

Article

Intellectual property law reform: Comparative insights and valuable lessons from the experiences of Vietnam, Malaysia, and Mexico within the CPTPP framework

Xiaoqing Cai^{1,2,*}, Nabeel M. Althabhwai¹, Zinatul Ashiqin Zainol¹¹ Faculty of Law, Universiti Kebangsaan Malaysia (UKM), Bangi 43600, Malaysia² Faculty of Law, Dongguan City University, Dongguan 523000, Dongguan Guangdong Province, China

* Corresponding author: Xiaoqing Cai, P118131@siswa.ukm.edu.my

CITATION

Cai X, Althabhwai NM, Zainol ZA. (2024). Intellectual property law reform: Comparative insights and valuable lessons from the experiences of Vietnam, Malaysia, and Mexico within the CPTPP framework. *Journal of Infrastructure, Policy and Development*. 8(14): 9819. <https://doi.org/10.24294/jipd9819>

ARTICLE INFO

Received: 23 October 2024

Accepted: 11 November 2024

Available online: 20 November 2024

COPYRIGHT



Copyright © 2024 by author(s).

Journal of Infrastructure, Policy and Development is published by EnPress Publisher, LLC. This work is licensed under the Creative Commons Attribution (CC BY) license.

<https://creativecommons.org/licenses/by/4.0/>

Abstract: The Intellectual Property (IP) chapter of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) is recognized for its extensive coverage, encompassing a broad range of innovation areas such as patents, trademarks, geographical indications, and copyright. This chapter sets a new global benchmark for IP protection, posing significant challenges to the existing legal frameworks of member countries and necessitating rapid adaptation, particularly for developing members like Vietnam, Malaysia, and Mexico. These nations have undertaken comprehensive revisions to their IP laws to align with the international standards established by the CPTPP. Despite their unique national contexts, the legal amendments reflect distinct strategies and methodologies in meeting international standards. This paper conducts a qualitative analysis of Vietnam, Malaysia, and Mexico, comparing their law amendment strategies, contents, and techniques across three dimensions. It highlights the distinctive characteristics and impacts of their legal revisions, offering valuable insights for other prospective developing members within the CPTPP framework on the practice of IP law reform.

Keywords: intellectual property law; CPTPP; law revision; Vietnam; Malaysia; Mexico; legal implementation

1. Introduction

The intellectual property chapter of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), one of the most influential regional trade agreements in force today, establishes a new global standard of protection across a wide range of innovation areas, encompassing patents, trademarks, geographical indications, and copyright. This advanced system of intellectual property protection not only encourages innovation in member countries but also presents a significant challenge to their existing legal frameworks. For its developing members, the IPR provisions are moreover forcing them to rapidly adapt their legal systems to the new requirements of global economic and technological development.

Vietnam, Malaysia and Mexico, the three developing countries represented in the CPTPP, are typically in the middle or lower end of global assessments of IP protection. (WIPO, 2023). However, in order to fulfil their obligations under the CPTPP agreement, they have all undertaken extensive IP law revisions. Despite their continued absence from the upper echelons of international IP protection rankings, it is an irrefutable fact that they have been steadily narrowing the gap with the established international standards. And, the alterations to their IP legislation

demonstrate the distinct strategies and methodologies employed by each nation in addressing international standards. Consequently, an examination of the IP law amendment measures implemented by these three countries can facilitate a comprehensive understanding of the means by which developing countries can attain legal advancement within the context of a high-standard trade agreement. Moreover, it can offer valuable insights and inspiration to other developing countries contemplating participation in the CPTPP.

2. The strategies of the revision of intellectual property laws in Vietnam, Malaysia and Mexico under the CPTPP framework

2.1. Vietnam's strategy to amend the IP law

Vietnam's IP law reform is characterized by a phased and coordinated strategy, which is implemented through distinct steps and mechanisms. Initially, Vietnam has set overall objectives for the protection of IPRs at the strategic level of the country's economic development, emphasizing the need to ensure compatibility between the provisions on IPR protection in Vietnam and the new generation of FTAs. This is followed by the design of specific IP law reform measures at the legislative and policy formulation level, and finally, the concrete implementation of legal amendments through departmental and provincial coordination. The Fifth Plenary Session of the 12th Central Committee of the Communist Party of Vietnam (CPC) adopted Resolution No. 11-NQ/TW of 3 June 2017 on 'Improving socialist orientation'. The resolution lists the continued improvement of the IPR system as one of the major policies of the Party and the State and emphasises the need to ensure compatibility between the provisions on IPR protection in Vietnam and the new generation of FTAs (Phi, 2022). Subsequently, on 22 August 2019, Vietnam issued Decision No. 1068/QĐ-TTg on the National Intellectual Property Strategy (NIPS) until 2030 (phủ, 2019). One of the main tasks of NIPS is to strengthen the IPR enforcement system and regulations. Further to 2020, Vietnam continues to affirm this goal in its draft report on 'Reviewing the implementation of the socio-economic development strategy for the last decade (2011–2020) and formulating the socio-economic development strategy for the next decade (2021–2030)', which is to improve the legal framework for IPRs and strengthen the protection and enforcement of intellectual property rights (Ministry of Science and Technology, 2021).

Second, specific IP law reform measures have begun to be designed at the level of legislation and specific policy formulation. In January 2019, the Prime Minister issued Decision No. 121/QĐ-TTg, which comprehensively and systematically stipulates the list of tasks to be undertaken by the whole country on the implementation of the requirements of the CPTPP (phủ, 2019). The task list sets out the content of work, participating units, work objectives and timeframes, and ways of organising implementation. It also adopts the 'Heads of Department' approach to assign responsibility for implementation to stimulate the leadership of leading cadres and promote the smooth advancement of intellectual property law amendments.

Finally, at the level of concrete implementation of the legal amendments, with the promulgation of the 'National Strategic Plan 2030', departments and provincial

administrative divisions have begun to delineate the list of reform tasks in their sectors. Participating ministries include the Ministry of Industry and Trade, Ministry of Agriculture and Rural Development, Ministry of Finance, Ministry of Science and Technology, Ministry of Justice, and other relevant ministries. Also, in view of the fact that the IP rules in the CPTPP are relevant to the new international situation, the Industrial Revolution 4.0, and trade protection (Vu and Tri, 2021). As a result, the Ministry of Science and Technology took the lead in academic discussions and the drafting of the IP law and held meetings on the revision of the law with the Ministry of Culture, Sports and Tourism and the Ministry of Agriculture and Rural Development. Similarly, as local S&T departments in Vietnam are vertically managed by the Ministry of Science and Technology (MOST), they are able to upload and disseminate the central government's directives on IPR reforms, including information on local reform programmes, effectiveness and challenges. Such a system helps disseminate all information on reforms between the provinces and ministries without any obstacles and contributes to promoting the smooth implementation of the IP compliance tasks of the CPTPP (Tri, 2023).

2.2. Malaysia's strategy to amend the IP law

Malaysia did not permit the CPTPP to be formally enacted through its domestic legislative procedures for a period of three years following its accession to the CPTPP. Nevertheless, the country's IP law reforms remain in accordance with the requisite standards. First, at the level of national strategies, Malaysia's five years as a member of the CPTPP also coincides with the period when the 9th Prime Minister of Malaysia, Dato' Sri Ismail Sabri bin Yaakob, deliberated and decided on the 12th Malaysia Plan (2021–2025). In this plan, Malaysia has identified creative industries as one of the country's strategic and high impact industries in anticipation of Industry 4.0. To achieve this strategic goal, the Malaysian government agreed to set up an Intellectual Property Fund to support the project (Sulaiman, 2022). And in 2020, the Malaysian National Innovation Policy (NIP) was enacted, which includes a series of IP-related measures, such as strengthening IP enforcement and protection, and promoting technology transfer and innovation co-operation. This formally kicked off the reform of IP laws and institutions.

Second, at the level of concrete implementation, the revision of Malaysia's IP law is mainly reflected in three features: high frequency, wide coverage and systematisation. (1) From the perspective of high frequency, the Malaysian government has continuously amended the Trademarks Act (2019), Copyright Act (2021), Geographical Indications Act (2022) and Patents Act and Regulations (2022). The accelerated pace of legislative amendments indicates the government's sense of urgency and determination in promoting intellectual property law reform. The government is seeking to adapt to the evolving global landscape of IP protection in a prompt and effective manner. (2) Secondly, from a broad coverage perspective, the amendments cover a number of core IP laws, including trademarks, copyright, geographical indications and patents, covering all major areas of IP protection. These extensive amendments show that Malaysia's law reform is not just a patchwork of one area, but a comprehensive upgrade. This wide coverage of amendments ensures that

different types of IPRs are protected accordingly, resulting in a better IPR system. Finally, the systematic character is reflected in the synchronisation and coordination of the law revision process. Amendments to various types of intellectual property laws in Malaysia are almost synchronised, ensuring coherence and consistency between laws and avoiding conflicts or inconsistencies between legal provisions. (3) Systematisation is reflected in the synchronisation and coordination of the law revision process. The amendment of various IP laws in Malaysia is almost synchronised to ensure coherence and consistency among the laws and to avoid conflicts or inconsistencies among the provisions of the laws. It can be said that Malaysia's IP law reform, both in terms of the timing and the breadth and depth of the amendments, reflects its strong desire and systematic strategy to strengthen IP protection within a short period of time.

2.3. Mexico's strategy to amend the IP law

Mexico's campaign to amend the law is taking place in the context of its membership in both USMCA and CPTPP, two high standard mega-FTAs. First, at the governmental level, Mexico's IP law reform is guided by a national strategy, with the document 'Plan Nacional de Desarrollo (PND) 2019–2024', launched in 2019, as the cornerstone (Gazette, 2019), providing an overarching vision for economic growth, industrial innovation, and modernisation of the law (including intellectual property protection). It emphasised the importance of a strong intellectual property framework, which was crucial to promoting research, innovation and foreign investment, especially in high-tech industries (NovaAdmin, 2022). Secondly, under the national strategic programme, the Mexican Government has begun specific law revision work. Led by the Ministry of Commerce, an interdepartmental working group was set up to coordinate the process of amending the law and to promote the revision of a series of laws, including the Industrial Property Law, the Copyright Law and the Penal Code. In these groups, the Ministry of Commerce plays a leading role, while the drafting and study of specific amendments are carried out by the Mexican Institute of Intellectual Property (Instituto Mexicano de la Propiedad Industrial). The revision process also included the participation of legislative experts, industry representatives, and civil society to ensure that the interests of all parties were balanced. The Federal Law on Industrial Property and the Law on Copyright were comprehensively and rapidly revised in 2018 and 2020. These reforms have harmonised the country's legal framework with more substantial changes in trademarks, patents, copyright, and enforcement.

In conclusion, under the CPTPP framework, the IPR revision strategies of Vietnam, Malaysia and Mexico have both similarities and their own uniqueness. These experiences provide valuable insights for China, which can anticipate similar challenges and opportunities. For China, the key is to balance the rapid pace of international IP standards with its domestic economic needs, ensuring that reforms are both comprehensive and tailored to its specific context. China can learn from the strategic planning and phased implementation approaches of these countries, as well as their efforts to strengthen enforcement mechanisms and public participation in the IP law reform process. By doing so, China can navigate the CPTPP framework

effectively, leveraging the opportunities for innovation and economic growth while mitigating potential risks. All three countries emphasise the overall harmonisation of IPRs and their alignment with international standards to promote their economic development and innovation transformation. However, Viet Nam has adopted a phased and coordinated strategy, first setting long-term goals at the national strategic level and then steadily advancing IPR reforms through systematic implementation by sector and region. Malaysia, on the other hand, has demonstrated a high frequency, wide coverage and systematic revision of laws, ensuring coherence in all areas through intensive revision of a number of core IP laws, and responding quickly to new trends in global IP protection. Mexico's revision was driven by external pressures, particularly in response to two high-standard agreements, the CPTPP and the USMCA, at the same time. Driven by the top-level design, Mexico quickly revised its core IP law and focused on supporting scientific and technological innovation and the transformation of the digital economy. Although each of the three countries has focused on specific legal amendments, they all reflect the common goal of enhancing international competitiveness and promoting national economic development by strengthening IP protection.

3. The contents of the revision of IP laws in Vietnam, Malaysia and Mexico under the CPTPP framework

3.1. Specific changes and characters to the IP Law of Vietnam

Table 1 provides a detailed list of the main contents of the two amendments in Viet Nam. Examining the contents of the amendments, it can be reflected that Vietnam has the following characteristics in the contents of IP law amendments:

First, in fulfilling its CPTPP commitments, Vietnam has paid particular attention to balancing its international treaty obligations with its national interests. This involves careful adjustment to ensure that the benefits of complying with international standards do not come at the expense of key domestic priorities. Special attention has been paid to reflecting the policy objectives of the Communist Party of Vietnam and the State by integrating the socialist concept into the obligations of the CPTPP (Technology, 2020). Moreover, the National Assembly of Viet Nam has set up a policy group on 'appropriately balanced IPRs protection', which has consulted widely with domestic stakeholders to ensure that legal amendments reflect the characteristics of a developing socialist country. For example, while the CPTPP requires the extension of patent protection for medicines, Viet Nam has prioritised public health by reforming the generic drug approval process to ensure access to medicines, reflecting the concern for public welfare under the socialist system. With regard to sound trademarks, Viet Nam has excluded the 'Communist International Song' from approval. In addition, the new intellectual property law ensures research incentives by providing for the distribution of researchers' interests in work-related inventions (Nam, 2022). Most importantly, intellectual property rights have shifted from national to community ownership (Hoàng and Giang, 2021). Groups representing the general interest are also allowed to apply for GI rights, incentivising local enterprises.

Table 1. List of contents of the two legislative amendments in Viet Nam.

Items	IP Law Amendment Act 2019	IP Law Amendment Act 2022/2023
Trademark	Cancellation of the registration system for trademark licensing contracts Cancellation of the registration system for trademark licensing contracts	Clarify the scope of ‘relevant consumers’ for well-known assessment. Addition of sound trademarks Trademarks cancelled if not used for 3 years Revision of the Criteria for the Recognition of Well-Known Trademarks
GIs	Added 2 cases of cancellation of GIs International applications and processing of GIs have been added	Addition of protection of GIs of the same name. Adding 3 kinds of invalid cases of trademark right Regulate unfair competition in domain name-related trademarks.
Patent	Grace period changed to 12 months. Increased circumstances of application.	Clarifying the attribution of patent rights for R&D financed by state funds Permission to use the results of substantive examination of patent applications in foreign patent offices New Protection of Genetic Resources and Traditional IPRs. Third party’s observation/Opposition against patent applications Protection of undisclosed data on agrochemicals, pharmaceuticals Patent term compensation rules Partial protection of industrial designs
Copyright		The basic principles for determining and allocating royalties for co-authors, rights holders and collective management organisations have been added. Added the principle of exhaustion of rights. Added the content of copyright restrictions. Revised the scope of the reproduction right and the right of communication to the public. Improved attribution of copyright in cinematographic works
IP enforcement	Limits misuse of IPRs. Allow the right holder to choose the basis for calculating damages. Enhances transparency in customs enforcement.	Added the rights and responsibilities of ISPs. Expanding the scope of application of criminal penalties Improvement of proactive enforcement powers of Customs

(Data source: compiled by the authors based on key elements of Intellectual Property Law Amendment Act 2019, Intellectual Property Law Amendment Act 2022, and Copyright Law 2023).

Second, attempts to implement flexible and strict IP enforcement, but still faces challenges. IPR enforcement in Vietnam relies primarily on administrative measures, with various government agencies responsible for different aspects of enforcement. The Market Management Bureau (MMB) focuses on market surveillance, while the Economic Police (EP) handles serious IPR infringement cases (Yoonyoung et al., 2021). In terms of enforcement, Viet Nam adopts a graduated penalty system. Criminal penalties are reserved for large-scale violations, and minor violations are dealt with through administrative actions, such as fines or warnings, to ensure fairness and prevent undue harm to small businesses. In terms of border enforcement, Viet Nam Customs has implemented a risk assessment system to better detect counterfeit goods without disrupting legitimate trade. The Organisation for Economic Cooperation and Development (OECD) and European Union Intellectual Property Office (EUIPO) report ‘Global Trade in Fakes 2021’ shows that the distribution and sale of pirated goods in Vietnam’s physical market is decreasing, which can be attributed to the

country's legal reforms and compliance with CPTPP IPR enforcement standards (Development and Office, 2021).

However, in terms of the effectiveness of implementation, online IP infringement in the digital age environment has not been effectively curbed in Vietnam. Specific challenges include a lack of sufficient legal and technical resources to combat online piracy, difficulties in tracking and shutting down illegal websites that distribute counterfeit goods and copyrighted materials, and the need for enhanced international cooperation to address cross-border IP infringements. Additionally, there is a need for stronger deterrents through penalties and more efficient judicial procedures to handle the increasing volume of IP cases. Pirate websites like Fmovies, AniWave, and 123movies attract millions of users globally. The European Commission's 2020 and 2023 'Report on IPR Protection and Enforcement in Third Countries' highlights Vietnam as a closely monitored country under the EVFTA, citing widespread counterfeiting and piracy (Commission, 2023). In January 2024, the International Institute for the Protection of Intellectual Property (IIPA) reported Vietnam as a key global exporter of pirated services, linked to major piracy sites that harm both domestic and international markets. Despite repeated complaints from rights holders, Vietnamese authorities have shown limited success in addressing the issue (Association, 2024). The USA's Special 301 report echoed these concerns, describing Vietnam as a hub for online piracy. While acknowledging Vietnam's efforts to improve copyright laws, the report criticized the lack of criminal investigations and prosecutions (Association, 2024). Although the report is considered a legal tool for the US to implement unilateralism, it objectively reflects the challenges Vietnam still faces in IPR enforcement.

Third, Viet Nam has adopted flexible measures to balance the protection of farmers' interests with the fulfilment of UPOV obligations. Due to the importance of agricultural trade in Vietnam's economy (Chu and Khôi, 2023), even under the pressure of the CPTPP to join UPOV (1991 text), which restricts farmers from saving seeds (Ghimire et al., 2021), Vietnam has legislated to give farmers the privilege of keeping 'self-saved seeds', which allows them to propagate their own protected varieties within a reasonable range and reduces the risk of being restricted by traditional farming practices (Bram, 2023). However, to protect breeders' incentives to innovate, the law also provides for restrictions on asexually propagated crops. This balanced legislation then reconciles Vietnam's current socio-economic development conditions with the obligations of the UPOV Convention. In addition, the government provides technical support, training, and seed subsidies to disadvantaged farmers in order to increase productivity, balance the interests of smallholders and breeders, and promote sustainable agricultural development (Minh, 2019).

Forth, Viet Nam focuses on IPR of traditional knowledge and culture. While complying with international intellectual property standards, Viet Nam has included traditional knowledge and traditional cultural expressions in the scope of intellectual property protection to prevent unauthorised use, misappropriation or exploitation of these valuable assets. Examples include traditional knowledge related to traditional farming methods, traditional medicine and indigenous art forms, folk songs, cultural expressions such as music, dance, art and folklore (WIPO, 2024a). Meanwhile, in line with the CPTPP initiative and transparency rules, for inventions based on genetic

resources or traditional knowledge, patent applications must now disclose the source of these resources. Applicants are also required to provide documentary proof of access to genetic resources and associated traditional knowledge, as well as benefit-sharing agreements, when filing a biopatent application, which helps prevent ‘biopiracy’.

3.2. Specific changes and characters to the IP Law of Malaysia

Table 2. List of changes to IP-related laws in Malaysia.

The Act	Content	Changes
	Trademark Application	Replaced ‘mark’ with ‘sign’ under the 1976 Trademark Act.
		Amended rules for filing dates and priority applications.
	Trademark Review and Revocation	Introduced non-traditional trademarks.
		Recognizes applications for collective marks. (Clubs, trade unions)
Trademarks Act 2019	Trademark Protection and Exercise of Trademark Rights	Reasons for refusal have been categorised as absolute and relative.
		Recognition of the validity of consent
	Convergence with International Treaties	Introduction of new grounds for revocation
		Cross-class protection of registered trademarks
		Trademark rights may be secured
	Companion legal document	Shortened the presumptive validity period of trademarks
		Penalties will be imposed for sending warning letters in bad faith or fictitious registered trademarks.
Geographical Indications Act 2022	Refinement of protection procedures	Enhanced remedies for infringement
		Introducing criminal penalty provisions and clarifying the subject of enforcement and its authority.
		Introducing provisions on criminal penalties and clarifying the subject and authority of law enforcement.
		Accession to the Madrid International Trademark Registration System
		The Malaysia, Guidelines of Trademarks (Transitional Matters) 2019
		Guidelines of Trademarks 2019
		Trademarks Regulations 2019
		Clarify the eligibility of GIs for registration.
		Expansion of the scope of protection of GIs of the same name
		Addition of grounds for refusal of registration.
		opposition to the application for registration.
		revocation/voluntary cancellation/transfer of GIs.
		provisions on “offences”
		GIs agents, procedures for the renewal of GIs and fees.

Table 2. (Continued).

The Act	Content	Changes
Copyright Act 2021	Voluntary Notification	Only owners or transferees of copyrighted works are eligible to apply for a voluntary copyright notice.
	Collective Management Organization	Add provisions relating to ‘licensing bodies’.
	Offences	Introduction of new sentencing circumstances.
	Enforcement	Granting of new investigative and enforcement powers to the Assistant Controller, a police officer or any officer of Customs.
	Convergence with International Treaties	Addition of provisions from the ‘Marrakesh Treaty’
	Companion legal document	Copyright (Collective Management Organization) Regulations 2022 Copyright (Voluntary Notification) (Amendment) Regulations 2022
2022 Patents Act and Regulations	Patent Application	The scope of applicants under the first-time applicant system is expanded. Provisions for microbiological preservation added. (for patent applications)
	Patent Examination and Opposition	Add priority restoration provisions. Adding opposition procedures. Adjusting the Procedures for Patent Invalidation Adding a public comment procedure
	Patent protection	Adding compulsory licensing provisions. (2) Allowing patents to be used as a security interest. Public inspection made available. Limitation period for judicial assignment and infringement proceedings is revised to six years.
	Simplification of Patent Procedures and Requirements	Reduction of the patent restoration period to 12 months. Adjusting the over-item surcharge New procedure for disclosure of patent applications (for Paris Convention direct applications only) Added provisions for the filing of sequential lists To revise the provisions for substantive application Adjustment of the provisions on active amendment. Shortening the period for divisional applications and switching patent types.
	Convergence with International Treaties	Accession to the Budapest Treaty

(Compiled by the author from the major changes in the Trademarks Act, Geographical Indications Act, Copyright Act and Patent Act).

Table 2 provides a detailed list of the specific contents of the amendments to Malaysian laws. Two aspects of Malaysian law revision can be reflected from this:

First, Malaysia's IP law amendments strike a balance between modernization, internationalization and tradition in terms of content. The modernization in the law amendments is reflected in the adaptation to current and future technological developments and economic models. Specifically, the Copyright Act introduces digital copyright protection and strengthens the protection of digital works and penalties for Internet infringement. It also clarifies copyright protection for online distribution and digital storage. It has adapted to the needs of the digital economy. The constant updating of the content of these laws is a reflection of the response to the challenges posed by emerging technologies, the digital economy and modern business models. The Trademarks Act is very much ahead of its time in extending the scope of trademark protection to include non-traditional forms of trademarks such as sounds, smells, holograms, etc., which encompasses even more non-traditional types of trademarks than are required by the CPTPP (Bhd, 2023). Moreover, the content of the amendment clearly reflects the convergence of domestic standards with international standards and the willingness to strengthen international co-operation. Malaysia has acceded to the Madrid Agreement, the Hague Agreement, the Budapest Agreement, etc. during the period of the amendment. Therefore, for the sake of better harmonisation, its domestic laws are set up in accordance with the standards of these treaties in order to ensure the harmonisation of implementation. For example, the amended Patent Act has simplified the international patent application procedures by making reference to the provisions of the Patent Cooperation Treaty (PCT), making it easier for applicants to file international patent applications in Malaysia and obtain worldwide patent protection through the PCT system (WIPO, 2024b). Provisions have also been made to align with the Budapest Agreement to allow for the storage of microbiological samples for biotechnology patent applications to satisfy the 'disclosure' requirement in patent applications. The Trademarks Act also contains a section on the application of the Madrid Protocol to assist Malaysian trademark applicants to apply for registration of their trademarks in multiple countries simultaneously through the Madrid system, which will facilitate the internationalisation of Malaysian trademark registration and make it easier for domestic companies to protect their trademarks in the global marketplace. In addition to modernisation and internationalisation, Malaysia's legislative amendments have placed equal emphasis on the protection of intellectual property rights in respect of the country's traditional cultural and genetic resources. For example, the Geographical Indications Act requires the protection of products of specific geographical origin to ensure that these goods, which are of specific origin and have qualities or characteristics specific to that location, are not abused or imitated. These products often include traditional handicrafts and food products such as Sarawak pepper, Sabah tea and Dannon coffee. Local producers have obtained exclusive rights to geographical indications by applying for them, thereby enhancing the domestic and international visibility of their goods. This effectively promotes the products and protects the cultural heritage associated with these unique goods. In conclusion, the revision of Malaysia's IP law has made great efforts to incorporate IP content in the digital age while striking a balance between international standards and national characteristics. This reflects the comprehensive nature of its law revision.

Second, Malaysia’s IP law reforms focus not only on the legislation itself, but also on the practical effects of its implementation. Both the Malaysian Trademarks Act and the Copyright Act have generally increased the penalties for infringement in their legislation, including higher fines and criminal liability, in order to deter potential infringers. At the same time, the effectiveness of actual enforcement is increased by improving enforcement procedures. For example, filing and examination procedures have been optimised and simplified, enabling right holders to obtain protection of their intellectual property rights more expeditiously. Clear and detailed procedures for filing, examination, opposition and administration enhance the operability of the law and the efficiency of its enforcement. According to key statistics from the Malaysian Ministry of Domestic Trade and Consumer Affairs (KPDNHEP) in 2022, the number of enforcement cases of piracy and trademark infringement is declining from 2019 to 2022. On the other hand, according to incomplete statistics, there has been an increase in the number of cases handled by law enforcement agencies in relation to the sale of counterfeit goods on e-commerce platforms, as well as the number of blocked illegal piracy websites (Figure 1). All these figures show that the fight against offline and online IPR infringement in Malaysia has been fruitful in recent years.

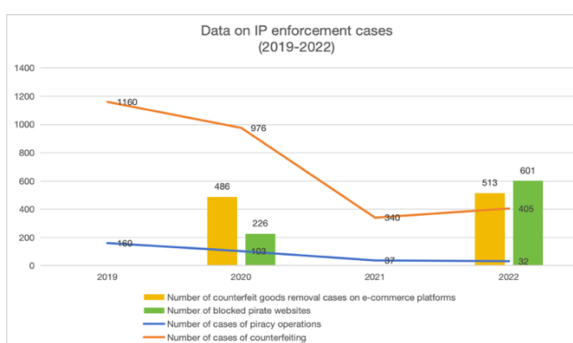


Figure 1. Data on IP enforcement cases (2019–2022). (KPDNHEP, 2019-2021).

3.3. Specific changes and characters to the IP law of Mexico

Table 3. Summary of two IP law changes in Mexico.

Law	Modifications in 2018	Modifications in 2020
Industrial property law	Addition of non-traditional trademarks.	Removed delay in approving counterfeit goods’ destruction.
	Allowing trademark to be registrable if it has acquired distinctiveness through use.	Reduced requirements for certification of well-known trademarks.
	the invalidation of trademarks registered in bad faith.	Trademark examination requires the single examination opinion
	Required to submit a declaration of use of the trademark within 3 years.	10-year protection period
	Third parties can oppose trademarks without halting registration.	Introduction of multi-class trademark application.
	Expanding the scope of trademark protection.	

Table 3. (Continued).

Law	Modifications in 2018	Modifications in 2020
Industrial property law	25 years protection term	Patents allowed for biological materials via microbiological processes. 12-month patent novelty grace period. Addition of the ‘Bolar’ exception. 15 years protection term
	Patent	Prohibition of repeated licensing. Patent term adjusted for 5+ year office delays.
	Introducing a novelty standard for industrial designs.	Handmade products protected under industrial designs (Hague). Recognition of foreign patent examination results. Clear procedures for amending and invalidating patents, utility models.
	GIs	Establishment the legal protection of GIs other than appellations of origin. Introducing criminal penalties for infringement of GIs. Simplified procedures for the approval of GIs.
IP enforcement	Organic Law of the Mexican Institute of Industrial Property amended. Extension of the statute of limitations for avoidance actions to five years.	Clarify misuse and exceptions for trade secrets and know-how. Criminalize trade secret and GI infringement, raise penalties for trademark misappropriation
		Strengthen IP enforcement by Mexican Institute of Industrial Property (IMPI). Establish procedure for IPR infringement claims. Increase penalties for piracy and copyright infringement. Two procedures for damages: federal courts or IMPI. Apply provisional measures to transit and transshipment.
Federal Copyright Law	Preliminary provision for TPMs and RMI rules	Responsibility of ISPs. Works Made Available to the Public. Improved TPMs and RMI rules.
	The term of copyright is 100 years after the death of a natural person.	Expanded rights of related rights holders and sound recording owners. Accessibility for Disabled Persons.
Federal Penal Code	/	Cinema video piracy criminalised Sanctions for unauthorized decryption of satellite signals. Criminalize circumvention of TPMs protecting copyrighted works.

As shown in **Table 3**, the revision of the law reflects a high degree of internationalisation in terms of content. Mexico’s IP law has copied all of the TRIPs-plus provisions, and some of the provisions are even more stringent. In addition, the high standards are not limited to a single aspect but are a comprehensive improvement of the entire IP framework, covering various IP areas such as patents, trademarks, copyright, industrial designs and IP enforcement, as well as introducing new provisions for the digital economy. It is worth noting, however, that while Mexico’s ultimate goal is to create a harmonised and effective IP system that supports both

traditional and emerging digital industries, it is not a foregone conclusion that this can be achieved by directly replicating the High Standard rules.

In addition, the content reflects a focus on the digital economy and the transformation of science, technology and innovation. One of the measures to protect and support SMEs in science and technology innovation is the 2020 amendment to the Industrial Property Law that simplifies the procedure for obtaining patents and trademarks. Addition, Mexico has also recognised the need to reorient its legal framework towards supporting technological innovation and digital transformation. Amendments to the Copyright Act 2020 have created stricter penalties for online copyright infringement and also strengthened digital copyright management. Supporting its growing digital economy and protecting the interests of rights holders in the digital space by amending the relevant copyright law rules. A report by Statista (2024) shows retail e-commerce revenues in Mexico rising from \$16bn to \$38bn between 2019 and 2024 and predicts growth of \$65bn by 2029. This fact is also evidence of Mexico’s success in addressing digital infringement and protecting digital transactions.

4. The techniques of the revision of IP laws in Vietnam, Malaysia and Mexico under the CPTPP framework

4.1. Vietnam on the technicalities of amending the law

In the context of its engagement with the rigorous IPR provisions of the CPTPP, Vietnam, as a developing member, is observed to exhibit comparatively weaker levels of IPR protection. As shown in **Figure 2**, according to The US Chamber of Commerce’s International IP Index report, the Property Rights Alliance’s International Property Rights Index report and WIPO’s Global Innovation Index report, Vietnam’s global ranking for IP protection has risen slightly between 2018 and 2023 (Plctorial, VIetnam, 2019), but overall has remained in the lower middle of the pack. Vietnam is acutely aware of its relatively weak position and has therefore adopted a range of legislative techniques, including ‘freeze clauses’, ‘transition periods’ and ‘phased entry into force’, to avoid the immediate impact of the agreement. Among these, the transition period clause is particularly pertinent to Vietnam.

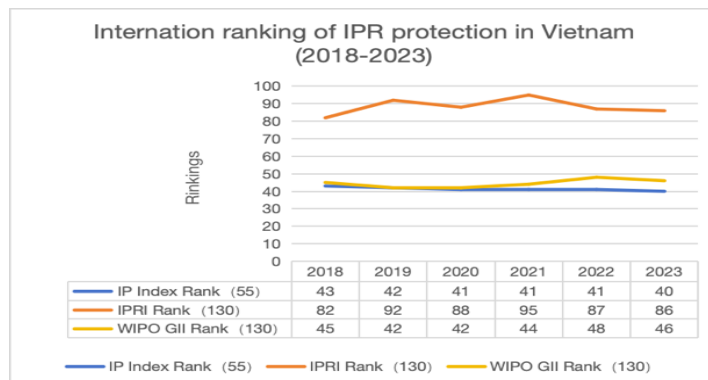


Figure 2. International ranking of IPR protection in Vietnam (2018–2023).

(Data source: The US Chamber of Commerce’s International IP Index report, the Property Rights Alliance’s International Property Rights Index report and WIPO’s Global Innovation Index report for the period 2018–2023)

In the annexes to the IP chapter of the CPTPP, there are as many as 26 transitional provisions for Viet Nam (**Table 4**). The number is 2.2 times more than that of Malaysia, 4.3 times more than that of Mexico, and it is the Party with the largest number of transitional matters (Qu, 2022). This is a good indication of Viet Nam’s high degree of caution in the face of the possible domestic impact of high-standard IP rules, and confirms Viet Nam’s repeated statement that ‘Viet Nam will persist in fulfilling the relevant commitments in international treaties, but this requires a process’ (Tam, 2020).

Table 4. List of transitional provisions in Vietnam.

Term	Content	Transitional period	Implementation
18.7.2(b)	Budapest Treaty	2years	Acceded 28 June 2021
18.7.2(e)	WCT	3years	Acceded 17 November 2021
18.7.2(f)	WPPT	3years	Acceded 1 April 2022
18.18	Sound trademarks	3years	Intellectual Property Act, 2022
18.46.3, 18.46.4	Patent term reimbursement Rules (pharmaceuticals/agrochemicals, suspend)	3 years (Extendable for 1 year)	Intellectual Property Act 2022
18.47	Protection of undisclosed test data or other data for agrochemicals.	5years	Intellectual Property Act, 2022
18.48.2	Adjustment of patent term by unreasonable shortening (suspend)	5years	Intellectual Property Act 2022
18.50, 18.51	Failure to disclose test data for biologics. (suspend)	10years (Extendable for 2 year)	Not yet legislated
18.53	Measures relating to marketing of pharmaceutical products)	3years	Not yet legislated.
18.63(a)	Duration of copyright protection for works based on life (suspend)	5years	Not yet legislated
18.68, 18.69	TPMs and RMI (suspend)	3years	Copyright Law 2023
18.76.5(b)(c)	Ex officio border measures for export, transit	3/ 2years	Intellectual Property Act, 2022
18.77.1(b), 18.77.2,18.77.4,18.77.6(g)	Criminal procedure and penalties	3years	Not yet legislated
18.78.2	Trade Secrets	3years	Not yet legislated
8.79.3	Satellite and cable signals with encrypted programmes (suspend)	3years	Copyright Law 2023
Section J	ISP (suspend)	3years	Copyright Law 2023

(Compiled by the authors in accordance with CPTPP 18.83(f), Intellectual Property Law (2022) and Copyright Law (2023).)

From the content of the above clauses, these clauses enjoying a transition period are TRIPs-plus clauses in nature. Some of them have also been frozen by the CPTPP. Therefore, Vietnam believes that it is extremely difficult to directly amend domestic laws to comply with the requirements of the CPTPP. For example, the registration of non-traditional trademarks, the extension of copyright protection, and the exclusivity of undisclosed test data are in fact mainly the interests of developed countries. For Vietnam, direct application will likely hinder its work innovation and cultural prosperity, jeopardize citizens’ access to medicines and other adverse consequences. Therefore, whether or not these provisions are temporarily set aside by the CPTPP, it

is necessary to set a transition period to create time for the integration of Vietnam’s IP rules. In the following years, Viet Nam incorporated the transitional provisions into its domestic law in two rounds, following the ‘tightening and then slowing down’ approach. By the end of 2023, Vietnam has largely completed the task of transforming the vast majority of its IP laws into domestic law within the transition time, including the freezing provisions. Examples include provisions on the obligation to accede to international treaties, the registration of sound trademarks, the adjustment of the patent term, TPMs and RMI rule, the protection of satellite and cable signals with encrypted programmes, and the liability of ISPs. It is evident that Vietnam is indeed moving forward in a gradual and systematic manner to create a buffer zone to avoid the huge impact that may be caused by ‘rapid legislation’. At present, only some of the IP enforcement rules, trade secret protection, patent linkage, extension of copyright protection and exclusive rights to undisclosed test data of biologics have not yet been covered in the 2022 amendments. This suggests that Vietnam believes that these provisions are not currently affordable for Vietnam’s IP environment. Actually, most of the content is not completely absent, but the provisions are too fragmented and have not yet formed a system, and it is expected that Vietnam’s legislation will continue to be improved along the lines of ‘tightening and then slowing down’.

4.2. Malaysia on the technicalities of amending the law

Malaysia has also used transitional clauses to create a buffer zone in its law revision techniques, which serve to mitigate the immediate impact of adopting higher standards of IP protection and allow for a gradual alignment with CPTPP requirements. (Table 5) These provisions allow for a delayed implementation of certain obligations, providing the country with time to adjust its domestic laws and practices without causing disruption to its industries. The specific role of these transitional provisions includes granting additional time for legislative amendments, enhancing stakeholder consultations, and ensuring that the enforcement mechanisms are adequately prepared for the new standards. The implementation effects have been marked by a more orderly transition, reduced immediate economic shocks, and a phased enhancement of IP protection, which has helped in maintaining a balance between international obligations and domestic readiness.

Malaysia has set up a total of 12 transitional articles, second only to Viet Nam in terms of number. However, due to the overall sound IP legal system in Malaysia, the level of protection is higher than that of Vietnam. Therefore, the transitional provisions are higher standard TRIPS-plus provisions.

Table 5. List of transitional provisions in Malaysia.

Term	Content	Transitional period	Implementation
18.7.2(a)	Madrid Agreement	4 years	Accession on 27 September 2019
18.7.2(b)	Budapest Treaty	4 years	Accession on 31 March 2022
18.7.2(c)	Singapore Treaty	4 years	No accession
18.17.2(d)	UPOV (1991)	4 years	No accession

Table 5. (Continued).

Term	Content	Transitional period	Implementation
18.18	Sound Trademarks	3 years	Trademarks Act 2019
18.47	Protection of undisclosed test or other data for agrochemicals	4.5 years	No legislation yet
18.48.2	Adjustment of patent term by unreasonable shortening (suspend)	5 years	No legislation yet
18.51	Undisclosed trial data for biologics. (suspend)	5years	No legislation yet
18.53	Measures related to the marketing of pharmaceuticals	4.5years	No legislation yet
18.63(a)	Duration of copyright protection for works based on life (suspend).	2years	No legislation yet
18.76	Border measures for goods with ‘confusingly similar’ trademarks.	4years	Trademarks Act 2019
18.76.5	Ex officio enforcement of transit and export	4years	No legislation yet
18.79.2	Protection of satellite and cable signals with encrypted programmes (suspend)	4 years	No legislation yet

(Data source: compiled by the authors based on CPTPP 18.83(b), Malaysian Trademarks Act 2019).

In terms of implementation, the most stringent and high-standard rules in the patent law such as non-disclosure of test data, patent linkage system, duration of copyright protection, protection of encrypted signals, etc. are not yet legislated in Malaysia. There are also two international treaties to which Malaysia is not yet a party. It can be seen that these provisions of the current level of Malaysian IP law are too much impact. Moreover, the Malaysian parliament formally approved the CPTPP to enter into force in 2022, while its law revision started in 2018, which, together with the transition period, objectively lengthened the time for Malaysia to revise its laws. Until 2024, most of the saving clauses are still in the transition period. It is foreseeable that Malaysia will continue with IP reforms to fulfil its compliance obligations.

In summary, between 2019 and 2022, Malaysia has adopted a proactive, robust and pragmatic X law amendment strategy. It dealt first with the less impactful parts that were closely related to the changing times and utilised transitional provisions to create a buffer zone for the more difficult parts. Compared to Vietnam’s early approval of the CPTPP, Malaysia has more often used an early amendment approach to objectively extend the period of legal convergence. Though the approaches are different, they go in the same direction.

4.3. Mexico on the technicalities of amending the law

Mexico’s law-making techniques are less obvious than those of the other two countries. First, Mexico almost directly transposes international standards into domestic law. Although the Mexican government has consulted widely with the public and stakeholders through public consultations and hearings, in terms of the final result, whether it is the Federal Copyright Law or the Industrial Property Law, the portion of

adjustments based on the actual situation in Mexico is minimal. Mexico mitigates the pressure on domestic enterprises to adapt to the new regulations only by setting up adaptive rules at the operational level of the rules. For example, when the protection of non-traditional trademarks is added to the protection of trademarks, the definitions and filing process are refined to help companies gradually adapt to the new rules. However, this does not address the negative impact of the direct use of CPTPP rules.

Second, the setting up of transitional provisions is a common feature of most developing member countries to facilitate their gradual adaptation and convergence. Mexico has similarly set a transition period in the CPTPP, but with significantly fewer provisions than the other two countries (**Table 6**). On the face of it, Mexico believes that the domestic law is sufficiently in line with international norms and hardly needs a transition period to buffer it. However, in terms of actual implementation, until 2024 Mexico will not have acceded to the 1991 International Convention for the Protection of New Varieties of Plants (IPPC), and the implementation of the rules on patent linkage will not have been realised in practice in accordance with the law. The extension of the patent term and the exclusive protection of experimental data are not yet regulated by law (Gutiérrez, 2023). These manifestations illustrate the fact that Mexico is also in need of a period of adaptation, but the government has chosen to prioritise international compliance over domestic needs.

Table 6. List of transitional provisions in Mexico.

Term	Content	Transitional period	Implementation
18.17.2(d)	UPOV (1991)	4 years	No accession
18.47	Protection of undisclosed test or other data for agrochemicals	5 years	No legislation yet
18.48.2	Adjustment of patent term by unreasonable shortening (suspend)	4.5 years	No legislation yet
18.50	Protection of Undisclosed Test or Other Data	5 years	No legislation yet
18.51	Undisclosed trial data for biologics. (suspend)	5 years	No legislation yet
Section J	Internet Service Providers (ISP)	3 years	No legislation yet

(Data source: compiled by the authors based on Section k of CPTPP).

5. Analysis of differences in law revision initiatives in three countries

5.1. Different motivations and pressure for amending IP laws

Vietnam adopted its domestic procedures within a very short period of time after the CPTPP came into force, and then started IP law reform in full swing. The reason why Vietnam has been so active is more a result of its internal needs than its compliance obligations. Firstly, looking at the structure of Vietnam’s economy, the country’s economy is highly dependent on exports, especially to CPTPP members, ASEAN countries, China, and the United States. According to the World Bank (2019–2022), Vietnam’s exports as a share of GDP exceed 160 per cent from 2019 to 2022 and climb to 186 percent in 2022. This high dependence on exports has prompted it to

quickly adjust and optimise its IP laws after the CPTPP came into effect to ensure the legitimacy and competitiveness of its exports in the international market. Secondly, Vietnam has been attempting a domestic industrial transformation in recent years to move from low value-added manufacturing to a high value-added innovative economy. The Vietnamese government has clearly stated in the National Industrialisation and Modernisation Strategy 2021–2030 that IPR protection is an important means to promote innovation and industrial upgrading (Khi, 2022). And due to many factors, such as geopolitics, Vietnam has attracted a large amount of foreign investment transferred from China in recent years, especially in high value-added industries. Therefore, Vietnam must demonstrate its attention to IPRs protection through IP law changes, thus increasing the confidence of foreign investors. In addition, Vietnam is under a certain degree of regional competitive pressure. As a second-tier country in ASEAN, in order to remain competitive in the region, Vietnam must also continue to optimise its IP legal and policy framework to attract more foreign investment and technology transfer.

However, Malaysia's IP law reform is mainly driven by external pressure. As Malaysia inherited the UK's IP protection model, and after years of construction and improvement, its IP legal system is already very sound and complete and has long exceeded the standards of the Trips Agreement. As for the further innovation of IP law, Malaysia has been cautious attitude, which can be seen from its delay in adopting the domestic procedures of CPTPP. And the main pressure comes from external sources. Firstly, legislative amendments are required by bilateral or multilateral trade agreements and international trade organisations. For example, FTA negotiations between Malaysia and the United States and the European Union have been intermittent over the years, with the requirement to impose stringent IPR protection standards being one of the reasons for the impasse (XU, 2006). In addition to bilateral agreements, additional pressures come from regional FTAs and international treaties to which Malaysia has acceded. This encompasses CPTPP, RCEP, the ASEAN Framework Agreement on Intellectual Property Co-operation, co-operation with WIPO, and so on. In order to comply with the standards of the agreement as quickly as possible without causing trade friction, a number of amendments to the law were necessary. The copyright law, for example, introduces stricter digital copyright protection measures. Secondly, unlike Vietnam, although Malaysia also relies on exports, its economic structure is relatively diversified, with both service and manufacturing sectors playing an important role. Therefore, its IP law reform is more concerned with attracting high-tech investment and enhancing Malaysia's international image. In 2020, Malaysia will be ranked 33rd in the Global Innovation Index (GII) (Dutta and Lanvin, 2020), and this improvement in ranking is partly due to legislative amendments made during the year. For example, the amendments to the Copyright Act 2020 introduced the requirements of the Berne Convention and the Marrakesh Treaty. The ranking has also remained stable at 2nd place among developing member States in recent years, indicating that its level of IP protection is internationally recognised, helping to improve its overall economic competitiveness and international image.

For Mexico, international pressure is the main external reason for the frequent amendments. As already mentioned above, Mexico is unique in that it is also a member

of the USMCA, a more demanding FTA than the CPTPP. As already mentioned above, Mexico is unique in that it is also a member of the USMCA, an FTA with higher standards than the CPTPP. As a result, Mexico's IP law changes face an even greater span of changes to fulfil its compliance obligations. In particular, the 11 high-standard provisions frozen in the CPTPP are all in force in the USMCA. Imagine that Mexico had not been able to comply with these standards, which would have led to potential trade sanctions or disputes with its main trading partners, mainly the United States, affecting Mexico's economic development. Therefore, the requirements imposed by international trade agreements are one of the main reasons that compel Mexico to take action to strengthen its IP protection mechanisms. At the same time, however, the need for internal economic reforms and scientific and technological development have called for changes to the IP law. Since President Andrés Manuel López Obrador took office in 2018, economic diversification and support for small and medium-sized enterprises (SMEs) have become key priorities. Strengthening IP protection has been a strategic measure to promote innovation and attract investment (OECD, 2019). This is evidenced, for example, by the 2020 Industrial Property Law, which simplifies patent and trademark procedures. Moreover, Mexico's investment in science and technology R&D is low, with World Bank data showing that R&D investment accounted for only 0.31% of Mexico's GDP in 2019, compared to the OECD average of 2.37 % (WB, 2023). Stronger IP laws are therefore seen as key to stimulating R&D and supporting technological progress, particularly in the digital economy. This was also emphasised by the OECD in its 2019 Economic Survey. As a result, Mexico has imposed tougher penalties for online infringement in the 2020 version of its copyright law and improved the rules governing digital rights.

In summary, Vietnam's IP law reforms are driven by internal economic needs and regional pressures, Malaysia's by external demands from trade agreements and investment attraction, and Mexico's by a blend of international treaty obligations and domestic economic reforms.

5.2. Different pace and steps for amending IP laws

Vietnam is a socialist country. More emphasis is placed on the leadership of the Communist Party of Vietnam. Its law reform adopts an absolutely government-led, progressive approach. When revising laws, the Vietnamese government usually conducts extensive, multi-round public consultations and stakeholder meetings to ensure that the new laws are implemented smoothly. And as far as the latest version is concerned, the gradual pace has not been too great. And it has used as many transition clauses as possible to safeguard its interests. So, there is room for Vietnam to continue to improve the level of IP protection. In addition, when legislating, Vietnam also focuses on coordination with other ASEAN countries to ensure uniformity and harmonisation of IP laws in the region. At the same time, Vietnam has also actively engaged with international organisations and other CPTPP member countries to ensure that its legal framework is in line with international and regional standards. Overall, Vietnam has been active and cautious in amending its laws at a slow pace but has greatly protected its interests.

Malaysia, on the other hand, is similarly government-led when it comes to amending its laws. The difference, however, is that Malaysia's amendments are not incrementalist and do not involve multiple changes to the same law over a short period of time. During 2019–2022, Malaysia systematically amended all laws related to IPRs at once. Moreover, the level of protection standard increase is also greater compared to Vietnam, which is of course closely related to the fact that Malaysia itself has a good foundation of IP legal protection. Moreover, because of the diversification of the Malaysian economy and its greater emphasis on technological innovation that requires a strong IP protection regime, it is less conservative than Vietnam in amending its laws and is more open and willing to make extensive reference to international best practices. Moreover, it has not set up as many transitional provisions as Vietnam. It is also worth noting that Malaysia adopted the domestic procedures for the CPTPP only after amending all the laws. Although the order is opposite to that of Vietnam, it also allows sufficient time for Malaysia's laws to be harmonised and helps the new rules to pass through the buffer period without having to face the pressure from the CPTPP.

However, Mexico has a more rapid pace of revision due to pressure from both the CPTPP and the USMCA. Specifically, Mexico undertook an initial revision of its Industrial Property Law and Copyright Law in 2018. Just two years later, in 2020, the same acts were significantly revised. This rapid series of legislative updates demonstrates Mexico's commitment to accelerating the level of IP protection in the country. However, compared to the four-year revision cadence of Vietnam and Malaysia, this high frequency of legal adjustments in Mexico is unusual globally, especially in the IP field, where the revision cycle of legal frameworks is usually longer due to its complexity and the need to align with international standards. Moreover, the standard of law revision in Mexico has to be higher. It is conceivable that the fact that Mexico has taken a shorter period of time to complete the revision of its laws to a higher standard has had a number of negative effects that are not in harmony with the actual situation in the country.

5.3. Different focus for amending IP laws

Vietnam's IP law reforms have focused on strengthening patent and trademark protection, a focus consistent with Vietnam's broader strategy to attract foreign investment and promote innovation. The Patent Law of 2023 extends the term of patent protection for pharmaceutical products, aiming to bring it in line with international standards and enhance the attractiveness of the pharmaceutical investment sector. Procedural law has simplified the trademark registration process by allowing the use of the National Office of Intellectual Property of Viet Nam (NOIP) electronic filing system and improving examination procedures to speed up the registration process and reduce bureaucratic hurdles. Clearer guidelines and publicly accessible databases for patent and trademark applications were also provided. The move emphasises administrative transparency, reduces compliance costs for businesses and improves the efficiency of IPR enforcement to better serve domestic SMEs and innovative enterprises.

Malaysia is more concerned with the development of the digital economy in the context of the digital age. Its reforms focus on digital copyright, e-commerce and anti-

piracy enforcement. This is linked to the rapid development of its high-tech industry and e-commerce. The Copyright Act 2022 provides for detailed infringement notification obligations and ISP liability in cases of copyright infringement. Digital piracy is enshrined in the Penal Code, which provides for the possibility of long-term imprisonment and high fines for the sale of software applications related to illegal streaming devices and unauthorised content (Astro, 2022). In addition to strict legal requirements. Online Enforcement, MCMC employs advanced automated systems to identify and remove pirated content from websites and social media platforms to monitor and detect online piracy activities. According to the MCMC (2022), the number of websites blocked for violating copyright laws between 2020 and 2022 is 586, 583 and 510 respectively. This data indicates that there is a deterrent effect on pirate websites based on strict copyright law regulations. In addition, the MCMC is working with international agencies and foreign governments to curb cross-border digital piracy by sharing information and experience in online enforcement and participating in global initiatives aimed at protecting online IPRs. Offline, Malaysia has similarly stepped up its efforts to combat piracy at the border and within the country. According to Malaysia's Ministry of Domestic Trade and Consumer Affairs (KPDNHEP), from 2019 to May 2022, 1160 seizures of counterfeit goods were made with an estimated value of RM94.7 million (MalayMail, 2022). This demonstrates the government's commitment to protecting IPRs and reducing the circulation of counterfeit products.

The Mexican amendments, on the other hand, focus more on convergence with the CPTPP and USMCA, directly introducing international rules directly in areas such as copyright protection and TPM in the digital environment. Mexico also strengthened criminal penalties for film piracy, illegal decoding of encrypted satellite signals, and other acts. The Bolar exception for patented drugs was also amended as well as the extension of the validity of pharmaceutical patents. While this has had the effect of promoting innovation, it has also raised concerns about access to medicines and public health. It could be argued that Mexico is moving closer to international standards while overlooking the actual IP protection environment in the country.

In general, all three countries have focused their legislation according to their main needs. Vietnam focuses on strengthening patent and trademark protection to enhance the attractiveness of innovation. Malaysia focuses on digital copyright and anti-piracy enforcement to promote the digital economy. Mexico focuses on aligning with international standards and strengthening pharmaceutical patents and digital copyright protection. However, this has also led to discussions on access to medicines and public health.

5.4. Different implementation effects for amending IP laws

There are also differences in the effectiveness of actual implementation of the revised IP law in the three countries. These differences reflect the maturity of their respective legal systems, the degree of compatibility with international standards, the efficiency of their enforcement mechanisms, and the importance the governments place on combating IP infringement.

Viet Nam has strengthened the powers and resource allocation of its IPR enforcement agencies following amendments to the law. Specialised intellectual property courts have been established. Co-operation between various government departments, such as the industrial and commercial sector, the public security sector and customs, has been strengthened. Under the unified command and coordination of the central government, local National Steering Committees regularly organise working meetings on anti-smuggling, commercial fraud and counterfeiting (Hong and Giang, 2023). However, despite many efforts to combat counterfeit goods, Viet Nam remains a significant source of counterfeit goods, especially in the areas of pharmaceuticals and consumer goods (OUSTR, 2024). The problem of online piracy is also on the rise, especially through illegal online pharmacies, exacerbating the problem of counterfeit medicines and other IPRs infringing goods. This highlights the inadequacy of digital enforcement capabilities. The reason for this is also due to relatively limited resources, especially at the local level, where the effectiveness of enforcement may be uneven. This challenge in terms of resources and staffing limits its ability to combat counterfeit goods.

Malaysia, on the other hand, has a smoother overall operation of its IP laws, as the level of IP protection in the country is much more mature and its adaptation to international standards is much better. Moreover, Malaysia has invested more resources in IPR enforcement, including a dedicated IPR enforcement unit and staffing. Government allocations and resource allocations ensure that enforcement actions are sustained and effective. Moreover, border measures and enforcement agencies work together, including the KPDNHEP, Customs, police, etc., to ensure that enforcement actions are coordinated and efficient. More importantly, enforcement efforts are also greater, especially in the fight against counterfeit goods. In addition, public awareness of IPR protection is higher in Malaysia compared to Vietnam. The public is encouraged to report on counterfeit goods through the establishment of a reporting hotline and a reward mechanism. Such measures not only improve the effectiveness of enforcement, but also increase public participation and awareness.

Mexico has made significant progress in border and customs enforcement, particularly in stemming the flow of counterfeit goods. However, due to the rapid pace of legislative amendments and the eagerness to match international standards, the degree of adaptation to domestic IPR development has been neglected to a certain extent, and this radical approach has created a lot of pitfalls and risks. (1) firstly, excessive speed in amending laws leads to increased legal and administrative costs for SMEs. As new IP laws introduce many new rules that did not exist before, they are both complex and stringent. In order to adapt to these new changes, companies will have to invest more resources in legal advice and compliance work, resulting in increased operating costs. For example, the new copyright law will make some small and medium-sized film and television production companies more expensive to develop music, films, and software due to copyright issues, and more prone to copyright disputes. Such an impact would be bearable for large enterprises but would put enormous pressure on the operations of small and medium-sized enterprises (SMEs). (2) secondly, excessive speed in amending the law has increased the burden on the law enforcement and judicial systems. As the new legislation introduces stricter enforcement mechanisms and penalties, law enforcement agencies need to invest more

human and material resources in supervision, inspection and penalties. This has led to a strain on the resources of enforcement agencies. Statistics from the Mexican Institute of Industrial Property (IMPI) (2020–2023) mention a threefold increase in IP enforcement from 2020 to 2023. But unfortunately, there has not been a corresponding increase in personnel and resources. And strict enforcement has likewise prompted more companies and individuals to resort to legal means to defend their IP rights. Litigation involving IPRs has also grown between 2018 and 2023, but the court system is slow and inefficient due to a lack of resources. Turning to the effectiveness of enforcement, intellectual property rights (IPR) abuses in Mexico's industrial sector continue. Anti-piracy efforts at the state and municipal levels remain particularly weak, with losses from trademark counterfeiting, copyright piracy, and patent infringement running into billions of dollars each year. (International Trade Administration, 2023) The Global Innovation Index 2023 also shows that although Mexico is ranked 58th out of 132 countries, it is ranked 110th in the category of intellectual property systems. This suggests that Mexico's basic IP system is not yet fully equipped to deal with the stringent requirements imposed by these new laws (WIPO, 2023). Although the law can be modified to a high standard, in its practical application, it will be difficult to achieve the expected positive results due to the lack of compatibility with the national context, coupled with the failure to keep up with the supporting system, and the lack of planning and coordination between the industry sectors and government agencies. (3) Thirdly, Excessive speed in amending the law can also have a negative impact on public health. Mexico is the 11th largest pharmaceutical market in the world. In 2023, generics will account for approximately 84% of the Mexican pharmaceutical market. This large market share reflects a preference for cheaper drugs (TechSci, 2024). However, stricter patent and data exclusivity rules could cause Mexican generics companies to delay their time to market, and the monopoly position held by originators could lead to high drug prices. This contradicts Mexico's health-care policy measures aimed at reducing costs and increasing access to essential medicines.

6. Conclusion

By analysing the pace, content and techniques of domestic IP law reform in three representative member countries of the CPTPP, it is possible to identify three key lessons that other potential member countries may wish to consider.

First, in terms of the pace of amendment, the three member states have provided three different steps of amendment. China should pay attention to the potential risks associated with different paces of amendment, such as the lag that may result from slow reforms, the pressure and conflicts that may be brought about by centralised amendments, and the insufficient risk assessment that may exist if high standards are achieved in one go. Countries should develop the appropriate pace of amendment based on the level of IPR protection in the country and its current needs, with a focus on public participation and transparency, taking into account the views and suggestions of all parties, and conducting a risk assessment to ensure a smooth process and successful implementation of the amendment.

Second, in terms of the content of the amendment, the primary concern is to balance the conflict of interest. The problem of abuse of IPRs should be guarded

against, so as to avoid becoming a tool for market monopoly or hindering innovation. It is necessary to balance the interests of all parties, including IPRs holders, consumers, enterprises and the public interest, to avoid excessive protection of intellectual property rights leading to unfair competition. Second, enforcement should be emphasised. The weakness of enforcement in Mexico and Viet Nam shows that it is not enough to have high standards of legal provisions; ultimately, it is necessary to ensure that the rules are implemented in practice by improving the capacity and efficiency of the enforcement authorities and the judiciary.

Third, in terms of techniques for amending the law, a certain amount of time and space can be given to the convergence of the law through the establishment of a transitional period, the adoption of flexibility provisions, extensive consultation and collection of opinions, partial or gradual implementation, and technical assistance and resource support. This includes leveraging technical assistance and international cooperation to enhance the effectiveness of legal revisions, especially for developing countries that may face capacity constraints. For instance, international agencies can provide capacity-building programs, legal expertise, and best practice sharing, which are crucial for effective legal integration and enforcement. Developing countries can also benefit from bilateral or multilateral agreements that offer financial and technical support, as well as from participation in international forums that facilitate the exchange of experiences and strategies among nations. Such collaborations can help bridge knowledge gaps, improve regulatory frameworks, and ensure that legal revisions are not only in line with international standards but also tailored to meet domestic needs and challenges.

Author contributions: Conceptualization, XC; methodology, XC; writing—original draft preparation, XC; writing—review and editing, XC, NMA and ZAZ; supervision, NMA and ZAZ. All authors have read and agreed to the published version of the manuscript.

Conflict of interest: The authors declare no conflict of interest.

References

- Association, I. P. (2024). IIPA 2024 Special 301 Report on Copyright Protection and Enforcement. I. I. P. Alliance. <https://iipa.org/files/uploads/2024/01/Final-PDF-for-Website-1.pdf>
- Astro. (2022). The Copyright (Amendment) Act 2022 finally brings the hammer down on digital piracy. SoyaCincau.com. Retrieved May 23 from <https://soyacincau.com/2022/07/04/copyright-amendment-act-2022-digital-piracy-criminal-offence-astro-isd-ezadu/>
- Bhd, I. W. S. (2023). Understanding Patent Rights in Malaysia and The Role of Intellectual Property. Intellect Worldwide Sdn Bhd. Retrieved May 21 from <https://www.intellect-worldwide.com/2023/12/22/understanding-patent-rights-in-malaysia-and-the-role-of-intellectual-property/>
- Bram, d. J. (2023). How can UPOV make exceptions for smallholder farmers to freely use farm-saved seeds of protected varieties? An update. Sowing Diversity Harvesting Security. Retrieved May 20 from https://sdhsprogram.org/upov_exception_smallholderfarmers/
- Chu, Khôi. (2023). Deputy Minister: 2023 agri exports to hit \$54bln. VnEconomy. Retrieved May 20 from <https://en.vneconomy.vn/deputy-minister-2023-agri-exports-to-hit-54bln.htm>
- Commission, E. (2023). Commission releases its Report on Intellectual Property Rights in Third Countries <file:///Users/cxq/Downloads/7099aee0-c68f-42c5-ae30-5350a879a30e.pdf>

- Development, O. f. E. C.-o. a., & Office, E. U. I. (2021). Illicit Trade Global Trade in Fakes A worrying threat. https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2021_EUIPO_OECD_Report_Fakes/2021_EUIPO_OECD_Trade_Fakes_Study_FullR_en.pdf
- Development, O. f. E. C.-o. a., & Office, E. U. I. (2021). Illicit Trade Global Trade in Fakes A worrying threat. https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2021_EUIPO_OECD_Report_Fakes/2021_EUIPO_OECD_Trade_Fakes_Study_FullR_en.pdf
- Dutta, S., & Lanvin, B. (2020). Global Innovation Index. https://www.wipo.int/global_innovation_index/en/2020/index.html
- Gazette, F. O. (2019). Plan Nacional de desarrollo 2019-2024. https://www.gob.mx/cms/uploads/attachment/file/487316/PND_2019-2024.pdf
- Ghimire, S., Barizah, N., Soeparna, I., & Van der Borght, K. (2021). Plant variety protection law and farmers' rights to save, exchange and breed seeds: the case of Indonesia. *Journal of Intellectual Property Law and Practice*, 16(9), 1013-1025.
- Gutiérrez, E. (2023). Mexico's outstanding IP obligations under USMCA: a status update. ClarkeModet. Retrieved October 18th from <https://www.clarkemodet.com/en/legislative-news/mexicos-outstanding-ip-obligations-under-usmca-a-status-update/>
- Hoàng, Giang. (2021). Adaptation of intellectual property law to the new situation of integration. Government News of Vietnam. Retrieved May 20 from <https://baohinhphu.vn/sua-luat-so-huu-tri-tue-phu-hop-voi-boi-can-hoi-nhap-moi-102287178.htm>
- Hong, Giang. (2023). The 389 National Steering Committees delivered a meeting on combating smuggling, commercial fraud and counterfeiting in the first quarter of 2023. Ninh Binh Newspaper. Retrieved May 24 from <https://www.vietnam.vn/en/ban-chi-dao-389-quoc-gia-giao-ban-cong-tac-chong-buon-lau-gian-lan-thuong-mai-va-hang-gia-quy-i-nam-2023/>
- Intellectual Property Act, (2022).
- International Trade Administration, U. S. D. o. C. (2023). Mexico - Country Commercial Guide. International Trade Administration, U.S. Department of Commerce. Retrieved May 24 from
- Khi, B. C. (2022). Industrialization and modernization to 2030: It is necessary to build an autonomous industry. mta Vietnam. Retrieved May 23 from <https://mtavietnam.com/2022/08/03/industrialization-and-modernization-to-2030-it-is-necessary-to-build-an-autonomous-industry/?lang=en>
- KPDNHEP, M. (2019-2021). Annual Reports of the Ministry of Domestic Trade and Consumer Affairs Retrieved 11th September from <https://www.kpdn.gov.my/en/media-kpdnhep/publication/annual-reports>.
- MalayMail. (2022). Domestic Trade Ministry seizes counterfeit goods worth RM94.7m since 2019. MalayMail. Retrieved May 23 from <https://www.malaymail.com/news/malaysia/2022/06/02/domestic-trade-ministry-seizes-counterfeit-goods-worth-rm947m-since-2019/10338>
- MCMC, M. C. a. M. C. (2022). MCMC Annual Reports. https://www.mcmc.gov.my/skmmgovmy/media/General/Report/Laporan_Tahunan-2022.pdf
- Mexican Institute of Industrial Property, I. (2020-2023). IP enforcement Data. <https://docs.google.com/spreadsheets/d/1P5CP-DX2AES7nW04YoKUNGCqciWoHJsK/edit#gid=1394217428>
- Minh, N. T. (2019). The Tremendous Impact of UPOV Membership in Vietnam. Seed World Europe. Retrieved May 20 from <https://www.seedworld.com/europe/2019/04/18/the-tremendous-impact-of-upov-membership-in-vietnam/>
- Ministry of Science and Technology, V. N. (2021). Intellectual property legislation and policies in 2020. Retrieved 20 April from <https://www.most.gov.vn/en/news/814/intellectual-property-legislation-and-policies-in-2020.aspx>
- NovaAdmin. (2022, 16th May 2024). Intellectual Property Protection Laws in Mexico: Fostering Innovation and Economic Growth [2024]. NOVALINK. Retrieved 13th October from <https://novalinkmx.com/2022/09/21/intellectual-property-protection-laws-in-mexico/>
- OECD. (2019). Organisation for Economic Cooperation and Development Economic Surveys: Mexico 2019.
- Oustr, O. o. t. U. S. T. R. (2024). 2024 Special 301 Report. <https://ustr.gov/sites/default/files/2024%20Special%20301%20Report.pdf>
- Phi, D. H. (2022). Improving IP law in the context of international integration. VIETNAM LAW & LEGAL FORUM. <https://link.gov.vn/qi1UIA50>
- phủ, T. t. C. (2019). Decision No. 1068/QĐ-TTg of the Prime Minister: Approval of the Intellectual Property Strategy until 2030. chinhphu.vn. Retrieved May 20 from <https://vanban.chinhphu.vn/default.aspx?pageid=27160&docid=197710>

- Plctorial, Vietnam. (2019). Joining CPTPP is an affirmation of Vietnam's important geopolitical role and status. Vietnam News Agency. Retrieved May 20 from <https://vietnam.vnanet.vn/vietnamese/vietnamese/tin-van/tham-gia-cptpp-la-khang-dinh-vai-tro-vi-the-dia-chinh-tri-quan-trong-cua-viet-nam-194808.html>
- Qu, X. (2022). Research on Vietnam Law Amendments under CPTPP Intellectual Property Rules and Its Enlightenment to China. *Wuhan University International Law Review*, 3, 143-157.
- Statista. (2024). Retail e-commerce revenue in Mexico from 2019 to 2029. Statista. <https://www.statista.com/forecasts/289771/e-commerce-revenue-forecast-in-mexico>
- Sulaiman, D. B. (2022). Cultural and Creative Industries and Value Creation: An Analysis on Malaysian Copyright Laws. *Malaysian Journal of Social Sciences and Humanities (MJSSH)*, 7(12), 1-10.
- Tam, H. C. (2020). Application of International Treaties in Vietnam- Problems and Solutions. *Lexology*, 1-3. <https://s3.amazonaws.com/documents.lexology.com/9e534d7b-fd19-4769-96bd-566d19978262.pdf?AWSAccessKeyId=AKIAVYILUYJ754JTDY6T&Expires=1716439391&Signature=N6qggGcBA9jEVd2wgdF8GCQpZ70%3D>
- Technology, M. o. S. a. (2020). Draft law amending and supplementing various provisions of the Intellectual Property Code. Ministry of Science and Technology Viet Nam. Retrieved May 20 from <https://www.most.gov.vn/vn/Pages/chitietduthao.aspx?iDuThao=822>
- TechSci, R. (2024). Generic Drugs Market - Global Industry Size, Share, Trends, Opportunity, and Forecast, 2019-2029F. T. Research. https://www.researchandmarkets.com/reports/5311298/generic-drugs-market-global-industry-size?utm_source=BW&utm_medium=PressRelease&utm_code=5plv54&utm_campaign=1846744+-Generic+Drugs+Global+Market+Report+2023%3a+Growing+Demand+for+Low-Cost+Drugs+Bolster+Sector&utm_exec=como322prd
- Tri, N. M. (2023). Science-Technology Development: A Case of Ho Chi Minh City, Vietnam. *Journal of Law and Sustainable Development*, 11(1), e407-e407.
- Vu, K., & Tri, N. (2021). Science and Technology Development in Vietnam: Current Situation and Solutions. *Studies in Social Science Research*, 2(2), p52.
- WB, W. B. (2023). Research and development expenditure (% of GDP). World Bank. Retrieved May 23 from <https://data.worldbank.org/indicator/GB.XPD.RSDV.GD.ZS>
- WIPO, Dutta, S., Lanvin, B., Rivera León, L., & Wunsch-Vincent, S. (2023). Global Innovation Index. WIPO. <file:///Users/cxq/Downloads/wipo-pub-2000-2023-exec-zh-global-innovation-index-2023.pdf>
- WIPO. (2023). Global Innovation Index 2023. <https://www.wipo.int/edocs/pubdocs/en/wipo-pub-2000-2023-en-main-report-global-innovation-index-2023-16th-edition.pdf>
- WIPO. (2023). Global Innovation Index 2023. <https://www.wipo.int/edocs/pubdocs/en/wipo-pub-2000-2023-en-main-report-global-innovation-index-2023-16th-edition.pdf>
- WIPO. (2024a). Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions. <https://www.wipo.int/tk/en/>
- WIPO. (2024b). Summary of the Patent Cooperation Treaty (PCT) (1970). WIPO. Retrieved May 21 from https://www.wipo.int/treaties/en/registration/pct/summary_pct.html
- World Bank, O. (2019-2022). World Bank national accounts data, and OECD National Accounts data files. <https://data.worldbank.org.cn/indicator/NE.TRD.GNFS.ZS?end=2022&locations=VN&start=1986&view=chart>.
- XU, G. (2006). Challenges lie ahead on road to US-Malaysia Free Trade Agreement. *Third World Network*. Retrieved May 23 from <https://twinchinese.net/?p=337>
- Yoonyoung, L., Huy, N., Hung, N., & Da, L. N. (2021). IP Guide: Enforcement Actions Against Infringing and Counterfeit Products Distributed in Vietnam. <https://rouse.com/insights/news/2021/ip-guide-enforcement-actions-against-counterfeit-products-in-vietnam>