciences IP rights reform efforts have considerably strengthened Israel's IP environment
- New industrial design law passed in 2017
- Joined Hague Agreement in 2019

## Key Areas of Weakness

- 2021 proposed amendments to Patent Law introducing a manufacturing, export, and stockpiling exemption to the current patent term restoration regime
- 2020 issuing of compulsory license in response to COVID-19 pandemic
- Current pre-grant patent opposition proceedings are characterized by long delays to patent prosecution
- Unclear the extent to which current RDP applies to biologics

Indicator	Score
<b>Category 1: Patents, Related Rights and Limitations</b>	<b>7.50</b>
1. Term of protection	1.00
2. Patentability requirements	1.00
3. Patentability of CIIIs	1.00
4. Plant variety protection	1.00
5. Pharmaceutical-related enforcement	0.50
6. Legislative criteria and use of compulsory licensing	1.00
7. Pharmaceutical patent term restoration	1.00
8. Membership of a Patent Prosecution Highway	1.00
9. Patent opposition	0.00
<b>Category 2: Copyrights, Related Rights, and Limitations</b>	<b>4.63</b>
10. Term of protection	0.63
11. Exclusive rights	0.75
12. Injunctive-type relief	0.75
13. Cooperative action against online piracy	0.50
14. Limitations and exceptions	1.00
15. TPM and DRM	0.00
16. Government use of licensed software	1.00
<b>Category 3: Trademarks, Related Rights, and Limitations</b>	<b>2.75</b>
17. Term of protection	1.00
18. Protection of well-known marks	0.75
19. Exclusive rights and trademarks	0.75
20. Frameworks against online sale of counterfeit goods	0.25
<b>Category 4: Design Rights, Related Rights, and Limitations</b>	<b>1.75</b>
21. Industrial design term of protection	1.00
22. Exclusive rights and industrial design rights	0.75
<b>Category 5: Trade Secrets and the Protection of Confidential Information</b>	<b>1.30</b>
23. Protection of trade secrets (civil remedies)	1.00
24. Protection of trade secrets (criminal sanctions)	0.00
25. Regulatory data protection term	0.30

Indicator	Score
<b>Category 6: Commercialization of IP Assets</b>	<b>5.75</b>
26. Barriers to market access	1.00
27. Barriers to technology transfer	1.00
28. Registration and disclosure requirements of licensing deals	1.00
29. Direct government intervention in setting licensing terms	1.00
30. IP as an economic asset	0.75
31. Tax incentives for the creation of IP assets	1.00
<b>Category 7: Enforcement</b>	<b>4.93</b>
32. Physical counterfeiting rates	0.70
33. Software piracy rates	0.73
34. Civil and precedural remedies	0.75
35. Preestablished damages	0.75
36. Criminal standards	0.75
37. Effective border measures	0.75
38. Transparency and public reporting by customs	0.50
<b>Category 8: Systemic Efficiency</b>	<b>3.00</b>
39. Coordination of IP rights enforcement	0.50
40. Consultation with stakeholders during IP policy formation	1.00
41. Educational campaigns and awareness raising	0.25
42. Targeted incentives for the creation and use of IP assets for SMEs	0.50
43. IP-intensive industries, national economic impact analysis	0.75
<b>Category 9: Membership and Ratification of International Treaties</b>	<b>4.75</b>
44. WIPO Internet Treaties	0.50
45. Singapore Treaty on the Law of Trademarks and Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks	0.50
46. Patent Law Treaty and Patent Cooperation Treaty	0.75
47. Membership of the International Convention for the Protection of New Varieties of Plants, ct of 1991	1.00
48. Membership of the Convention on Cybercrime, 2001	1.00
49. The Hague Agreement Concerning the International Registration of Industrial Designs	1.00
50. Post-TRIPS FTA	0.00

**Total: 36.36**



# Spotlight on the National IP Environment

## Past Editions versus Current Score

Israel's overall score has decreased from 72.74% (36.37 out of 50) in the tenth edition to 72.72% (36.36 out of 50). This reflects a score decrease on indicator 32.

## Patents, Related Rights, and Limitations

**7. Patent term restoration for pharmaceutical products:** Up until 2014, Israel did not offer patent restoration for pharmaceutical products. In 2014, following long discussions with the USTR regarding Israel's Special 301 status and the development of a memorandum of understanding with the U.S. government, the Israeli Knesset amended the Patent Law, introducing a five-year maximum term of restoration. In 2021, the Israeli Ministry of Justice published draft amendments to the Patent Law, "The Patents Law (Amendment No. 14) (Increasing the Competitiveness of the Israeli Economy), 5721-2021." The proposed amendments seek to introduce a manufacturing, export, and stockpiling exemption to the current term restoration regime. The law refers to and is explicitly modeled on a similar carve-out introduced by the European Commission through Regulation 2019/933, which has been operational in the EU since 2019. In the Israeli case, the exemption allows for the manufacture and export of a product for which a term of restoration has been granted. Manufacturing for the purposes of stockpiling is also allowed beginning within a period of six months of any granted patent term restoration expiring. This is a highly negative development and comes on the heels of the Israeli government's 2020 authorization of a compulsory license for the antiviral drug lopinavir/ritonavir. As noted in previous editions of the Index, when the license was issued, limited clinical evidence showed that lopinavir/ritonavir would be an effective treatment against COVID-19 or that the use of such an extreme measure would be justified.

After the issuing of the license and importation of generic product from India, no publicly available information suggests that the generic product was ever distributed to Israeli patients with COVID-19.

Israel has made substantive progress over the past decade in strengthening its national IP environment for biopharmaceuticals and has become a model for other economies seeking to build their research-based industries. Following the 2010 memorandum of understanding with the U.S. government, Israel made significant improvements in key areas of biopharmaceutical IP protection, including in relation to regulatory data protection, patent term restoration, and legal remedies for infringement. As a result, Israel has become a global leader in biopharmaceutical R&D. Twenty years ago, the innovative research-based biopharmaceutical sector consisted mainly of research organizations and early-stage companies focused on licensing out technologies, with little development and commercialization of biopharmaceuticals and biomedical technologies in Israel. Since the IP policy reform efforts, biopharmaceutical foreign direct investment into Israel has surged, growing over 250% between 2010 and 2014. As importantly, the IP reforms have not had a negative impact on the domestic generics industry. Contrary to common perceptions and received wisdom, providing a supportive environment for innovative activities in the life sciences (including a robust IP regime) has not hurt Israel's generic drugs industry, including its national champion Teva.

Israel has fought hard to strengthen its national IP environment over the past 10 years. The introduction of a manufacturing and export exemption to the existing patent term restoration regime would be a significant setback. Beginning in the eighth edition of the Index, the methodology used to calculate the score on this indicator has changed. This indicator now consists of two distinct

variables: first, the existence of a term of patent restoration for pharmaceutical products due to the prolonged research, development, and regulatory approval periods for such products; and second, the existence of any exemptions, waivers, or similar carve-outs on the full and effective use of such a term of restoration, including for industrial policy purposes. Of the available score for this indicator, 0.75 is allocated to the existing term of protection compared to the current baseline rate of five years' term restoration used in the United States, the EU, and Japan. The remaining 0.25 is allocated on the basis of a given economy providing any exemptions, waivers, or similar carve-outs on the full and effective use of such a term of restoration, including for industrial policy purposes. At the time of research, the proposed Israeli Patent Law amendments had not been passed into law. Should these legislative changes take place, Israel's score on this indicator will be reduced from 1 to 0.75.

**9. Patent opposition:** Israeli patent law provides for a pre-grant form of opposition to pending patent applications. The examination of a patent application's eligibility for registration is conducted by the Israeli Patent Office within a time frame of 18 months from the filing date, upon which the application is published online for public scrutiny. Once published, a period of three months is granted, during which third parties are permitted to file an opposition to the patent application. Upon filing of a notification of opposition, a period of 13 months is granted to the opposing party to submit the causes, arguments, and supporting evidence for the opposition, and for responses by both parties. Thus, the examination of a patent application can be extended by an additional 16 months, not including the process of reexamination and/or judicial hearings. Regardless of the merits of any opposition filing, these generous timelines add a significant burden and delay to the patent prosecution process in Israel. Recognizing these deficiencies, in late 2016, the Ministry of Justice and the Patent Office published a public call

for comments and suggestions regarding their intention to review the existing pre-grant system and to curtail these generous timelines. This was followed up in 2021 with a new public consultation and proposed regulatory amendments. Although not in final draft regulatory form, overall, these amendments recognized the excessive time taken in Israeli patent opposition proceedings and the need for clearer procedural demarcations and limits on the length of these proceedings. In 2022, the Patent Office hosted a follow-up roundtable discussion with relevant stakeholders. At the time of research, no finalized regulations had been published or further legislative action had been taken. As the Index has stated in the past, reducing the length of opposition proceedings in Israel would be a positive development and would mark a potential shift and recognition by Israeli policymakers of the costs the pre-grant system imposes on inventors and Israeli consumers. Instituting such changes would result in a score increase on this indicator. The Index will continue to monitor these developments in 2023.

## Membership and Ratification of International Treaties

Being a contracting party to key international IP treaties reflects a given economy's broader participation in the international IP community and embracing of the highest IP standards. As such, treaty participation is a strong signal of the extent to which an economy both chooses to participate in the international IP system and adheres to established standards and best practices. Israel's score in this category of the Index has increased from a score of 1, or 25%, in the fourth edition of the Index (the first year Israel was included) to now achieving a score of 4.75, or 67.86%, of the total available score. Although higher than some other high-income economies, such as New Zealand and the UAE, Israel's score is notably lower than many OECD economies. Virtually all EU Member States, Japan, the United States, and Canada achieve a score of 90% or more on this category.



Overall, Israel is a contracting party and has acceded to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks; the Patent Cooperation Treaty; the International Convention for the Protection of New Varieties of Plants, Act of 1991; the Convention on Cybercrime, 2001; and the Hague Agreement Concerning the International Registration of Industrial Designs. Israel is a signatory to, but has not ratified, the WIPO Internet Treaties or the Patent Law Treaty. Israel is not a contracting party to the Singapore Treaty on the Law of Trademarks. Israel is a contracting party to several post-TRIPS bi and plurilateral FTAs. This includes full FTAs and economic partnership agreements with Ukraine, Colombia, the EU, the UK, and Canada. Although some of these agreements include dedicated IP chapters—for instance, in 2018, a new IP chapter was added to the Canada-Israel FTA—they do not conform to the modern IP standards of other post-TRIPS international trade agreements. In May 2022, the government of Israel and UAE announced an economic partnership agreement. This follows the historic Abraham Accords Peace Agreement of 2020, which established diplomatic relations between Israel and the UAE. Public announcements by the Israeli Ministry of Economy and Industry suggest that this economic partnership agreement will include a dedicated section on IP rights. At the time of research, a finalized version of the agreement had not been published and made available to the public.