

STUDY GUIDE



ECONOMIC AND SOCIAL COUNCIL



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1. WELCOME LETTERS

I. Secretary General

Dear delegate,

I am pleased to greet you and welcome you to the tenth version of the Model United Nations of our school, CUSMUN.

The current world has been built, fundamentally, on dichotomy, on controversy, but the course of the debate has been lost due to the profuse amount of information without going into depth, making us forget that the purpose of a discussion should not be victory, but progress. And progress is latent in the debate, since the meeting of two people is the meeting of two truths, which if they are intelligent, will give rise to a third truth.

Delegate, it is this type of debate that I am talking about that should prevail in all aspects of our lives, even in such a formal event as this one. On the other hand, I have to remember you that respect and tolerance are undeniable principles while debating. Debate always happens with a peer since a superior is obeyed and an inferior is ordered, hence only with a



similar can one be controversial, since both lie on equal conditions.

Finally, I do not pretend that this is a letter for the ephemeral moment of a model UN under reconstruction, but words for postmodernity.

"Discussion strengthens sharpness"
- Cicero

Do not hesitate to contact us at our email cusmun@cumbresmedellin.edu.co if you have any questions or concerns.

Miguel Melo Ortiz - Secretary General CUSMUN X



III. Presidents

Dear delegates,

Welcome to the Economic and Social Council of the United Nations. We, Mariana Céspedes and Gregorio Gómez, are extremely honored to be here in the 10th model of CUSMUN with you throughout this process. We are looking forward to meeting you all and to get to know all the outstanding abilities we know you have. We are hoping to have a great time for learning and developing new capacities using all the tools that the model of Cumbres gives us, especially the debating time.

In this model of CUSMUN, ECOSOC will be having the framework for a possible international regulation of cryptocurrencies and the review of habeas data transnational policies and respect of industrial and intellectual property rights as topics. These topics require efficient, effective, and strategic solutions to ensure the good development of the international relations between countries, and we wish that these solutions are diplomatic and high-leveled. We expect you to do a full and independent research for each topic, we are hoping to have high quality debates,



and this will only be possible if you are completely informed about every topic in discussion.

Delegates, remember that the idea of the Models of the United Nations is to correctly represent your delegation, being aligned to its position and policies. You must be able to embody your delegation by reflecting its position with your arguments and solutions. For now, we really hope that you are excited about your participation in CUSMUN, and we hope that you are looking forward to having an active participation in the debates that will take place in this committee. We expect that you have a wonderful experience, that can be part of your life and inspire you to work and change the world. Lastly, remember to feel free to contact us in case you have any doubts, we are ready and happy to help you in whatever you need.

Best regards,

Mariana Céspedes Espinosa and Gregorio Gómez Arango.

Presidents of ECOSOC



2. PRESENTATION OF THE COMMITTEE

I. Introduction to the committee

The Economic and Social Council is one of the six main organs of the United Nations. It is responsible for the direction and coordination of the economic, social, and humanitarian affairs, health matters, human rights, fundamental freedoms, and cultural activities carried out by the UN.

ECOSOC was established by the United Nations Charter in 1945 and was amended twice due to an increase in the number of members from 18 to 54. ECOSOC participation is based on geographical position, 14 seats for Africa, 11 to Asia, 6 to eastern Europe, 10 to Latin America and the Caribbean, and 13 to western Europe and other areas. Members are elected one a three-year term by the General Assembly, decisions are made by majority vote and its chair changes annually. The five permanent members of the Security Council have been continuously re-elected given the fact that they provide capital for most of ECOSOC budget, which is the main and largest of any UN subsidiary organ. The actual



president is her excellency, Mona Juul. Additionally, ECOSOC works in a July-July cycle.

The council was designed to be the UN's main venue for the discussion of international economic and social issues. ECOSOC conducts studies, formulates resolutions, recommendations, and conventions for consideration by the General Assembly, and coordinates the activities of various UN organizations. Most of ECOSOC's work is performed in functional commissions on topics such as human rights, narcotics, population, social development, statistics, the status of women, and science and technology. The council also oversees regional commissions for Europe, Asia, the Pacific, Western Asia, Latin America, and Africa. The UN charter allows ECOSOC to grant consultative status to nongovernmental organizations (NGOs). Beginning in the mid-1990s, measures were taken to increase the participation of such NGOs, and by the early 21st century more than 2,500 NGOs had been granted consultative status.



Here is the list of the 15 countries that will be present during this committee, which will remain equal for both topics:

- United States of America
- United Kingdom of Great Britain and Northern Ireland
- People's Republic of China
- Russian Federation
- French Republic
- State of Japan
- Federal Republic of Germany
- Republic of India
- Suisse Confederation
- Canada
- Republic of Korea
- Federative Republic of Brazil
- United Arab Emirates
- Republic of Singapore
- Republic of El Salvador

CUSMUN X will not have General Assembly.



II. Position paper requirements

The delegation's position paper must clearly explain the standing of the country regarding the topics that the committee has. The paper should also contain possible solutions for the subjects discussed, which cannot go against the nation's foreign policy.

The delegate must answer the QARMAS that are included in the study guide. For each topic one position paper must be done, and the length should be about minimum one page and maximum two pages (this length should not include the answered QARMAS).

It should be organized as following:

- Introduction to the topic
- Country's position
- Possible solutions
- QARMAS

Delegates must send their position papers by March 2, 2022, at 23:59.



Finally, each delegate needs to prepare a speech for each topic. These should have a maximum duration of one minute. Nonetheless, these speeches do not need to be sent to the presidents.

For further information please read the Delegate's Handbook.



III. Contact details of the president

ECOSOC.CUSMUNX@gmail.com

The delegate's position paper must be sent to this email. If you have any doubt do not hesitate to send them to that email, that way we will be able to help you with your concerns.

Recommendations for the delegates

- Read the complete guide, there are some important details that must be considered.
- Visit all the helpful links that are in the guide, they will help you in the development of the position paper.
- Answer all the QARMAS proposed in the guide.



3. TOPICS

- I. Topic A: Framework for a possible international regulation of cryptocurrencies

Historical Background

In 1983, David Chaum, an American cryptographer, created an anonymous cryptographic electronic money called "ecash". Twelve years later, in 1995, he enforced the ecash through Digicash, which is an early form of cryptographic electronic payments that required a software to withdraw notes from a bank and label specific encrypted keys before it can be sent to a recipient. This made the digital currency untraceable by any institution, not the issuing bank, nor the government, nor other third party that could appear. In 1998, a description of an anonymous distributed electronic cash system was published, this cash system was called "b-money" and Wei Dai was the person in charge of presenting the description. Bitcoin, the first decentralized cryptocurrency, was created by Satoshi Nakamoto, a developer known under that pseudonymous, in 2009. The bitcoin used a cryptographic hash function called SHA-256. After the



creation of Bitcoin, some other cryptocurrencies were released including Namecoin (2011), Litecoin (2011), Peercoin, among others.

Development

A cryptocurrency is a digital currency that serves as a medium of exchange. The prefix “crypto” comes from the fact that cryptocurrencies use cryptography to protect and corroborate transactions and create new currency units (coins). At their essence, cryptocurrencies are entries in an immutable and pseudo-anonymous database called blockchain that no one can change, except under extreme circumstances. Blockchain consists in a chain of information that timestamps digital transactions so that they cannot be backdated. It is a decentralized technology that is spread across many computers, and it blocks details and data about the transaction in a chain, it blocks the receiver, sender, number of coins involved in the transaction, and a cryptographic hash. Cryptographic hashes are algorithms that convert data into a string of 64 characters. The cryptocurrencies have encryption techniques used to secure the network, making them untraceable. A



cryptocurrency is a system that can follow six conditions. These conditions include the lack of requirement of a central authority, the maintenance of all cryptocurrencies' units and its owners, the system should have complete autonomy to create a new cryptocurrency unit and the rules to determine the ownership of this new unit, the ownership of the currency can be proved only cryptographically, the system allows the transactions in which the owner of the unit is being changed too and this transaction can only be made if the owner of the actual unit can be proved, and if there are two transactions made in the same units only one of them can be made. Cryptocurrencies offer a comfort digital alternative to usual currencies.

Advantages of Cryptocurrencies

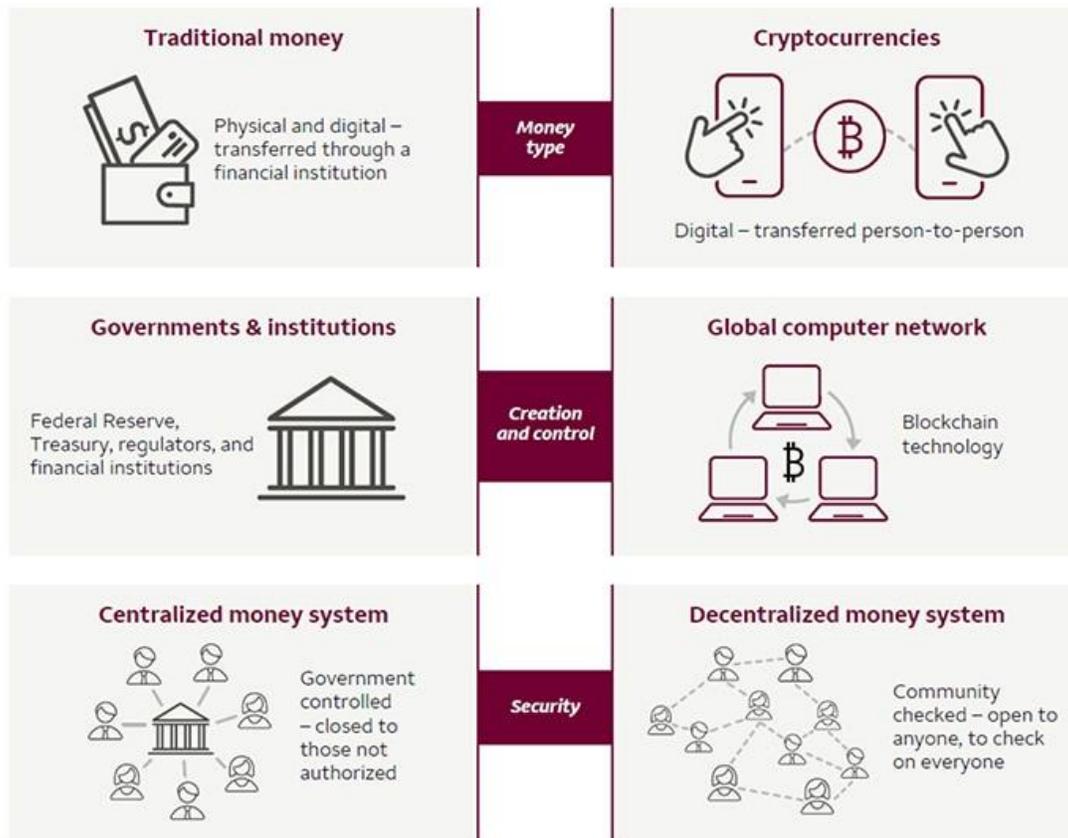
- **Decentralization:** this currency cannot be controlled by any institution. The transactions made with this currency are directly between the two parties involved.
- **Fast and unlimited transactions:** as the transactions are controlled by a computer, by an algorithm, they are fast due to the fact that any



external agent participates in the transactions. These transactions are unlimited, you can make the transactions you want for the amount you want; the only prerequisite is to own the amount of cryptocurrency that you are trading.

- **Low transaction fees:** the transaction fees for cryptocurrencies are near to 0, different from a transaction fee from a bank that can be around 1% and 5%.
- **Transparency and anonymity:** as they work with the blockchain technology there is no way in which someone can find out the identity of the receiver or of the sender. This makes the transactions completely direct and unidentified.

The comparative chart below shows the differences between traditional money and cryptocurrencies regarding money type, creation and control, and security.



Taken from https://www.wellsfargo.com/investment-institute/cryptocurrency_qa_the_basics/

Disadvantages of cryptocurrencies

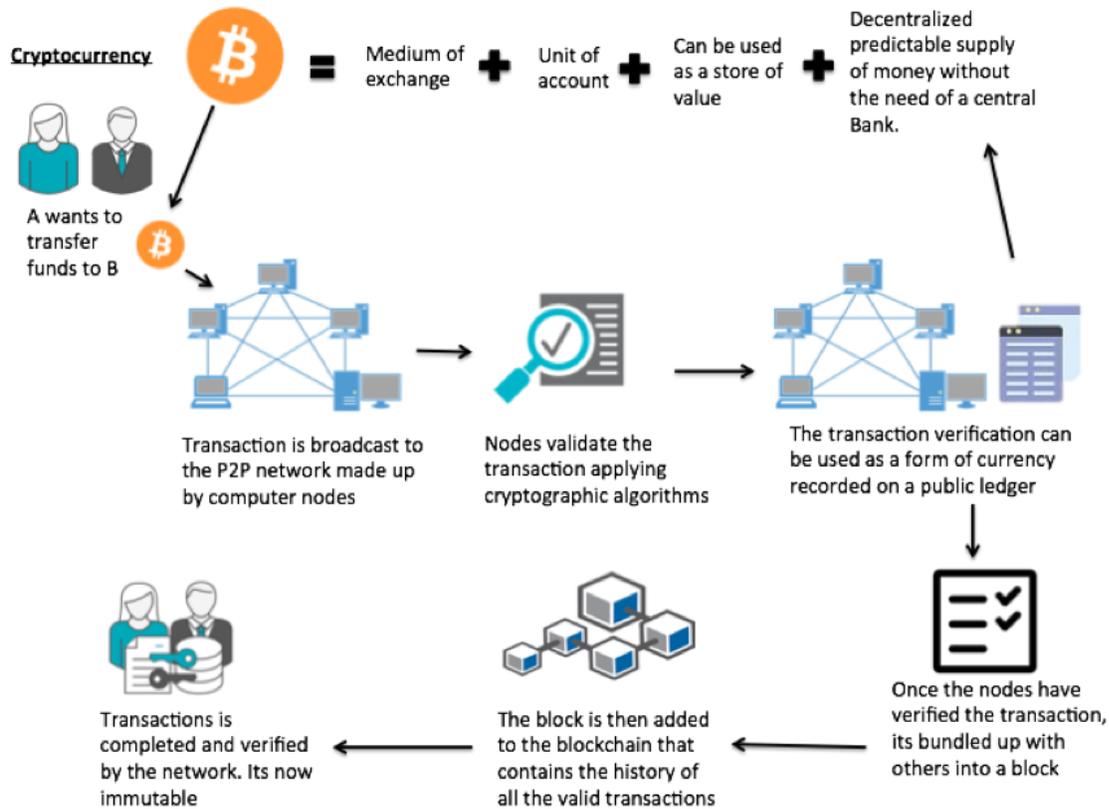
- **Limited acceptance:** not every place or institution accepts the cryptocurrency as a paying method
- **High volatility:** the price of the cryptocurrency can vary in a question of seconds; it can drop its price fast, and it can regain its power in a very little amount of time. The market price of cryptocurrencies depends on its supply and



demand. The design of many cryptocurrencies ensures a high degree of scarcity.

- **Transactions are non-reversible:** once you made your transaction there is no way back, the block was added to the chain of transactions and it is validated, there is no way in which you can change the transaction. The only way to do this is to make another transaction.
- **Unregulated and exposed to unscrupulous behavior:** as there are no entities that regulate these digital currencies it can lead to a possible economic disequilibrium due to its overuse, and they can be subject to erroneous manipulations by certain individuals or institutions; that is what is called crypto jacking.

How do cryptocurrencies' transactions work?



Taken from: <https://nfq.es/blog/cryptocurrencies/>

The diagram above shows how a cryptocurrency transaction works. The first character is desiring to transfer certain amount of cryptocurrency to another one, in this case is Bitcoin. The transaction is reported to the network, the transaction is approved by applying the cryptographic algorithms, which are distinctive for these digital currencies, and the algorithm is added to the others into a block which then is added to the blockchain. Finally, the



transaction is completed, and the currency is transferred, at this point it is impossible to reverse the process.

As these transactions are being commonly used by these days, there are some products that can be bought with the digital currencies. For example, some online travel sites allow bitcoin payments, some small businesses and internet-based business also allow bitcoin as a mean of payment, some specific platforms like Shopify and Square accept payments with crypto. Some gambling sites, the New York State lotto, some Casinos, some gun stores, some coffins, some gift cards, in Real Estate, some restaurants, some clothes, among other sites and products, receive cryptocurrencies, some specific ones, as means of payment for their sales.

According to a study made by Statistics and Data, an organization that uses information from Eurostat, The Organization for Economic Co-operation and Development (OECD), World Bank Open Data, and Data Gov, on the 12th day of September of 2021, the cryptocurrency that had more capitalization in the market was Bitcoin, followed by Ethereum, Cardano, Binance Coin, Tether, among others. The diagram

below presents the top 15 cryptocurrencies by market capitalization, including the ones mentioned before and some others.



Taken from <https://statisticsanddata.org/data/top-10-cryptocurrency-2021-analysis-data/>

The past September, more specifically September 7, 2021, El Salvador became the first country in the world to have bitcoin as an exchange currency inside the country, with the dollar that is the other official currency in this country. Every company is obligated to accept this cryptocurrency as a mean of payment, and the price of each product should be expressed in dollars and Bitcoin; all this is expressed in the legislation



created by the country in regard to the digital currency flow. The approbation of this law caused revolts inside the country. Many people performed protests to show their disagreement with the policy, and the disapproval rate for the government of Nayib Bukele, actual president of El Salvador, increased.

On the other side, China's central bank declared all cryptocurrency-related transactions illegal and said that foreign exchanges are banned from providing services to Chinese residents, in its strongest crackdown move yet on the digital asset industry. Coins such as bitcoin and ether "are not legal and should not and cannot be used as currency in the market", the People's Bank of China stated. As China is one of the world's largest cryptocurrency markets, the announcement caused terrible impacts on the global price of digital currencies. For instance, the price of Bitcoin fell by more than \$2,000, which is a value around the £1,460. The Chinese government decided to make this announcement because it sees cryptocurrencies as volatile, speculative investments (in the best case), and a way to launder money (in the worst case).



Indian government, the past November 24,2021, published a bulletin containing the ban of all private digital currencies and expressing that is part of the proposed Cryptocurrency and Regulation of Official Digital Currency Bill. The idea is “to create a facilitative framework for the creation of the official digital currency to be issued by the Reserve Bank of India (RBI).” With this news, the price of several virtual currencies dropped. Bitcoin fell more than 13% on WazirX, the Indian exchange site, and Shiba Inu and Dogecoin dropped both for more than 15%.

In Colombia, Sparklife coin was introduced. The creators of this digital currency expressed that Sparklife is a platform for the development of solidary, medical, scientific, technologic, and financial processes which leans itself in the crypto world. This platform is focused on generating wellbeing, making health better, and giving quality of life.



Governments of multiple countries began to crack down on the illegal use of virtual currencies for tax evasion or illegal purchases or sales overseas.

The position that some countries have regarding cryptocurrencies' use are:

- **Canada:** companies dealing in virtual currencies must register with the Financial Transactions and Reports Analysis Centre of Canada (Fintrac), implement compliance programs, keep the required records, report suspicious or terrorist-related transactions, and determine if any of their customers are “politically exposed persons”. These laws apply to non-Canadian virtual currency exchanges if they have Canadian customers. Banks may not open or maintain accounts or have a correspondent banking relationship with companies dealing in virtual currencies if that company is not registered with Fintrac. The dealers are regulated as money services businesses.
- **United States of America:** if money service businesses, including cryptocurrency exchanges, money transmitters, and anonymizing services do a substantial amount of businesses in the country, according to FinCEN director it is required to register with the U.S. FinCEN as a money services



business, design and enforce an anti-money laundering (AML) program, and keep appropriate the records and make reports to FinCEN, including Suspicious Activity Reports (SARs) and Currency Transaction Reports (CTRs).

- **El Salvador:** has the “Bitcoin Law” that recognizes Bitcoin as legal. It has an official bitcoin wallet sponsored by the government, the Chivo wallet. Only 12% of the Salvadoran consumers have used cryptocurrencies, and 93% of the companies examined reported receiving no payments in bitcoin during the first month after the legalization.
- **Brazil:** it is legal to use cryptocurrencies however they are not regulated. The Central Bank of Brazil stated that cryptocurrencies are unregulated and discouraged. This country has a document which specifies the cryptocurrency taxes in the country.
- **Russia:** Vladimir Putin said that Russia accepts cryptocurrencies’ role, and they may be used for payment. The Federal Tax Service of Russia declared them “not illegal”. Cryptocurrencies are taken as a monetary substitute. There was established a bill on digital financial assets. The exchange of cryptocurrencies for rubles and



foreign currency is allowed but it requires the intermediation of licensed operators.

- **United Arab Emirates:** this country has contradictory information. The Library of Congress says that all transactions in virtual currencies are prohibited. However, the Securities and Commodities Authority published a decision that says that establishes a regulatory framework for the offering, issuance, listing, and trading of crypto assets, but the crypto-assets providers must be onshore within the UAE.
- **India:** does not recognize them as legal tender and instead it will encourage blockchain technology in payment systems. The government banned the private cryptocurrencies in order to facilitate the creation of their own digital currency by the Reserve Bank of India.
- **China:** the financial institutions in this country are not allowed to facilitate bitcoin transactions and holding or trading cryptocurrencies. The complete ban was established on September 24, 2021, by the People's Bank of China and the State Administration of Foreign Exchange.
- **Japan:** in this country the law on cryptocurrency transactions must comply with the anti-money



laundering law and measures to protect investors. Cryptocurrencies are limited to property values that are stored electronically on electric devices, not a legal tender.

- **South Korea:** the only individuals allowed to trade in cryptocurrencies are adults, but they must do it with the register of a real name account at a bank. The bank and the exchange are responsible for verifying the customer's identity and enforcing other anti-money-laundering provisions.
- **Germany:** has a legislation that allows banks to sell and store cryptocurrencies since 2020. It considers cryptocurrencies as private money that can be used in multilateral clearing circles. They can be used for the purpose of tax and trading in the country, and it must pay a VAT.
- **Switzerland:** the use of cryptocurrencies is subject to anti-money laundering regulations and in some cases, it must need to obtain a banking license. A report from the Federal Council states that as they are not in a legal vacuum, they do not need legislative measures to be taken now.
- **Singapore:** The Monetary Authority of Singapore (MAS) stated that whether or not the businesses accept cryptocurrencies in exchange for their



goods and services it is a commercial decision in which MAS does not intervene. In 2014, the Inland Revenue Authority of Singapore issued a series of tax guidelines according to transactions that are used as a payment method for real goods and services, meaning that the businesses that deal with bitcoin currency exchanges, for example, will be taxed depending on their bitcoin sales.

- **France:** regulations were issued on the operation of digital currency professionals, exchanges, and taxation.
- **United Kingdom:** cryptocurrencies are unregulated and is treated as a foreign currency for most purposes like VAT and GST. The profits and losses on cryptocurrencies depend on capital gains tax. “CryptoUK”, an industry body, proposed a code of conduct that includes the provision of Anti-Money Laundering and extra security measures.

Furthermore, there are some banks that have invested in crypto and blockchain. Around 55% of the world's 100 biggest banks by assets under administration are investing directly or indirectly in companies and projects associated to virtual currencies and blockchain. The 13 most famous banks are:



- **Standard Chartered:** it has invested approximately \$380 million in 6 investments in the blockchain network of Ripple.
- **BNY Mellon:** invested around \$321 million in 5 projects, mostly in Fireblocks.
- **Citibank:** in 14 investments it has used around \$279 million in SETL.
- **UBS:** it has invested 5 times in Axoni and spending approximately \$266 million.
- **BNP Paribas:** it has made 9 investments with relatively \$236 million using contracts based on DAML programming language.
- **Morgan Stanley:** it did 3 investments in NYDIG and spent around \$234 million.
- **JP Morgan Chase:** ConsenSys received the support from this bank with 8 investments that are almost of \$206 million.
- **Goldman Sachs:** uses Coin Metrics and has made 8 investments that are appraised in \$204 million.
- **MUFG:** it has invested in Coinbase and Bitflyer around 6 times and spending about \$185 million.
- **ING:** it backed HQLAx in 6 investments that are around the \$170 million.
- **BBVA:** spent \$167 million in 5 investments in Covault.



- **Nomura:** one of the companies that are being supported by this bank is Quantstamp with 5 investments and \$146 million.
- **Barclays:** backs RealBlocks with 22 investments and \$12 million.

The idea of this committee is to decide whether the cryptocurrencies should be legalized or not and the regulations they must have, regarding the economic and social aspects and the impact that digital currencies may have in this fields.

Helpful Links

<https://www.investopedia.com/articles/forex/041515/countries-where-bitcoin-legal-illegal.asp>

<https://www.youtube.com/watch?v=rYQgy8QDEBI>

<https://news.kdischool.ac.kr/socio-economic-impact-of-blockchain-and-cryptocurrency/>

<https://www.youtube.com/watch?v=6Gu2QMTAkeU>



<https://www.newscientist.com/article/2289763-why-has-el-salvador-officially-adopted-bitcoin-as-its-currency/>

<https://www.europeanbusinessreview.com/top-20-countries-with-cryptocurrency-adoption/>

<https://www.investopedia.com/cryptocurrency-regulations-around-the-world-5202122>

<https://www.youtube.com/watch?v=1YyAzVmP9xQ>

<https://www.youtube.com/watch?v=vYOubFCTYdM>

<https://www.youtube.com/watch?v=s4g1XFU8Gto>



QARMAS

- Has your country legalized cryptocurrencies inside its territory? If yes, which cryptocurrency?
- Does your country support the legalization of cryptocurrencies? How?
- Has your country developed policies regarding cryptocurrencies? If yes, which are those policies?
- Which conditions proposes your country for the legalization of cryptocurrencies?
- What are some solutions that your delegation gives in order to prevent the damage of local economies due to cryptocurrencies?



- II. Topic B: Review of habeas data transnational policies and respect of industrial and intellectual rights

Historical Background

Habeas data, term from Latin meaning “you have the data”, came from the legal mechanisms in Europe which protect individual’s privacy. The Council of Europe’s 108th Convention on Data Protection of 1981 had the purpose to secure the personal data and it is considered as one of the predecessors of habeas data, in company with some German constitutional rights. The first country to adopt habeas data in its constitution was Brazil in 1988, followed by Colombia in 1991, Paraguay in 1992, Peru in 1993, Argentina in 1994, and Ecuador in 1996.

The first known use of the term “intellectual property” goes back to the 1760s and 1770s, when an article published in the Monthly Review in 1769 used the term. The modern usage was in 1808 as a heading title in a collection of essays. “Geistiges Eigentum”, intellectual property in German, was used as the base to create the North German Confederation which had the purpose to protect intellectual property. Then the administrative secretariats settled by the Paris



convention and the Berne convention, located in Berne and adopted the term intellectual property in the new combined title, the United International Bureaux of the Protection of Intellectual Property. Then in 1960, they moved the Bureaux to Geneva, and in 1967 they established the World Intellectual Property Organization (WIPO) as an agency of the United Nations. It was by this time that the term began to be used normally. Until recently, the purpose of intellectual property law was to give as little protection as possible to encourage innovation. The global intellectual property regime is in the middle of a paradigm change and the policies get more flexibility and greater access to knowledge, especially for developing countries because of the imminent discussion of the global IP regime, this was stated by Jean-Frédéric Morin, a professor at the Political Science Department of Laval University in Canada. The global IP regime was dominated by high standard protection characteristics of IP laws from Europe and United States, with the perception of applying it to many other countries and to numerous fields with the consideration over the social, cultural, or environmental values, and economic development in each country. WIPO created a set of 45



recommendations (which can be consulted in <https://www.wipo.int/ip-development/en/agenda/recommendations.html>) to adjust its activities to the unique needs of developing countries and the aspiration to reduce misinterpretations. Nevertheless, this paradigm shift has not been stated in a concrete legal reform at the international level. Trading has also been affected by the intellectual property. The Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement needs members from the World Trade Organization (WTO) to set some standards of legal protection, but the objective to have one protection law for this concept has not been decided yet because of the gap difference in the development level of a country. Despite this, the agreement was introduced in the global trading system and is one of the most comprehensive agreement reached by the international community.

Development

Habeas Data

Habeas data, according to the magazine Dinero, in Colombia, Habeas Data (law 1581, 2012) mainly allows people to know, update and rectify any information that has been collected about them on archives and data banks of private and public entities. The chart below shows the relation between privacy, data protection, and habeas data.

Interrelation between Privacy, Data Protection and Habeas Data



Taken from http://www.oas.org/dil/data_protection_privacy_habeas_data.htm

Summarizing, it has seven main premises:



1. The owners of the information have the right to quickly and easily find the information provided by them and administered by others.
2. The citizens will be able to access their personal data, free of cost, at least once a month and every time there are changes in the treatment policies of said data.
3. In case the owners of the information do not recall having subscribed to a specific database, they will be able to demand proof of the initial authorization that allowed their enrollment.
4. The owners of the data have a right to know for which purposes and by which means their information will be used.
5. They will also have a right to the update, correction, and deletion of the information whenever the owner finds it convenient.
6. Any administrator of the information will need to appoint a person or area that takes on personal data protection, which will also process any citizens' requests.
7. In case any of these rights are being violated, the owner of the information will be able to appeal to the control entity and file a formal complaint.



This writ allows the protection of the image, privacy, honor, self-determination of information and freedom of information of any individual. It gives each person the right to access, correct, and object to the processing of their information.

Habeas data is nowadays a concept implemented in several countries. Each one of them states different things for the same remedy. The list below will mention the countries that have implemented habeas data and the statutes that each has for it.

- **Argentina:** its version is one of the most complete ones to date. The article 43 of the constitution says that “Any person shall file this action to obtain information on the data about himself and their purpose, registered in public records or data bases, or in private ones intended to supply information; and in case of false data or discrimination, this action may be filed to request the suppression, rectification, confidentiality or updating of said data. The secret nature of the sources of journalistic information shall not be impaired.”
- **Brazil:** 1988 constitution states that “*habeas data* shall be granted: a) to ensure the knowledge of information related to the person of



the petitioner, contained in records or databanks of government agencies or of agencies of a public character; b) for the correction of data, when the petitioner does not prefer to do so through a confidential process, either judicial or administrative”

- **Colombia:** the article 15 of the 1991 Constitution states that “All individuals have the right to personal and family privacy and to their good reputation, and the State has to respect them and to make others respect them. Similarly, individuals have the right to know, update, and rectify information collected about them in data banks and in the records of public and private entities. Freedom and the other guarantees approved in the Constitution will be respected in the collection, processing, and circulation of data. Correspondence and other forms of private communication are inviolable. They may only be intercepted or recorded pursuant to a court order, following the formalities established by law. For tax or legal purposes and for cases of inspection, the oversight and intervention of the State may demand making available accounting records and other private documents within the limits provided by law.”



- **Ecuador:** the article 92 in the third chapter of the constitution states that “All persons, by their own rights or as legitimate representatives for this purpose, shall have the right to know of the existence of and gain access to documents, genetic data, personal data banks or files and reports about themselves or about their assets that appear in public or private entities, whether in hard copy or on electronic media. Likewise, they shall have the right learn about the use made of this information, its end purpose, the origin and destination of the personal information and the time of validity of the data file or bank. The persons responsible for the data banks or files will be able to disseminate the filed information with the authorization of the holder or the law. The person owning the data will be able to request the person in charge to allow access free of charge to the file, as well as update of the data and their correction, deletion, or annulment. In the case of sensitive data, whose file must be authorized by law or by the person owning the information, the adoption of the security measures that are needed shall be required. If the petition is not duly answered, the person can resort to a judge. The affected person can file a complaint for damages caused.”
- **Nicaragua:** the article 190 of the constitution poses “The writ of habeas data as guarantee for



the protection of personal data stored in archives, registries, data banks and other storage media of a public or private character whose publicity constitutes an invasion of privacy and is of relevance for the processing of sensitive data of persons in their private and family life. The remedy of habeas data is available to any person who wants to know by whom, when, for what purpose and in what circumstances his personal data were used and became the object of unwarranted publicity.”

- **Honduras:** article 182 of the constitution expresses “All persons have the right to access information about themselves or their property that is already contained in databases, public or private registries in an expedited and non-onerous manner, and in cases where it is necessary to access, correct, or remove it. This may not affect the privacy of journalistic information sources. A writ of habeas corpus or habeas data may be filed without requiring any special power or any formality, either orally or in writing, using any means of communication, at any time during working or nonworking days and free of charge. Only the constitutional chamber of the Supreme



Court of Justice may take cognizance of the protections of habeas data; it has the unavoidable obligation of proceeding immediately to stop any violation of the rights of honor, personal or familiar privacy, a one's own image. The authorities of courts may not dismiss a petition for a writ of habeas corpus or personal appearance and additionally have the inescapable duty of proceeding immediately to put an end to the violation of one's personal liberty or personal safety. In both cases, the authorities of the courts that fail to admit these constitutional petitions shall incur the corresponding criminal and administrative liability. Authorities that order and agents who undertake the concealment of the detained person, or who in any other way violate this guarantee shall be guilty of the offense of illegal detention."

- **Panama:** article 44 states "Every person may submit a writ of habeas data in order to enforce the right to access to his/her personal information stored in official or private data banks or registries, if in the latter case the data bank or registry is run by a business which provides a service to the public or deals with information. The writ may also



be brought in the same manner in order to enforce the right of access to public or freely accessible information, in conformity with the provisions of this Constitution. The writ of habeas data may be used to request the correction, updating, rectification, deletion, or protection of confidentiality of information and data of a personal character. The law shall determine which tribunals are competent to decide on the applications for habeas data which are examined in a summary procedure without need of representation by counsel.”

- **Mexico:** article 6 establishes “Information regarding private life and personal data shall be protected according to law and with the exceptions established therein. Every person shall have free access to public information, his/her personal data and in the case to the rectification of his/her personal data, without the necessity to argue interest or justification.”
- **Paraguay:** the article 135 of the constitution establishes that “Everyone may have access to information and data available on himself or assets in official or private registries of a public nature. He is also entitled to know how the



information is being used and for what purpose. He may request a competent judge to order the updating, rectification, or destruction of these entries if they are wrong or if they are illegitimately affecting his rights”

- **Peru:** article 200 of the Peruvian constitution states “The writ of habeas data, which operates in case of an act or omission by any authority, official, or person that violates or threatens the rights referred to in article 2, subparagraphs 5, and 6 of this Constitution.”
- **Dominican Republic:** the constitution of this country establishes the habeas data in article 70, which says specifically “All persons have the right to judicial action in order to gain knowledge of the existence of and to access the information about them which is held in registries or banks of public data and, in case of falseness or discrimination, to demand the suspension, rectification, update, and confidentiality of those, in accordance with the law. The secrecy of the sources of journalistic information may not be affected.”
- **Venezuela:** article 28 of the Bolivarian constitution establishes “Anyone has the right of access to the



information and data concerning him or her or his or her goods which are contained in official or private records, with such exceptions as may be established by law, as well as what use is being made of the same and the purpose thereof, and to petition the court of competent competence for the updating, correction or destruction of any records that are erroneous or unlawfully affect the petitioner's right. He or she may, as well, access documents of any nature containing information of interest to communities or group of persons. The foregoing is without prejudice to the confidentiality of sources from which information is received by journalist, or secrecy in other professions as may be determined by law." And article 281 also mentions habeas data.

As it can be seen, the countries listed which include habeas data in their constitutions are mostly from Latin America.

Intellectual and Industrial Property

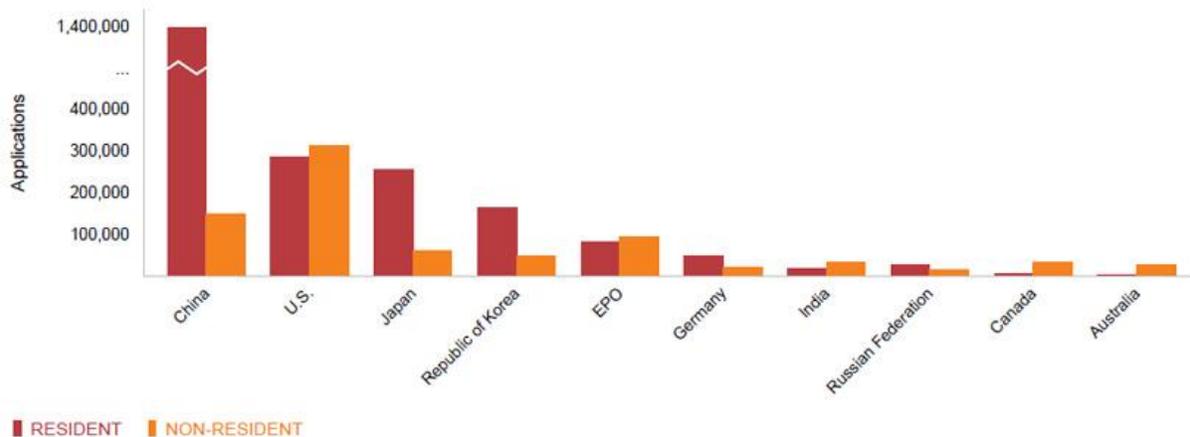
Intellectual property (IP) refers to the creations of the human minds such as inventions, designs, symbols, literary and artistic works, among others used in commerce (WIPO). They are protected in law by some



rights that provide creators protection for their original works, inventions, or the appearance of some products. There are four types of intellectual property rights defined by the World Trade Organization: patents, trademarks, industrial designs, and appellation of origin and geographical indication. The patents are used to prevent an invention from being created, sold, or used by another party different from the one that created the product without permission. A patent owner has every right to commercialize their patent, buying, selling, or license for using the invention. The patents have three categories that are utility patent which protects the creation of something that is useful, design patent that protects the showy design of the useful item, and the plant patent that protects the new kinds of plants produced by nonsexual means. Not all inventions have the possibility to acquire a patent, the inventions need to fulfill some conditions in order to be patentable. The conditions are that the product must be a patentable subject matter approved by the national law, it must have industrial applicability or utility, it must be novelty showing new characteristics in its technical field, it must show an inventive step in which someone with average knowledge of the technical field cannot



deduce, and it must be disclosed in a clear and complete way. The graph below shows the patent applications that some countries did in 2018.



Taken from https://www.wipo.int/about-wipo/en/offices/russia/news/2019/news_0014.html

Trademarks are a distinctive sign that allows consumers to efficiently identify the specific goods and services that the company produces. It usually comes as a text, symbol, sound, smell, and/or color scheme, and it can protect a set of products or services. Industrial design is used for the protection of new forms of a body, picture, drawing, contours, composition of colors or a combination of these features in a specific product, and it must be able to be reproduced by industrial means. It should be made by different physical parts joined in a single physical unit. Appellation of origin and geographical indication



is used for the protection of the geographical name. It marks the products produced by a natural or a legal person on a certain geographical area. The appellation of origin refers to the name of the country, region, or place marking the product which originates from that region, and the geographical indication refers to the geographical name of the country, region, or place marking the product in quality and characteristics attributed to the geographical origin. Some other common industrial property rights are copyright and trade secrets. Copyright covers the tangible forms of creations and the original works, and its owner has the exclusive right to commercialize the creation of the author. Trade secrets are the secrets that a business has, such as formulas, systems, strategies, among others, which are confidential and cannot be part of the unauthorized commercial use by other parties. It can help a business to gain a competitive advantage, which is the capacity of a company to attract more customers despite the price or quality of a product because they sell a lifestyle more than a product.



The table below shows the instruments of protection of industrial property, the international agreements regarding them, and the entity that administrates it.

Instruments of Protection	What they protect	Relevant International Agreements	Year	Administrated by
Patents and utility models	Inventions	- Paris Convention for the Protection of Industrial Property	- 1883 - 1970 - 1977 - 1971 - 2000	WIPO

		<ul style="list-style-type: none"> - Patent Cooperation Treaty - Budapest treaty on the International Recognition of the Deposit of Microorganisms for the Purpose of Patent Procedure - Strasbourg Agreement Concerning the International Patent Classification - Patent Treaty Law 		
Industrial designs	Independently created industrial designs that are new or original	<ul style="list-style-type: none"> - Hague Agreement concerning the International Registration of Industrial Designs - Locarno Agreement Establishing an International Classification for Industrial Designs 	<ul style="list-style-type: none"> - 1925 - 1968 	WIPO
Trademarks	Distinguishing signs	<ul style="list-style-type: none"> - Madrid Agreement for the 	<ul style="list-style-type: none"> - 1891 - 1891 	WIPO

<p>certification marks and collective marks</p>	<p>and symbols</p>	<p>Repression of False or Deceptive Indications of Source on Goods</p> <ul style="list-style-type: none"> - Madrid Agreement Concerning the International Registration of Marks - Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks - Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks - Vienna Agreement Establishing an International Classification of 	<ul style="list-style-type: none"> - 1989 - 1957 - 1973 - 1994 - 2006 	
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		<p>the Figurative Elements of Marks</p> <ul style="list-style-type: none"> - Trademark Law Treaty - Singapore Treaty on the Law of Trademarks 		
Geographical indications and appellations of origin	Geographical names linked to a country, region, or locality	<ul style="list-style-type: none"> - Lisbon Agreement for the Protection of Appellations of Origin and their International Registration 	- 1958	WIPO
Integrated circuits	Layout-designs	<ul style="list-style-type: none"> - Washington Treaty on Intellectual Property in Respect of Integrated Circuits 	- 1989	WIPO
Protection against unfair competition	Honest Practices	<ul style="list-style-type: none"> - Paris Convention for the Protection of Industrial Property 	- 1883	WIPO

The industrial property rights may be transferred by agreements that base in conditions prescribed by the Industrial Property Law, established by the WTO, and other provisions. The agreement must be filled in a written form and the signatures must be certified by a



notary. This agreement must contain the duration of license, scope of license, the exclusiveness of the license, and the amount of remuneration paid for the license right.

The main purpose of intellectual property law is to encourage the creation of more intellectual goods for consumers. The property rights may profit the creators, this gives an economic incentive for their creation, and this way the purpose of the intellectual property may be achieved. The exclusive rights allow the owners of intellectual property to get some benefits from the property created, this leads to a financial incentive. The maintenance of the WIPO treaty and other agreements related to the topics protect the economic growth across all industries and all over the globe. Besides the economic arguments for intellectual property, there are also some moral arguments that should be considered. The natural rights or justice argument expresses that every person has the natural right over the labor and products made by their body, all this based on Locke's idea. The utilitarian-pragmatic argument states that a society that protects the private property is more effective and prosperous, and the intellectual property rights oversee to maximize the social utility. Without the



intellectual property there will be an absence of incentive to produce new ideas and products. The personality argument is based on a quote that affirms “Every man has the right to turn his will upon a thing or make the thing an object of his will, that is to say, to set aside the mere thing and recreate it as his own” (Georg Wilhelm Friedrich Hegel), and which proposes that the inventions are an extension of the personality of the creator.

Notwithstanding, there are not only good things to say about the intellectual property. There are some critics to intellectual property such as the ones in the free culture movement, which point the intellectual monopolies as a harming event, because they prevent progress and promote the concentrated interests to the damage of the masses. As a response to these critics, the UN Committee on Economic, Social, and Cultural Rights (CESCR) published a document called “Human rights and intellectual property” that discussed that intellectual property tends to be managed by economic goals when it should be managed as a social product, and to serve human well-being the systems must respect and align to human rights laws. After this, in 2004, the WIPO’s General Assembly adopted a declaration called The



Geneva Declaration on the Future of the World Intellectual Property Organization that examines the focus of the WIPO, and states that this focus should be the needs of developing countries, taking the IP as a tool for development and not as a threat to it.

Another problem is the use in corporate tax avoidance, due to the fact that it has become a key component of the leading multinational tax avoidance base erosion and profit shifting (BEPS), that consists of strategies to change the profits from higher-tax jurisdictions to lower-tax jurisdictions, and from this the Organization for Economic Co-operation and Development (OECD) assures that approximately \$100.240 billion are lost in annual taxes revenues due to BEPS. Between 2017 and 2018, the United States and the European Union decided to leave the OECD BEPS Project, that oversees setting up an international framework to combat tax avoidance by multinational enterprises using BEPS tools, and they created their own frameworks. The US created the Tax Cuts and Jobs Act of 2017, and the EU commission created the Digital Services Tax.

Moreover, there is a gender gap in intellectual property due to systemic bias, sexism, and discrimination within the intellectual property space,



not enough representation in science, technology, engineering, and mathematics (STEM), and barriers to entry of needed finance and knowledge to obtain intellectual property rights, and more. In 2020, WIPO presented statistics that demonstrate that only 16.5% of patent holders are women, this number is low compared to men.

Every country has its own policies according to the Intellectual property rights (IP), nevertheless for member states of the World Trade Organization (WTO) there are similarities between the intellectual property law and enforcement procedures. Currently there are 164 member states.

The World Intellectual Property Organization (WIPO) is the global forum for intellectual property (IP) services, policy, information, and cooperation. It is an intergovernmental organization, one of the specialized agencies of the United Nations system of organizations. The main objectives are:

- I. To promote the protection of intellectual property worldwide
- II. To ensure administrative cooperation among the intellectual property Unions established by the treaties that WIPO administers.



The activities the WIPO undertakes with the intention of achieving the main objectives are:

- I. Normative activities: the setting of norms and standards for the protection and enforcement of intellectual property rights through the conclusion of international treaties.
- II. Program activities: legal and technical assistance to States in the field of intellectual property.
- III. International classification and standardization activities: cooperation among industrial property offices concerning patent, trademark, and industrial design documentation.

Registration and filing activities: services related to international applications for patents for inventions and for the registration of marks and industrial designs.

Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

It is an international legal agreement between all the members of the World Trade Organization (WTO), it is the most comprehensive multilateral agreement on intellectual property. It plays an essential role in facilitating trade in knowledge and creativity, in resolving trade disputes over IP, and in assuring WTO members the latitude to achieve their domestic policy



objectives. It frames the IP system in terms of innovation, technology transfer and public welfare.

The three main features of the agreement are:

- **Standards:** It establishes the minimum standards of protection that must be provided by each nation that makes part of the agreement. Each of the main elements of protection is defined, namely the subject-matter to be protected, the rights to be conferred and permissible exceptions to those rights, and the minimum duration of protection.
- **Enforcement:** it clarifies the domestic procedures and remedies for the enforcement of intellectual property rights. The agreement set general principles applicable to all Industrial Property Rights (IPR) enforcement procedures. Moreover, it contains conditions over civil and administrative procedures and remedies, provisional measures, special requirements related to border measures and criminal procedures. That specifies the procedures and resources that must be available to enforce the rights effectively.
- **Dispute settlement:** The Agreement brings under the WTO's dispute settlement procedures



the disputes between WTO Members regarding the respect of the TRIPS obligations.

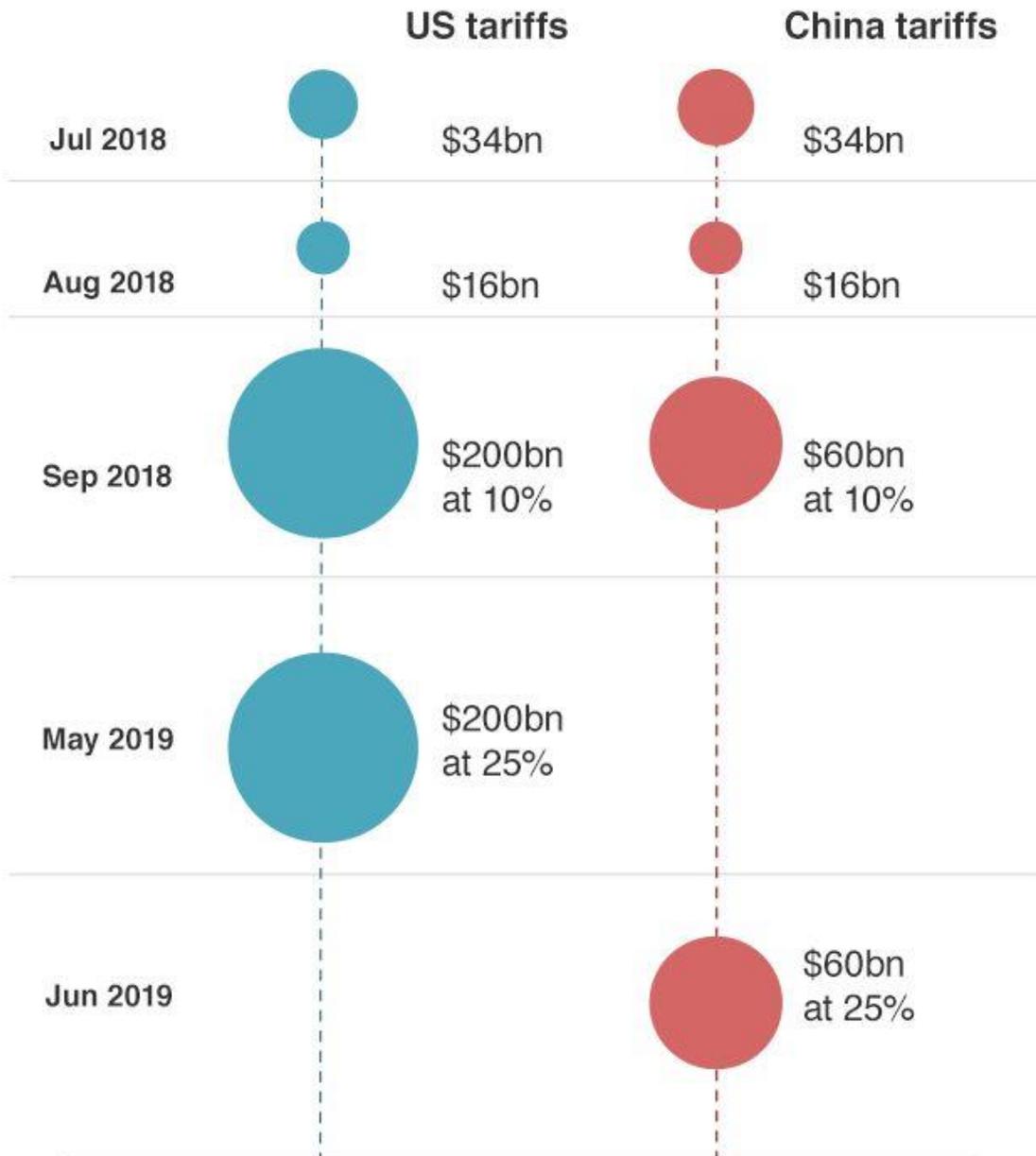
China-United States Trade War

China and the United States have a constant competition between them for the development of new technologies. The China-United States trade war is an economic conflict between the two countries mentioned. In 2018, US president Donald Trump announced that some tariffs. As a response, China decided to cancel some orders exported from the US and stated that the US had launched a trade war as a consequence of applying a 25% tariff on \$50 billion of Chinese exports. China, however, did the same and



applied its own tariffs on \$50 billion of US goods. China filed several complaints with the World Trade Organization (WTO) for some products and for the additional tariffs that the US was imposing. Later that year, the White House stated “both parties will immediately begin negotiations on structural changes with respect to forced technology transfer, intellectual property protection, non-tariff barriers, cyber intrusions and cyber theft. If at the end of 90 days, the parties are unable to reach an agreement, the 10% tariffs will be raised to 25%.” The chart below shows the increase on the tariffs imposed by both countries, meaning a trigger to the trade war.

How the US-China trade war has escalated



September 2019 – December 2019

The US and China have threatened to impose new tariffs and increase existing ones.

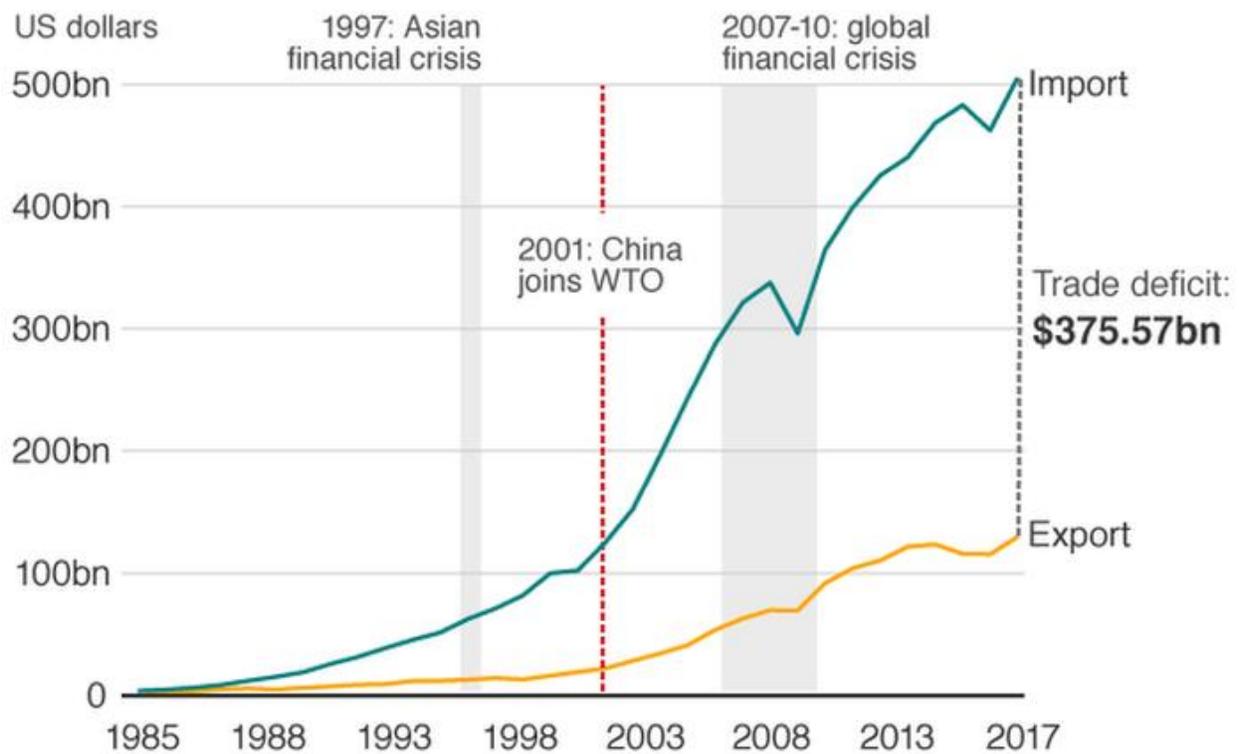
Source: BBC research



Taken from <https://www.bbc.com/news/business-45899310>

After the G20 Osaka Summit, Trump announced that Xi Jinping and him agreed an amnesty in the trade war, expressing that prior tariff will remain but no future tariffs will be applied.

US trade in goods with China



Source: US Census Bureau

BBC

Taken from <https://www.bbc.com/news/business-44529149>

The diagram above shows the trade deficit of the United States. The US imported way more than it exported, it imported around \$375.57 billion more than what it exported.

On January 15, 2020, Donald Trump, US president, and Liu He, China's Vice Premier, signed the US-China



Phase One trade deal in Washington D.C. The “Economic and Trade Agreement between the United States and the People’s Republic of China” took effect from February 14, 2020, which focuses on intellectual property rights in Chapter 1, technology transfer in Chapter 2, food and agricultural products in Chapter 3, financial services in Chapter 4, exchange rate matters and transparency in Chapter 5, expanding trade in Chapter 6, and finally in Chapter 7 the bilateral evaluation and dispute resolution procedures. With the trade war, the economic growth of the entire globe was slowed.

During the dispute, the national treatment obligation of TRIPS was violated by China, as alleged by the United States, especially the articles 3 and 28 which state that:

Article 3: “1. Each Member shall accord to the nationals of other Members treatment no less favorable than that it accords to its own nationals with regard to the protection ⁽³⁾ of intellectual property, subject to the exceptions already provided in, respectively, the Paris Convention (1967), the Berne Convention (1971), the Rome Convention or the Treaty on Intellectual Property in Respect of Integrated Circuits. In respect of performers, producers of



phonograms and broadcasting organizations, this obligation only applies in respect of the rights provided under this Agreement. Any Member availing itself of the possibilities provided in Article 6 of the Berne Convention (1971) or paragraph 1(b) of Article 16 of the Rome Convention shall make a notification as foreseen in those provisions to the Council for TRIPS.

2. Members may avail themselves of the exceptions permitted under paragraph 1 in relation to judicial and administrative procedures, including the designation of an address for service or the appointment of an agent within the jurisdiction of a Member, only where such exceptions are necessary to secure compliance with laws and regulations which are not inconsistent with the provisions of this Agreement and where such practices are not applied in a manner which would constitute a disguised restriction on trade.”

Article 28: “1. A patent shall confer on its owner the following exclusive rights:

- (a) where the subject matter of a patent is a product, to prevent third parties not having



the owner's consent from the acts of: making, using, offering for sale, selling, or importing ⁽⁶⁾ for these purposes that product;

where the subject matter of a patent is a process, to prevent third parties not having the owner's consent from the act of using

- (b) the process, and from the acts of: using, offering for sale, selling, or importing for these purposes at least the product obtained directly by that process.

2. Patent owners shall also have the right to assign, or transfer by succession, the patent and to conclude licensing contracts."

The idea of this committee is to debate whether habeas data should be implemented among all the international community and under what regulations, and how should the delegations reinforce the protection of intellectual and industrial properties. For this, the economic and social aspects of each country and of the rest of the countries should be considered.



Helpful Links

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<https://www.oecd.org/tax/beps/about/#:~:text=What%20is%20BEPS%3F,they%20suffer%20from%20BEPS%20disproportionately.>

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<https://www.piie.com/blogs/trade-investment-policy-watch/trump-trade-war-china-date-guide>



QARMAS

- Is your delegation part of any agreement regarding habeas data, intellectual, and/or industrial property? If yes, which one?
- Has your delegation committed any infringements to a habeas data, intellectual, and/or industrial property? If yes, what did it consist of? What were the consequences?
- Does your delegation plan to protect these rights? How?
- What are some solutions that your delegation proposes in order to achieve the unlimited protection of industrial and intellectual rights? And to protect habeas data?
- How was your country affected by the United States-China trade war?



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