

The New Politics of Pharmaceutical Patents in Developing Countries

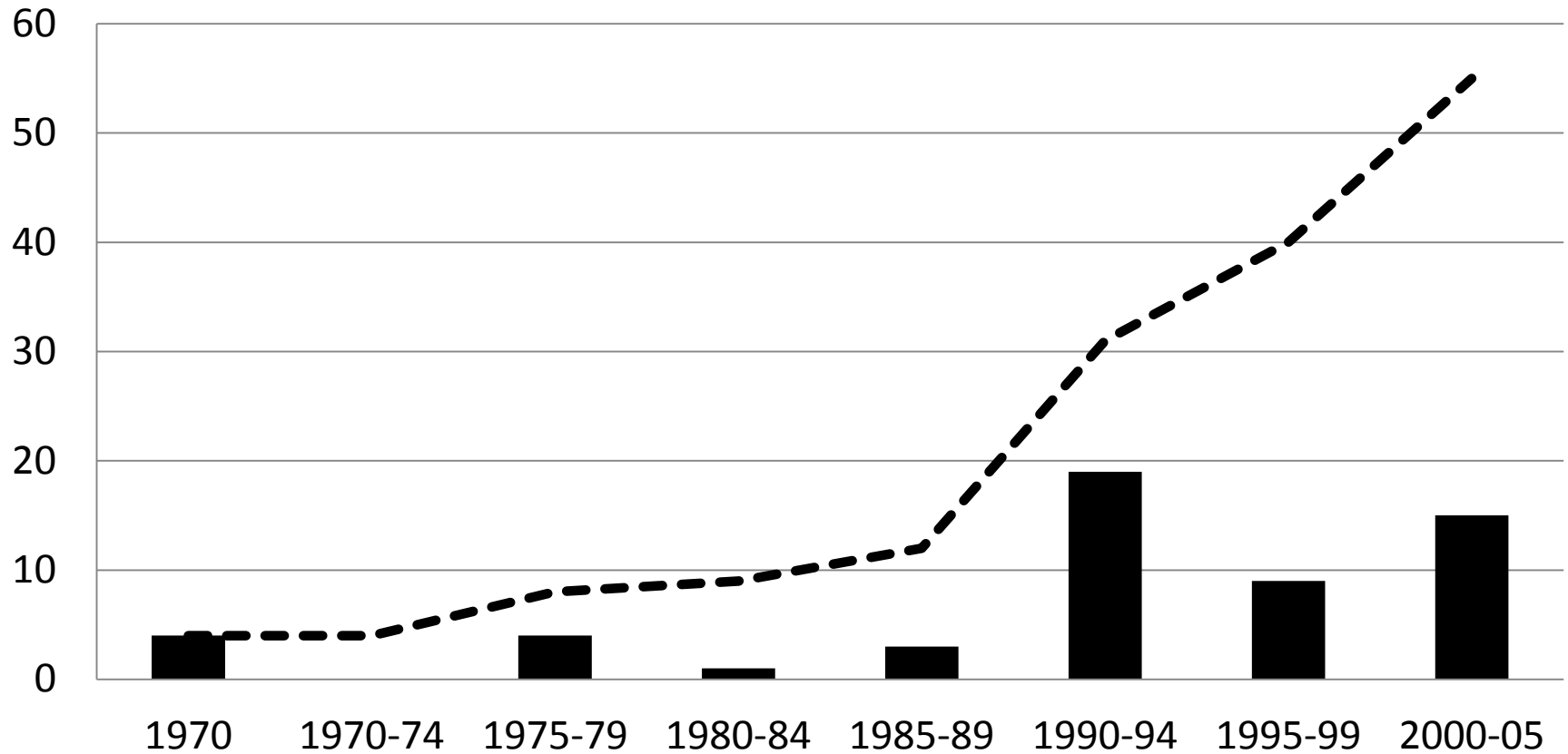
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Spread of Pharmaceutical Patentability



- 55 countries -- not comprehensive
- Data from LaCroix and Liu

Three Waves Research

1. The Globalization of IP

- How IP became “trade-related”
- Why pharmaceutical patenting became obligatory
- DV: IP obligations in international agreements

2. The Politics of Implementation

- How countries respond to international changes and obligations
- Variation in national patent systems
- DV: National policy choices

3. Effects of Policy Choices

- Not just what countries do, but what happens
- DV: outputs of policies/institutions

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The Politics of Implementation: Two Periods of Conflict

1. *Establishing* Pharmaceutical Patent Systems in 1990s
 - When and how (transition periods, retroactivity)
 2. *Revising* New Pharmaceutical Patent Systems in 2000s
 - How systems function
- ➔ Persistent divergence in context of over-arching convergence

Accounting for cross-national and within-country variation

- Relative strengths of local vs. transnational pharma sectors
- Vulnerability to external pressures (trade structure)
- Challenges to health systems generated by patents

The Long Shadow of Early Choices (1): Politics

Policy choice in 1990s (T1) → different patterns of adjustment and changes to industry structure → variation in coalition-building possibilities to respond to challenges in 2000s (T2)

- Iterated and path dependent process

Examples from Latin America

- Argentina and Mexico : continuity from 1990s to 2000s (opposite directions)
- Brazil: change of course from 1990s to 2000s, but still complicated by effects of earlier choices
 - Shadlen, *Global Change, National Responses: Social Coalitions and the Political Economy of Pharmaceutical Patents in Latin America* (in process)

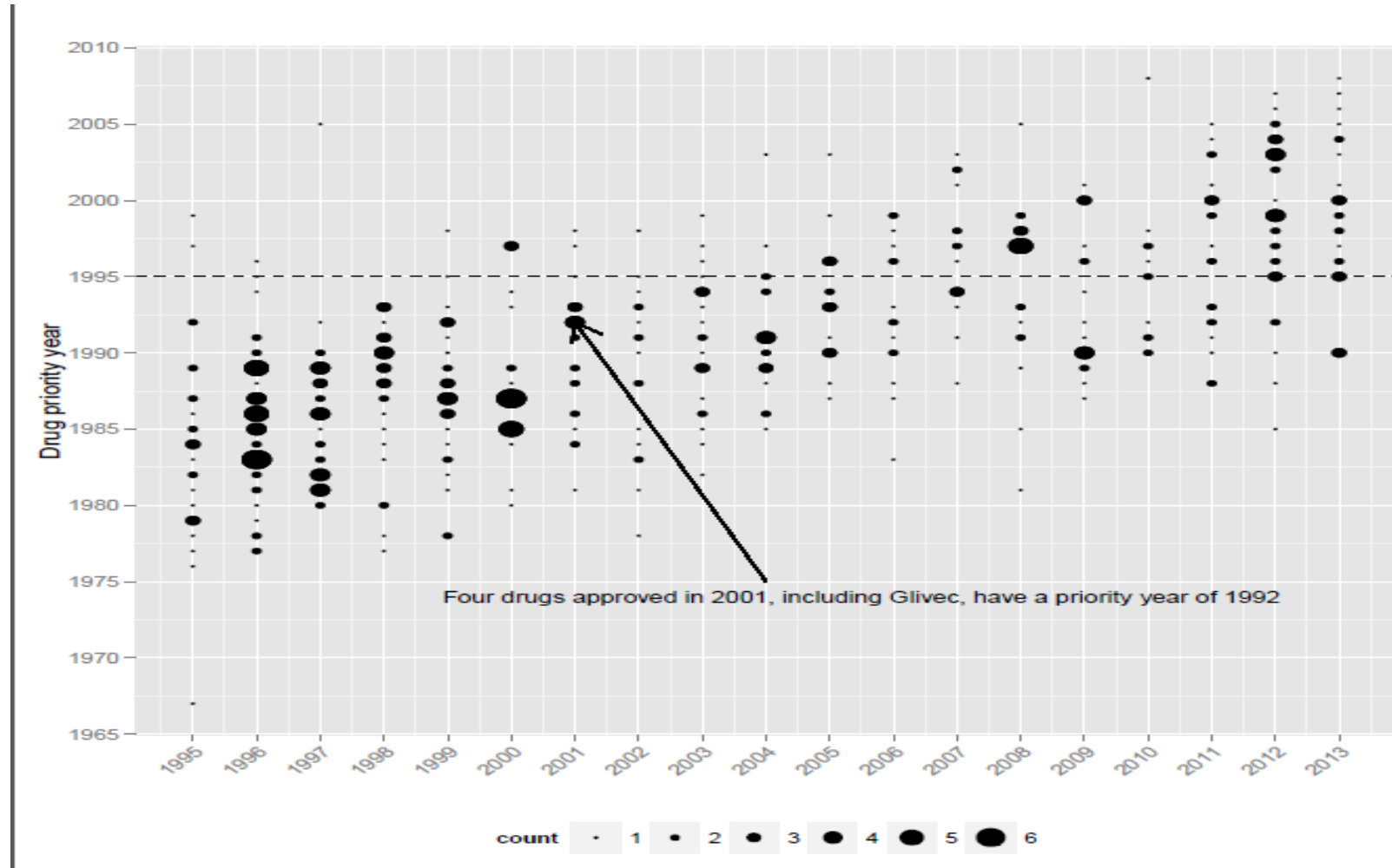
The Long Shadow of Early Choices (2): Patenting Trends and Patterns

Many of the effects of TRIPS on pharmaceutical patenting are still driven by first choices in 1990s

- Brazil vs. India
- Brazil grants fewer *patents* but has many more *drugs* protected by patents (FDA sample, 72 v 43)
- Brazil: “pipeline” (pre-1995 applications and patents)
- India: strict adherence to 1995 cut-off
- Fewer drugs were eligible to be patented in India so less patented, *even with higher grant rate*
 - Sampat and Shadlen, “TRIPS Implementation and Secondary Pharmaceutical Patenting in Brazil and India,” *Studies in Comparative International Development* 50 (June 2015)

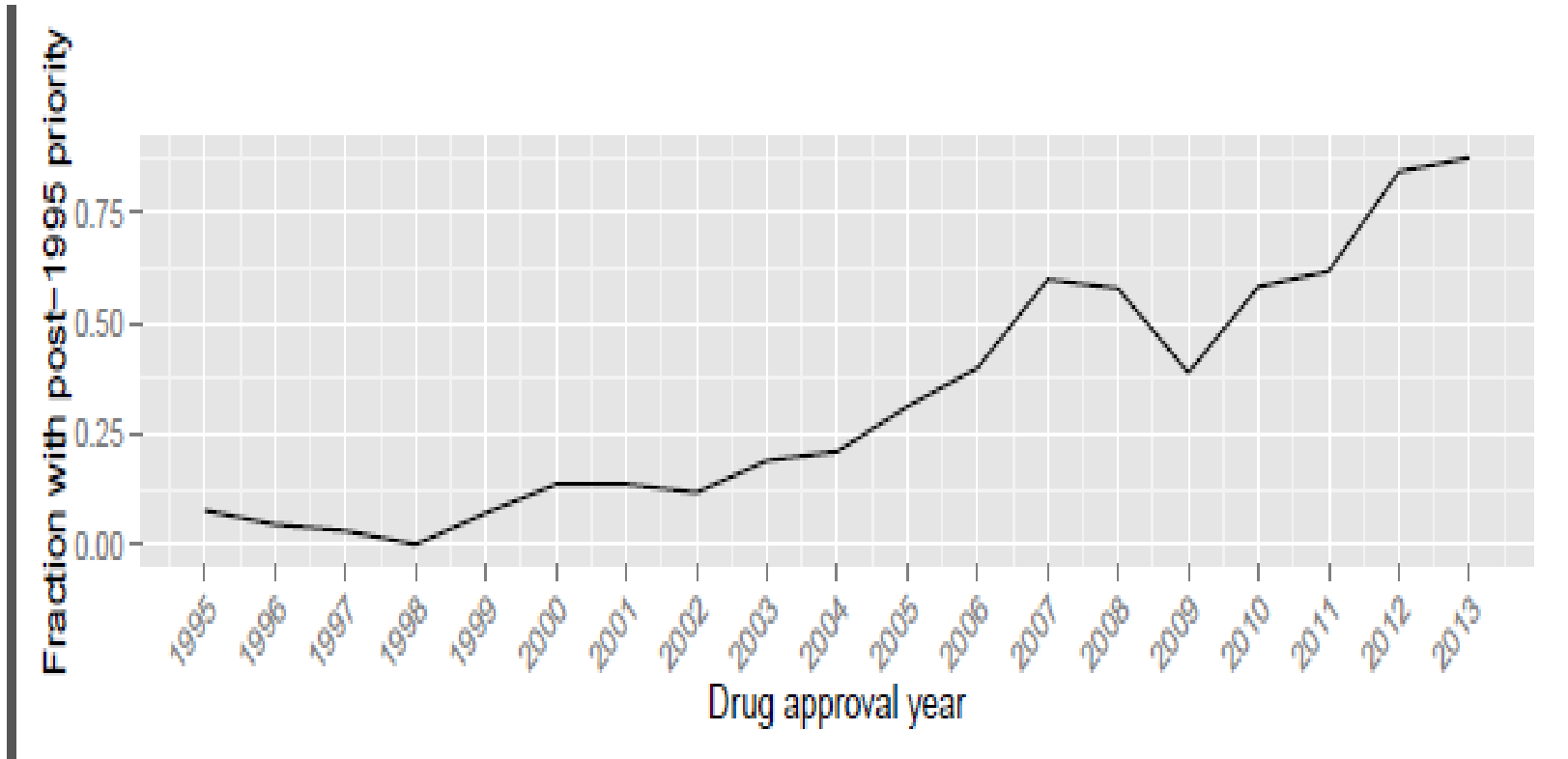
The Importance of 1995:

Priority Date of First Patent by Year of Drug Launch



Source: Sampat and Shadlen, “Drug Patenting in India: Looking Back and Looking Forward,” *Nature Reviews: Drug Discovery* 14 (August 2015).

The Transition Continues



Source: Sampat and Shadlen, “Drug Patenting in India: Looking Back and Looking Forward,” *Nature Reviews: Drug Discovery* 14 (August 2015).

Conclusions

1. Global Sea Change
2. Effects depend on national-level implementation
3. We are just now entering the post-transition period