



# **International legal framework for protection of Utility Models**

**WIPO Regional Seminar on the  
Legislative, Economic and Policy  
Aspects of Utility Models  
Protection System**

**Kuala Lumpur, Malaysia  
3 and 4 September,  
2012**

Marco Aleman

Deputy Director, Patent Law Division, and head, Legislative and  
Policy Advice Section

# What is a Utility Model? (1)

No global acceptance of the term “utility model” →  
different concepts in different countries

- Different terms used such as short term patent, petty patent, innovation patent, minor patent, utility innovation, consensual patent
- Different systems of protection

# What is a Utility Model? (2)

- System of protection of the so-called “minor inventions”



requirements less stringent than those needed to obtain a patent, but which require in any case an improvement in relation to the state of the art

# What is a Utility Model? (3)

- A **right** to prevent the exploitation of the invention without authorization by the patent holder, during a limited period
- Suitable for incremental inventions, small adaptations or minor improvements to existing products



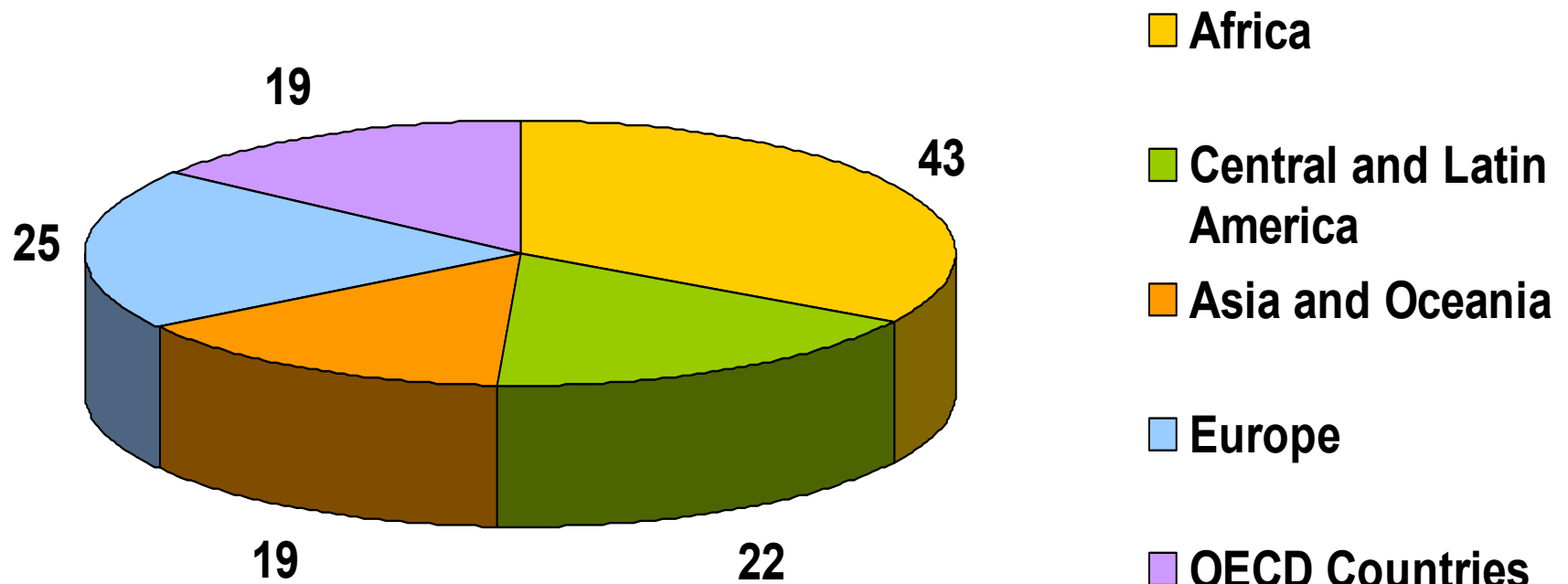
# International Legal Framework

- **Paris Convention:** recognize U.M. as industrial property category (art. 1 (2)) but there is no substantive provisions, however attention is drawn to art. 2 (National Treatment); 4 A. (1) (Right of Priority) and 5 A (5) (Compulsory Licenses)
- **TRIPS Agreement:** does not mention explicitly U.M. → no obligation for Members to adopt minimum standards of protection with regards to UM, however attention is drawn to art. 2.1 (intellectual property conventions) and 4 (MFN)
- **Patent Cooperation Treaty (PCT):** an international application may refers to utility models or utility certificates

# Data and Experience. The WIPO work

- WIPO Legislative and Policy Advice Section. Provide assistance to MS on the implementation of the national legal frameworks on Patents, **Utility Models**, Trade Secrets and Integrated Circuits
  
- Patent Related Flexibilities Document's in the framework of the CDIP
  - 1) CDIP/5/4Rev
    - [http://www.wipo.int/edocs/mdocs/mdocs/en/cdip\\_5/cdip\\_5\\_4-main1.pdf](http://www.wipo.int/edocs/mdocs/mdocs/en/cdip_5/cdip_5_4-main1.pdf)
    - [http://www.wipo.int/edocs/mdocs/mdocs/en/cdip\\_5/cdip\\_5\\_4-annex1.pdf](http://www.wipo.int/edocs/mdocs/mdocs/en/cdip_5/cdip_5_4-annex1.pdf)
    - [http://www.wipo.int/edocs/mdocs/mdocs/en/cdip\\_5/cdip\\_5\\_4-annex2.pdf](http://www.wipo.int/edocs/mdocs/mdocs/en/cdip_5/cdip_5_4-annex2.pdf)
  - 2) CDIP/7/3
    - [http://www.wipo.int/edocs/mdocs/mdocs/en/cdip\\_7/cdip\\_7\\_3-main1.pdf](http://www.wipo.int/edocs/mdocs/mdocs/en/cdip_7/cdip_7_3-main1.pdf)
    - [http://www.wipo.int/edocs/mdocs/mdocs/en/cdip\\_7/cdip\\_7\\_3-annex1.pdf](http://www.wipo.int/edocs/mdocs/mdocs/en/cdip_7/cdip_7_3-annex1.pdf)
    - [http://www.wipo.int/edocs/mdocs/mdocs/en/cdip\\_7/cdip\\_7\\_3-annex2.pdf](http://www.wipo.int/edocs/mdocs/mdocs/en/cdip_7/cdip_7_3-annex2.pdf)
  
- Regional meeting  
SEMINAR FOR CERTAIN ASIAN COUNTRIES ON THE EFFECTIVE IMPLEMENTATION AND USE OF SEVERAL PATENT RELATED FLEXIBILITIES, BANGKOK, THAILAND, FEBRUARY 15 TO 17, 2011  
[http://www.wipo.int/meetings/en/details.jsp?meeting\\_id=22602](http://www.wipo.int/meetings/en/details.jsp?meeting_id=22602)

# Countries analyzed: Utility Models



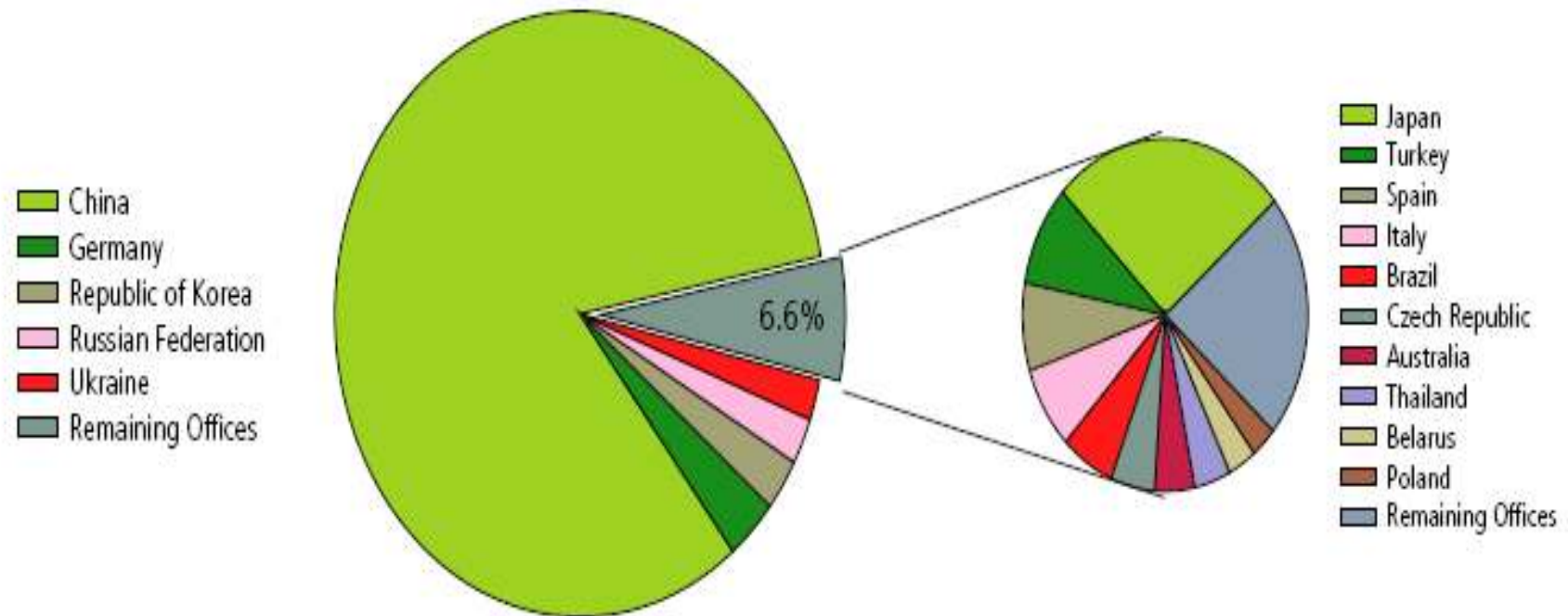
# Utility Models for the Top 15 offices, 2010

Office	Application Year			Share of total (%) 2010	Growth (%) 2009-10
	2008	2009	2010		
<b>Total</b>	<b>313,000</b>	<b>399,000</b>	<b>496,000</b>	<b>100.0</b>	<b>24.3</b>
China	225,586	310,771	409,836	82.6	31.9
Germany	17,067	17,306	17,005	3.4	-1.7
Republic of Korea	17,405	17,144	13,661	2.8	-20.3
Russian Federation	10,995	11,153	12,262	2.5	9.9
Ukraine	9,600	9,205	10,685	2.2	16.1
Japan	9,452	9,507	8,679	1.7	-8.7
Turkey	2,992	2,882	3,033	0.6	5.2
Spain	2,682	2,560	2,640	0.5	3.1
Italy	2,200	2,307	2,456	0.6	6.5
Brazil	3,218	3,122	1,988	0.4	-36.3
Czech Republic	1,183	1,382	1,608	0.3	16.4
Australia	1,255	1,320	1,465	0.3	11.0
Thailand	1,515	1,467	1,328	0.3	-9.5
Belarus	967	1,119	1,089	0.2	-2.7
Poland	719	780	945	0.2	21.2
Others	6,164	6,975	7,320	1.5	4.9

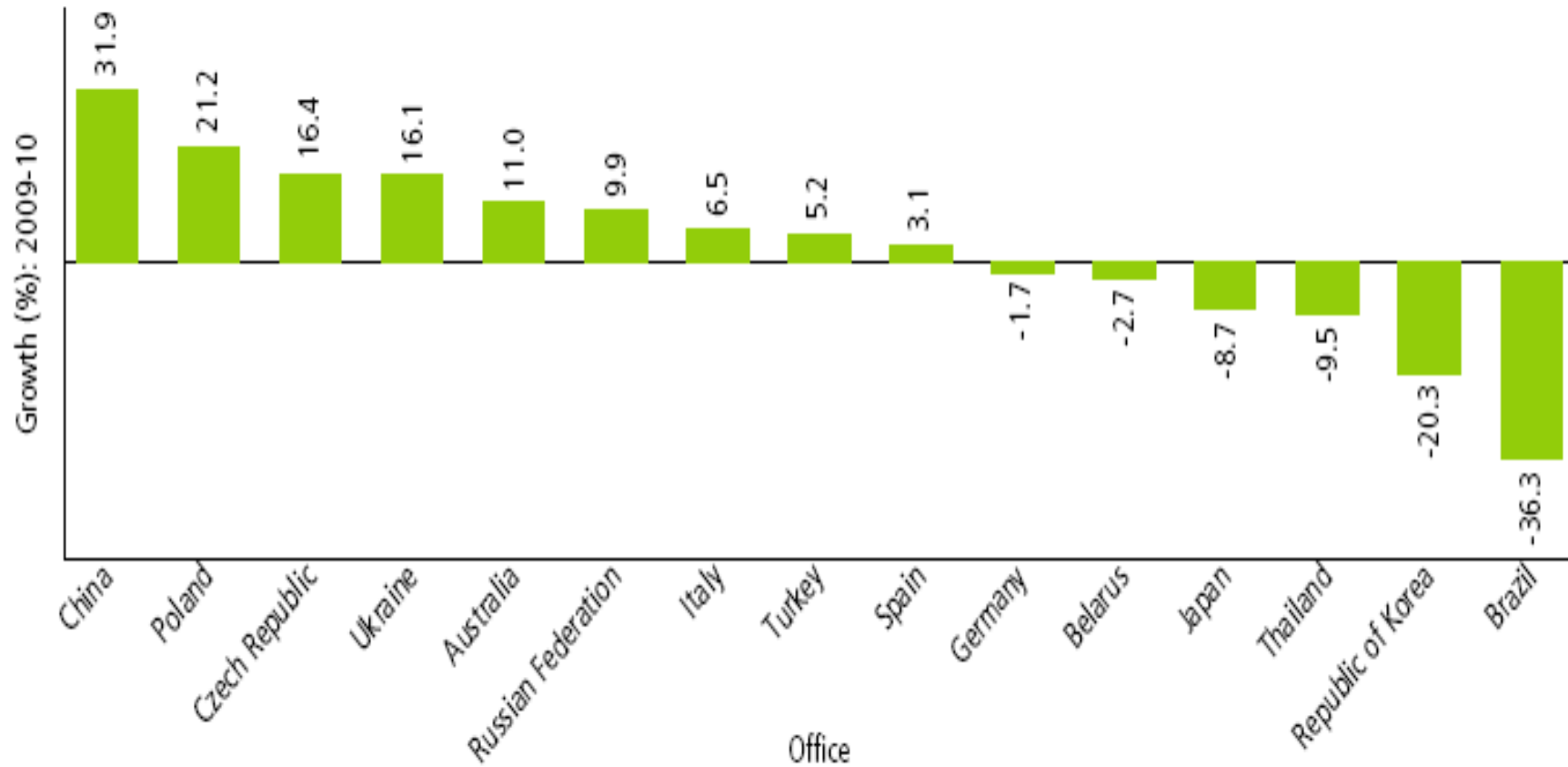
Note: Application numbers are a sum of the direct filings and PCT national phase entries received by offices.



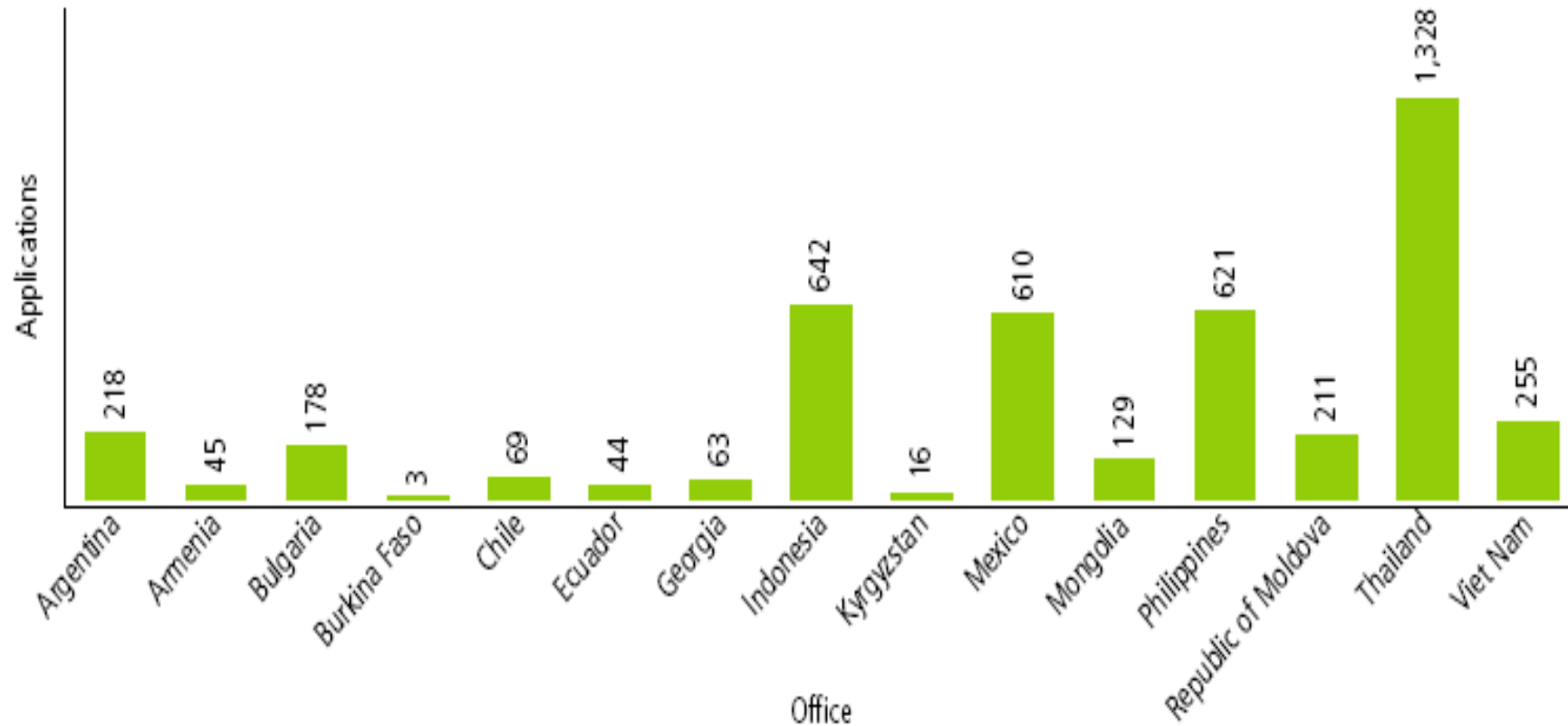
# Utility Models for the Top 15 offices, 2010



# Utility Models for the Top 15 offices, 2010



# Utility Models for selected offices of middle and low-income economies, 2010



THANK YOU!

[Marco.aleman@wipo.int](mailto:Marco.aleman@wipo.int)