

**KDI International Conference  
Intellectual Property for Economic  
Development:  
Issues and Policy Implications**

***Global Perspectives on IP and  
Economic Development:  
The WIPO Development Agenda***

*Pushpendra Rai*

*World Intellectual Property Organization*



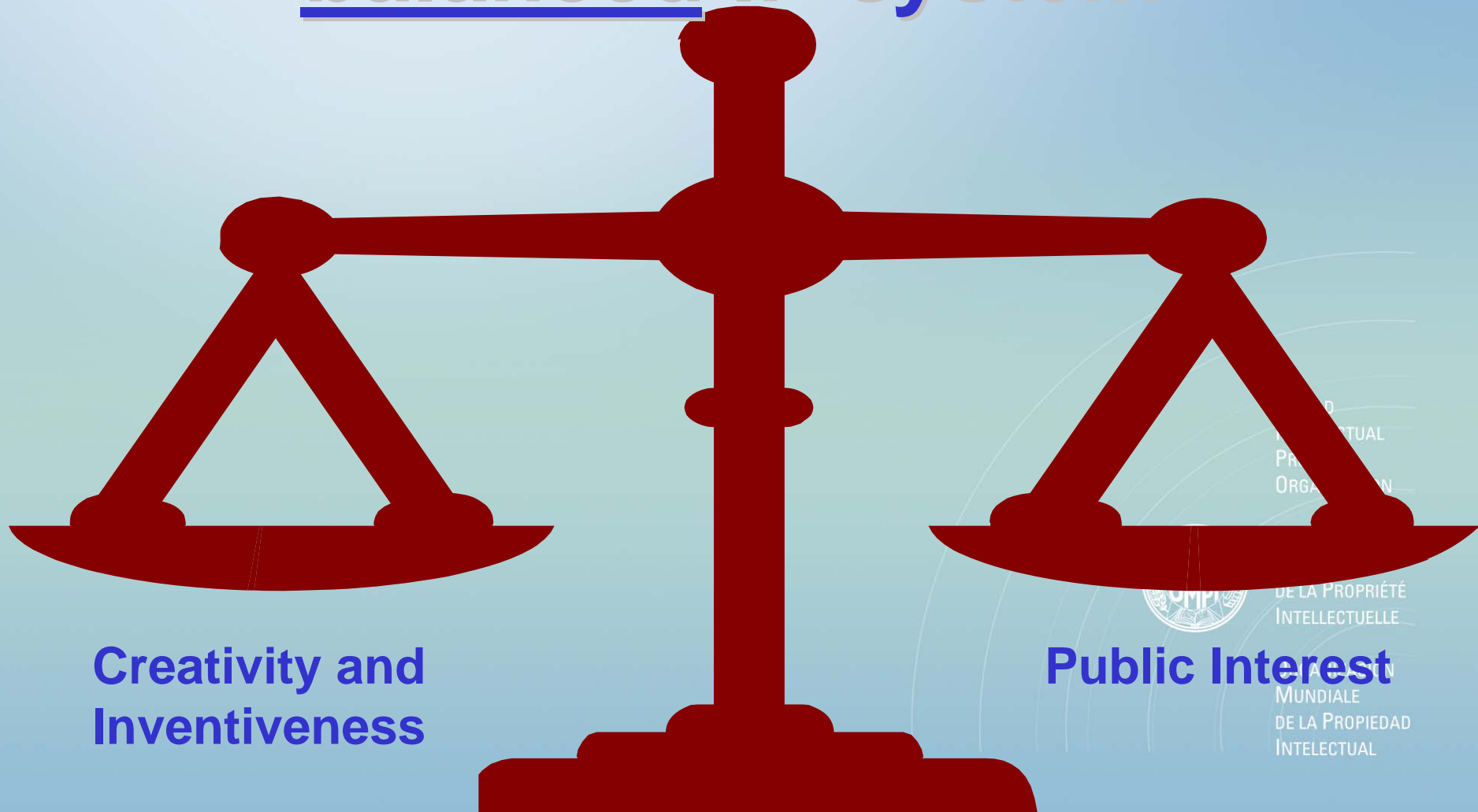
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**Seoul  
February 18-19, 2010**

# The new *mantra* : promoting a balanced IP system



**Creativity and  
Inventiveness**

**Public Interest**

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***Emerging position around the start of the last quarter of the last century...perception that not enough being done to protect rights...***



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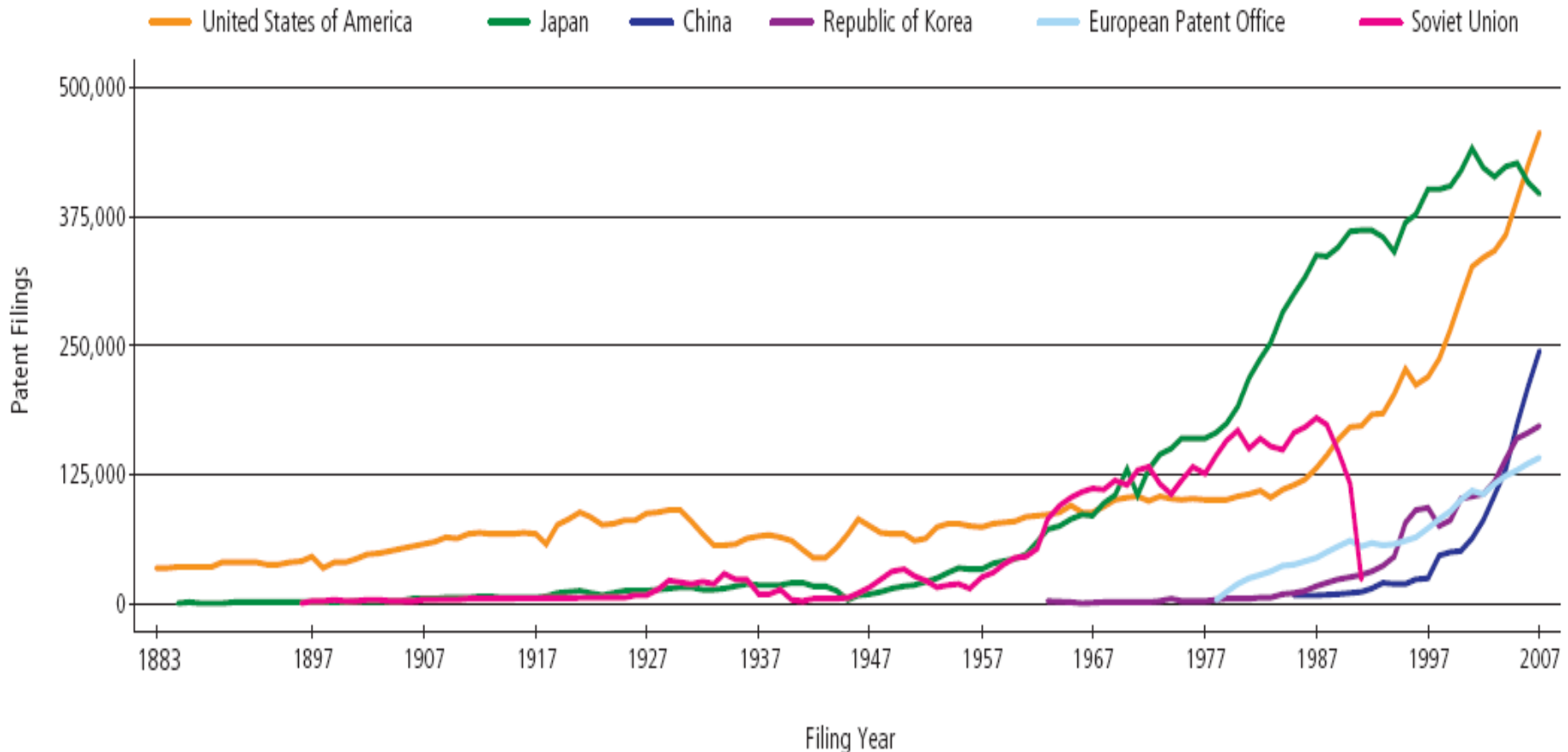
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# Patent Filings: 1883 -2007\*

## A.2. TRENDS IN PATENT FILINGS BY OFFICE

Trends in patent filings at selected patent offices

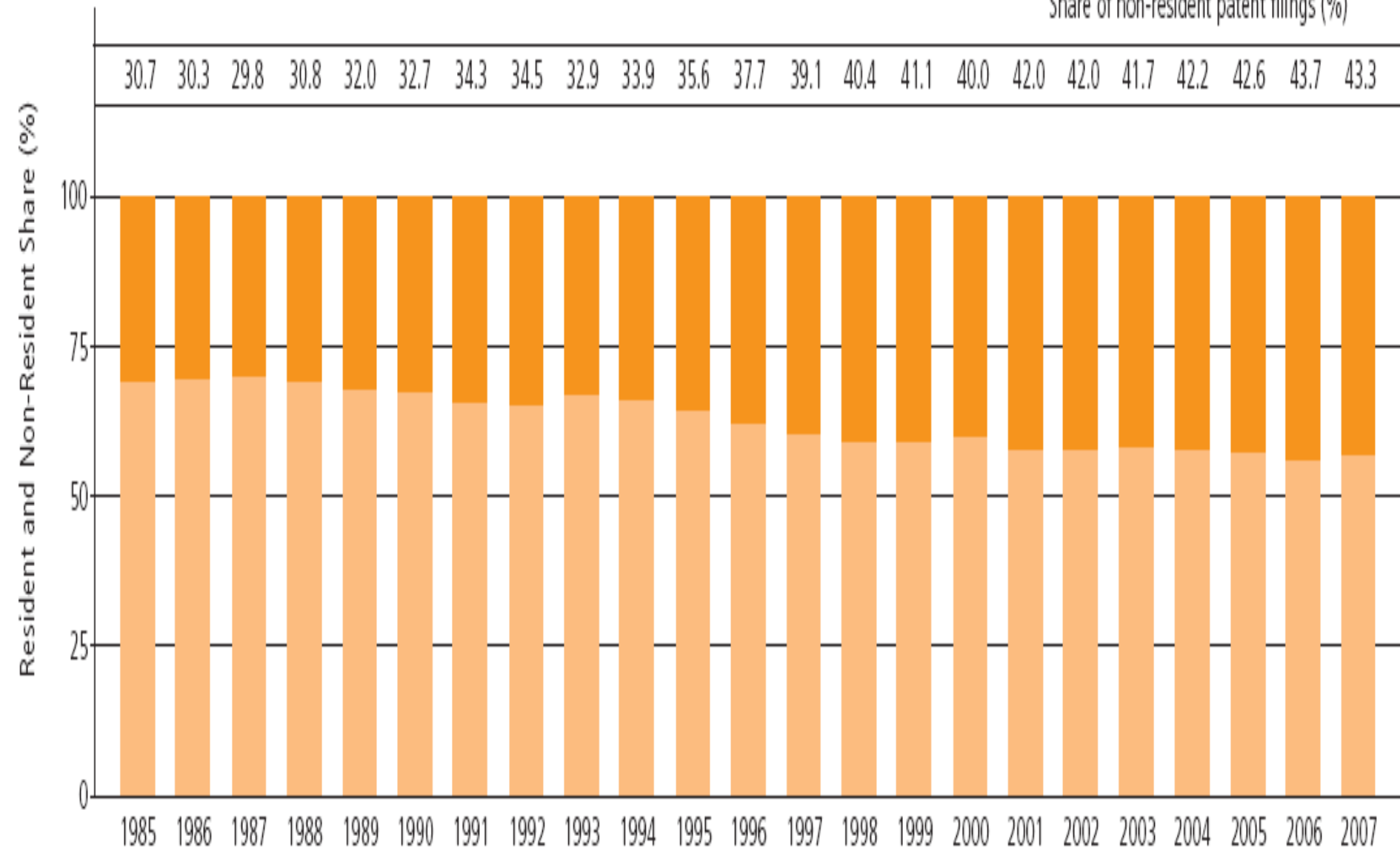


\*World Intellectual Property Indicators 2009 ([www.wipo.int/ipstats/en](http://www.wipo.int/ipstats/en))

# Distribution of total patent filings by resident and non-resident

Resident Non-Resident

Share of non-resident patent filings (%)



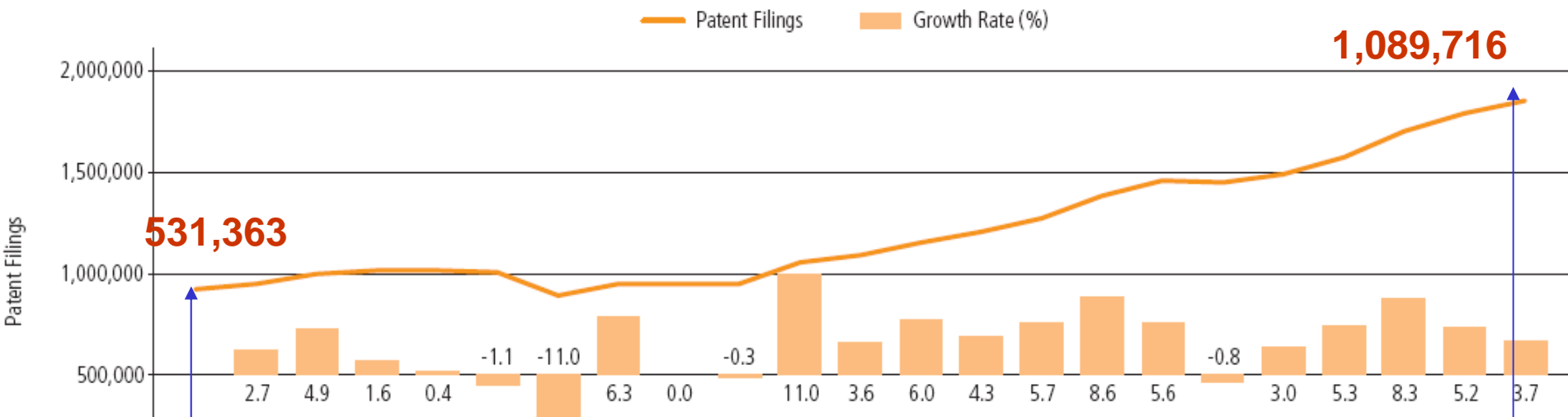
***Absence of protection or inadequate protection considered trade distortive practice...lead to inclusion of IPRs in various international arrangements at the multilateral, plurilateral and bilateral levels...***

***Backlogs and inefficient delivery of services lead to the launching of other initiatives***

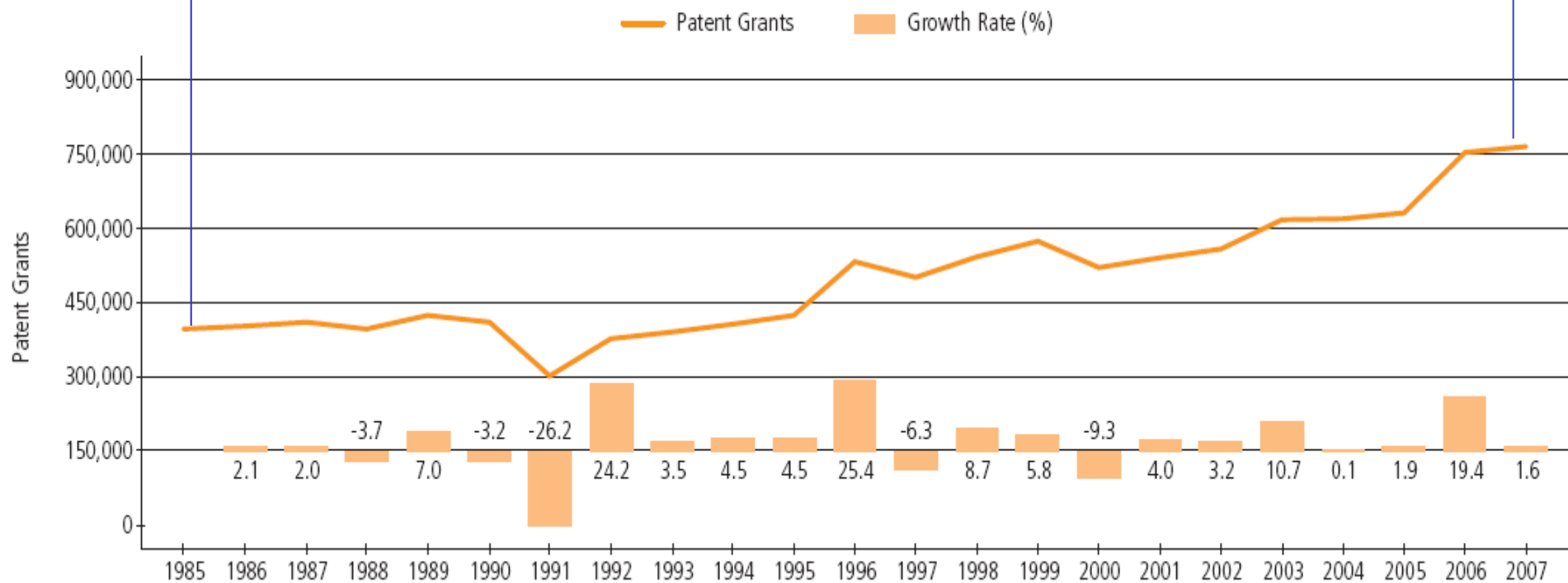


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### Trends in total patent filings

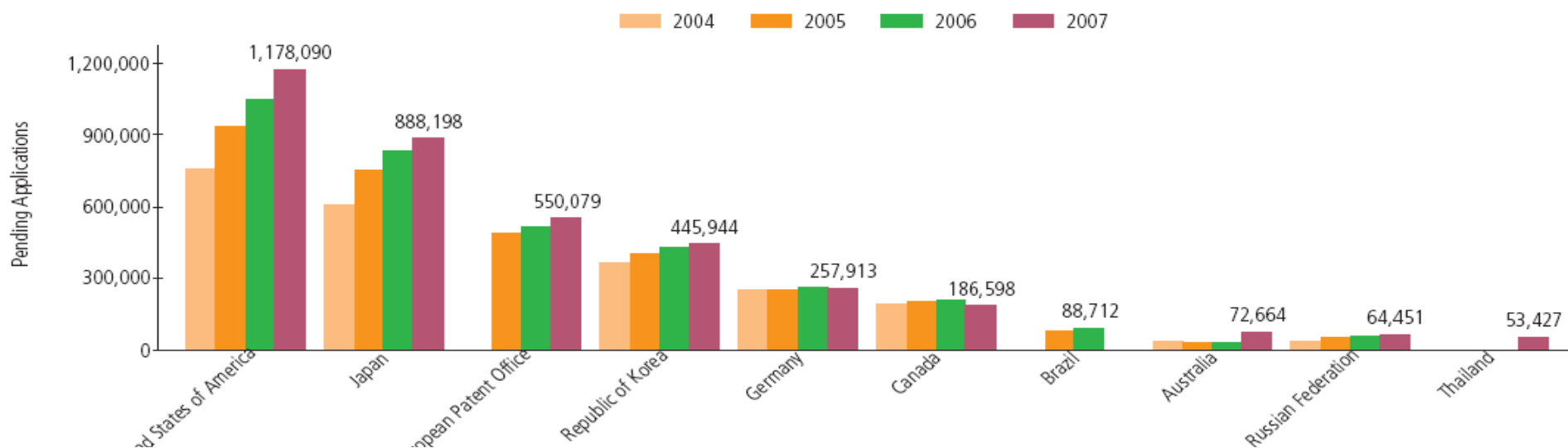


### Trends in total patent grants

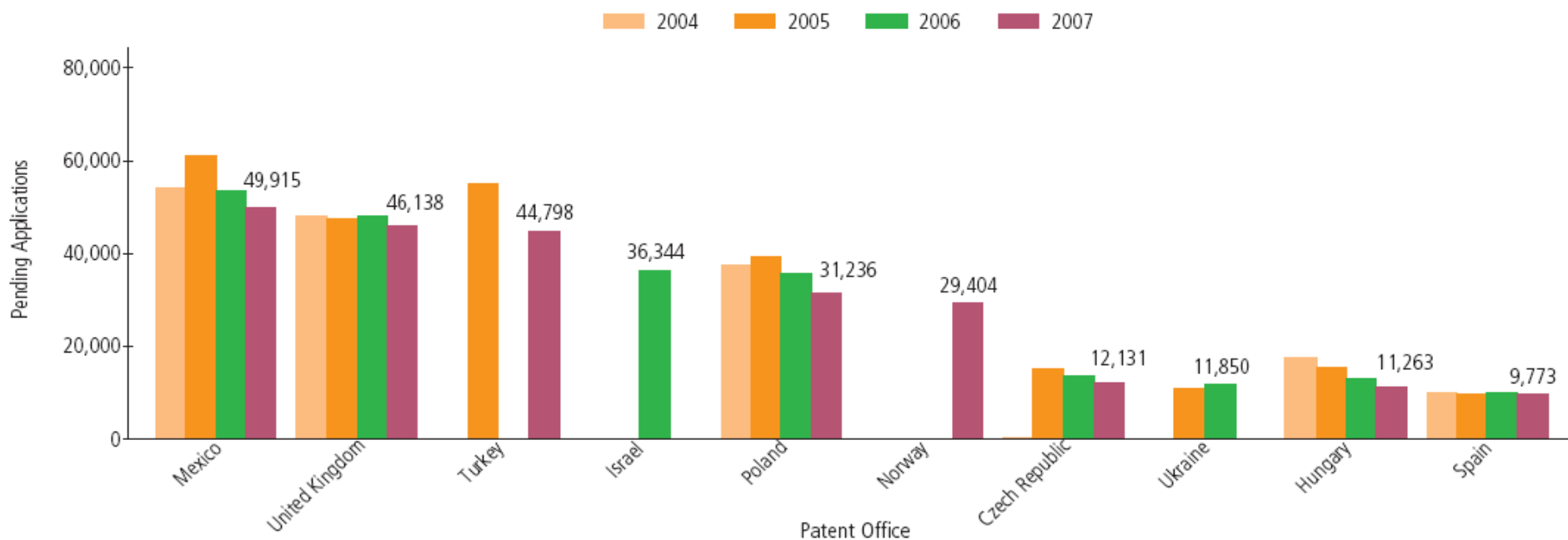


# A.31. PATENT BACKLOGS

## Number of pending applications by patent office: offices with > 50,000 pending applications



## Number of pending applications by patent office: offices with < 50,000 pending applications



# Obligations on Member States

- Amend provisions of existing laws/adopt laws in new areas to adhere to TRIPS
- Modernize administrative offices, streamline operations and automate procedures
- Strengthen enforcement mechanisms
- Build human resource capacities
- Internalize new international IP framework in other bilateral/plurilateral arrangements



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***Significant investments in the new system...***

***but does the new world order actually help developing countries...***

***perceived imbalance and lack of concern for vulnerable sections lead to debate on revisiting norms, and also at times seeking paradigm shifts...***



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# *Dichotomous Nature of Concern*

- ***Technical Concerns*** relating to challenges posed by technology and needs of the market place and efficacy of services delivered to users
- ***Public Policy Concerns*** relating to the interface between IP and Development



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# Debate in Various Fora

- Doha Ministerial Declaration on TRIPS and Public Health - 2001 (<http://docsonline.wto.org/DDFDDocuments/t/WT/Min01/DEC2.doc>)
- Commission on Intellectual Property Rights (CIPR)- 2002 ([http://www.iprcommission.org/graphic/documents/final\\_report.htm](http://www.iprcommission.org/graphic/documents/final_report.htm))
- UNCTAD XI - 2004 (<http://www.unctad.org/Templates/meeting.asp?intlItemID=1942&lang=1&m=4289&info=doc>)
- Second South Summit - 2005 ([http://www.g77.org/southsummit2/doc/Doha%20Plan%20of%20Action%20\(English\).pdf](http://www.g77.org/southsummit2/doc/Doha%20Plan%20of%20Action%20(English).pdf))
- Government Accountability Office (GAO) - 2007 (<http://oversight.house.gov/documents/20071030125409.pdf>)
- Organisation for Economic Co-operation and Development (OECD) - 2007 (<http://www.oecd.org/dataoecd/2/31/39374789.pdf>)
- WIPO Development Agenda – 2004 (<http://www.wipo.int/ip-development/en/agenda/>)



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# Concerns

## Doha Ministerial\*

- Implementation and Interpretation of TRIPS in a manner supportive of public health by promoting access to medicines and promoting R&D in new medicines...reaffirm right of members to use the flexibility that has been provided in the Agreement -compulsory licenses, national emergency
- Solution for effective use of compulsory licensing by members with insufficient manufacturing capacities in the pharmaceutical sector
- Incentives to enterprises/ institutions in developed countries to promote/ encourage technology transfer to LDCs

# Concerns

## CIPR\*

- Countries to ensure that IP protection regimes do not run counter to public health policies ... facilitate legislative ability to import patented medicines ...ensure that national IP reform processes are properly “joined-up” with related areas of development policy.
- WIPO should integrate development objectives in promoting IP protection in developing countries...recognition to both the benefits and costs of IP protection ..should provide funds to support additional research on relationships between IP and development ...establishment of an international network

\*[http://www.iprcommission.org/graphic/documents/final\\_report.htm](http://www.iprcommission.org/graphic/documents/final_report.htm)

# Concerns

## UNCTAD XI\*

- The implementation and interpretation of the TRIPS Agreement should be in a manner supportive of public health
- Ensure that the framework for intellectual property rights contributes to tech development

# Concerns

## Second South Summit\*

- Call for accelerating the negotiations on the development-related mandate concerning the TRIPS agreement in the Doha Ministerial Declaration, .....to address the problems afflicting many developing including LDCs, especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics.

- WIPO - to include in all its future plans and activities, including legal advice a development dimension, that includes... pro-development norm setting....development friendly principles and guidelines for the provisions of technical assistance and technology transfer

\*[http://www.g77.org/southsummit2/doc/Doha%20Plan%20of%20Action%20\(English\).pdf](http://www.g77.org/southsummit2/doc/Doha%20Plan%20of%20Action%20(English).pdf)

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# Concerns Expressed in Various Fora

GAO\*

- This reflects a fundamental tension between **protecting IP rights** in order to allow companies to recoup investment and encourage innovation for the long term, and allowing competitors to sell lower cost drugs for short term **public health needs**

- As Congress contemplates renewal of TPA, there are ongoing questions about the **overall balance of IP rights and public health**

\*<http://oversight.house.gov/documents/20071030125409.pdf>

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# Concerns

## OECD\*

- Balance shifting towards “pro-IPR policies”
- If strong IPRs are needed for **incentives** for creative activities, should not endow the holder with such broad rights as to block all **access** to new knowledge
- How to strike an appropriate balance between providing **incentives to innovators** and **access to new knowledge** for users

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\*(<http://www.oecd.org/dataoecd/2/31/39374789.pdf>)

# *The WIPO Development Agenda*



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# What is the Development Agenda ?

It is an endeavor to ensure that development considerations form an integral part of WIPO's work - a cross-cutting issue which touches upon all sectors of the Organization

## What it is not !

It is not an agenda which seeks to negate, undermine or dilute the basic framework of intellectual property, nor does it question its fundamental precepts



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# WIPO Development Agenda: The Basic Concern

- IP not end in itself, but as a means for **promoting** public interest, innovation and access to S&T
- Credibility of IP system undermined by promoting **benefits of protection**, without acknowledging **public policy concerns**  
*Argentina, Bolivia, Brazil, Cuba, Dominican Republic, Ecuador, Egypt, Iran (Islamic Republic of), Kenya, Peru, Sierra Leone, South Africa, the United Republic of Tanzania, Uruguay and Venezuela*
- Integrating **development dimension** will strengthen credibility and encourage its acceptance as a tool for innovation, creativity and development  
*Leone, South Africa, the United Republic of Tanzania, Uruguay and Venezuela*
- Hence need for a Development Agenda
- Three-year long debate leads to adoption of package



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***WIPO Development Agenda  
approved by the  
General Assembly in October 2007***

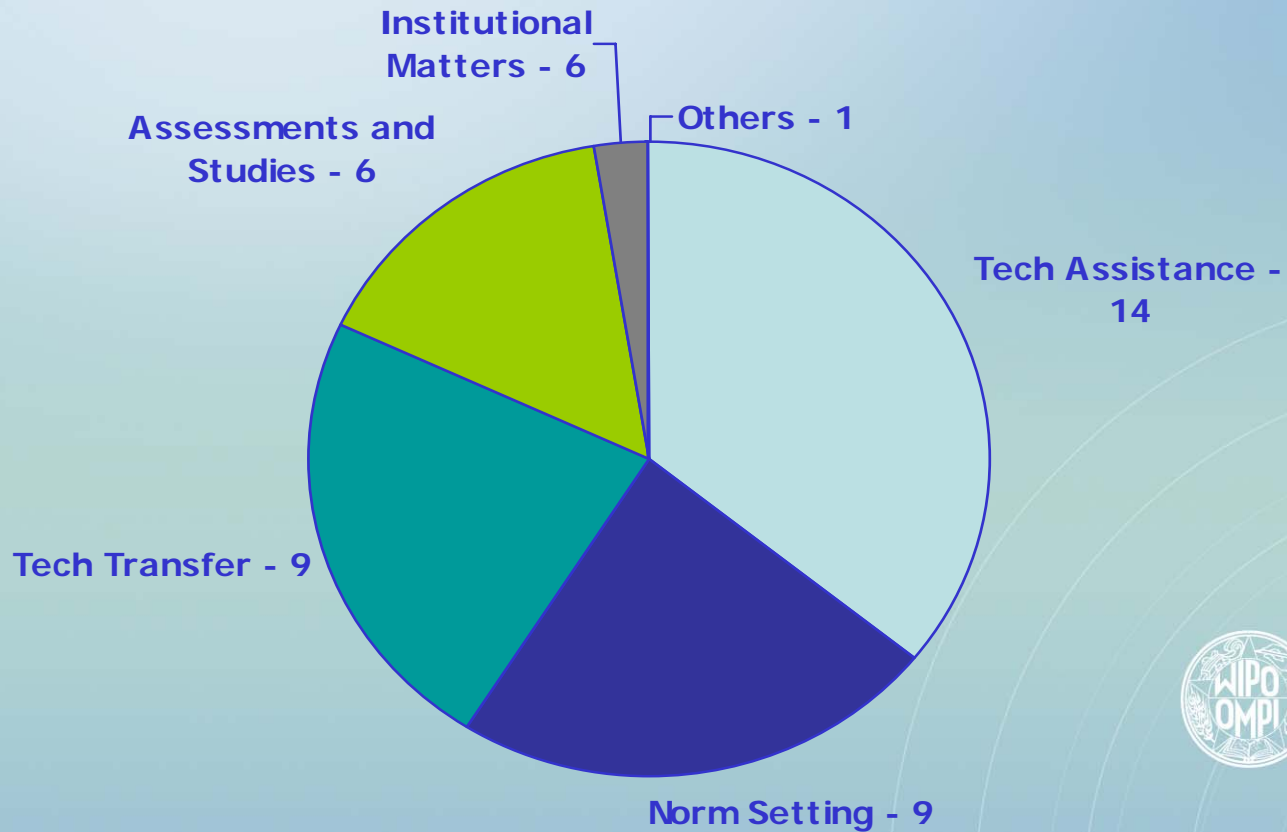


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# Adopted Recommendations



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# Implementation

- Intensive consultations with Member States on implementation strategy and activities
- Application of a project-based methodology with clearly defined objectives, timeframes, deliverable outcomes, cost estimates and evaluation processes
- Thematic approach grouping recommendations to enhance efficiency in implementation and reduce duplication/overlap
- Mainstreaming the Development Agenda into the organization's activities in all areas



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# Update

- 19 recommendations under implementation since November 2007
- 9 projects addressing recommendations in the Technical Assistance Cluster are under implementation since early 2009
- 5 thematic projects under implementation since January 2010
  - IP and the Public Domain
  - IP and Competition Policy
  - IP, ICTs, the Digital Divide and Access to Knowledge
  - Developing Tools for Access to Patent Information
  - Enhancement of WIPO's RBM Framework
- Further projects and coordination mechanisms to be discussed



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# Challenges for WIPO

- Development of international IP law keeps pace with rapidly evolving technological , geo-economic, socio-cultural environment while striking a balance to ensure that the framework
  - continues to serve its fundamental purpose
  - takes into account the needs and interests of countries at different stages of development including through the flexibilities within IP agreements
  - balances costs and benefits
- Developing an international instrument to address the **protection of traditional knowledge** and traditional cultural expressions



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- **Improvements to the Global registration systems, including PCT**, to increase the attractiveness and utility of the systems for users, participating States and the public; as well as contributing to reducing the worldwide patent application backlog
- Analyzing the reasons underlying the global escalation in **counterfeiting and piracy**, and stimulating policy dialogue to address them within the context of an enabling environment to build respect for intellectual property
- Developing a more integrated approach to **technical assistance and capacity-building** activities within the framework of national IP and innovation strategies
- Implementing the **Development Agenda** and converting the recommendations into projects
- Addressing Global Emerging issues like **Climate Change**



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# *Thank you*



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