

Technical and Financial Co-operation Needs for Implementation of the WTO TRIPS Agreement in Sierra Leone

Final Report of Needs Assessment Diagnostic

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*For ICTSD on behalf of the Ministry of Trade and Industry,
Government of Sierra Leone*



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LIST OF ACRONYMS AND ABBREVIATIONS

| | |
|--------|--|
| ABS | Access & Benefits Sharing |
| ADB | African Development Bank |
| ARIPO | African Regional Intellectual Property Organisation |
| AU | African Union |
| Berne | Berne Convention for the Protection of Literary & Artistic works |
| CBD | Convention on Biological Diversity |
| DAC | Development Assistance Committee |
| DFID | UK Department of International Development |
| EC | European Commission |
| EPO | European Patent Office |
| EU | European Union |
| FAO | Food & Agriculture Organisation |
| FDI | Foreign Direct Investment |
| GIs | Geographical Indications |
| Hague | Hague Agreement Concerning the International Deposit of Industrial Designs |
| ICC | International Chamber of Commerce |
| ICTSD | International Centre for Trade and Sustainable Development |
| IF | Integrated for Trade Related Technical Assistance to LDCs |
| IMF | International Monetary Fund |
| IPRs | Intellectual Property Rights |
| IPRTA | Intellectual Property Rights Technical & Financial Assistance |
| IPRWG | Intellectual Property Rights Working Group |
| ITC | International Trade Centre |
| JPO | Japanese Patent Office |
| LDC | Least Developed Country |
| Madrid | Madrid Agreement Concerning the International Registration of Marks |
| MTI | Ministry of Trade & Industry |
| OARG | Office of the Administrator & Registrar General |
| OECD | Organisation for Economic Co-operation and Development |
| Paris | Paris Convention for the Protection of Industrial Property |
| PCT | Patent Co-operation Treaty |
| PRSP | Poverty Reduction Strategy Paper |
| PSDSP | Private Sector Development Strategy Programme |
| R&D | Research & Development |
| S&DT | Special & Differential Treatment |
| TRIPS | Agreement on Trade Related Aspects of Intellectual Property |
| UNCTAD | United Nations Conference on Trade and Development |
| UNDP | United Nations Development Programme |
| UNESCO | United Nations Education, Science & Culture Organization |
| UNICEF | United Nations Children's Fund |
| UNIDO | United Nations Industrial Development Programme |
| UPOV | International Convention for the Protection of New Varieties of Plants |

| | |
|-------|--|
| USAID | United States Agency for International Development |
| USPTO | United States Patent and Trademark Office |
| WCO | World Customs Organization |
| WHO | World Health Organisation |
| WIPO | World Intellectual Property Organisation |
| WTO | World Trade Organisation |

FOREWORD

As part of its decision of 29 November 2005 extending the transition period for Least Developed Countries (LDCs) to implement the Trade Related Agreement on Intellectual Property Rights (TRIPS Agreement), the World Trade Organization (WTO) Council for TRIPS also mandated LDC members to provide as much information as possible to the Council, preferably by 1 January 2008, on their individual priority needs for technical and financial co-operation in order to assist them in taking steps necessary for implementing the Agreement. To date, however, no LDCs have been able to respond substantively to this invitation and make such submissions to the Council.

The need to make better use of this valuable opportunity for LDCs was discussed by representatives from a group of developed and developing countries, international institutions and Non Governmental Organisations (NGOs) at the Intellectual Property Technical Assistance Forum (IPRTA Forum) meeting sponsored by the UK Department of International Development (DFID) in Bangkok in December 2006.¹

As a follow-up to the meeting, a pilot project on *“Improving Intellectual Property Technical Cooperation for Least Developed Countries to Facilitate the Implementation of the TRIPS Agreement”* was established by ICTSD’s Programme on IPRs and Sustainable Development in partnership with Saana Consulting. The pilot project is aimed at providing technical support to undertake, upon request, a comprehensive diagnostic study and assessment of technical and financial assistance needs on IP and development in LDCs. The project also seeks to facilitate the response by LDCs and their development partners to the invitation made by the WTO Council for TRIPS in 2005.²

As part of the pilot project, a Diagnostic Toolkit was prepared to aid the assessment of needs for IPR technical and financial assistance (IPRTA) in LDCs.³ Based on an earlier version of a common IPRTA needs assessment tool developed by Mart Leesti and Tom Pengelly at Saana Consulting in December 2004, and an ongoing process of stakeholder dialogue, consultation and peer review organized by ICTSD, the Diagnostic Toolkit has been specifically adapted for use in LDCs as they face the challenge of implementing the objectives, principles, rights and obligations of the WTO TRIPS Agreement, whilst taking proper account of the objectives, principles flexibilities, safeguards and Special and Differential Treatment (S&DT) provisions they enjoy because of their LDC status and low levels of human, social and economic development.

Following consultations in Geneva and the online publication via the ICTSD website of the draft Diagnostic Toolkit in early May 2007, ICTSD received expressions of interest from a number of LDCs wishing to participate in conducting a national assessment of their needs for technical and financial co-operation, with a view to submitting the resultant information to the WTO Council for TRIPS. Two such pilot national needs assessments were undertaken in July 2007 in Sierra Leone⁴ and Uganda.⁵

The approach to the preparation of each needs assessment report has been based on the overall objective of providing a roadmap for Sierra Leone and Uganda, with their development partners, in building their national IP and technological infrastructure on a sustainable, pro-development basis, and taking the necessary steps for implementation of the objectives, principles, rights and obligations of the TRIPS Agreement.

Full account has been taken of the LDC status of Sierra Leone and Uganda and the country’s right to benefit from the S&DT provisions for LDCs under the TRIPS Agreement, specifically maximum policy flexibility in building a sound and viable technological base and safeguarding public health and nutrition; an extended transition period; and obligations of developed country members to provide technical and financial assistance on mutually agreed terms, as well as incentives for transfer of technology.

A common template has been used for the preparation of the needs assessment diagnostic study reports for both countries in the pilot project, based on the structure of the Diagnostic Toolkit. The two reports are structured as follows:

- Chapter 1 provides a **summary of the priority needs for technical and financial co-operation** identified in the diagnostic study.
- Chapter 2 describes the overall **national development context**, including poverty status, economic and innovation structure, form of government, natural resource base, and key human and social development indicators.
- In Chapter 3, the existing **IP policy and legal framework** is analysed and recent developments are described. Priority needs for technical co-operation and financial assistance are then identified and described.
- In Chapter 4, the existing arrangements for **IP administration** are analysed. Priority needs for technical co-operation and financial assistance are then identified and described.
- In Chapter 5, the existing arrangements for **IP enforcement and regulation** are analysed. Priority needs for technical co-operation and financial assistance are then identified and described.
- In Chapter 6, the existing arrangements for **promoting use of the IP system for development and promoting innovation, technology transfer and creativity** are analysed. Priority needs for technical co-operation and financial assistance are then identified and described.

For both Sierra Leone and Uganda, responding to the identified priority needs for IPR technical co-operation, financial assistance and capacity building will need to be taken forward over the medium term in a comprehensive, sustainable manner, consistent with international agreed principles for aid effectiveness as set out in the 2005 Paris Declaration.⁶ In this case, for each country, the optimum solution is likely to be the development and implementation of a multi-partner, national IPR capacity building programme, co-ordinated by a lead ministry (such as the Ministry of Trade & Industry) and comprising several sub-projects led by relevant key agencies. The programmes could begin with an initial 5 year phase from July 2008 to July 2013. In all probability, further phases of the programmes would be required in both countries.

Such an approach would provide the best prospects for co-ordinating the delivery of technical and financial assistance in Sierra Leone and Uganda for developing the national IP and technological infrastructure on a sustainable basis and taking the necessary steps for implementation of the objectives, principles, rights and obligations of the TRIPS Agreement. In order to be effective, the programme approach should take account of lessons learned to date from IPRTA activities and, most importantly, the limited absorptive capacity and resources of institutions in LDCs. In specific terms, this entails that the programme approach should have the following key design features built-in:

- An initial heavy emphasis on building the capacity of relevant Government agencies to take the lead in co-ordinating, implementing and monitoring projects and activities within the programme and the linkages to related Government policies and programmes.
- A medium-term, strategic common planning framework, with a gradual, patient level of sustained activity supported by the Government and its development partners over the programme period rather than a series of *ad hoc* events, peaks, troughs and interruptions.
- A strong development focus to the programme, emphasising the need to involve a broad range of stakeholders from across government, the private sector and civil society and to gain their support for the protection of IPRs in the country by raising awareness and demonstrably contributing to national social and economic goals, building a sound and viable technological base and meeting international obligations.

- Harmonized, predictable and transparent arrangements for programme funding, management and co-ordination by development partners, with emphasis on upgrading and utilizing the Government's own public financial and procurement systems as far as possible.
- Mechanisms for regular multi-partner joint reporting, review and evaluation of a common set of expected results, impacts and outcomes, as opposed to multiple discrete systems which place a heavy and unnecessary burden on the lead government agencies.

The detailed design development of such programmes in Sierra Leone and Uganda would require technical assistance and thorough consultations between Government, national stakeholders and the countries' development partners. This would probably take at least 6-12 months to complete.

For both countries, the starting point for programme development could be based on the Outline Programme Planning Matrix of needs identified, main activities proposed to address these needs, lead agencies involved, provisional timings, and possible development partners, provided at Annex A of both of reports of the national needs assessment diagnostic studies.

However, we note that the final decisions on when and how best to follow-up the reports of their needs assessment diagnostic studies, of course, rests with Sierra Leone and Uganda.

A specific issue which each country will need to consider relates to their membership of the ARIPO system for patents, trademarks, industrial designs and copyright, and in particular both countries' present dependence upon ARIPO for most of their substantive patent examination functions. This therefore raises the question as to whether it would make sense for Sierra Leone and Uganda, as well as other ARIPO members, if an assessment of ARIPO's needs for technical assistance and financial co-operation should be undertaken and implemented in parallel with their own national programmes.

1. SUMMARY OF NEEDS ASSESMENT DIAGNOSTIC

I. IP Policy and Legal Framework

a) *Strengthening IP policy/legal development and co-ordination capacity in the Ministry of Trade & Industry (MTI)*

A clear priority is to build on recent gains and establish a small IP policy unit within the Policy, Planning and Research Division of the MTI. The unit would be responsible for providing advice to Government on all aspects of IP and industrial policy, including actively facilitating and co-ordinating policy inputs from other stakeholders with regards to linkages with public health, education, agriculture, competition, science and technology, environment, communications and culture sectors. Financial assistance is required for an initial five-year period to enable the MTI to recruit two full-time IP Policy Analysts in the Unit, as well as logistical support to resource their duties, functions and consultative work with other stakeholders from the sectors identified above (e.g. laptop computers, books, travel and communications expenses).

b) *Supporting IP legislative development and policy coherence*

The development of national IP policy and a legislative framework on IPRs should be done in a coherent manner with other related policies in areas including science and technology, health, competition, agriculture, and environment. This is not an easy process. There is a need to understand linkages and best options for implementation in light of different levels of development and national priorities. In the short-term, the need for professional legislative drafting support in priority areas of updating patent, industrial design, trademark and copyright legislation is being met under current bilateral assistance. The development of national legislation utilizing TRIPS flexibilities and safeguards, such as those needed to address access to medicines, requires special attention in the legislative reform process.

Over the longer-term, specialized technical co-operation will continue to be needed to support

future legislative and regulatory frameworks in new and related areas to IPR protection for Sierra Leone, including, potentially, geographical indications, plant variety protection, integrated circuit topographies, competition policy, protection of traditional knowledge, Access & Benefits Sharing (ABS) regulation and taking full account of the flexibilities and safeguards in the TRIPS Agreement as well as other relevant multilateral agreements.

c) *Enabling Sierra Leone's regular and effective participation in meetings of the WTO Council for TRIPS and at WIPO*

Facilitating Sierra Leone's participation in negotiations for the WTO and WIPO is highly recommended. This is the case not only for IP deliberations but also, among others, for Aid for Trade and agriculture. To facilitate increased engagement in negotiations, support for the establishment of a small permanent mission in Geneva is highly advisable. Whilst the establishment of a small permanent mission for Sierra Leone in Geneva (including a capacity to handle IP issues) would be the ideal solution, for the foreseeable future more effective participation should be supported through provision of financial assistance for travel and subsistence expenses for capital-based delegates.

d) *Developing a multi-disciplinary IP policy research and analysis capacity in the University of Sierra Leone*

The topics to be covered would potentially include all forms of IPRs (industrial property and copyright as well as entirely new areas for Sierra Leone such as geographical indications, plant variety protection, integrated circuit topographies, competition policy, traditional knowledge, access to genetic resources & benefit sharing under the Convention on Biodiversity (CBD), and copyright in the digital environment). The focus would be on investigating the socio-economic impacts,

international experiences in other countries, key issues and challenges for policymakers, and the optimum legal and regulatory frameworks for

their use, administration and enforcement in all areas of the economy in Sierra Leone.

II. IPR Administration

a) *Modernizing the organizational status of IPR administration in Sierra Leone*

There is a broad consensus amongst stakeholders that the existing legacy organizational model of the Office of the Administrator and Registrar General (OARG) for IPR administration is out-dated. The preferred option, suggested by stakeholders consulted during the needs assessment exercise and supported by international best-practice, is the eventual establishment of a small but well-run Sierra Leone Intellectual Property Office, which would operate as a self-financing, autonomous government agency accountable to Parliament through the MTI.

This service-oriented multi-task IP office should be established to administer the policies and legislative framework, i.e. raise awareness and provide information on IPR matters, allow registration of trademarks and patents. In the short-term, there is a need for technical co-operation to investigate the feasibility and identify the most appropriate legal, financial and operational structure for the establishment of such an organization in Sierra Leone. Potentially, this assistance could be provided within the scope of the ongoing DFID-funded *Protecting IPRs Project* during 2007-2008.

b) *Human resource capacity-building in terms of additional manpower and new types of skills*

If and when the new Sierra Leone Intellectual Property Office is established, a modest number of additional permanent staff positions will be required to support the delivery of its services through the proposed autonomous and self-financing business model. The total required staff complement will be determined by the feasibility study, but for the period 2008 to 2013 this could be expected to be in the order of 7 professional staff and 6 administrative/clerical staff.

Additional formal and on-the-job training will be required, on an on-going basis and for the foreseeable future, for staff in: IPR administration; patent information services and IP management; strategy development and business planning; financial management and accounting; human resources management; information technology skills; and communications. Tailored study visits to other IP offices, particularly in developing countries, would also be essential.

c) *Automation of registries for trademarks, industrial designs and patents*

Since Sierra Leone is a member of the Patent Co-operation Treaty, the Madrid Trademarks system and the African Regional Intellectual Property Organization (ARIPO), where all documentation and operations are electronic, there is an urgent need to computerize all industrial property workflows and registries in Sierra Leone. Without such up to date and accurate electronic registries, the efficient establishment, identification and management of IP rights by both owners and the public will be undermined.

These automated registries should eventually be made available on-line and linked to the development of a Patent Information Service (PIS). In the short-term, technical and financial support to design and implement necessary electronic processes, workflows and registries, including the conversion of existing paper registries to electronic form and training of staff, are required.

d) *Establishment of an Industrial Property Appeals Tribunal*

In order to ensure the efficiency and effectiveness of industrial property administration, there are plans to establish an independent industrial property tribunal or the creation of a specialized IPR division of the High Court with a mandate

to resolve disputes relating to the application of patents and regulations on patents, industrial designs and trademarks. Technical and financial assistance will be required to establish the most

appropriate form and structure for the tribunal and to make available necessary training in industrial property legislation, administration and dispute resolution.

III. Enforcement and Regulation of IPRs

a) *Improving business and consumer education and awareness about IPRs*

There is a major, long-term need for technical and financial assistance to design, implement and evaluate public education and awareness raising campaigns across Sierra Leone. Campaigns should be professionally designed, use well-defined key positive messages, and target different audience segments appropriately (e.g. consumers, businesses and traders, artists and musicians, radio and television broadcasters, university students and researchers, and legal and business service professionals). A variety of media should be used and where possible, programmes should be run as public-private partnerships. An initial pilot could be run with the national music industry.

b) *Training of enforcement agencies in IPR concepts and national legislation*

A significant need exists for training and training of trainers on IP concepts and enforcement matters for the police, Customs Service, public prosecutor's office and the commercial division of the High Court. Such training should initially target a core group of senior officers in the Criminal Investigation Department (CID) of the Sierra Leone Police Force and the Customs Service in the National Revenue Authority. The training programmes should be designed by experienced professionals and be carefully sequenced with the development of new IP legislation and public education campaigns on IPRs in Sierra Leone.

c) *Provision of access to networked, computerized national IP registries for the Sierra Leone Customs Service*

Financial assistance and technical co-operation are required over the medium-term to provide access to a networked, computerized database on IPRs that are in force in the country for use by the Sierra Leone Customs Service in co-operation with the national IP administration agency. Additionally, access to World Customs Organisation (WCO) databases that are used to identify counterfeit trademarks should also be provided to the Customs authorities. Technical co-operation from the WCO and INTERPOL would be required to establish the latter system and train staff in its use. An initial pilot should be run at the Customs Service HQ at Freetown Port. This should be synchronized with the general training of enforcement agencies as well as the development of IP legislation.

d) *Enhancing co-operation with foreign enforcement agencies on counterfeiting and piracy*

Financial and technical assistance is required to enable the coordination of customs border measures between Sierra Leone and its neighbouring countries. Given the long and porous land borders of the country, effective enforcement against the entry of counterfeit goods into the country would benefit from greater coordination and cooperation between the customs and police authorities on both sides of the borders.

IV. Innovation, Technology Transfer and Using IP for Development

a) *Development of domestic innovative and creative base*

In order for Sierra Leone to establish its own innovative and creative base, it is crucial to

increase access to, and make use of, technologies already available to Sierra Leone. An assessment is necessary to identify the technologies, human resources and supporting infrastructure necessary to support certain sectors, such as

mining, agriculture, and music. For instance, Sierra Leone has potential to develop a flourishing music industry but the newly established Music Industry Task Force requires support to implement its national action plan. The country has also some research capacity in agriculture and seed production that could be expanded and consolidated jointly with engagement by universities and the private sector.

To support the creation of a sound and viable technological base in Sierra Leone, a scoping study should be undertaken to examine how domestic creativity, innovation and transfer of technology can best be stimulated through reinforcement of domestic policies, incentives, private sector associations, and capacity building programmes, including the IPR system, and through more targeted measures taken by the developed countries in line with their obligations under Article 66.2 of the TRIPS Agreement.

b) Improving business education and awareness about IP management for Small and Medium-sized Enterprises (SMEs)

There is a major, long-term need for technical and financial assistance to design, implement and evaluate education and awareness raising campaigns in IP management for SMEs and using IP for development across Sierra Leone. Campaigns should be professionally designed, use well-defined key positive messages, and target different audience segments appropriately (e.g. manufactures, business service providers, artists and musicians, radio and television broadcasters, university researchers, and legal and business service professionals). Where possible, campaigns should be run as public-private partnerships, involving participation from IP policy, administration and enforcement agencies in the public sector, together with private sector organizations and associations.

c) Development of a Patent Information Service to support innovation and technology transfer

Technical co-operation and financial assistance are required to design and implement an

automated and on-line Patent Information Service (PIS) in Sierra Leone. The importance of published patent documents as a source of technical information of potential great value, particularly to SMEs, is widely recognised.

The PIS should include the facility for advanced searching of up-to-date global patent databases to identify technologies and technological information of importance for innovation and technology transfer to support industrial development in key sectors in Sierra Leone (e.g. mining, fishing, forestry, agriculture). The PIS should be operated as a collaborative service provided by the IP administration agency and the University of Sierra Leone.

d) Development of a multi-disciplinary IP teaching capacity in the University of Sierra Leone

The focus would be on supporting graduate, undergraduate and doctoral teaching and supervision capacity at the University of Sierra Leone on business, legal and economic concepts, protection systems, regulatory frameworks, benefits and costs for IPR protection for business and consumers. The topics to be covered would focus on how IP can be integrated into strategies at enterprise and sector level for industrial and agricultural development, research, protection and exploitation of cultural assets and traditional knowledge, and acquisition of foreign technologies in Sierra Leone.

Suggested next steps & timetable

It is proposed that the optimum means for addressing the needs identified in this report would be the development and implementation of a medium term national IP capacity building programme for Sierra Leone, beginning with an initial 5 year phase from July 2008 to July 2013. In all probability, further phases of the programme would be required.

Development of such a programme would require technical assistance and thorough consultations between the Government of Sierra Leone, national stakeholders and the country's

development partners. Technical assistance could be provided for programme development under the on-going DFID-funded *Protecting IPRs Project* co-ordinated by MTI.

priority needs, main proposed activities proposed to address these needs, lead agencies involved, provisional timings, and possible development partners,

The programme development could be based on the Outline Programme Planning Matrix, provided at Annex A, which identifies strategic objectives,

A summary action plan and timetable of next steps is set out overleaf for action by the Government of Sierra Leone and its development partners.

Summary action plan and timetable of next steps

| ACTION | TIMING | NOTES |
|---|---------------------------|---|
| Submission on needs for technical and financial co-operation to WTO Council for TRIPS by Government of Sierra Leone | 23-24 October 2007 | Presentation to be made by MTI to the WTO Council for TRIPS in Geneva on behalf of the Government of Sierra Leone. |
| Consultations with WTO members, principal partners and international & regional organisations | October 2007 to July 2008 | Principal partners likely to include WIPO, UNIDO, UK, US, EC and/or other interested international organizations (e.g. UNCTAD, UNESCO, CoP-CBD, WHO, FAO), bilateral donor agencies and IP offices, and NGOs working on IP and development topics (e.g. ICTSD). |
| Design and validation of a national medium term IPR Capacity Building Programme for Sierra Leone | November-December 2007 | Proposal is for programme design co-ordinated by MTI, with technical assistance from DFID-funded Protecting IPRs Project. |
| Partner Roundtable Meeting on Sierra Leone IPR Capacity Building Programme | January 2008 | Proposal is for a 2 day meeting to be held in Freetown, Sierra Leone and hosted by MTI with facilitation from DFID-funded Protecting IPRs Project. |
| Agreement of Co-operation Agreements with principle partners and funding agencies | May 2008 | Principal partners likely to include WIPO, UNIDO, UK, US, EC and/or other interested international organizations (e.g. UNCTAD, UNESCO, CoP-CBD, WHO, FAO), bilateral donor agencies and IP offices, and NGOs working on IP and development topics (e.g. ICTSD). |
| Commencement of Sierra Leone IPR Capacity Building programme activities | July 2008 | Proposal is for programme co-ordination undertaken by MTI, with sub-projects managed by national lead agencies. |

2. NATIONAL DEVELOPMENT CONTEXT

Sierra Leone is bordered to the west by the Atlantic Ocean, to the north and east by Guinea and to the south by Liberia. Sierra Leone is blessed with vast mineral deposits, yet is struggling to leverage these resources to make rapid, dramatic improvements in the quality of life and human and social indicators of the national population. The country has among the highest incidences of extreme poverty and lowest levels of human development in the world.

Sierra Leone was plagued by a ten year civil conflict from 1991. The conflict caused

significant destruction in economic and physical infrastructure, halted major official mining activities, resulted in the abandonment of farms and plantations, and led to the displacement of two million people, half the country's population, the death of over 20,000 people and immeasurable suffering. It also led to the total collapse of public service delivery, in particular, health and education. Since the end of the conflict and return to full security in 2002, there has been remarkable progress in consolidating peace and rebuilding the country's fragile economy and infrastructure.

2.1 Human and Social Development Indicators

The country has a population of about 5 million people, of which 70% live on less than one dollar a day. GDP per capita is approximately \$200. Poverty is heavily concentrated in the areas outside the capital, Freetown. The proportion below the poverty line in Freetown is estimated at 15%, compared to 79% in the rural areas and 70% in other urban areas (World Bank). With an average population growth rate of 2.1%, the economy has to grow by at least 4.7% in real terms annually to prevent the number of poor people from rising. Rural per capita incomes have to grow by at least 5.6% annually and the urban by 4.0% annually. These calculations point to the need for strong and sustained economic growth as a necessary (but not sufficient) condition for dealing with poverty in Sierra Leone.

Average life expectancy is just 41 years in Sierra Leone. In 2004, 170 out of every 1000 children died before the age of five (the highest rate in the world). Sierra Leone has the highest rate in the world for maternal mortality with 2000 per 100,000 women dying during childbirth. There is no reliable data on HIV prevalence but the latest study has estimated it at under 2%. Other data indicates that the rate is rising fast. Less than half of the population has access to safe and clean water. Girls made up approximately 45 % of total enrolments in primary schools in 2004/5. In 2006, Sierra Leone ranked 176 out of 177 in the UN Human Development Index.

2.2 Government and Political Structure

Sierra Leone became an independent parliamentary republic within the Commonwealth in 1961. The current ruling party is the All People's Congress, which won a majority in parliamentary elections held in the country in August 2007. Ernest Bai Koroma was sworn in as Sierra Leone's new president on 17 September 2007. Local elections are scheduled for March 2008.

In many areas, Government is weak, handicapped by the legacy of destruction from the civil war, and struggles to deliver basic primary services to the people across the country. The civil service was severely weakened by the decade of conflict and technical and administrative in most areas of the Government is extremely thin. The official language is English and much of the country's legal and administrative infrastructure dates back to the British colonial period.

2.3 Economy and Natural Resources

Sierra Leone's post-conflict economic performance has been strong owing to recovery in the agriculture and mining sectors. GDP growth was 7.4 percent in 2004. According to the World Bank's Country Assistance Strategy, recovery has been propelled by large-scale resettlement and reconstruction, increases in land under cultivation, a resumption of mining, a bounce-back in the private sector and the growth of donor-financed imports.

Agriculture accounts for about 40% of GDP, mining about 20% and services (including the public sector) around 40%. Mining the wealth of minerals which Sierra Leone possesses provides a crucial source of income for the majority of rural households. For the poorest, this is often combined with subsistence farming and agricultural wage labour. Alluvial diamond mining remains the major source of hard currency earnings, accounting for nearly 90% of Sierra Leone's exports.

2.4 National Strategies for Development and Poverty Reduction

A programme of national long-term planning and policy studies was begun by the Government in 2000 to provide Sierra Leone with the framework for planning its political, economic and social development for the next 25 years. The *Vision 2025* process has produced a mission statement which envisages "A prosperous nation, grounded on democratic good governance, with an economy that is fully competitive, dynamic, robust, resilient, sustainable and propelled by science and technology...an enlightened, healthy, united nation with a sense of common and shared identity, ensuring an efficient energy sector and adequate infrastructure, innovative and forward looking."⁷

A national Poverty Reduction Strategy Paper (PRSP) has also been prepared by the Government

2.5 Development Assistance

The national PRSP forms the basis of partnership between development partners and the Government of Sierra Leone. Sierra Leone's

The continued growth in the economy is highly dependent upon the maintenance of political stability, and increasing private investment in infrastructure and productive sectors both domestically and from abroad. As much as 85% of the economy is based in the informal sector. A particular concern is high unemployment, especially of the youth in urban settings.

Other important economic sectors aside from agriculture and mining are forestry, fisheries, and the services industry (retail, telecommunications, transport, tourism, construction). There is only a very small manufacturing industry in Sierra Leone, employing around 2% of the labour force. There is a small but vibrant music industry in the country. Publishing, film, and software development industries are at the micro level. FDI inflows are small and are mainly in the mining sector.

and began implementation in 2006 The PRSP lays out the Government's commitment and priorities in addressing the causes of conflict and poverty. It focuses on three strategic objectives: (a) good governance, security and peace; (b) pro-poor, sustainable economic growth for food security and jobs creation; and (c) human resource development.

In the last few years, there has been an intensive process of policy development in a number of sectors. For example, a national science & technology policy, cultural policy and seed policy have all been produced by the Government. A new national education and skills policy is also at an advanced stage of drafting.

principal development partners include the World Bank, African Development Bank (ADB), USAID, JICA, the European Commission (EC),

UK DFID, China, UNDP, Irish Aid and UNICEF. Important sectors for development assistance in Sierra Leone include security; health; water and sanitation; education; governance; and civil service reform.

In the trade and productive capacity sector, Sierra Leone is participating in the Integrated Framework for Trade Related Technical Assistance to LDCs (IF). A Diagnostic Trade & Integration Study has been drafted and was validated and endorsed by the Government in late November 2006. A project proposal is currently being prepared for trade capacity building technical assistance by MTI for submission to UNDP under the IF Trust Fund Window II facility. A new Private Sector Development Strategy is being developed by the Government, led by MTI with support from a two year technical assistance

programme funded by UK DFID. The Private Sector Development Strategy Programme (PSDSP) includes support for a comprehensive overhaul of the commercial law and regulatory framework in Sierra Leone, including competition policy and business registration.

The UK is Sierra Leone's largest bilateral development partner, currently spending £40 million a year in the country. A Memorandum of Understanding (MoU) between the Sierra Leone and UK Governments, confirming a ten-year partnership arrangement, was signed in November 2002. In the absence of significant domestic government revenues, more than one-third of the UK's assistance goes directly to the Government's budget in the form of direct budget support for basic service delivery, in concert with the World Bank, ADB and the EC.

2.6 Linking IPRs with the National Development Context and Strategy

In the globalizing world economy of the 21st century, IPRs should be a tool for development and an integral part of sustainable policies on education, science and technology; public health and nutrition; agricultural and the environment; trade and industrial development; protecting cultural expression and traditional knowledge; and promoting innovation and research. Like other LDCs, Sierra Leone has a very weak scientific and technological base. It also has limitations in all levels of its education system.

Many of these weaknesses and limitations are due to its post conflict situation and low level of development. Sierra Leone's national science and technology policy, whilst promising, is at an embryonic stage. The most promising sectors are in academia and agriculture research. In the creative sector, the music industry has much potential but several steps must be taken by public and private actors to realize this.

Addressing the development of a scientific and technological base through technical and financial assistance and the development of adequate incentives and targeted public support will be key to realizing benefits that could be derived from IPRs and implementation of the TRIPS Agreement. In Sierra Leone, there is a need to examine and study these wider issues in more detail and to design appropriate interventions to reinforce existing national policies and programmes, as well as encouraging better-targeted incentives for transfer of technology by developed countries.

Using the IP system better to promote development has been specifically addressed in this study in Chapter 6, where priority needs for technical and financial assistance related to promoting innovation, creativity, and technology transfer are identified.

3. IP POLICY AND LEGAL FRAMEWORK

3.1 Overview of Existing Situation

3.1.1 Policymaking and coordination

MTI has overall lead responsibility for IP policy reform and modernization. The Ministry has a very capable but small Policy, Planning and Research Division to design, develop and manage the entire trade and industrial development and reform process while at the same time representing the country's interests internationally and managing its WTO membership obligations. An important recent development was the strengthening of the overall policy and legislative development capacity of MTI by the recruitment in October 2006 of a full-time Legal Counsel, under a two year technical co-operation agreement with UK DFID.

Within the Government, IP policy areas cross-over with the mandates of the Office of the Administrator & Registrar General, the Ministry of Tourism and Culture, the Ministry of Health & Sanitation, the Ministry of Agriculture and Food, the Ministry of Education, Science & Technology

and the Law Reform Commission. Technical and administrative capacity for IP policymaking in these agencies is very thin, although has increased in the last two years through participation by officials in a national IPR policy and legal reform process led by MTI (see 3.1.3 below).

In the period 2005-2006 at the beginning of the national IPR policy and legal reform process, the critical responsibility to oversee and guide the modernization of the IP regime was assigned to a relatively large, multi-stakeholder Intellectual Property Rights Working Group (IPRWG). The IPRWG was provided with secretariat support from the Policy, Planning and Research Division of MTI. Since mid-2007, the IPRWG has been restructured into a smaller, core group of key stakeholders who have more direct accountability for IP policy areas, administration, enforcement and use of IP to support national development.

3.1.2 Legal framework and membership of international agreements

Sierra Leone is a member of the WTO and is therefore party to the objectives, principles, rights and obligations of the TRIPS Agreement with an existing general transition period for implementation until July 2013. Specifically with respect to patent protection for pharmaceuticals, under the WTO General Council's Doha Declaration on TRIPS and Public Health, Sierra Leone has until 2016.

Sierra Leone has been a member of the World Intellectual Property Organization (WIPO) since 1986 and acceded to the Paris Convention for the Protection of Industrial Property in 1997 and the Patent Cooperation Treaty (PCT) in 1997. Additionally, Sierra Leone acceded to the Madrid Treaty in 1997 and the Madrid Protocol in 1999 for the international registration of marks.

Sierra Leone is a member of the African Regional Intellectual Property Organization (ARIPO). It is

signatory to the ARIPO Harare Protocol on patents and industrial designs but has not ratified the protocol. Sierra Leone is not a signatory to the ARIPO Banjul Protocol on trademarks.

Sierra Leone is not a Member of the Berne Convention for the Protection of Literary and Artistic Works. Neither is Sierra Leone a member of the Convention on the International Union for the Protection of New Varieties of Plants (UPOV). Sierra Leone is party to the Convention on Biological Diversity (CBD) and wishes to ensure that its laws on IPRs do not undermine the protection of biodiversity. As a member of the African Union (AU), Sierra Leone may also wish to take cognizance of the AU Model Law on Access to Genetic Resources.

Sierra Leone has existing colonial-era legislation in relation to patents, trademarks, industrial designs. The existing patents and industrial designs

legislation provides only for re-registration of patents and industrial designs granted in the UK. Existing trademark legislation, however, does allow for national registration of marks in Sierra Leone. The existing copyright legislation is more recent and was developed with assistance from UNESCO in the 1960s.

In general terms, the current IP laws in Sierra Leone are quite outdated and reflect a legacy colonial system. In addition, the existing legal regime does not cover the full scope of subject matter and types of IPRs that would eventually need to be protected under implementation of the WTO TRIPS Agreement in Sierra Leone (e.g. geographical indications, undisclosed information, plant varieties and integrated circuit topographies). Nor does it provide for control of anti-competitive practices in contractual licences.

At the same time, it must also be said that the existing IP legal regime in Sierra Leone has not been specifically designed to take account of the policy flexibilities, safeguards, and special and differential treatment provisions explicitly included in the TRIPS Agreement because of its LDC status. Thus, for example, the existing Patents Act does not address areas such as the scope of patentable subject matter, or

3.1.3 Recent reform efforts

In September 2005, with a modest level of funding from UK DFID, the Protecting IPRs Project was started up to assist the Government of Sierra Leone to establish an appropriate policy and legal framework for protecting IPRs that will effectively serve the social and economic development needs of the country. The Protecting IPRs Project is part of a wider process of legislative and administrative reform to support private sector development in Sierra Leone. Additionally, the government had concluded that there was a pressing need for Sierra Leone to comply with the TRIPS Agreement by January 2006.⁸

MTI was assigned the lead role in this reform process and established and convened a

exhaustion of rights from a national-interest perspective. There is also no legal and regulatory regime currently in Sierra Leone in areas of growing interest in other developing countries, such as traditional knowledge and regulation of access and benefit sharing from the nation's biodiversity.

Within this overall picture, there are some very specific problems with the operation of the existing legal framework for industrial property which are an obvious priority to solve expeditiously. The current Patents Act does not enable the granting of patents in Sierra Leone on the basis of the Patent Cooperation Treaty (PCT) and/or the Harare Protocol of ARIPO, to which the country acceded in 1997 and 1998, respectively. Patents granted through ARIPO since 1998, designating Sierra Leone, are therefore not in force under national legislation.

A new draft Patents and Industrial Designs Act came under preparation at the end of the 1990s to address these issues but it has not progressed and requires further development. A similar problem exists with respect to the current Trademarks Act, which does not enable the granting of trademarks in Sierra Leone under national legislation on the basis of the Madrid Protocol to which the country acceded in 1999.

multidisciplinary Working Group on Intellectual Property (IPWG). The IPWG directed that IP reform should take into cognizance the effect of TRIPS on the country's policy objectives within the context of the Poverty Reduction Strategy and the National Vision Statement 2025 documents, and that "special attention should be given to issues such as food security, access to medicine, biodiversity, private sector development, transfer of technology, competition and traditional medicine".

Under the DFID-funded Protecting IPRs Project, MTI sought and obtained consultancy support with expertise in the development and application of IPR policy and law from Saana Consulting to assist with the process of reforming Sierra

Leone's IPR regime. To date there have been a number of useful results and lessons from the Protecting IPRs Project. Activities so far have included a technical review of the existing IPR regime; the identification and selection of policy & institutional reform options via a Policy Options Discussion Paper; and the organization of a national stakeholder workshop to provide a basic introduction to intellectual property and present and validate preferred policy options.⁹

At the end of May 2007, the Cabinet approved the validated Policy Options Discussion Paper^{10a} and mandated MTI to move ahead with detailed design of policy, legal and legislative reforms. To ensure that the Protecting IPRs Project continues to move forward and builds on the results achieved to date, the Government of

Sierra Leone and DFID Sierra Leone agreed to engage a second phase of consultancy support for MTI over an 18 month period commencing June 2007.

The overall objective of phase II is to progress the modernization of the IP regime in Sierra Leone in a timely, effective and sustainable manner in line with the policy objectives of the Government of Sierra Leone. Specifically, this will require provision of consultancy assistance for the detailed planning of the required policy development and priority legal reforms, together with a tailored programme of consultation and awareness raising for key stakeholders in the reform process from government, the private sector and civil society.

3.2 Priority Needs for Technical Co-operation, Financial Assistance and Capacity Building

a) *Strengthening IP policy/legal development and co-ordination capacity in the MTI*

A clear priority is to build on recent gains and establish a small IP policy unit within the Policy, Planning and Research Division of the MTI. The unit would be responsible for providing advice to Government on all aspects of IP and industrial policy, including actively facilitating and co-ordinating policy inputs from other stakeholders with regards to linkages with public health, education, agriculture, competition, science and technology, environment, communications and culture sectors.

Financial assistance is required for an initial five-year period to enable the MTI to recruit two full-time IP Policy Analysts in the Unit, as well as logistical support to resource their duties, functions and consultative work with other stakeholders from the sectors identified above (e.g. laptop computers, books, travel and communications expenses).

b) *Supporting IP legislative development and policy coherence*

The development of national IP policy and a legislative framework on IPRs should be done in

a coherent manner with other related policies in areas including science and technology, health, competition, agriculture, and environment. This is not an easy process. There is a need to understand linkages and best options for implementation in light of different levels of development and national priorities.

In the short-term, the need for professional legislative drafting support in priority areas of updating patent, industrial design, trademark and copyright legislation is being met under current bilateral assistance (i.e. the DFID-funded *Protecting IPRs Project* and *Private Sector Development Strategy Programme*). The development of national legislation utilizing TRIPS flexibilities and safeguards, such as those needed to address access to medicines, requires special attention in the legislative reform process.

Over the longer-term, specialized technical co-operation will continue to be needed to support future legislative and regulatory frameworks in new and related areas to IPR protection for Sierra Leone, including, potentially, geographical indications, plant variety protection, integrated circuit topographies, competition policy,

protection of traditional knowledge, Access & Benefits Sharing (ABS) regulation and taking full account of the flexibilities and safeguards in the TRIPS Agreement as well as other relevant multilateral agreements.

c) Enabling Sierra Leone's regular and effective participation in meetings of the WTO Council for TRIPS and at WIPO

Facilitating Sierra Leone's participation in negotiations for the WTO and WIPO is highly recommended. This is the case not only for IP matters but also subjects, among others, for example Aid for Trade and agriculture. To facilitate increased engagement in negotiations, support for the establishment of a small permanent mission in Geneva is highly advisable.

Whilst the establishment of a small permanent mission for Sierra Leone in Geneva (including a capacity to handle IP issues) would be the ideal solution, for the foreseeable future more effective participation should be supported through provision of financial assistance for travel and subsistence expenses for capital-based delegates from MTI and the proposed new Sierra Leone IP Office (see Chapter 4).

d) Developing a multi-disciplinary IP policy research and analysis capacity in the University of Sierra Leone

The topics to be covered would potentially include all forms of IPRs (industrial property and copyright as well as entirely new areas for Sierra Leone such as geographical indications, plant variety protection, integrated circuit topographies, competition policy, traditional knowledge, access to genetic resources & benefit sharing under the Convention on Biodiversity (CBD), and copyright in the digital environment). The focus would be on investigating the socio-economic impacts, international experiences in other countries, and the optimum legal and regulatory frameworks (including competition policy related aspects) for their use, administration and enforcement in all areas of the economy in Sierra Leone.

Establishment of this capacity would present the need for financial assistance to establish at least two Chairs at the University as well as modest level of multi-year funding for research programmes, policy seminars, participation in international policy research networks and dialogues, publications and website.

4. IP ADMINISTRATION

Administration of IPRs actually covers a number of different dimensions of institutional capacity, such as organisational and management arrangements; staffing and human resource issues; and operating procedures and automation models. Moreover, depending on the nature and volumes of anticipated workloads, administration of patents, trademarks, copyright and other forms of IPRs may require different types of institutional capacity and present unique challenges for LDCs.

Part II of the TRIPS Agreement specifically sets out minimum standards for the required scope for acquisition and maintenance of different IPRs in the WTO member countries. For example, Article 62 of the Agreement explicitly requires that national administrative procedures shall permit the granting or registration of the right within a reasonable period of time. At the same time, the administrative processes must ensure the balancing of national public interests with those of the rights holders.

4.1 Overview of Existing Situation

4.1.1 Industrial property (patents, trademarks, industrial designs)

The Office of the Administrator and Registrar General (OARG), a department of the Ministry of Justice, is currently responsible for administering industrial property rights (patents, trademarks, and industrial designs) in Sierra Leone. The OARG is also responsible for the registration of births, deaths, marriages and business registrations. The office has a total complement of 8 staff, the majority of whom are clerical staff. There is one trademark officer and no patent examiners.

The OARG currently operates a paper-based registry for industrial property rights and trademark searches are conducted manually rather than using an automated system. Information about industrial property rights is not available online through a website. A small number of computer workstations have been provided in the past by WIPO and DFID, but there

In general terms, the administration of industrial property rights involves receiving of applications, examination, refusing or granting and registering and publishing the IPRs. As some IPRs (e.g. patents) expire after specified periods of time, further steps are required to complete renewal procedures. Whilst all of the procedures for efficient administration of industrial property rights require properly trained staff and modern and automated information systems, by far the most challenging aspect is the substantive examination of patent applications. Some patent applications can run to thousands of pages of technical data, in a wide array of technology fields, and substantive examination involves both professional/technical competence and access to sophisticated international patent information computer databases.

Such institutional capacity requirements are well beyond the reach of most individual IPR administration agencies in the world. Individual countries, including LDCs therefore often opt for a patent granting regime that is based on a system of regional and/or international co-operation.

have been severe difficulties with installing appropriate IPR software applications and inputting archive data. The OARG's premises are poorly lit and are not air conditioned. There is currently no patent information service available from the OARG for business or research users in Sierra Leone.

Financially, the OARG receives annual budget allocations from the Government for its expenditures. According to the OARG, approximately 25% of this allocation could be attributed to administration of industrial property rights by the office, with the largest element being staff-related expenses. The OARG is without electricity for prolonged periods of time due to irregularity of power supply in Freetown and the office's lack of cash for supplies and services to run back-up power generators.

The office collects a modest level of fees for patents, industrial designs and trademarks. Unlike other countries, fees for annual renewals of patents are not collected as there is presently no provision for this under Sierra Leone's patent legislation. All fees from administration of industrial property rights collected by the OARG are paid directly into the Government's consolidated fund. There is no retention of fee revenues by the OARG and no financial provision is made for capital investments or depreciation. According to the OARG, there is a significant level of financial arrears outstanding for Sierra Leone's membership contributions to ARIPO, reportedly in the region of USD 300,000. ARIPO therefore

currently retains all patent application and grant fees due to Sierra Leone to defray these arrears.

The OARG was unable to provide up-to-date statistics that reflect actual current workload volumes for patents, industrial designs and trademarks during this study. Indications suggest that most industrial property rights registered in Sierra Leone are foreign-owned and trademarks are by far the largest category. An indication of potential trademark application and registration volumes are shown in the most recently available WIPO IP statistics (2005), shown in Table 1 below. As of 2005, Sierra Leone registers nearly 1,000 trademarks per annum through the Madrid system administered by WIPO.

Table 1. Trademark statistics for Sierra Leone (WIPO 2005)

| SIERRA LEONE TRADEMARK REGISTRATIONS | | | | | | | | | |
|--------------------------------------|------|------|------|------|------|------|------|------|------|
| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 |
| Residents | | | | | | | | | |
| Non Residents | | | | | | 957 | | | |
| Madrid | 208 | 994 | 1112 | 1212 | 1038 | 787 | 698 | 793 | 986 |
| Total | 208 | 994 | 1112 | 1212 | 1038 | 1744 | 698 | 793 | 986 |

Source: Trademark registrations (1883 - 2005) at <http://wipo.int/ipstats/en/statistics/marks>.

The OARG carries out a trade marks registration function, including publication for opposition, registration and renewal, primarily with respect to applications coming via the Madrid system. There is little, if any, administration workload performed by OARG with respect to patents. The

reason for this is that the current Patents Act in Sierra Leone (cap 247) provides only for re-registration of UK patents and does not provide for registration of patents filed nationally nor entering the national phase via ARIPO and/or the PCT.

4.1.2 Copyright and related rights

The level of public administration required for copyright and related rights is minimal. Copyright subsists when a work is created or expressed, without a requirement for registration, although a voluntary registration system may be established. In Sierra Leone, the Ministry of Tourism and Culture is formally responsible for copyright and related rights policy and administration, but the office of the Ministry charged with this function

is not operational. This is due to a severe lack of human and financial resources.

There is no voluntary copyright registration system in operation in Sierra Leone; and there are presently no collective copyright management societies established in the country for copyright holders - a situation common for many LDCs.¹¹

4.1.3 Other types of IPRs

As described in Chapter 3, there is currently no legislation in other areas of IP in Sierra Leone, such as geographical indications, plant varieties, and integrated circuit topographies. Therefore

there are currently no institutions responsible or capable for administration of these types of IPRs in the country.

4.2 Priority Needs for Technical Co-operation, Financial Assistance and Capacity Building

a) *Modernizing the organizational status of IPR administration in Sierra Leone*

There is a broad consensus amongst stakeholders that the existing legacy organizational model of the OARG for IPR administration is out-dated. The preferred option, suggested by stakeholders consulted during the needs assessment exercise and supported by international best-practice, is the eventual establishment of a small but well-run Sierra Leone Intellectual Property Office, which would operate as a self-financing, autonomous government agency accountable to Parliament through the MTI.

This service-oriented multi-task IP office should be established to administer the policies and legislative framework, i.e. raise awareness and provide information on IPR matters, allow registration of trademarks and patents. In the short-term, there is a need for technical co-operation to investigate the feasibility and identify the most appropriate legal, financial and operational structure for the establishment of such an organization in Sierra Leone. Potentially, this assistance could be provided within the scope of the ongoing DFID-funded *Protecting IPRs Project* during 2007-2008.

Depending on the outcomes of the feasibility study, financial assistance would be required from 2008 for premises refurbishment, new office equipment and furniture, and installation of a modern ICT infrastructure fit for the purpose of a small IP office, as well as software licenses and a technical helpdesk/support service contract for an initial period of at least 5 years.

b) *Human resource capacity-building in terms of additional manpower and new types of skills*

If and when the new Sierra Leone Intellectual Property Office is established, a modest number of additional permanent staff positions will be required to support the delivery of its services through the proposed autonomous and self-financing business model. The total required staff complement will be determined by the feasibility study, but for the period 2008 to 2013 this could be expected to be in the order of 7 professional staff (a Director General, Head of Patents, Trademarks and Industrial Designs Section, Head of Patent Information & IP Management Services, Head of Copyright & Traditional Knowledge Section, Communications & Outreach Officer, Head of Finance and Administration, ICT Officer) and 6 administrative/clerical staff.

Additional formal and on-the-job training will be required, on an on-going basis and for the foreseeable future, for staff in: IPR administration; patent information services and IP management; strategy development and business planning; financial management and accounting; human resources management; information technology skills; and communications.¹² Tailored study visits to other IP offices, particularly in developing countries, would also be essential.

c) *Automation of registries for trademarks, industrial designs and patents*

Since Sierra Leone is a member of the Patent Co-operation Treaty, the Madrid Trademarks system and the African Regional Intellectual Property

Organization (ARIPO), where all documentation and operations are electronic, there is an urgent need to computerize all industrial property workflows and registries in Sierra Leone. Without such up to date and accurate electronic registries, the efficient establishment, identification and management of IP rights by both owners and the public will be undermined.

These automated registries should eventually be made available on-line and linked to the development of a Patent Information Service (PIS). In the short-term, technical and financial support to design and implement necessary electronic processes, workflows and registries, including the conversion of existing paper registries to electronic form and training of staff, are required. These needs will continue over the medium term, as new and amended legislation, regulations and administrative procedures are implemented.

d) Establishment of an Industrial Property Appeals Tribunal

In order to ensure the efficiency and effectiveness of industrial property administration, there are plans to establish an independent industrial property tribunal with a mandate to resolve disputes relating to the application of patents and regulations on patents, industrial designs and trademarks. Any decisions taken by the intellectual property office that relate to the granting or refusal of rights may be the subject of an appeal to the tribunal. In addition, the tribunal will resolve oppositions under the trademarks act.

Technical and financial assistance will be required to establish the most appropriate form and structure for the tribunal and to make available necessary training in industrial property legislation, administration and dispute resolution.

5. ENFORCEMENT AND REGULATION OF IPRS

IPRs are only valuable if they can be enforced. For many LDCs, establishing an effective enforcement regime presents considerable institutional challenges for policing and judicial systems, civil and criminal procedures and the customs authorities (regarding border enforcement measures). Moreover, for an effective enforcement system to operate, close co-operation is required between the enforcement agencies and those institutions dealing with IPRs administration (see Chapter 4).

One of the most distinctive features of the TRIPS Agreement is that in Articles 41 through 61, it sets out detailed minimum requirements for enforcement of IPRs. For the WTO member countries that are implementing the TRIPS Agreement, this provides the basic framework of measures designed to assure that legal remedies are available to enforce and defend intellectual property rights, whether these are patents, trademarks, copyrights of other types of IPRs.

5.1 Overview of Existing Situation

Although there are no official statistics available, anecdotal evidence from stakeholders indicates that there is a fairly high prevalence of counterfeit and pirated goods in Sierra Leone, most of which come from abroad. Such infringement commonly affects music CDs, film DVDs, computer software but also medicines and other products such as vehicle spare parts and consumer electronic goods.

During the needs assessment exercise, the general lack of awareness and understanding of fundamental intellectual property concepts, as well as protection available under Sierra Leone's existing national legislation, was repeatedly identified by stakeholders as a major weakness that needs to be addressed with respect to enforcement. At the same time it was noted that the country's informal business sector is large and that the majority of disputes (including IP issues) are settled outside of the courts system. It is therefore considered important that in modernization of the IP regime in Sierra Leone, emphasis should be placed on enforcement of IPRs in general, and of trademarks and copyrights in particular to increase the "usability" of the system for businesses, musicians, authors, artists and performers.

In general terms, enforcement of IPRs in Sierra Leone is considered to be a difficult process with uncertain outcomes. There is apparently little, if any, *ex officio* action on the part of enforcement authorities at the border or in the marketplace to counter infringement of trademarks and copyright for example. Additionally, the general public, business traders, court system and enforcement authorities are relatively unfamiliar with IPR concepts, meaning that policing of the marketplace by IPR owners to protect their rights is difficult. Cases involving IPRs can be brought before the Commercial Division of the High Court in Sierra Leone, but there are very few recent examples of such litigation.

Some valuable training and information seminars have been conducted in the past for the judiciary, the customs authorities and police officials, through WIPO, United States Patent & Trademark Office (USPTO) and the World Customs Organization (WCO). But there is a need to build on these through a more systematic, sustained and properly sequenced approach.

5.2 Priority Needs for Technical Co-Operation, Financial Assistance and Capacity Building

a) *Improving business and consumer education and awareness about IPRs*

There is a major, long-term need for technical and financial assistance to design, implement

and evaluate public education and awareness raising campaigns across Sierra Leone. Campaigns should be professionally designed, use well-defined key positive messages, and target different audience segments appropriately (e.g.

consumers, businesses and traders, artists and musicians, radio and television broadcasters, university students and researchers, and legal and business service professionals).

A variety of media should be used (billboards, newspaper and radio features, public concerts, development of teaching modules for legal curricula, etc). Where possible, programmes should be run as public-private partnerships, involving participation from IP policy, administration and enforcement agencies in the public sector, together with private sector organizations and associations. An initial pilot could be run with the national music industry as a means of raising awareness about copyright and related rights amongst members of the creative industries.

b) Training of enforcement agencies in IPR concepts and national legislation

A significant need exists for training and training of trainers on IP concepts and enforcement matters for the police, Customs Service, public prosecutor's office and the commercial division of the High Court. Such training should initially target a core group of senior officers in the Criminal Investigation Department of the Sierra Leone Police Force and the Customs Service in the National Revenue Authority. To be properly effective, the training programmes should be designed by experienced professionals and be carefully sequenced with the development of new IP legislation and public education campaigns on IPRs in Sierra Leone.

c) Provision of access to networked, computerized national IP registries for the Sierra Leone Customs Service

Financial assistance and technical co-operation are required over the medium-term to provide access to a networked, computerized database on IPRs that are in force in the country for use by the Sierra Leone Customs Service in co-operation with the national IP administration agency. Additionally, access to World Customs Organisation databases that are used to identify counterfeit trademarks should also be provided to the Customs authorities. Technical co-operation from the WCO and INTERPOL would be required to establish the latter system and train staff in its use. An initial pilot should be run at the Customs Service HQ at Freetown Port. This should be synchronized with the general training of enforcement agencies as well as the development of IP legislation.

d) Enhancing co-operation with foreign enforcement agencies on counterfeiting and piracy

Financial and technical assistance is required to enable the coordination of customs border measures between Sierra Leone and its neighbouring countries. Given the long and porous land borders of the country, effective enforcement against the entry of counterfeit goods into the country would benefit from greater coordination and cooperation between the customs and police authorities on both sides of the borders. For example, it may be advantageous to facilitate access by neighbouring countries to each other's electronic intellectual property registries.

6. INNOVATION, TECHNOLOGY TRANSFER & IP FOR DEVELOPMENT

6.1 Overview of Existing Situation

Like other LDCs, Sierra Leone has a very weak scientific and technological base. A national science and technology policy has been produced by the Sierra Leone Science & Technology Council but implementation of the policy appears very limited. An innovation survey has never been carried out in the country but indications suggest that formal innovation activity is mostly very limited and does not yet come into the formal IPR system, via patenting for example.

Significant research and development at the University of Sierra Leone - capable of industrial application - is very small scale and restricted by lack of funding programmes and facilities, as well as lack of demand from the micro-scale manufacturing sector in the country. A notable exception to this rule would be the agricultural sector, where there has been some publicly funded innovation and research activity in the development of new cultivar varieties, notably rice, sweet potato, and cassava (e.g. the NARICA rice variety). There is very little private sector R&D investment or establishment. As a result, the main sources of technology in the economy are imported as finished products from foreign

developers and manufacturers (e.g. vehicles, machinery, computer software, medicines).

No specific publicly funded programmes or agencies are in place to promote technology transfer to support industrial and scientific development in Sierra Leone. There is currently no patent information service nor up to date patent databases available, and there is no technology transfer office at the University of Sierra Leone. In terms of existing legislation on patents and copyright, there are no explicit research and educational use exemptions in the laws to promote learning, research for follow-on innovation and diffusion of technical knowledge. There is also no legal or administrative regime for registering petty patents or utility models.

In relation to Article 66.2 of the TRIPS Agreement, Sierra Leone does not appear to be currently benefiting from any specific programmes or initiatives from developed countries in terms of provision of incentives to enterprises and institutions in the home country to promote and encourage technology transfer to Sierra Leone.

6.2 Priority Needs for Technical Co-operation, Financial Assistance and Capacity Building

a) *Development of domestic innovative and creative base*

In order for Sierra Leone to establish its own innovative and creative base, it is crucial to increase access to, and make use of, technologies already available to Sierra Leone. An assessment is necessary to identify the technologies, human resources and supporting infrastructure necessary to support certain sectors, such as mining, agriculture, and music. For instance, Sierra Leone has potential to develop a flourishing music industry but the newly established Music Industry Task Force requires support to implement its national

action plan. The country has also some research capacity in agriculture and seed production that could be expanded and consolidated jointly with engagement by universities and the private sector.

To support the creation of a sound and viable technological base in Sierra Leone, a scoping study should be undertaken to examine how domestic creativity, innovation and transfer of technology can best be stimulated through reinforcement of domestic policies, incentives, private sector associations, and capacity building programmes, including the IPR system, and through more targeted measures taken

by the developed countries in line with their obligations under Article 66.2 of the TRIPS Agreement.

b) Improving business education and awareness about IP management for Small and Medium-sized Enterprises (SMEs)

There is a major, long-term need for technical and financial assistance to design, implement and evaluate education and awareness raising campaigns in IP management for SMEs and using IP for development across Sierra Leone. Campaigns should be professionally designed, use well-defined key positive messages, and target different audience segments appropriately (e.g. manufactures, business service providers, artists and musicians, radio and television broadcasters, university researchers, and legal and business service professionals).

A variety of media should be used (billboards, newspaper and radio features, public concerts, development of teaching modules for legal curricula, etc). Where possible, campaigns should be run as public-private partnerships, involving participation from IP policy, administration and enforcement agencies in the public sector, together with private sector organizations and associations. An initial pilot campaign could be run with the national music industry as a means of raising awareness about copyright and related rights.

c) Development of a Patent Information Service to support innovation and technology transfer

Technical co-operation and financial assistance are required to design and implement an automated and on-line Patent Information Service (PIS) in Sierra Leone. The importance of published patent documents as a source of technical information of potential great value, particularly to SMEs, is widely recognised.

The PIS should include the facility for advanced searching of up-to-date global patent databases to identify technologies and technological information of importance for innovation and technology transfer to support industrial development in key sectors in Sierra Leone (e.g. mining, fishing, forestry, agriculture). The PIS should be operated as a collaborative service provided by the IP administration agency and the University of Sierra Leone.

Training of staff managing the PIS, university researcher, librarians and legal practitioners (as potential patent agents) will be needed in basic patent concepts, patent searching strategies and in reading and understanding of patent documentation.

d) Development of a multi-disciplinary IP policy teaching capacity in the University of Sierra Leone

The focus would be on supporting graduate, undergraduate and doctoral teaching and supervision capacity at the University of Sierra Leone on business, legal and economic concepts, protection systems, regulatory frameworks, benefits and costs for IPR protection for business and consumers. The topics to be covered would focus on how IP can be integrated into strategies at enterprise and sector level for industrial and agricultural development, research, protection and exploitation of cultural assets and traditional knowledge, and acquisition of foreign technologies in Sierra Leone.

Establishment of this capacity would present the need for financial assistance to establish at least two Chairs at the University, for industrial property and copyright respectively, as well as modest level of multi-year funding for books and an institutional links with suitable universities in the UK and elsewhere. (See related need identified on developing a multi-disciplinary IP policy research capacity at the University of Sierra Leone in Chapter 3).

ANNEX A: OUTLINE PROGRAMME PLANNING MATRIX

| STRATEGIC GOALS & OBJECTIVES | IDENTIFIED NEEDS FOR TECHNICAL & FINANCIAL ASSISTANCE | PROPOSED MAIN ACTIVITIES TO ADDRESS NEEDS | LEAD NATIONAL AGENCIES | PROVISIONAL TARGET TIMETABLE | POSSIBLE DEVELOPMENT PARTNERS |
|--|--|---|--|--|---|
| Project 1: Updating IP Policy & Legal Framework | <p>A. Strengthening IP policy and legal development and co-ordination capacity in Ministry of Trade & Industry</p> <p>B. Support for IP legislative reform and policy coherence</p> <p>C. Enabling Sierra Leone's regular and effective participation in meetings of the WTO Council for TRIPS and at WIPO</p> <p>D. Development of a multi-disciplinary IP policy research and analysis capacity in the University of Sierra Leone.</p> | <ul style="list-style-type: none"> • Establishment of a small IP Policy unit in the Ministry of Trade & Industry with two full-time Policy Analysts and logistics for the period 2008 to 2013 • Provision of legislative drafting expertise on priority IP areas assistance as required for the period 2008 to 2013 • Provision of legislative drafting expertise on the second level of priority from 2013 to 2017 • Lump sum accountable grant for travel and per diem expenses for 2 capital based-delegates from Government of Sierra Leone for the period 2008 to 2013 • Establishment of at least two Chairs at the University as well as multi-year funding for research programmes, policy seminars, participation in international networks, publications and website | <ul style="list-style-type: none"> • Ministry of Trade & Industry • Office of Administrator & Registrar General • Ministry of Tourism & Culture • Office of the Attorney General • University of Sierra Leone | <ul style="list-style-type: none"> • All activities under Project 1 to commence by June 2008 and to be completed by July 2013 • Additional phase of technical and financial assistance may be required from July 2013 to July 2017 | <ul style="list-style-type: none"> • DFID Protecting IPRs Project and Private Sector Development Strategy Programme • WIPO (on industrial property and participation by Sierra Leone in WIPO meetings) • WTO (participation by Sierra Leone at WTO TRIPS Council and support for University of Sierra Leone) • UNESCO (on copyright, related rights and traditional knowledge policy and legislation) • WHO (on patents and public health regulation) • FAO (on GIs and plant variety and traditional knowledge protection policy and legislation) • ICTSD (IP and sustainable development policy) • UNCTAD (on transfer of technology policy) • CoP-CBD (on ABS policy and regulation) |

Annex A. continued

| STRATEGIC GOALS & OBJECTIVES | IDENTIFIED NEEDS FOR TECHNICAL & FINANCIAL ASSISTANCE | PROPOSED MAIN ACTIVITIES TO ADDRESS NEEDS | LEAD NATIONAL AGENCIES | PROVISIONAL TARGET TIMETABLE | POSSIBLE DEVELOPMENT PARTNERS |
|--|---|---|--|---|---|
| Project 2: Modernising IP administration infrastructure | <p>A. Modernizing the organizational structure for IPR administration</p> <p>B. Automation of existing paper-based registries for trademarks, industrial designs and patents</p> <p>C. Human resource capacity-building in terms of additional manpower and skills development</p> <p>D. Expand administrative mechanisms to take on and resolve disputes between national IP office and applicants on IPR administration issues (as opposed to infringement issues which would be dealt with by the courts and enforcement agencies)</p> | <ul style="list-style-type: none"> • Establishment of a semi-autonomous, self-financing national IP office covering all IP matters • Design and implementation of fully computerised IPR administration process and registry archives • Staff recruitment and design and implementation of training programmes • Financial and technical assistance for establishment of the national IP Appeals Tribunal, including training and logistics | <ul style="list-style-type: none"> • Ministry of Trade & Industry • Office of Administrator & Registrar General • Ministry of Tourism & Culture | <ul style="list-style-type: none"> • Feasibility study for new national IP office commenced in October 2007 and completed by Early 2008 • Establishment of new national IP office by April 2009 • Implementation of automation commenced in April 2009 and completed by April 2010 • Staff recruitment and training on priority skills commenced in April 2009 and completed by July 2013 • Additional training programmes may be required from July 2013 onwards. | <ul style="list-style-type: none"> • DFID Protecting IPRs Project (feasibility and design of IP administration organizational structures) • WIPO (automation of IP office administration and registries) • UK IP Office (technical co-operation on copyright administration) • ARIPO, IP Philippines and Kenya IP Office (South-South co-operation for on-the-job training and study tours) |

Annex A. continued

| STRATEGIC GOALS & OBJECTIVES | IDENTIFIED NEEDS FOR TECHNICAL & FINANCIAL ASSISTANCE | PROPOSED MAIN ACTIVITIES TO ADDRESS NEEDS | LEAD NATIONAL AGENCIES | PROVISIONAL TARGET TIMETABLE | POSSIBLE DEVELOPMENT PARTNERS |
|---|---|---|--|--|---|
| Project 3: Strengthening IP enforcement and regulation regime | <p>A. Improving business and consumer education and awareness about IPRs</p> <p>B. Human resource capacity-building of enforcement agencies in IPR concepts and national legislation</p> <p>C. Development of networked, computerised database on counterfeit products for the Sierra Leone Customs Service</p> <p>D. Enhancing co-operation with foreign enforcement agencies on combating counterfeiting and piracy (TRIPS Agreement Art. 69)</p> | <ul style="list-style-type: none"> • Design, implementation and monitoring of medium-term public education and awareness raising campaigns on IPRs targeting different audience segments and using range of media • Design and implementation of medium-term training programmes for enforcement agencies, including classroom-based, on-the-job, training-for-trainers and study tours • Access to networked, computerized database on IPRs for use by the Sierra Leone Customs Service in co-operation with the national IP administration agency and customs services in neighbouring countries • Access to WCO databases that are used to identify counterfeit trademarks for the Sierra Leone Customs Service. Technical co-operation from the WCO and INTERPOL would be required to establish the system and training staff | <ul style="list-style-type: none"> • Ministry of Trade & Industry • Office of Administrator & Registrar General • Criminal Investigation Department, Sierra Leone Police Force • Customs Department, National Revenue Authority • Ministry of Tourism & Culture • Commercial Division, High Court of Sierra Leone • Pharmacy Board, Ministry of Health & Sanitation • Private sector associations (e.g. Music Industry Task Force) | <ul style="list-style-type: none"> • All activities under Project 3 to commence by June 2008 and to be completed by July 2013 • Additional phase of technical and financial assistance may be required after July 2013 | <ul style="list-style-type: none"> • WIPO • WCO • INTERPOL • UK IP Office and Customs service • UNESCO • World Bank (on customs infrastructure) • European Commission • USAID |

Annex A. continued

| STRATEGIC GOALS & OBJECTIVES | IDENTIFIED NEEDS FOR TECHNICAL & FINANCIAL ASSISTANCE | PROPOSED MAIN ACTIVITIES TO ADDRESS NEEDS | LEAD NATIONAL AGENCIES | PROVISIONAL TARGET TIMETABLE | POSSIBLE DEVELOPMENT PARTNERS |
|---|---|--|--|--|--|
| Project 4: Using IP for development, promoting innovation, creativity, and technology transfer | <p>A. Focus on establishing innovative and creative base. Focus on comparative advantage</p> <p>B. Improving business education and awareness about IP management for SMEs</p> <p>C. Development of a Patent Information Service to support innovation and technology transfer</p> <p>D. Development of a multi-disciplinary IP teaching capacity in the University of Sierra Leone, focused on using IP in business and development strategies</p> | <ul style="list-style-type: none"> • Scoping study to examine domestic measures (tax incentives etc) to promote innovation and opportunities for technology licensing and contracts-based research; develop local incentives for FDI; design support programmes in priority R&D sectors • Training of staff managing the PIS, university researchers and legal practitioners (as potential patent agents) in patent database searching and reading patent information documentation • Design and implementation of an online, fully searchable PIS at the University of Sierra Leone based on global patent databases • Establishment of at least two Chairs at the University as well as multi-year funding for teaching and curriculum development | <ul style="list-style-type: none"> • Ministry of Trade & Industry • Office of Administrator & Registrar General • University of Sierra Leone • Private sector associations | <ul style="list-style-type: none"> • All activities under Project 4 to commence by June 2008 and to be completed by July 2013 • Additional phase of technical and financial assistance may be required after July 2013 | <ul style="list-style-type: none"> • WIPO • WTO • ARIPO • EPO (patent information services) • UNIDO • UNCTAD (on transfer of technology policy) • ICTSD • World Bank • European Commission • USAID • UNESCO |

ANNEX B: KEY STAKEHOLDER MAP

Public Sector

- Ministry of Trade & Industry
- Office of the Administrator and Registrar General
- Ministry of Agriculture and Food Security
- Ministry of Health and Sanitation
- Pharmacy Board
- Customs
- Criminal Investigation Division, Sierra Leone Police
- Commercial Division of the High Court of Sierra Leone
- Ministry of Culture & Tourism
- Ministry of Education, Science & Technology
- Science & Technology Council
- Ministry of Information & Broadcasting
- Law Reform Commission

Private sector

- Musicians
- Authors
- Artists
- Farmers, plant breeders, SMEs, importers, broadcasters, IP attorneys etc)

Civil Society

- University of Sierra Leone
- Research/policy institutes
- Consumer organisations

International stakeholders

- Department For International Development
- African Regional Intellectual Property Organization
- World Intellectual Property Organization
- WTO member states
- World Customs Organization
- Other development co-operation partners

ANNEX C: NATIONAL LEGISLATION REVIEW

| LEGISLATION | TITLE | EFFECTIVE DATE | ASSESSMENT OF TRIPS IMPLEMENTATION STATUS INCLUDING USE OF FLEXIBILITIES, SAFEGUARDS AND S&DT FOR LDCS |
|---|-------------------------------|----------------------|--|
| A. Industrial Property | | | |
| Patents | Laws of Sierra Leone, Cap 247 | 1960 | Not TRIPS-compliant. Provides for registration of patents previously granted in UK and does not appear to exploit flexibilities, use safeguards or address S&DT for LDCs |
| Trade Marks | Laws of Sierra Leone, Cap 244 | 1960 | Not TRIPS-compliant and does not appear to exploit flexibilities, use safeguards or address S&DT for LDCs |
| Industrial Designs | Laws of Sierra Leone, Cap 246 | 1960 | Not TRIPS-compliant. Provides for registration of industrial designs previously registered in UK and does not appear to exploit flexibilities, use safeguards or address S&DT for LDCs |
| B. Copyright and Related Rights | | | |
| Copyright | The Copyright Act | 1965 | Not TRIPS-compliant and reflects Sierra Leone's non-membership in Berne Convention; does not exploit flexibilities, use safeguards and S&DT opportunities for LDCs |
| Related Rights | See copyright, above | See copyright, above | See copyright, above |
| C. Other Country-specific Legislation or Regulations | | | |
| Utility Models | No legislation | N/a | N/a |
| Appellations of Origin / Geographical Indications / Indications of Source | No legislation | N/a | N/a |
| Computer Programs | No legislation | N/a | N/a |
| Protection of Undisclosed Information | No legislation | N/a | N/a |
| Layout- Designs of Integrated Circuits | No legislation | N/a | N/a |
| Plant Varieties Protection | No legislation | N/a | N/a |
| Protection of Folklore & Traditional Knowledge | No legislation | N/a | N/a |
| Transfer of Technology | No legislation | N/a | N/a |
| Control of Anti-Competitive Practices in Contractual Licenses | No legislation | N/a | N/a |

ANNEX D: STAKEHOLDER WORKSHOP REPORT

Introduction

As part of the Needs Assessment Diagnostic for Intellectual Property Rights (IPR) Technical Assistance & Capacity Building in Sierra Leone, a very successful stakeholder workshop was held on 13th July 2007 at the Country Lodge in Freetown. The workshop was organized as part of the Government of Sierra Leone's response to the invitation by the WTO Council for TRIPS in November 2005 to submit information on the country's priority needs for technical co-operation and financial assistance to facilitate the implementation of the WTO TRIPS Agreement.

The workshop brought together approximately 30 participants, drawn from key government ministries, enforcement agencies, the business community, artists, musicians, authors, and the University of Sierra Leone. Representatives from DFID Sierra Leone were also present.

Resource persons were provided by the International Centre for Trade & Sustainable Development in Geneva (ICTSD) and Saana Consulting, the experts engaged to facilitate the preparation of a national needs assessment diagnostic on behalf of the Ministry of Trade & Industry.

A full list of participants at the workshop is attached for information at Appendix A. The workshop was organized by the Ministry of Trade & Industry, with generous financial support from ICSTD under its Intellectual Property and Sustainable Development Programme.

Workshop Objectives

The workshop was arranged to accomplish two key objectives.

First, the meeting allowed the resource persons from ICTSD and Saana Consulting to provide information to national stakeholders about the 29 November Decision by the WTO Council for TRIPS, how this would affect Sierra Leone, as well as the needs assessment diagnostic exercise

being undertaken. It was explained that to date, no LDCs had been able to respond to the invitation by the WTO Council for TRIPS and submit information on their priority needs for technical and financial assistance.

Sierra Leone could therefore be one of the first LDC members to do so before the approaching target date of 1 January 2008. This would provide a valuable model for other LDCs to follow.

The Ministry of Trade & Industry also explained that the needs assessment exercise was being undertaken in the context of the ongoing DFID-funded Protecting IPRs Project, which focuses on supporting IP policy and legislative development in Sierra Leone.

The project began in 2005 and was now entering a second phase, following the validation of an IPR reform Policy Options Discussion Paper at a stakeholder workshop in Freetown in June 2006 and subsequently by the Government through a Cabinet decision.

Second, the meeting provided a key opportunity for stakeholders to identify and discuss a range of needs for technical co-operation and financial assistance related to the implementation of the TRIPS Agreement in the wider context of developing the national IPR infrastructure and using IP for development.

A copy of the final Workshop Agenda is attached for information at Appendix B.

Key Points from the Discussions

The workshop's discussions were conducted in a very constructive, informal and interactive atmosphere. All participants took the opportunity to share information, interact, and express their views on priorities and key issues for the needs assessment exercise.

There was a full acknowledgement amongst participants that the workshop had been an extremely useful event and had fully accomplished

both its objectives. A number of key points can be summarised from the discussions at the workshop.

First, there was a consensus amongst participants about the need for assistance to support IP policy and legislative development in Sierra Leone. Priority areas were patents, trademarks, and copyright and related rights.

Existing statutes for IPR protection date back to the colonial era and now need to be brought up to date and into line with Sierra Leone's membership of the African Intellectual Property Organization (ARIPO) and the country's obligations under the WTO TRIPS Agreement as well as the Patent Cooperation Treaty and the Madrid System on Trademarks administered by the World Intellectual Property Organization (WIPO).

Second, a consistent theme during the workshop was the need to build capacity and modernize IPR administration in Sierra Leone. Particular problems and bottlenecks were highlighted in areas such as the registration of patents and trademarks at the Office of the Administrator & Registrar General, as well as the lack of copyright administration under the Ministry of Tourism and Culture.

Investments in adequate staffing, training, computerization, and office infrastructure would all be required - there was a legitimate expectation from users of the IP system that they should receive improved service levels. There was a consensus amongst participants that an attractive medium term option for modernizing IP administration in Sierra Leone was the establishment of a more autonomous, self-financing national IP Office covering all IP matters, administration, international relations and promoting public awareness about IP.

Third, the importance of improving enforcement and increasing awareness and education about IPRs in the country was repeatedly highlighted by participants. In common with many LDCs, there is low awareness in Sierra Leone about IPRs amongst policymakers, the business sector,

creators, inventors, the legal community, law enforcement authorities, education institutions, and the general public.

Participants emphasised that this issue should be given high priority and be properly sequenced within the overall strategy for IP reform and modernization.

Finally, participants stressed the need to build the capacity of the national IP infrastructure to promote social and economic development in the country, taking full account of the policy flexibilities, safeguards and special and differential treatment available to Sierra Leone as an LDC WTO member.

For example, a patent information service should be developed and funded as it is a potentially highly valuable tool in transferring technologies and technical knowledge to build up the national scientific and industrial base.

Priority should also be given to addressing the needs of national cultural industries such as music, publishing, visual arts, theatre and film. Whilst copyright protection was provided in current legislation, the success of these industries was being jeopardized by large scale infringement and piracy.

Thus there was a need to improve awareness, update legislation, enhance enforcement and to look at ways by which the cultural industries could be pro-active in protecting their interests and rights (for example through collective organizations and new business strategies).

A full record of points raised during the different topic sessions of the workshop is provided at Appendix C.

Next Steps

As an immediate follow up to the meeting and their mission to Sierra Leone from 9th to 16th July, the experts from Saana Consulting will prepare a detailed report on the needs assessment exercise for the Ministry of Trade & Industry.

The report will cover the existing situation and priority needs over the medium term for assistance to facilitate implementation of the TRIPS Agreement in relation to IP policymaking and legislation development; IP administration; Enforcement & regulation of IPRs; and using the IP infrastructure to promote awareness, innovation, creativity and technology transfer.

The report will be submitted to the Ministry of Trade & Industry before the end of July 2007. It

will then form the basis of a formal submission to the WTO Council for TRIPS by the Government of Sierra Leone in October 2007.

Following the submission, detailed consultations can begin between the Government of Sierra Leone and its development partners. Follow up to these consultations through detailed programme development can be supported under the DFID-funded Protecting IPRs Project led by the Ministry of Trade & Industry.

APPENDIX A: LIST OF WORKSHOP PARTICIPANTS

| NAME | INSTITUTION | DESIGNATION | CELL # | EMAIL ADDRESS |
|---------------------|--|--|--------------------------------|--|
| Simeon Jonjo | LINXINC/NAPPA | C.E.O | 076666500 033666500 | sjonjo@yahoo.com |
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| Dr. Julius Spencer | Premier Media | Managing Director | 076601174 | jspencer@premiermediasalone.com |
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| Beatrice Dove-Edwin | MTI/PPRD | Director | 076671446 | beadove-edwin@mtisl.org |
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| Patrick M. Kawa | MTI | Assistant Secretary | 076687617 | gbenyeh@yahoo.com |

APPENDIX B: WORKSHOP AGENDA

| | |
|----------------------|--|
| 09:00 - 09:30 | Registration |
| 09:30 - 09:45 | Welcome & opening of the meeting Teresa Koroma, Honourable Deputy Minister for Trade & Industry Constantine Bartel, ICTSD Geneva |
| 09:45 - 10:00 | Context and objectives for the national stakeholder dialogue & the IPR technical assistance needs assessment diagnostic study Beatrice Dove-Edwin, Ministry of Trade & Industry, Government of Sierra Leone |
| 10:00 - 10:30 | Introduction to the IPR technical assistance needs assessment diagnostic study Tom Pengelly & Mart Leesti, Saana Consulting |
| 10:30 - 10:45 | Coffee Break |
| 10:45 - 11:45 | <p>Interactive Session #1 - Exploring needs for IPR-related technical assistance and capacity building in Sierra Leone</p> <p>A) IPR-related policymaking, co-ordination & legal framework This topic covers technical assistance and capacity building needs related to researching and examining policy options for IPR reform to achieve national development objectives (e.g. related to public health, mass education, rural and industrial development, and economic growth and poverty reduction); supporting broad-based stakeholder consultation; strengthening institutional mechanisms for inter-governmental policy co-ordination; participating in international negotiations and rule-making on IPR; and updating the national legal framework in line with international rights and obligations (e.g. the WTO TRIPS Agreement).</p> <p>B) IPR administration This topic covers technical assistance and capacity building needs related to development of institutions responsible for IPR administration (covering potentially patents, petty patents/utility models, trademarks, industrial designs, copyright, geographical indications, plant varieties and integrated circuits, and traditional knowledge), including modernization of organizational frameworks; computerization of administration processes and archives; streamlining of procedures; upgrading premises and facilities; formal and on-the-job training and human resource development; and exploiting opportunities for regional and international co-operation (e.g. ARIPO, Patent Co-operation Treaty, Madrid system for Trademarks).</p> <p>Facilitators: Tom Pengelly & Mart Leesti, Saana Consulting</p> |

Appendix B. continued

| | |
|---------------|--|
| 11:45 - 12:45 | <p>Interactive Session #2 - Exploring needs for IPR-related technical assistance and capacity building in Sierra Leone</p> <p><u>A) Promoting innovation, creativity and access to technology & knowledge for development</u></p> <p>This topic covers technical assistance and capacity building needs for development of policies and institutions to support use of the IPR system for economic and social development, such as government incentives and funding of R&D; establishment of patent information services to increase access to technologies; provision of IP management services for SMEs to use trademarks and other IPRs to increase competitiveness and value-addition in domestic and export markets; upgrading professional legal services to support IP management and technology licensing; and improving IPR education and awareness raising amongst the private sector and general public.</p> <p>B) Enforcement & regulation of IPRs</p> <p>This topic covers technical assistance and capacity building needs related to the regulatory framework and public/private sector institutions responsible for enforcing IPRs (e.g. customs, police, judiciary as well as private sector bodies such as artists associations, collective management societies and chambers of commerce); preventing abuse to distort competition against the interest of consumers (e.g. though restrictive business practices); and safeguarding the public interest (e.g. balancing protecting of IPRs with national public health, mass education, rural and industrial development and economic growth & poverty reduction objectives).</p> <p>Facilitators: Tom Pengelly & Mart Leesti, Saana Consulting</p> |
| 12:45 - 13:00 | <p>Closing Remarks</p> <p>Beatrice Dove-Edwin, Ministry of Trade & Industry, Government of Sierra Leone</p> <p>Dr Julius Spencer, Premier Media</p> |
| 13:00 | <p>End of Meeting and Lunch Reception</p> |

APPENDIX C: RECORD OF WORKSHOP DISCUSSIONS

National policy & legal framework for IPRs

- There is currently no national policy or legal framework for patents and industrial designs in Sierra Leone. The existing CAP 247 simply provides for re-registration of patents granted in the United Kingdom.
- There is a need to repeal CAP 247 and pass a new act in its place which takes account of Sierra Leone's membership of the ARIPO Harare Protocol and the Patent Co-operation Treaty.
- New patent legislation needs to address special issues related to pharmaceuticals and access to medicines, including compulsory licensing provisions. Link needs to be made to the Sierra Leone Pharmacy & Drugs Act 2001. Sierra Leone is 100% dependant on imports of foreign medicines in some areas (e.g. Anti Retrovirals)
- National legislation for trademarks is in place but it needs updating to reflect Sierra Leone's membership of the Madrid Treaty.
- There is no legislation at present covering trade secrets. This is an important issue for software development companies where confidentiality agreements with staff are essential and need to be better enforced.
- Whilst copyright legislation does exist (CAP 248) in Sierra Leone, there is a pressing need for stakeholder sensitization and awareness raising. Some updating of copyright legislation is also required, such as copyright administration, voluntary registration system, and taking account of the new digital environment.
- A task force had recently been established by the music industry and key issues in its strategy were the need for improving copyright awareness, updating copyright legislation, counter-piracy measures (e.g. seal or certificate of authentication for music CDs), and improving copyright administration (including examining the feasibility of establishing one or more collective management societies for the creative industries).

Administration of IPRs

- Staffing at the Office of the Administrator and Registrar General is inadequate. There is currently only one Patent & Trademark Officer and 3 clerks.
- In the short term, a more appropriate staffing level at the OARG for administering trademarks suggested would be a Trademark Officer, Assistant Trademarks Officer, 2 clerks and a typist.
- With updated patent and industrial design legislation in place, a more appropriate staffing level for administering patents and industrial designs at the OARG suggested would be a Patents & Industrial Designs Officer, Assistant Patents & Industrial Designs Office, 2 clerks and a typist.
- A new patents act should include provision for patent renewal fees to be charged in Sierra Leone as there was no provision for this under the existing CAP 247.
- It was suggested that trademarks legislation could be reviewed in respect of the requirement to publish applications in the Government Gazette, to allow the OARG to determine how best to organize publication.
- The OARG currently uses manual typewriters, paper-based patent and trademark registries and manual searches. These need to be replaced with computerized system to reduce processing times and improve service to users. Automation of the registries would require funding for data entry and appropriate software.
- There is a pressing need to install an administrative structure for copyright, such as a new copyright office, as no such function presently exists in the Government.
- An attractive medium term option for modernizing IP administration in Sierra Leone was the establishment of a more autonomous, self-financing national IP Office covering all IP matters, administration, international relations and promoting public awareness about IP.
- There is a need to exploit the opportunities

from ICT to improve information sharing in IP administration (e.g. a computerized, networked trademark registry could then be accessed on-line by a number of different government agencies).

Enforcement and regulation of IPRs

- A perceived weakness of existing IP legislation in Sierra Leone was the lack of provisions regarding enforcement.
- Need for extensive training of senior police officers in IP matters and legislation. Currently, most police officers are not aware and conversant with the country's IP legislation.
- Equally, there is a need for training of a core team of senior customs officers in IP matters. Most customs officers are presently not aware of IPRs.
- A particular challenge for customs officers is how to detect IP infringement in import consignments arriving in Sierra Leone. There is a link here to co-ordination and appropriate logistical support for the Standards Bureau and Pharmacy Board to work with enforcement agencies (e.g. on imported counterfeit medicines or vehicle spares). But also need to have the appropriate powers in place under legislation for customs to act effectively.
- Need for rapid response capability in the enforcement agencies to intercept/impound counterfeit and pirated products.
- The national software development industry is at an early stage and is concerned about high levels of piracy. Foreign software is very expensive in Sierra Leone but the present levels of piracy and lack of infrastructure do not encourage the building up of a local software industry.
- It was suggested that an IPR Tribunal should be established to hear IPR disputes and improve access to justice, as well as reducing the burden on the commercial division of the High Court in Sierra Leone.
- Alternative Dispute Resolution (ADR) was also perceived as potentially important for settling IPR disputes amongst parties out of court. The Sierra Leone Law Reform

Commission was currently preparing new legislation on ADR.

Building the national IP infrastructure to support development

- Clear need for funding and technical assistance to design and implement major public education and awareness campaigns, with clear messages targeted to different audience segments. World Intellectual Property Day on 26 April each year could be celebrated.
- The music industry could be used a vehicle to pilot awareness raising campaign on copyright aimed at musicians and consumers.
- In the agricultural sector, education and awareness campaigns should target farmers associations and utilise existing extension and media services (e.g. UNDP-funded Farmers Youth Programme). There may be potential interest from farmers in establishing a system of geographical indications for agricultural products in Sierra Leone.
- IP education campaigns should emphasise the national good as well as protecting private property rights.
- There is need for curricula development to cover IP modules in the faculties of law, engineering, science, economics and agriculture at the University of Sierra Leone. Efforts aimed at improving teaching of IP law should be co-ordinated with the Sierra Leone Bar Association.
- Use should be made by the University of Sierra Leone of the specialised university training programmes available from the WIPO Academy and the WTO
- Improved linkages need to be developed between researchers at the University of Sierra Leone and national industries (e.g. a re-constituted University-Industry Research Forum). Awareness raising and assistance is needed to stimulate patenting by local inventors and innovators. Development of a petty patent regime to stimulate and protect follow-on innovation may be of interest.

- There is a pressing need to upgrade the ICT infrastructure at the University of Sierra Leone to support an on-line, automated patent information system for example. This is key for facilitating technology transfer for developed countries as envisaged under Article 67 of the WTO TRIPS Agreement.
- Chairs and/or inter-disciplinary research and teaching programmes on IP should be established and funded at the University of Sierra Leone.
- Need technical and financial assistance to improve quality and availability of local business and legal services to support improved IP management by SMEs in Sierra Leone. These are presently very weak. ARIPO had supported a national seminar on this topic in 2006 but need for effective follow-up.

ENDNOTES

- 1 For more information about the agenda, participants and outcomes from the meeting, see : www.iprtaforum.org
- 2 For more information, visit the pilot project webpage: <http://www.iprsonline.org/ictsd/LDCneeds.htm>
- 3 Leesti, M. and Pengelly, T. (2007) *Assessing Technical Assistance Needs for Implementing the TRIPS Agreement in LDCs*, ICTSD Programme on Intellectual Property Rights and Sustainable Development, International Centre for Trade and Sustainable Development, Geneva, Switzerland. Available from www.iprsonline.org
- 4 A field mission was undertaken to Sierra Leone from 9 to 16 July by Mart Leesti and Tom Pengelly from Saana Consulting. The mission was co-ordinated by the Policy, Planning & Research Division of the Ministry of Trade & Industry. During the field mission, a stakeholder workshop, organized by the Ministry of Trade and Industry with ICTSD and Saana Consulting, was held at the Country Lodge in Freetown on 13th July 2007. The workshop brought together around 30 participants from the government, private sector, civil society as well as representatives from DFID Sierra Leone. For more information see: http://www.iprsonline.org/ictsd/Dialogues/2007-07-09/2007-07-09_desc.htm
- 5 The field mission to Uganda was undertaken from 18 to 27 July by Mart Leesti and Tom Pengelly from Saana Consulting, together with Fleur Claessens and Constantine Bartel from ICTSD. The mission was co-ordinated by the Ministry of Tourism, Trade and Industry. During the field mission, a stakeholder workshop, organized by the Ministry of Tourism, Trade and Industry in association with ICTSD and Saana Consulting, was held at the Grand Imperial Hotel in Kampala on 24 July 2007. The workshop brought together around 45 participants from the government, private sector, civil society. For more information see: http://www.iprsonline.org/ictsd/Dialogues/2007-07-24/2007-07-24_desc.htm
- 6 The 2005 OECD-DAC Paris Declaration on Aid Effectiveness, is applicable to all parties involved (donors, agencies and beneficiaries) and includes key principles such as country ownership, mutual accountability, aligning aid to national development strategies, effective donor coordination, harmonization of donor procedures, use of programme-based aid modalities, managing for results, transparency, and predictable and multi-year commitments, which should be built into all programming. Administrative costs associated with the delivery should be minimized to ensure that the resources go to the actual implementation of identified priority projects and programmes. The competence and skills of the human resources available at national and regional levels should be used in an optimal way and all efforts should be made to develop national analytical and implementation capacity.
- 7 For more information see the Sierra Leone 2025 website at: www.uniqueservers.net/vision2025/
- 8 As a Least Developed Country (LDC), Sierra Leone was expected to implement the TRIPS Agreement by January 1 2006. However, on 29 November 2005, the TRIPS Council extended the deadline for compliance by LDCs to 1 July 2013.
- 9 A report of the workshop was prepared and is available from MTI's website.
- 10 The validated Policy Options Discussion Paper (June 2006) is available from MTI's website.
- 11 Neither voluntary copyright registration systems nor collective management societies are required under the TRIPS Agreement, although many developing countries have established one or both of them with

varying operating models and degrees of success (e.g. Jamaica, India, Kenya, Tanzania and Zimbabwe). As well as copyright administration, such schemes may also possibly be used in countries that seek to provide for *sui generis* protection of traditional knowledge and folklore.

- 12 The feasibility study may suggest that some of these functions may be outsourced while management accountability would remain with the IP Office.

