

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

Final Report of Needs Assessment Diagnostic

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*For ICTSD on behalf of the Ministry of Tourism, Trade and Industry,
Government of Uganda*



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LIST OF ACRONYMS AND ABBREVIATIONS

ADB	African Development Bank
ARIPO	African Regional Intellectual Property Organisation
AU	African Union
CBD	Convention on Biological Diversity
CED	Customs and Excise Department
CICS	Competitiveness and Investment Climate Strategy
COMESA	Common Market of Eastern and Southern Africa
DAC	Development Assistance Committee
DFID	UK Department for International Development
EAC	East African Community
EC	European Commission
EPA	Economic Partnership Agreements
EPO	European Patent Office
EU	European Union
FAO	Food & Agriculture Organisation
FDI	Foreign Direct Investment
GIs	Geographical Indications
ICC	International Chamber of Commerce
ICTSD	International Centre for Trade and Sustainable Development
IF	Integrated Framework for Trade Related Technical Assistance to LDCs
IITC	Inter-Institutional Trade Committee
INTERPOL	International Criminal Police Organization
IP	Intellectual Property
IPRs	Intellectual Property Rights
IPRTA	Intellectual Property Rights Technical & Financial Assistance
IRI	Industrial Research Institute
LDC	Least Developed Country
LDC(2)	Law Development Centre
Madrid	Madrid Agreement Concerning the International Registration of Marks
MDGs	Millennium Development Goals
MoJ&CA	Ministry of Justice and Constitutional Affairs
MTCS	Medium-Term Competitiveness Strategy
MTTI	Ministry of Tourism, Trade and Industry
NARO	National Agricultural Research Organization
NGO	Non Governmental Organisation
OECD	Organisation for Economic Co-operation and Development
Paris	Paris Convention for the Protection of Industrial Property
PCT	Patent Co-operation Treaty
PEAP	Poverty Eradication Action Plan
PIS	Patent Information Service
PMA	Plan for Modernising Agriculture
R&D	Research & Development

S&DT	Special & Differential Treatment
SMEs	Small and Medium Enterprises
TDTC	Technology Development and Transfer Centre
TRIPS	Agreement on Trade Related Aspects of Intellectual Property
UKIPO	UK Intellectual Property Office
ULRC	Uganda Law Reform Commission
UNBS	Uganda National Bureau of Standards
UNCST	Uganda National Council for Science and Technology
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 Organization
UPOV	International Union for the Protection of New Varieties of Plants
URSB	Uganda Registration Services Bureau
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 for 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 strategic objectives, 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 ASSESSMENT DIAGNOSTIC

I. IP Policy Framework

a) *Support for co-ordination of IP policy development*

The National Trade Policy requires that laws to protect IP be enacted. Whilst many of the aspects of the basic elements of the IPR legal framework are in place in Uganda, and new legal drafts and regulations are being prepared by the Uganda Law Reform Commission supported by external assistance, what is missing is an overarching national IP policy framework developed and supported by all interested stakeholders, and covering the policy linkages between IP and public health (including implementation of the WTO Doha Declaration on the TRIPS Agreement and Public Health in Uganda); agriculture and the environment including plant variety protection; education, science and technology; enterprise development and regulation; and protecting Uganda's rich cultural heritage and traditional knowledge.

Financial and technical assistance is required to design and implement a comprehensive, coherent and inclusive national IP policy development and consultation process. This should include support for a "National IP Policy Forum" as the appropriate institutional mechanism to bring together the range of stakeholders from government, the private sector and civil society. Support should also be provided to transform the existing WIPO-Uganda Registration Services Bureau (URSB) National IP Strategy, initiated in 2005. The "National IP Policy Forum" would aim to produce a draft national IP policy framework within its first year of operation to guide future legislative development; it would then work to update and elaborate aspects of national IP policy from then onwards.

b) *Training for policymakers on IPR concepts, international IPR conventions and best practices from other countries*

Technical assistance is required to undertake an initial "intensive phase" of human resource development for government officials, the

private sector and civil society representatives participating in the proposed "National IP Policy Forum" and policy development process. Theoretical and practical training on basic IPR concepts, the international framework for IPR protection (TRIPS Agreement and other principal international IP conventions including obligations, flexibilities, safeguards and exceptions applicable to Uganda); key challenges (benefits, costs and risks) for developing countries implementing stronger IP protection; and best practices from other countries is required, tailored to the needs of policymakers (rather than IP office administrators for example).

Educating government officials and other relevant stakeholders in basic concepts of intellectual property rights is essential to raise awareness and understanding of IPRs in general, its value and how it can be used in the interest of furthering Uganda's local and regional development. The training should also cover emerging IP issues on the international, regional and national agendas (for instance the EPA negotiations between the EU and Eastern and Southern Africa), and include financial assistance for logistics, background research and overseas study tours.

c) *Development of a multi-disciplinary IP policy teaching, research and analysis capacity in the academic community*

Subject matter to be covered would include the full range of intellectual property issues, including new and evolving areas such as ensuring improved access to medicines, technology transfer concepts, protection of traditional knowledge, exploitation of geographical indications, protection of integrated circuit topographies, utility model protection, access to genetic resources and benefit sharing under the CBD, and the evolution of copyright and potentially new forms of rights in the digital environment.

The focus would be on supporting graduate, undergraduate and doctoral teaching and

supervision capacity and on investigating the socio-economic impacts, international experiences in other countries, and identification of the optimum legal and regulatory frameworks

II. IPR Administration

a) *Developing an optimal business model for intellectual property administration by benchmarking against international best practice*

Whilst the URSB has been established it is not yet fully functional as envisaged under its enabling Act. There is an urgent need for technical co-operation to identify the most appropriate and feasible legal and operational structure as envisioned by the URSB Act and based on lessons learned from international best practice, including other African countries. This investigation would also examine the issue of whether or not patent administration in Uganda should include substantive technical examination and, if so, how such examination could best be carried out (currently URSB does not have a cadre of patent examiners).

Should the investigation conclude that a financially autonomous IP office is a viable model, medium-term financial assistance would be required from 2008 for an initial period of at least 5 years or until the office is in a position to achieve financial self-sustainability.

b) *Enhanced human resources at URSB*

If and when a financially autonomous URSB is operationalized (see above), a modest number of additional permanent staff positions will be required to support the delivery of improved levels of services to IP rights holders and other users through an alternative, self-sustaining business model. Formal and on-the-job training

for their administration in Uganda as well as in a regional context (e.g. EAC, COMESA, ARIPO, etc).

will be required for staff in IPR administration, patent information services, strategic and business planning, financial management and accrual accounting, human resources management, information technology skills, and communications, on an on-going basis. In this regard, it is important to establish a link between training institutions and the URSB.

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

Since the country is a member of the Patent Co-operation Treaty (PCT) system and ARIPO, where documentation and operations are computerized, there is an urgent need to also computerize workflows and registries in Uganda. Users of the IP system demand increased service levels in terms of patent filing, industrial design and trademark registration and the use of computerized databases would facilitate greater efficiency, transparency and access to available information.

In the short term, technical assistance (including training of staff) and financial support to design and implement necessary electronic processes, workflows and registries, including the conversion of existing paper registries for patents, trademarks and industrial designs to electronic form, is required. These needs will continue over the medium term, as new and amended legislation, regulations and administrative procedures are implemented.

III. Enforcement and Regulation of IPRs

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

There is a medium-term need for technical and financial assistance to support public education and awareness raising campaigns throughout Uganda on IPRs, including obligations, flexibilities, safeguards and exceptions in the context of relevant national laws and international rules. Campaigns should be professionally designed and use well-defined messages to target different audiences appropriately, e.g. consumers, businesses and traders, artists and musicians, radio and television broadcasters, the academic community, manufacturers, researchers and legal and business service professionals.

Such campaigns should include participation from private sector and rights holder organizations, such as the Uganda Manufacturers Association, Uganda Performing Rights Society, and the Uganda Music Publishers Association as well as consumer associations.

b) *Training and qualification of private and public sector attorneys and agents*

There is an urgent need to train and qualify private and public sector practitioners to represent effectively the interests of applicants and owners of IPRs and other interested parties before the URSB and the courts. Specifically, there is an immediate need for technical and financial support to develop and deliver training programs for attorneys as well as engineers and scientists in matters relating to patent drafting, application, prosecution and litigation. Such training could be delivered through a professional development or continuing education program at the Law Development Centre, for example.

In the longer term, the government may choose to establish standards that must be met by private sector IP practitioners in order to qualify to represent applicants before the URSB.

c) *Training of enforcement agencies and rights holder organizations in IPR concepts, national legislation and enforcement strategies*

There is a need for technical cooperation and financial support for the “training of trainers” in IP concepts, national legislation and regulations and enforcement matters for the full range of enforcement authorities and such other organizations that play important roles in contributing to effective enforcement of IPRs, including: the police, the National Revenue Authority’s Customs and Excise Department (CED), the National Bureau of Standards and potentially the military. Specialized training is needed for the office of the public prosecutor and members of the commercial division of the High Court.

In addition, support is needed for “training of trainers” on IPR enforcement strategies of other interested organizations (governmental and private sector) including, for example, Ministry of Health’s Directorate General of Medical Services (authority for regulatory compliance of pharmaceuticals), the Uganda Performing Rights Society, the Uganda Manufacturers Association and the Uganda Music Publishers Association.

d) *Provision of access to networked, computerised national intellectual property registries for the Uganda Customs and Excise Department and the Uganda National Bureau of Standards*

Medium term financial assistance and technical co-operation are required to provide access to networked, computerised databases on IPRs that are in force in Uganda, for use by enforcement authorities in co-operation with the URSB. Additionally, on-line communications with and access to World Customs Organization (WCO) databases to improve ‘risk profiling’ and to identify counterfeit trademarks and fake goods should also be provided to the Customs authority

and, if feasible, to the Ministry of Health in the case of fraudulent pharmaceutical products.

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

Financial and technical assistance is required to enable co-ordination of customs border measures between Uganda and its neighbouring countries.

A study should be undertaken to determine the feasibility of establishing a network mechanism between neighbouring countries for greater coordination and cooperation between the IP offices, customs and police authorities. For example, it may be advantageous to facilitate access by neighbouring countries enforcement authorities to each other's electronic intellectual property registries, initially among EAC partner countries.

IV. Innovation, Technology Transfer and Using IP for Development

a) Improving business education and support services on IP management for small and medium enterprises (SMEs)

There is a long-term need for technical and financial assistance for education and awareness raising campaigns in basic IP concepts, using IP for development, and the management of IP, for SMEs across Uganda but targeting the creative industries (copyright and related rights), agricultural (plant varieties, trademarks, geographical indications) and commercial and manufacturing sector in particular (trademarks and patents). Activities should be professionally designed and target different segments of the SME and its support community appropriately (e.g. creators of IP, business service providers, government research facilities, university researchers, and legal and financial service professionals).

There is also a need for assistance to develop curricula to cover IP, from a broad perspective, in the tertiary educational sector and in the faculties of law, engineering, science, economics and agriculture at Makerere and other universities and vocational education institutions.

Finally, there is a specific need for technical and financial assistance to improve the quality and availability of local business consultancy and support organizations to offer improved services on IP management by SMEs in Uganda, again targeting the sectors described above.

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

In the context of establishing and strengthening a domestic creative and innovative base it is important to acquire new technologies, including those within the public domain, and to absorb and adjust these for local needs. In this respect, technical co-operation and financial assistance are needed to design and implement a computerized and on-line Patent Information Service (PIS) in Uganda.

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 (e.g. manufacturing, mining, fishing, forestry, agriculture). The PIS should be operated by the URSB (as the Ugandan node in the global patent information network) in cooperation with the National Council for Science and Technology, the Uganda Industrial Research Institute, the Uganda Investment Authority and select academic institutions in Uganda.

Support for training of PIS operators and users would be required. Support is also needed to assess the feasibility of staffing the URSB with a limited number of technical specialists (patent examiners) in key fields to serve as an 'intelligent interface' between the global patent system and Ugandan researchers and SMEs (see section II above).

c) *Identification of the potential economic value of national creative & cultural industries*

5 year phase from July 2008 to July 2013. In all probability, further phases of the programme would be required.

Short term technical assistance is required to support a comprehensive national survey of the economic value of Uganda's creative & cultural industries as generators of IP assets, as well as the potential domestic and export market development opportunities and constraints.

Development of such a programme would require technical assistance and thorough consultations between the Government of Uganda, national stakeholders and the country's development partners. The 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.

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 Uganda, beginning with an initial

A summary action plan and timetable of next steps is set out overleaf for action by the Government of Uganda 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 Uganda	October 2007	Presentation by Ministry of Tourism, Trade & Industry to the WTO Council for TRIPS in Geneva on behalf of the Government of Uganda
Consultations with WTO members, principal partners and funding agencies	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 Uganda IPR Capacity Building Programme	November-December 2007	Proposal is for programme design co-ordinated by Ministry of Trade & Industry in co-operation with URSB and other lead agencies and non-governmental organizations
Partner Roundtable Meeting on Uganda IPR Capacity Building Programme	January 2008	2 day meeting to be held in Kampala, Uganda and hosted by Ministry of Tourism, Trade and Industry
Agreement of Co-operation Agreements with principal 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 Uganda IPR Capacity Building programme activities	July 2008	Proposal is for overall programme co-ordination undertaken by Ministry of Tourism, Trade & Industry, with sub-projects managed by URSB and other national lead agencies

2. NATIONAL DEVELOPMENT CONTEXT

Uganda is a relatively small, landlocked country in East Africa, bordered by Tanzania, Rwanda, the Democratic Republic of the Congo, Sudan and

Kenya. It is a fertile country with numerous lakes and rivers and substantial natural resources.

2.1 Human and Social Development Indicators

Uganda has a population of approximately 30 million people. GNI per capita was USD 280 in 2005. Uganda's very high rate of population growth poses a long-term challenge for growth and poverty reduction. The proportion of the population living below the poverty line in Uganda declined from 56 percent in 1992 to 34 percent in 2000, but appears to have risen to 38 percent in 2003 according to national household survey data. Most of the deterioration arose from a rise in income poverty in rural areas, where the proportion of people living below the poverty line rose from 37 percent to 42 percent. Poverty is often transitory for those with incomes outside of crop agriculture, but chronic for those who rely primarily on crop agriculture for their livelihood.

According to the World Bank, gross primary school enrolment in Uganda increased from 71 percent of school age children in 1990 to 127 percent in 2003. Primary completion rates remain a challenge raising concerns about the quality of education. The decade long effort to bring health

services closer to the poor, as well as the recent abolition of user fees has also helped to improve the access of the poor to public health services. As a result, under-five mortality declined from 180 per 1,000 live births in 1988/89 to 152 in 2000. These achievements enabled Uganda to improve its ranking in the UNDP's Human Development Report from 154th out of 173 countries in 1994 to 144th out of 177 countries in 2005.

Within the region, Uganda has been a leader in the fight against HIV/AIDS, with prevalence dropping significantly during the past decade. Although Uganda has made substantial progress towards achieving the Millennium Development Goals (MDGs), more needs to be done if all are to be met. Special efforts will be needed to improve the quality of education services to ensure that children complete primary education and that gender disparity in education is eliminated. Greater access to quality health services is also essential to significantly reduce child and maternal mortality rates.

2.2 Government and Political Structure

Uganda became an independent parliamentary republic within the Commonwealth in 1962. The official language is English and much of the country's legal and administrative infrastructure dates back to the British colonial period.

Following twenty years of political and economic instability after independence, the country

began a series of economic reforms that included the liberalization of the financial sector. Uganda is a member of several regional organizations, including the East African Community⁷ (EAC) and the Common Market for Eastern and Southern Africa (COMESA).

2.3 Economy and Natural Resources

The economy has shown steady growth since 1990, based on continued investment in infrastructure rehabilitation, improved incentives

for production and exports, reduced inflation, and gradually improved domestic security. Since 1986, poverty has decreased substantially. Due

to strong macroeconomic management (low inflation, stable exchange rate, large foreign reserves), savings, exports, and foreign direct investment are increasing.

Agriculture is the most important sector of the economy (53 % of GDP) with coffee accounting for the bulk of export revenues. An estimated 80% of the country depends on agricultural

outputs for their livelihood. Industry makes up 10% of GDP and the services sector accounts for approximately 32%.

To accelerate growth, the underpinnings of a market economy need to be further strengthened, exports need to be diversified, new economic opportunities have to be sought, and more needs to be done to attract private sector investment.

2.4 National Strategies for Development and Poverty Reduction

Uganda's economic development planning is based on the Uganda Vision 2025, the Poverty Eradication Action Plan (PEAP revised in 2004), the Medium-Term Competitiveness Strategy (MTCS 2000-2005), the Competitiveness and Investment Climate Strategy (CICS 2005-2009), the Plan for Modernising Agriculture (PMA), the NRM Election Manifesto, and the Millennium Development Goals. The national economic development strategy focuses on increased value-added exports trade, reduction of poverty and illiteracy and reduced dependency on donor budget support.

The April 2007 draft industrial development policy entitled "Policy for Industrial Transformation 2007-2017" states that the ultimate objectives of these could be summarized as "wealth creation, sustainable economic development, the effective

integration of Uganda in the global economy and poverty eradication through a dynamic private sector-led market economy with selective government facilitating interventions⁸⁷."

A national policy on culture, which aims to promote the development of cultural industries and the preservation of national cultural heritage, has been developed by the Ministry of Gender, Labour and Social Development. A draft National Science, Technology and Innovation Policy has recently been prepared by the Ministry of Finance. This policy focuses largely on a national institutional and regulatory framework for use of biotechnology for development and is to be implemented by the Uganda National Council for Science and Technology.

2.5 Development Assistance

In Uganda, eight bilateral and multilateral development partners - including the World Bank Group - have aligned their support to the Poverty Eradication Action Plan (PEAP; Uganda's version of its Poverty Reduction Strategy Paper) in one "joint" strategy. The Uganda Joint Assistance Strategy (UJAS) is one of the first collaborative Country Assistance Strategy for the World Bank. The rationale for the UJAS is to improve development effectiveness through a joint programming approach aimed at improving results on the ground and reducing the government's transaction costs.

Apart from the World Bank, other significant providers of development assistance to Uganda are USAID, the African Development Bank (AfDB), Germany, the Netherlands, Norway, Sweden, and the UK's Department for International Development (DFID), Austria, Denmark, the European Commission and Ireland (Irish Aid).

In the trade and productive capacity sector, Uganda 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 at a National Validation Workshop in October 2006 and endorsed by the Government in July 2007.

2.6 Linking IP with The Development Context and Strategy

It appears well understood amongst policymakers and other stakeholders in Uganda that IP is a cross-cutting issue where complementary policies on, for instance, health, agriculture, environment and competition are equally important in the context of modernizing the national IP regime and implementing international IP treaties, such the TRIPS Agreement. Likewise, there is also an acknowledgement in Uganda that implementation of reforms needs to be undertaken comprehensively and coherently with other international arrangements such as the Convention on Biological Diversity, the FAO treaty on Plant Genetic Resources, relevant WIPO conventions and WHO treaties and resolutions as well as regional trade and IP arrangements (e.g. EAC, COMESA, ARIPO, etc).

More widely, policymakers and other stakeholders in Uganda recognize that it is important to adapt domestic policies to align with rapidly changing technological trends in the global economy. At this stage of Uganda's path to development, it is necessary for the country to seek and receive support from the international community on the use and management of IPRs in combination with well designed government support measures that address domestic development needs such as the promotion and establishment of a domestic creative and innovative industry and the development of its technological base. In Uganda, efforts are underway, supported by development

partners, to begin to establish a modern national scientific and technological infrastructure which meets the needs and aspirations of Uganda's people, enterprises and industries. Uganda has recently developed a national science, technology and innovation policy, drafted a national industrial policy and has a small network of research institutions operating mainly in the public sector.

However, much more can be done to strengthen the country's embryonic scientific and research institutions and implement appropriate interventions to reinforce existing national policies, incentives and programmes aimed at both the public and the private sector. Much more can also be done to encourage better-targeted incentives for transfer of technology by developed countries. In this last respect, it would be advisable for Uganda to consider making a submission to the WTO TRIPS Council regarding its specific needs for technology transfer over the medium term in order to guide developed countries in the implementation of Article 66.2 of the TRIPS Agreement. 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

Uganda does not yet have a comprehensive, integrated national IP policy and legal framework. Within the Government IP policy areas cut across the mandates of the Uganda Registration Services Bureau, the Ministry of Justice and Constitutional Affairs, the Ministry of Tourism, Trade and Industry, the Ministry of Finance, Planning and Economic Development, the Ministry of Gender, Labour and Social Development, the Ministry of Health, the Ministry of Agriculture, Animal Industry and Fisheries, the Uganda National Council for Science and Technology, the Uganda Revenue Authority (Customs and Excise Department) and the Uganda Law Reform Commission.

The Ministry of Tourism, Trade and Industry has overall lead responsibility for WTO matters including TRIPS compliance, while the Uganda Registration Services Bureau (URSB), an autonomous agency⁹ which reports to Parliament through the Minister of Justice and Constitutional Affairs, is responsible for administration of all IP legislation (including the registration of copyright), policy reform and modernization.

Technical capacity for IP policymaking and administration in these agencies is reported to vary widely and to be limited in general. The Ministry of Tourism, Trade and Industry, for

example, has limited staff to design, develop and manage the entire tourism, trade and industrial development reform processes while at the same time representing the country's interests internationally and managing its WTO membership obligations. Similarly, URSB employs five State Attorneys to operate and administer registries under the patents and trademarks Acts, plus registries under the new copyright legislation as well as other statutes that fall within the scope of responsibility of the Registrar General. A complete list of those laws is attached as Annex D.

In the period following WTO accession, the responsibility for coordinating Uganda's compliance with TRIPS was assigned to a TRIPS Sub-Committee of the Inter-Institutional Trade Committee (IITC). As the IITC continued to focus on overall WTO issues, intellectual property matters received less individual attention and the TRIPS Sub-committee ceased to function on a stand-alone basis. Any intellectual property issues that arose were addressed in the IITC itself. Today there is full agreement among all stakeholders on the need for establishing a national IP Policy Forum. Technical and financial cooperation will be needed on an urgent basis to establish such a forum.

3.1.2 Legal framework and membership of international agreements

Uganda is a founding 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, Uganda has until 2016.

Uganda acceded to the Paris Convention for the Protection of Industrial Property in 1965 and the

Patent Cooperation Treaty (PCT) in 1995. Uganda has been a member of the World Intellectual Property Organization (WIPO) since 1973 and acceded to the Nairobi (Olympic Symbol) Treaty in 1983.

Uganda is a member of the African Regional Intellectual Property Organization (ARIPO). It is party to the ARIPO Harare Protocol on patents and industrial designs and the Banjul Protocol on trademarks.

Uganda is not a Member of the Berne Convention for the Protection of Literary and Artistic Works. Neither is Uganda a member of the Convention on the International Union for the Protection of New Varieties of Plants (UPOV). Uganda is party to the Convention on Biological Diversity (CBD) and, as a member of the African Union (AU), may wish to take cognizance of the AU Model Law on Access to Genetic Resources.

Uganda has existing legislation for patents (1991), trademarks (1952, amended in 1982), industrial designs (1937, amended in 1962), copyright and neighbouring rights (2006), and control of anti-competitive practices in contractual licenses (1992). The existing industrial designs legislation entitled the “United Kingdom Designs (Protection) Act, Cap 218” dates from colonial times and merely extends protection of designs previously registered

3.1.3 Recent reform efforts

The Uganda Law Reform Commission (ULRC), in the context of the national Commercial Justice Reform Programme and with the support of the Justice, Law and Order Sector, has undertaken to reform key selected commercial laws that affect the basic operating environment of businesses, to promote private sector business operations, and has drafted a number of Study Reports and proposed Bills. Among these are Study Reports and proposed Bills published in 2004 on copyright and neighbouring rights law, industrial property law (patents, industrial designs, technovations and utility models), traditional medicine practice, trademarks and service marks law, trade secrets law, plant variety protection law, and competition law. With the exception of copyright and neighbouring rights, as noted above, these Bills have not yet become law.

In response to an invitation by URSB, WIPO undertook to conduct an intellectual property ‘country assessment’ or IP audit¹⁰, of Uganda in 2005. This audit generally takes the form of a survey (using WIPO’s IP Audit Tool) on the status and use of intellectual property by enterprises, institutions and the national office responsible for administering IP. The results from such survey are then usually presented in a report of

in the UK to Uganda. While copyright legislation is very recent, the patent and trademark laws, albeit amended in 1991 and 1982 respectively, are not fully TRIPS compliant. For example, patent only have a term of 15 years and service marks can not be registered in Uganda.

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 (e.g. geographical indications, undisclosed information, plant varieties and integrated circuit topographies). Nor does the existing IP legal regime in Uganda address areas that are of growing interest in other developing countries, such as traditional knowledge and regulation of access and benefit sharing from the nation’s biodiversity.

survey results and summaries of key findings and recommendations.

The aforementioned ULRC Study Reports of 2004 together with the results of the WIPO IP audit in 2005 are valuable assets and represent an important starting point that can and should, together with further focused research in areas such as exploitation of traditional knowledge, biodiversity, geographical indications, etc., contribute to articulation of a coherent national IP strategy for Uganda and suggest how Uganda may improve its ability to benefit from social and economic development based on intellectual property. At the same time, the issues of regional (e.g. East African Community, ARIPO, etc.) harmonization of the IP legal and administrative frameworks need to be considered. A key requirement to enabling this to occur is for all stakeholders, including innovators/creators, government and the public in general to participate effectively in the process. Priority financial and technical cooperation will be needed over the medium term to enable the design and articulation of such development-supportive national IP policies and strategies that would be implemented through effective TRIPS-compliant legislation.

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

a) *Support for co-ordination of IP policy development*

The National Trade Policy requires that laws to protect IP be enacted. Whilst many of the aspects of the basic elements of the IPR legal framework are in place in Uganda, and new legal drafts and regulations are being prepared by the Uganda Law Reform Commission supported by external assistance, what is missing is an overarching national IP policy framework developed and supported by all interested stakeholders, and covering the policy linkages between IP and public health (including implementation of the WTO Doha Declaration on the TRIPS Agreement and Public Health in Uganda); agriculture and the environment including plant variety protection; education, science and technology; enterprise development and regulation; and protecting Uganda's rich cultural heritage and traditional knowledge.

Financial and technical assistance is required to design and implement a comprehensive, coherent and inclusive national IP policy development and consultation process. This should include support for a "National IP Policy Forum" as the appropriate institutional mechanism to bring together the range of stakeholders from government, the private sector and civil society. The "National IP Policy Forum" would aim to produce a draft national IP policy framework within its first year of operation to guide future legislative development; it would then work to update and elaborate aspects of national IP policy from then onwards. Such a mechanism would also strengthen Uganda's capacity, through MTTI, to participate in international trade negotiations and IP rule making.

In the short term there would be a requirement for financial assistance for the logistics and establishment required to stay up to date and informed with emerging IP issues on the international, regional and national agendas. Funding would be required to undertake an "intensive phase" of human resource

development to develop sufficient national IP policymaking capacity amongst key stakeholders to move the agenda forward. This would empower policymakers to be "intelligent clients" for policy research and to be able to fully understand the technical issues in depth at a working level - informed by knowledge from other country experiences and adapting their models to suit Uganda rather than re-inventing the wheel.

The importance of ensuring informed input to the national IP policy dialogue by consumers and the public at large was stressed by numerous stakeholders and particularly representatives of civil society organizations. In this connection, long term financial support and technical assistance is needed to enable active participation by representatives of civil society in the policy dialogue and the establishment and maintenance of an appropriate balance of public and private interests in Uganda's national IP regime.

Support should also be provided to transform the existing WIPO-Uganda Registration Services Bureau (URSB) National IP Strategy project, initiated in 2005, into a more broadly based and locally led policy development process, targeted to national needs and circumstances.

b) *Training for policymakers on IPR concepts, international IPR conventions and best practices from other countries*

Technical assistance is required to undertake an initial "intensive phase" of human resource development for government officials, the private sector and civil society representatives participating in the proposed "National IP Policy Forum" and policy development process. Theoretical and practical training on basic IPR concepts, the international framework for IPR protection (TRIPS Agreement and other principal international IP conventions including obligations, flexibilities, safeguards and exceptions applicable to Uganda); key challenges (benefits, costs and risks) for developing countries implementing stronger IP protection; and best practices from

other countries is required, tailored to the needs of policymakers (rather than IP office administrators for example).

Educating government officials and other relevant stakeholders in basic concepts of intellectual property rights is essential to raise awareness and understanding of IPRs in general, its value and how it can be used in the interest of furthering Uganda's local and regional development. The training should also cover emerging IP issues on the international, regional and national agendas (for instance the EPA negotiations between the EU and Eastern and Southern Africa), and include financial assistance for logistics, background research and overseas study tours.

c) Development of a multi-disciplinary IP policy teaching, research and analysis capacity in the academic community

Subject matter to be covered would include the full range of intellectual property issues, including new and evolving areas such as ensuring improved access to medicines, technology transfer concepts, protection of traditional knowledge,

exploitation of geographical indications, protection of integrated circuit topographies, utility model protection, access to genetic resources and benefit sharing under the CBD, and the evolution of copyright and potentially new forms of rights in the digital environment.

The focus would be on supporting graduate, undergraduate and doctoral teaching and supervision capacity and on investigating the socio-economic impacts, international experiences in other countries, and identification of the optimum legal and regulatory frameworks for their administration in Uganda as well as in a regional context (e.g. EAC, COMESA, ARIPO, etc). Establishment of this capacity would require financial and technical assistance over the medium term to establish Chairs in IP at lead research and development institutions such as Makerere University and the Law Development Centre as well as modest levels of multi-year funding to introduce IP curricula at lower levels and for research programmes, policy seminars, participation in international policy research networks and dialogues, publications and website.

4. IPR ADMINISTRATION

Administration of IPRs 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.

The TRIPS Agreement sets out, *inter alia*, minimum standards for the concerning the availability, scope and use, enforcement and acquisition and maintenance of IPRs in 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.

The administration of intellectual property rights involves receiving of applications, examination of those applications as to formalities and substance, 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. In the case of trademarks, for example, constantly increasing application rates and the possibility of virtually endless renewal cycles pose major demands on IP administration. 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.

As patent applications rapidly evolve to cover highly technical subject matter in areas such as micro-electronics, pharmaceuticals, life forms and nano-technology, substantive examination requires increasingly higher levels of 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. Most countries, including LDCs therefore opt for a patent registration regime that is based on a system of regional and/or international co-operation.

4.1 Overview of Existing Situation

4.1.1 Intellectual property (patents, trademarks, industrial design, utility models and copyright)

The Uganda Registration Services Board (URSB) is a 'corporate' body that reports to Parliament through the Minister of Justice and Constitutional Affairs¹¹, and is responsible for administering intellectual property rights, namely patents, trademarks, industrial designs and copyrights. At the same time, the URSB is also responsible for the registration of births, deaths, marriages and business registrations. In addition to the Registrar, the Bureau has a total complement of 5 State Attorneys who carry out the professional functions relating to intellectual property matters

among the 13 statutes that are administered.¹² The equivalent of approximately 4 state attorneys and one search clerk are allocated to trademark operations. There are no technical examination resources in the Bureau to address substantive technical issues relating to patents or patent applications.

The URSB 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, together with access to WIPONET, but there have been difficulties locally with installing appropriate IPR software applications and data entry. A program has recently been initiated to capture trademark applications in electronic form using a Microsoft Excel spreadsheet as the database management system. The URSB is located on the 4th and 5th floors of a rented building and there is currently no elevator service available. There is no patent information service available from the URSB for business or research users in Uganda.

The URSB has also received technical and financial support from the Uganda Justice, Law & Order Sector/Commercial Justice Reform Program, the SPEED Project of USAID, WIPO, the EPO and the WTO. These have provided limited assistance in: training in commercial law, provision of computers and initiation of the computerization of the registries of companies and trademarks. The World Bank has also approved a loan to enhance competitiveness in Uganda and the

URSB is to access funds to enable it to improve service delivery up to 2010.

Although, as noted above, the URSB was set up to be an autonomous agency in 1998, implementation has not yet taken place. As a consequence, some potential development partners, reportedly including the World Bank, have not implemented technical assistance programs aimed at modernizing the Bureau's operations. While the Bureau collects fees for its services, all fees are deposited in the Government's consolidated fund and URSB continues to receive annual budget appropriations for its expenditures. There is no retention of fee revenues by the Bureau and no financial provision is made for capital investments.

Statistical information on industrial property rights applications and registrations provided by the URSB is shown in Table 1 below. As can be seen, there are low volumes and most industrial property rights registered in Uganda are foreign-owned

Table 1. Industrial Property Rights Statistics for Uganda 2003-2007 (URSB)

		2003	2004	2005	2006	2007
Trademarks	(reg)	811	947	1078	1123	629
Patents	National (app)	5	12	3	11	6
	PCT (reg)	0	1	0	0	1
	ARIPO (reg)	312	409	473	451	210
Utility Models	(reg)	0	3	0	2	0

(reg) = registered, (app) = applications Figures - for 2007 are up to July 26, 2007

Source: URSB

The URSB carries out a trademarks registration function, including publication for opposition, registration and renewal. There is little, if any, administrative workload performed by the Bureau on patents. The majority of patents that are registered arrive via the PCT/ARIPO route and the determination of patentability of applications is outsourced to ARIPO. There is a minimal workload associated with the registration of utility models and industrial designs. In light of the central role of ARIPO in establishing patent rights in Uganda, it was

noted by stakeholders that ARIPO should also have been included in the current needs assessment.

While the level of public administration required for copyright and related rights is minimal, the recently promulgated Copyright and Neighbouring Rights Act, 2006, remains to be fully implemented. Regulations need to be drafted and the administration of the prescribed voluntary registration system and the supervision of collecting societies are yet to be implemented.

4.1.2 Other types of IPRs

As described in Chapter 3, there is currently no legislation in other areas of IP in Uganda such as geographical indications (GIs), plant varieties, and integrated circuit topographies. Therefore there are currently no institutions responsible for or capable of administering these types of IPRs

in the country. The ULRC studies and draft Bills propose that registration of GIs will be done by the trademark department of URSB and that plant varieties should be administered by an office in the Ministry of Agriculture, Animal Industry and Fisheries.

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

a) *Developing an optimal business model for intellectual property administration by benchmarking against international best practice*

Although the URSB was established as an autonomous agency of government under the Uganda Registration Services Bureau Act, 1998, various problems have prevented the institution from being set up in practice. A decade later, the URSB is not in a position to use its substantial fee revenue income to offset its operating costs. It is not in a position to resolve issues such as how to pay for provision of elevator services to its 4th and 5th floor offices for its fee-paying clients and its own employees. There is broad consensus that the existing situation is not tenable. Since the business model envisioned in the URSB Act has not yet been realized, it was suggested by stakeholders that a 3rd party review of the actual situation should be carried out and benchmarked against today's best practice.

In the short term, there is an urgent need for technical co-operation to identify the most appropriate and feasible legal and operational structure for IP administration as envisioned by the URSB Act and based on lessons learned from international best practice, including other African countries. This investigation would also examine the issue of whether or not patent administration in Uganda should include substantive technical examination (currently URSB does not have a cadre of patent examiners) and, if so, how such examination could best be carried out (options include in-house or outsourcing to academic or research institutions). The potential benefits of such technical resources are discussed further in Chapter 6, below.

Should the investigation conclude that a financially autonomous IP office is a viable model, medium-term financial assistance would be required from 2008 for premises refurbishment, new office equipment and furniture, and installation of a modern ICT infrastructure to suit the needs of a small IP office for an initial period of at least 5 years or until the office is in a position to be financially fully self-sustaining.

b) *Enhanced human resources at URSB*

If and when a financially autonomous URSB is operationalized (see above), a modest number of additional permanent staff positions will be required to support the delivery of improved levels of services to IP rights holders and other users through an alternative, self-sustaining 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 include new staff in the areas of finance and administration (revenue accounting), patent information services, copyright and traditional knowledge registry, communications and outreach and automated systems administration. Additional formal and on-the-job training will be required for staff in IPR administration, patent information services, strategic and business planning, financial management and accounting, human resources management, information technology skills, and communications, on an ongoing basis for the foreseeable future.¹³ In this regard, it is important to establish a link between training institutions and the URSB. Tailored study visits to other IP offices, particularly in developing countries, would also be essential for development of all professional staff.

c) Computerization of registries for trademarks, industrial designs, and patents

Since the country is a member of the Patent Co-operation Treaty (PCT) system and ARIPO, where documentation and operations are computerized, there is an urgent need to also computerize workflows and registries in Uganda. Users of the IP system demand increased service levels in terms of patent filing, industrial design and trademark registration and the use of computerized databases would facilitate greater efficiency, transparency and access to available information.

In the short term, technical assistance (including training of staff) and financial support to design and implement necessary electronic processes, workflows and registries, including the conversion of existing paper registries for patents, trademarks and industrial designs to electronic form, is required. These needs will continue over the medium term, as new and amended legislation, regulations and administrative procedures are implemented. These automated registries should eventually be made available on-line and linked to the development of a patent information service (this is discussed in greater depth in Chapter 6).

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 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 or other types of IPRs.

5.1 Overview of Existing Situation

Although there are no official statistics available, anecdotal evidence from stakeholders suggests a fairly high prevalence of counterfeit and pirated goods in Uganda. A recent survey conducted by the Uganda Performing Rights Society in February 2007 covering 29 townships reported 443 computer operators engaged in the illegal burning of CDs and distribution of music works. The survey suggested that almost 59,000 illegal CDs were sold per month, resulting in losses of approximately US\$2,000,000 per annum to the music industry.

Standards (UNBS), the Inspectorate General of Police and the Commercial Division of the High Court. As part of the on-going program of reform and modernisation of the Uganda Revenue Authority, a major long-term program to improve customs administration has been initiated. When the country became a member of the EAC customs union in January 2005, Uganda adopted the EAC Customs Management Act which standardizes the customs legislation of the EAC partner countries. The Uganda Performing Rights Society is also actively involved in strengthening the legal framework as well as setting up mechanisms and undertaking activities to serve the interests of its membership.

Although such infringement commonly affects music CDs, film DVDs, and computer software, it also affects medicines and other products such as vehicle spare parts and consumer electronic goods. While most of these products come from abroad, the domestic production of illegal products is increasing, particularly for music, films and computer software and other, more common, consumer goods. For example, consultations with the Uganda Manufacturers Association (UMA) report persistent problems with large-scale infringement of nationally owned trademarks in the paints, plastics and textiles sub-sectors.

During the needs assessment exercise, the lack of awareness and understanding of fundamental intellectual property concepts including the protection available under existing national legislation was identified as a major weakness to be addressed and corrected with respect to enforcement. The need for greater awareness and understanding of intellectual property was repeated by virtually all who were interviewed or who participated in the Stakeholder Workshop, including innovators and creators, administrators, enforcement authorities, private sector legal practitioners and consumers. The need to quickly implement the new copyright legislation, including the facility to permit registration under that law, was also viewed as urgent by stakeholders.

In general terms, enforcement of IPRs in Uganda, although reportedly difficult, is being actively addressed by authorities including the National Revenue Authority's Customs and Excise Department (CED), Uganda National Bureau of

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

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

There is a medium-term need for technical and financial assistance to support public education and awareness raising campaigns throughout Uganda on IPRs, including obligations, flexibilities, safeguards and exceptions in the context of relevant national laws and international rules. Campaigns should be professionally designed and use well-defined messages to target different audiences appropriately, e.g. consumers, businesses and traders, artists and musicians, radio and television broadcasters, the academic community, manufacturers, researchers and legal and business service professionals. A variety of media (billboards, newspaper and radio features, public concerts, development of teaching modules for legal curricula, etc) should be developed and used.

Such campaigns should include participation from private sector and rights holder organizations, such as the Uganda Manufacturers Association, Uganda Performing Rights Society, and the Uganda Music Publishers Association as well as consumer associations. For example, once information materials have been produced, their effectiveness can be increased through extended coverage and reach that may be achieved through partnering with academic institutions, professional and consumer associations, manufacturers and distributors' associations, chambers of commerce, etc.

b) *Training and qualification of private and public sector attorneys and agents*

There is an urgent need to train and qualify private and public sector practitioners to represent effectively the interests of applicants and owners of IPRs and other interested parties before the URSB and the courts. Stakeholders reported that there is currently a shortage in Uganda of attorneys and agents, particularly in the field of patents, with the combination of legal and scientific knowledge and skills that are

needed to assist applicants to obtain IP rights and later to help them defend those rights. It is widely recognized that the value of IPRs is, in the first instance, dependent on the validity of the rights established. Validity, in turn, is largely determined by the quality of prosecution of the application before the national administrative authorities. Ultimately, success in defending or challenging IPRs in court is heavily dependent on the competence of legal counsel.

Specifically, there is an immediate need for technical and financial support to develop and deliver training programs for attorneys as well as engineers and scientists in matters relating to patent drafting, application, prosecution and litigation. Such training could be delivered through a professional development or continuing education program at the Law Development Centre, for example. In the longer term, the government may choose to establish standards that must be met by private sector IP practitioners in order to qualify to represent applicants before the URSB.

c) *Training of enforcement agencies and rights holder organizations in IPR concepts, national legislation and enforcement strategies*

There is a need for technical cooperation and financial support for the “training of trainers” in IP concepts, national legislation and regulations and enforcement matters for the full range of enforcement authorities and such other organizations that play important roles in contributing to effective enforcement of IPRs, including: the police, the National Revenue Authority’s Customs and Excise Department (CED), the National Bureau of Standards and potentially the military. Specialized training is needed for the office of the public prosecutor and members of the commercial division of the High Court.

In addition, support is needed for “training of trainers” on IPR enforcement strategies of other

interested organizations (governmental and private sector) including, for example, Ministry of Health's Directorate General of Medical Services (authority for regulatory compliance of pharmaceuticals), the Uganda Performing Rights Society, the Uganda Manufacturers Association and the Uganda Music Publishers Association. All training programmes should be designed by experienced professionals and be carefully sequenced to the promulgation of new IP legislation and related public education campaigns on IPRs in Uganda in order to be effective.

d) Provision of access to networked, computerised national intellectual property registries for the Uganda Customs and Excise Department and the Uganda National Bureau of Standards

Medium term financial assistance and technical co-operation are required to provide access to networked, computerised databases on IPRs that are in force in Uganda, for use by enforcement authorities in co-operation with the URSB. Additionally, on-line communications with and access to World Customs Organization (WCO) databases to improve 'risk profiling' and to identify counterfeit trademarks and fake goods should also be provided to the Customs authority

and, if feasible, to the Ministry of Health in the case of fraudulent pharmaceutical products.

Technical co-operation from the WCO and INTERPOL would be required in establishing the latter system and training staff in its use. An initial pilot could be run in the Customs service Entebbe or Kampala regions and then rolled out to the three other customs regions over the longer term. This project should be synchronised with general training of enforcement agencies as well as development of IP legislation in Uganda.

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

Financial and technical assistance is required to enable co-ordination of customs border measures between Uganda and its neighbouring countries. A study should be undertaken to determine the feasibility of establishing a network mechanism between neighbouring countries for greater coordination and cooperation between the IP offices, customs and police authorities. For example, it may be advantageous to facilitate access by neighbouring countries enforcement authorities to each other's electronic intellectual property registries, initially among EAC partner countries.

6. INNOVATION, TECHNOLOGY TRANSFER AND IP FOR DEVELOPMENT

Technological information may be obtained from numerous sources but none provide the scope and up to date coverage of the patent system. Patent documents provide descriptions not only of historical inventions but also disclose the many incremental advances that gradually improve and perfect a particular technology over time.

Patents enable the reader to find out what already exists in order to build on it while avoiding infringing the rights of others, and they allow one to keep track of what competitors are doing. Patent information is not normally available to the public in any other form of literature.

The European Patent Office provides free access to its esp@cenet online database of some 60 million patent documents¹⁴. WIPO, in its Patent Report for 2007¹⁵, states that patents granted worldwide

increased to an annual rate of approximately 600,000 in 2005 and that at the end of that year there were approximately 5.6 million patents in force worldwide. This means that something in excess of 50 million patents worldwide are no longer in force and their technical disclosures may be exploited as sources of knowledge by anyone without risk of infringement.

Finally, it is useful to note that, from the perspective of SMEs around the world, the latest leading-edge innovations may for various reasons not best suit their needs. The most appropriate technology may in fact be disclosed in the over 50 million patents that have lapsed into the public domain. In some cases utility model or “petty patents” and industrial designs afford cost-effective protection for domestic innovations.

6.1 Overview of Existing Situation

As noted in Chapter 4, most intellectual property rights in Uganda are foreign owned. Also, notwithstanding various World Bank or multi-donor funded projects undertaken during the period of economic re-construction beginning in the mid-1980s, few of these included the transfer of technology or know-how to Uganda. Uganda has a weak domestic scientific and technological base, relying on acquisition of foreign-owned technology and know-how to support industrial development. Nevertheless, as discussed in Chapter 3, Uganda has developed a national science, technology and innovation policy, established a National Council for Science and Technology, an Industrial Research Institute and has articulated a national industrial development policy.

Meetings with stakeholders confirmed that the academic community is pursuing the development of policies and administrative procedures that will allow the exploitation of technological information from the global patents database and at the same time encourage the protection and commercialization of innovations made at

universities and vocational institutions. The National Council for Science and Technology, the Uganda Industrial Research Institute and activities under the Plan for Modernization of Agriculture (PMA) reflect interest in better exploitation of intellectual property in support of national economic development. Under the PMA, for example, there is reportedly interest in commercializing technology that is being developed by the National Agricultural Research Organization (NARO). Similarly, Makerere University Faculty of Technology is actively pursuing development of a Technology Development and Transfer Centre (TDTC) whose objective¹⁶ is to “enhance the development of entrepreneurship among the Faculty’s students and graduates” by exploiting students’ original ideas of about technologies that “have the potential of transforming our poor rural and urban communities”.

Stakeholders also stressed that a large part of Uganda’s economy is based in the informal sector. This would need to be taken into account in designing programs aimed at increasing the

use of the intellectual property system as a tool for economic development, particularly by small and medium industries.

The Uganda Industrial Research Institute and the National Agriculture Research Organisation, together with the National Council for Science and Technology, are the main publicly funded agencies in place to promote technology transfer to support agricultural, industrial and scientific development in Uganda. Whilst these agencies provide a basic institutional infrastructure, their activities are relatively small in scale and there

is a lack of financial and technical resources. There is no patent information service or up to date patent database available, and there are no technology transfer offices at academic and government research institutions in Uganda.

In relation to Article 66.2 of the TRIPS Agreement, Uganda 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 Uganda.

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

a) *Improving business education and support services on IP management for small and medium enterprises (SMEs)*

There is a long-term need for technical and financial assistance for education and awareness raising campaigns in basic IP concepts, using IP for development, and the management of IP, for SMEs across Uganda but targeting the creative industries (copyright and related rights), agricultural (plant varieties, trademarks, geographical indications) and commercial and manufacturing sector in particular (trademarks and patents). Activities should be professionally designed and target different segments of the SME sector and its support community appropriately (e.g. creators of IP, business service providers, government research facilities, university researchers, and legal and financial 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.

There is also a need for assistance to develop curricula to cover IP, from a broad perspective, in the tertiary educational sector and in the faculties of law, engineering, science, economics and agriculture at Makerere and other universities and vocational education institutions. The curricula should emphasize not just the legal

aspects of IPRs, but present IP within the broader framework of using technology and innovation for development and business, as well as stimulating novel scientific enquiry.

Finally, there is a specific need for technical and financial assistance to improve the quality and availability of local business consultancy and support organizations to offer improved services on IP management by SMEs in Uganda, again targeting the sectors described above. Most companies in Uganda do not have R&D or IP units to manage their brands, innovation and use of technology so as to add value to their products and services.

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

In the context of establishing and strengthening a domestic creative and innovative base it is important to acquire new technologies, including those within the public domain, and to absorb and adjust these for local needs. In this respect, technical co-operation and financial assistance are needed to design and implement a computerized and on-line Patent Information Service (PIS) in Uganda. The importance of published patent documents as a source of technical information of potential great value, particularly to small and medium enterprises, is noted above.

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 (e.g. manufacturing, mining, fishing, forestry, agriculture). The PIS should be operated by the URSB (as the Ugandan node in the global patent information network) in cooperation with the National Council for Science and Technology, the Uganda Industrial Research Institute, the Uganda Investment Authority and select academic institutions in Uganda. Support for training of PIS operators and users would also be required.

Support is also needed to assess the feasibility of staffing the URSB with a limited number of technical specialists in technology sectors of strategic economic importance to Uganda (e.g. agriculture, forestry, pharmaceuticals, etc.)

These individuals would require intensive training in patent classification, search and examination, not to needlessly duplicate the search and examination carried out through ARIPO and the PCT in these areas, but rather to serve as a valuable Ugandan resource, or ‘intelligent interface’ to the huge global patent databases to access and pro-actively disseminate scientific and technical information to Ugandan researchers and SMEs (see Chapter 4 above).

c) *Identification of the potential economic value of national creative & cultural industries*

Short term technical assistance is required to support a comprehensive national survey of the economic value of Uganda’s creative & cultural industries as generators of IP assets, as well as the potential domestic and export market development opportunities and constraints.

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. Support for coordination and development of national IP policy framework.</p> <p>B. Training for policymakers on IPR concepts, TRIPS and international IPR conventions (including obligations, flexibilities, safeguards and exceptions applicable to Uganda) and best practices from other countries.</p> <p>C. Development of a multi-disciplinary IP policy teaching, research and analysis capacity in the academic community.</p> <p>D. Development of IP management policies and procedures for national universities and research institutes</p>	<ul style="list-style-type: none"> • Establishment of a “National IP Policy Forum”, properly equipped to bring together the appropriate range of governmental and non-governmental stakeholder in the policy development process • Intensive training activity to develop sufficient national IP policymaking capacity based on solid understanding of IP issues, international IP conventions, and how they impact on Uganda’s national development objectives. • Transformation of the WIPO-URSB National IP Strategy Project initiated in 2005 into a locally led policy development process targeted to national needs. • Development of IP policy research, analysis and teaching capacity in at least Makerere University and the Law Development Centre. 	<ul style="list-style-type: none"> • Ministry of Tourism, Trade & Industry • Ministry of Justice & Constitutional Affairs • Ministry of Health • Ministry of Agriculture • Uganda Registration Services Bureau • Uganda National Science & Technology Council • Makerere University • Law Development Centre • National Agriculture Research Organization • Uganda Industrial Research Institute • Civil Society & Private Sector representatives 	<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 after July 2013 	<ul style="list-style-type: none"> • WIPO (on industrial property training and development of a national IP strategy) • WTO (for development and implementation of IP policy training activities) • UNESCO (on copyright and related rights policy and legislation) • WTO (participation by Uganda at WTO TRIPS Council) • UNESCO (on copyright, related rights and traditional knowledge policy and legislation) • WHO (on patents and public health regulation) • FAO (on GIs and plant variety 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
<p>Project 2: Using IP for development, promoting innovation, creativity, and technology transfer</p>	<p>A. Improving business education and awareness about IP for SMEs targeting the creative industries (copyright and related rights), agricultural (plant varieties, trademarks, geographical indications) and manufacturing sector in particular (patents and trademarks).</p> <p>B. Development of a patent information service (PIS) to support innovation and technology transfer.</p> <p>C. Identification of the potential economic value of national creative & cultural industries</p>	<ul style="list-style-type: none"> • Training of SMEs, staff managing the PIS, university and private sector researchers and legal practitioners (as potential patent agents) in patent database searching and reading patent documentation • Design and implementation of an online, fully searchable patent information service at the URSB, and possibly other sites, based on global patent databases • Study to assess feasibility of adding limited technical search and examination resources to the URSB to support patenting and dissemination of patented technical information. • Survey of economic value of national creative & cultural industries and potential domestic and export market development opportunities and constraints 	<ul style="list-style-type: none"> • Ministry of Tourism, Trade and Industry • Uganda Registration Services Bureau • Uganda National Council for Science and Technology • Uganda Industrial Research Institute • Makerere University • Ministry of Gender and Social Development • Private sector associations representing SMEs 	<ul style="list-style-type: none"> • All activities under Project 2 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 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: Modernizing IP administration infrastructure	<p>A. Developing an optimal business model for intellectual property administration in Uganda by benchmarking against international best practice.</p> <p>B. Enhanced human resources at URSB.</p> <p>C. Computerization of registries for trademarks, industrial designs, copyright and patents.</p>	<ul style="list-style-type: none"> • Develop an optimal business model for intellectual property administration in Uganda by benchmarking against international best practice. • Staff recruitment, design and implementation of competency-based training programmes, including patent search and substantive examination (if warranted) • Design and implementation of fully computerized processes, workflows and registries for trademarks, industrial designs copyright and patents. 	<ul style="list-style-type: none"> • Uganda Registration Services Bureau • Uganda National Science & Technology Council • Uganda Industrial Research Institute 	<ul style="list-style-type: none"> • IP resource and management audit to define optimal business model for administration of intellectual property to commence in January 2008 to be completed by March 2008. • Establishment of new national IP office initiated by September 2008 • Implementation of automation started in September 2008 and completed by September 2010 • Staff recruitment and training on priority skills commenced in September 2008 and completed by September 2010 • Additional training programmes may be required from July 2013 onwards 	<ul style="list-style-type: none"> • European Patent Office (audit of current resources and design of a financially autonomous IP office based on best practice) • WIPO (computerization of IP office administration and registries) • UK IP Office (technical co-operation and training in IP 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 4: Strengthening IP enforcement and regulation regime	<p>A. Improving consumer education and public awareness about IPRs.</p> <p>B. Training and qualification of private and public sector attorneys and agents.</p> <p>C. Training of enforcement agencies and rights holder organizations in IPR concepts, national legislation and IPR enforcement strategies.</p> <p>D. Provision of access to networked, computerised national intellectual property registries for the Uganda Customs and Excise Department and the Uganda National Bureau of Standards.</p> <p>E. Enhancing co-operation with foreign enforcement agencies on counterfeiting and piracy.</p>	<ul style="list-style-type: none"> • Design, implementation and monitoring of public education and awareness raising campaigns on IPRs targeting a broad range of audiences. • Training programs for attorneys, engineers and scientists in matters relating to patent prosecution and litigation. • Training for enforcement agencies and rights holder organizations, including classroom-based, on-the-job, study tours, and training for trainers • Training for the judiciary in intellectual property and case management, including classroom-based, colloquia and study tours. • Computerization of Ugandan IP registries and network access to regional (e.g. EAC) and international databases, such as World Customs Organization and Interpol 	<ul style="list-style-type: none"> • Uganda Registration Services Bureau • Customs and Excise Department of Uganda Revenue Authority • Uganda Police • Uganda National Bureau of Standards • Commercial Division, High Court of Uganda • Private sector associations (e.g. Uganda Manufacturers Association, Uganda Performing Rights Society, etc.) • National Drug Authority 	<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 • WCO • INTERPOL • UK IP Office and Customs service • UNESCO • World Bank (on customs infrastructure) • European Commission • USAID

ANNEX B: KEY STAKEHOLDER MAP

Public Sector

- Office of the President
- Ministry of Tourism, Trade and Industry
- Ministry of Justice and Constitutional Affairs
- Ministry of Finance, Planning and Economic Development
- Ministry of Foreign Affairs
- Ministry of Gender, Labour and Social Development
- Ministry of Health
- Ministry of Education and Sports
- Ministry of Agriculture, Animal Husbandry and Fisheries
- Ministry of Water, Lands and Environment
- Ministry of Finance, Planning and Economic Development
- Ministry of Internal Affairs
- Uganda Revenue Authority (Customs and Excise Department)
- Uganda Police Force
- Judiciary (Commercial Court)
- Directorate of Public Prosecution
- National Agricultural Research Organization
- Uganda Investment Authority
- Uganda Registration Services Bureau
- Uganda National Council for Science and Technology
- Uganda Industrial Research Institute
- National Drug Authority
- Uganda Law Reform Commission
- Law Development Centre
- Makerere University Kampala (Faculties of Law, Technology, Veterinary, medicine, School of fine Art)
- Makerere Institute of Social Research (MISR)
- National Chemotherapeutics Research Laboratory Ministry of Health
- National Forest Resources Research Institute

Private Sector

- National Environment Management Authority
- Uganda Performing Rights Society
- Uganda Law Society
- Architecture Association
- Uganda Broadcasting Council
- Uganda National Chamber of Commerce and Industry
- Uganda Manufacturers Association
- Federation of Performing Artists of Uganda
- Uganda Private Sector Foundation
- Uganda Manufacturers Association
- Uganda Music Publishers Association

Civil Society

- Advocates Coalition for Development and Environment (ACODE)
- SEATINI (Southern and Eastern African Trade, Information and Negotiations Institute)
- VEDCO (Volunteer Effort for Development Concerns)
- ACRD (African Centre for Research & Development)
- DENIVA
- CONSENT
- HEPS (Coalition for Health Protection and Social Development)
- Consumers

International stakeholders

- African Regional Intellectual Property Organization
- World Intellectual Property Organization
- WTO member states
- World Customs Organization
- UNCTAD
- UNESCO
- WHO
- National Commission for UNESCO
- ICTSD

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	The Patents Act, Cap 216	1991	Current legislation is reportedly not fully TRIPS-compliant and does not exploit S&DT opportunities. Uganda Law Reform Commission (ULRC) Study Report on Industrial Property Law (Patents, Industrial Designs, Technovations and Utility Models) and Industrial Property Bill, 2004, addresses TRIPS compliance and S&DT issues
Trade Marks	The Trademarks Act, Cap 217	1964	Current legislation is reportedly not fully TRIPS-compliant and does not exploit S&DT opportunities. ULRC Study Report on Intellectual Property Rights - Trademarks and Service Marks Law and proposed Trade Marks and Service Marks Bill (2004) addresses TRIPS compliance and S&DT issues
Industrial Designs	United Kingdom Designs (Protection) Act, Cap 218	1937	See patents above.
B. Copyright and Related Rights			
Copyright	The Copyright and Neighbouring Rights Act, 2006	2006	Reported by officials to be TRIPS compliant and to exploit flexibilities, safeguards and S&DT provisions available to LDCs.
Related Rights	See above	See above	See above
C. Other Country-specific Legislation or Regulations			
Utility Models	The Patents Act, Cap 216	1991	See patents above.
Appellations of Origin / Geographical Indications / Indications of Source	The Trademarks Act, Cap 217	1964	Current law provides for registration of certification marks. ULRC Study Report on Geographical Indications Law and proposed Geographical Indications Bill, 2004, addresses TRIPS compliance and S&DT issues
Computer Programs	The Copyright and Neighbouring Rights Act, 2006	2006	See copyright above.
Protection of Undisclosed Information	No legislation		ULRC Study and Reform on Intellectual Property Rights on Trade Secrets, 2004, and the Trade Secrets Protection Bill, 2005, addresses TRIPS compliance and S&DT issues
Layout- Designs of Integrated Circuits	No legislation		
Plant Varieties Protection	No legislation		ULRC Study and Reform on Plant Variety Protection Law, 2004, and Bill for an Act entitled The Plant Variety Protection Act, 2002, addresses TRIPS compliance and S&DT issues
Protection of Folklore & Traditional Knowledge	No legislation		ULRC Study Report on Intellectual Property - Traditional Medicine Practice, 2004, and proposed Traditional Medicine Practice Bill, 2004, addresses TRIPS compliance and S&DT issues
Transfer of Technology	Investment Code Act, Cap 92	1992	Section 30 of the Investment Code Act, Cap 92, provides for registration of technology transfer agreements and technical assistance
Control of Anti-Competitive Practices in Contractual Licenses	Investment Code Act, Cap 92	1992	Addressed in current Patents Act, Cap 216 and the Study Report on Industrial Property Law (Patents, Industrial Designs, Technovations and Utility Models) and Industrial Property Bill, 2004. Also addressed in the Investment Code Act, Cap 92, 1992.

ANNEX D: LAWS ADMINISTERED BY URSB

THE UGANDA REGISTRATION SERVICES BUREAU ACT

SCHEDULES

First Schedule

Relevant laws.

1. The Bankruptcy Act
2. The Births and Deaths Registration Act
3. The Building Societies Act
4. The Business Names Registration Act
5. The Chattels Transfer Act
6. Section 54 of the Children Act
7. The Companies Act
8. The Customary Marriage (Registration) Act
9. The Marriage Act
10. The Partnership Act
11. The Patents Act
12. The Registration of Documents Act
13. The Trademarks Act

ANNEX E: STAKEHOLDER WORKSHOP REPORT

Introduction

As part of the Needs Assessment Diagnostic for Intellectual Property Rights (IPR) Technical Assistance & Capacity Building in Uganda, a very successful stakeholder dialogue was held on 24th July 2007 at the Grand Imperial Hotel in Kampala. The dialogue was organized as part of the Government of Uganda'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 45 participants, drawn from key government agencies such as the Uganda Registration Services Bureau (URSB), Ministry of Education & Sports, Ministry of

Justice, and the Ministry of Health; enforcement agencies; civil society organisations; the legal and business communities; performing artists; and science, technology and research organisations, including the University of Makerere, Uganda National Council for Science and Technology (UNCST) and the Uganda Industrial Research Institute (UIRI).

A full list of participants at the workshop is attached for information at Appendix A. The workshop was organized by the Ministry of Tourism, Trade and Industry (MTTI), with generous financial support from the International Centre for Trade and Sustainable Development (ICTSD) in Geneva.

The national context for the dialogue

The key note address was given by the Hon. Ggagawala Wambuzi, Minister of State for Trade and focused on the role played by intellectual property (IP) in trade and development, from a Ugandan perspective. The Minister expressed his satisfaction that the TRIPS technical and financial needs assessment diagnostic exercise was being undertaken. Whilst the Government was driving the exercise, the Minister acknowledged the financial support from ICTSD and had already briefed the visiting team from Saana Consulting - the experts engaged to facilitate the preparation of a national needs assessment diagnostic together with MTTI, who were undertaking the advisory mission in Kampala from 18th to 28th July.

Elizabeth Tamale, Principal Commercial Officer from MTTI and Bisereko Kyomuhendo, Acting

Registrar General from URSB then set out the context for the meeting in relation to the current status of implementation of the TRIPS Agreement in Uganda and the national needs assessment exercise now underway in response to the TRIPS council decision of 29 November 2005. Uganda had begun to focus on undertaking the needs assessment exercise in late 2006 so this dialogue and the visit of the advisory mission from the Saana Consulting team were very timely.

The dialogue was ably chaired throughout by Jacob Amai, Assistant Commissioner for Trade, MTTI. Resource persons were provided by ICTSD and Saana Consulting. Closing remarks to wrap up the workshop were given by Fiona Bajiga from URSB, as well as Andrew Luzze Kaggwa from the Uganda Manufacturers Association and Constantine Bartel from ICTSD.

Objectives of the dialogue

The dialogue was arranged to accomplish two key objectives.

First, the meeting allowed MTTI and URSB, assisted by 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, and well as the technical and financial needs assessment diagnostic exercise being undertaken in Uganda.

Key Points from the Discussions

The discussions were conducted in a very constructive, informal and interactive atmosphere. Participants had taken 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 dialogue had been an extremely useful event and had fully accomplished both its objectives. A number of key points can be summarised from the discussions.

First, participants emphasised the need for assistance to support a comprehensive, consultative and inclusive IP policy and legislative development process in Uganda, based on a solid understanding of IP issues and how they impact on national development objectives. A related point was the need to establish effective policy co-ordination and consultation mechanisms, both within government as well as with a wider range of national stakeholders from the private sector, cultural sector, academia and civil society organisations. A national IP Forum was suggested as a mechanism to help address this goal, but continued financial support would be required.

Second, IPR administration in Uganda needs to be strengthened. Since its creation in 1997 as an autonomous agency, the IP office in URSB is still facing some acute challenges and limitations in bringing about the necessary improvements

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 of the country.

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

in service quality to users of the IP system. Particular problems are the lack of copyright administration, and financial resources for automation and ICT infrastructure, as well as secure, accessible long term premises. There is a need for capital investments and to review the lessons from the current institutional set-up, with benchmarking against IP administration models from other countries to ensure the most effective arrangement for Uganda.

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 generally low awareness in Uganda about IPRs amongst the business sector, creators, inventors, the legal community, law enforcement authorities, education institutions, and the general public. There is need for curricula development to cover inclusion of IP-related modules in the education system, particularly in the tertiary sector and in the faculties of law, engineering, science, economics and agriculture at the University of Makerere. The curricula should emphasise not just the legal aspects of IPR, but present IP within the broader framework of using technology and innovation for development and business, as well as stimulating novel scientific enquiry.

Finally, participants stressed the need to build the capacity of the national IP infrastructure to

promote social and economic development in the country. 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. National SMEs are creative and innovative but largely outside of the formal IPR system today because of the lack of IP management services, knowledge and incentives to brand, protect and

Next Steps

As an immediate follow up to the meeting and their mission to Uganda from 18th to 28th July, the experts from Saana Consulting will prepare a detailed report on the needs assessment exercise for the MTTI. 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.

commercialise their potential IP assets - 95% of IPRs are foreign owned. There is also a need to create and regularly update a database of national written works, publications, artistic creations and other creative works to preserve the cultural record.

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

The report will be submitted to the MTTI before the end of August 2007. It will then form the basis of a formal submission to the WTO Council for TRIPS by the Government of Uganda in October 2007. Following the submission, detailed consultations can begin between the Government of Uganda and its development partners on how to address the needs for technical and financial assistance identified.

APPENDIX A: LIST OF WORKSHOP PARTICIPANTS

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APPENDIX B: WORKSHOP AGENDA

09:00 - 09:30	Registration
09:30 - 09:45	Welcome & opening of the meeting Hon. Ggagawala Wambuzi, Minister of State for Trade Constantine Bartel, ICTSD Geneva Chair: Jacob Amai, Assistant Commissioner for Trade, MTTI
09:45 - 10:00	Context and objectives for the national stakeholder dialogue & the IPR technical assistance needs assessment diagnostic study Elizabeth Tamale, Principal Commercial Officer, MTTI Bisereko Kyomuhendo, Acting Registrar General, URSB Chair: Jacob Amai, Assistant Commissioner for Trade, MTTI
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	Interactive Session #1 - Exploring needs for IPR-related technical assistance and capacity building in Uganda <u>A) IPR-related policymaking, co-ordination & legal framework</u> 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). <u>B) IPR administration</u> 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). Facilitators: Tom Pengelly & Mart Leesti, Saana Consulting Chair: Jacob Amai, Assistant Commissioner for Trade, MTTI

Appendix B. continued

11:45 - 12:45	<p>Interactive Session #2 - Exploring needs for IPR-related technical assistance and capacity building in Uganda</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 Chair: Jacob Amai, Assistant Commissioner for Trade, MTTI</p>
12:45 - 13:00	<p>Closing Remarks</p> <p>Fiona Bajiga, URSB</p> <p>Andrew Luzze Kaggwa, Uganda Manufacturers Association</p> <p>Constantine Bartel, ICTSD</p> <p>Chair: Jacob Amai, Assistant Commissioner for Trade, MTTI</p>
13:00	End of Meeting and Lunch Reception

APPENDIX C: RECORD OF WORKSHOP DISCUSSIONS

National economic and social development context

- Uganda is defined as an LDC under the WTO and the TRIPS Agreement. But the question was raised as to how long would Uganda remain on LDC status given projected rates of economic growth in the country? Could this in fact come before the end of the current basic TRIPS transition period for LDCs in July 2013?
- There is a very large informal sector in the Ugandan economy. Many technical skills and knowledge are learnt informally rather than through formal teaching and education systems.
- Uganda is gifted with a very rich bio-diversity. This is a very important resource for the country and can yield significant wealth creation if used in a sustainable and appropriate manner - there is an important IP dimension to the use and protection of these natural resources (e.g. patenting based on gene bank).
- A related key issue is the need for a national IP policy co-ordination and consultation mechanism within government and with non-government stakeholders. Previously, a TRIPS sub-committee had been formed under the Inter-Institutional Trade Committee, but this was no longer operational. There is a need for a government agency to lead on IP policy, otherwise if everyone leads, nobody will. But who should this be?
- A major part of the mandate for such an inter-ministerial body would be the development of a national IP policy for Uganda. It would be necessary for the body to have clear terms of reference and division of roles and responsibilities (who does what)
- A national IP Policy Forum was suggested as a good way of bringing the whole wider group of stakeholders together (ministries, research organizations, private sector associations, civil society organizations) on a regular basis to understand and discuss national IP policy development.
- Such a national IP Policy Forum would require financial support for logistics, establishment and to stay up to date and informed with emerging IP issues on the international, regional and national agendas. An “intensive phase” of human resource development was required to develop sufficient national IP policymaking capacity amongst key stakeholders to move the agenda forward. This would empower policymakers to be “intelligent clients” for policy research and to be able to fully understand the technical issues in depth at a working level - informed by knowledge from other country experiences and adapting their models to suit Uganda rather than re-inventing the wheel.
- There is also a need for financial assistance to increase capacity in the Makerere University for policy research and analysis on IP issues. A multi-disciplinary team of academics and researchers should be constituted across the different faculties. Technical expertise could also be accessed through the relevant national professional

National policy & legal framework for IPRs

- IP is a cross-cutting policy topic that should be clearly linked to national development policy objectives. But Uganda does not currently have a comprehensive, integrated national IP policy or coherent IP policy and legal framework.
- The issue of regional harmonization of IP legal frameworks should also be considered, e.g. within the EAC. Regional co-operation was also very important (e.g. on IP administration through ARIPO and on public health).
- A policy development process did begin last year supported by WIPO with URSB. But it was suggested that additional funding and a modified approach is required to make this a more broadly-based, locally-led policy development process, tailored to national needs and circumstances (i.e. to make it more “Ugandan”).

associations. This research is needed as a first step to inform the identification and selection of policy options.

- The suggested national IP Policy Forum would provide a mechanism for cross-fertilization of ideas and actions amongst stakeholders from different sectors of the economy and society - not just trade and legal experts, but agriculture, health, education, environment experts as well.
- In developing the national IP policy and legal framework, investments in deepening the consultative process would be required. There was a need to take into account a broader perspective from society in rural areas and urban centres - “to take IP policy out of the board room and Kampala hotel workshops and into the parts of the country where most people live”.
- There is a major need for assistance to support policy research and consultation in the country with interested stakeholders. Priority areas for policy research include:
 - The interface between the IP regime and access to medicines in Uganda, including how to develop national pharmaceutical manufacturing industry.
 - Geographical Indications (GIs) is another because it is a totally new area of IP for Uganda and policymakers need to get to grips with the issues related to protecting GIs in Uganda and how to benefit from this form of IPRs.
 - Protection of Uganda’s traditional knowledge and biodiversity through the IP system, including a national stock-taking of Uganda’s IP assets - what needs to be protected.

Participating in international IP rule making and standard setting fora

- There is a need to increase the capacity of MTTI to participate effectively in international trade negotiations and rule making covering IP issues. Effective co-ordination was also required with sector experts (e.g. on public health, agriculture) to be able to provide technical advice to MTTI and Government of Uganda delegations/missions.
- At the same time, there was also a need to improve dissemination of information and feedback from international IP rule making and negotiating fora to national stakeholders in Uganda, to keep them up to date and briefed about upcoming important IP policy issues.

Administration of IPRs

- The main agency responsible for IPR administration is the IP office in the URSB, established as an autonomous agency under the 1997 Act. URSB registers trademarks, industrial designs and patents. URSB does not currently have a register for GIs and does not handle plant variety protection - legislation for both of these types of IPRs is not yet in place in Uganda.
- The IP office in URSB also covers copyright administration. Whilst copyright legislation does exist in Uganda, implementation of the legislation is lacking in terms of regulations, copyright administration apparatus (e.g. creation of a Copyright Board or Council), and the voluntary registration system.
- Stakeholders and users of the IP administration system in Uganda have highlighted to the URSB the need to improve the quality of services offered and to place them on a more business-like fashion. This need is accepted and agreed by the URSB.
- Although the URSB was established as an autonomous agency under the 1997 Act, there have been a number of problems and limitations in making this radical form of institutional change work effectively in practice (e.g. the URSB is not financially autonomous and does not retain its fee revenues to defray its expenses and capital investments). 10 years on, there is a need to review the experience to date and benchmark this with institutional models for IP offices from other countries along the spectrum of government department to fully autonomous agency.
- The URSB currently uses 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. The current effort is focused on computerising the trademarks registry. There is also a need to provide an automated patent registry and patent information system (PIS), to facilitate access to valuable patent documentation. This would require skilled, professional personnel in the IP office. At present, these skills are not available in URSB as patent examination and search is done for Uganda by ARIPO under the Harare Protocol. Linking the development of a PIS in Uganda with the research community is important - there is a major role here for the UNCSTI, UIRI and University of Makerere in providing technical support for PIS users.

- There is also a need to secure and improve the office premises of URSB. The URSB is currently in rented office accommodation and this deters major capital investment in office infrastructure such as the ICT network. The IP office is on the 5th floor and there are no lifts so this prompts regular complaints from users about the poor access.

Enforcement and regulation of IPRs

- Strong emphasis was placed on the priority need to strengthen the capacity of the Customs service under the NRA to tackle the growing global problem of counterfeit products through improved border measures.
- Need for extensive training of customs officers in IP matters and legislation. Currently, most customs officers are not aware and conversant with the country's IP legislation.
- A particular challenge for customs officers is how to detect IP infringement in import consignments. There is a need for specific training on this for customs officers as well as the need for computerized network link to the IPR registries at URSB.
- Also large scale need to raise awareness about IPRs, counterfeiting and piracy amongst other enforcement agencies (police investigators, public prosecutors,

private legal firms), as well as the private sector and consumers. Need for campaigns to target different audiences.

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. The campaigns should try to identify the few national success stories on IP in Uganda. They should use a range of media and languages.
- There is a need to create and regularly update a database of national written works, publications, artistic creations and other creative works. This could be housed in a resource centre at the national library for example.
- A great deal of Uganda's cultural products and creative works are exported and leave the country - nothing is left behind on the "cultural record". The proposed database of creative works could help to address this issue by recording and tracking the existence of important national creative works.
- Uganda has some experience already in trade fairs and exhibitions, but the infrastructure for supporting the national cultural industries needs to be strengthened (e.g. investments in national galleries, museums, exhibitions, theatres, etc).
- There is need for curricula development to cover inclusion of IP-related modules in the education system, particularly in the tertiary sector and in the faculties of law, engineering, science, economics and agriculture at the University of Makerere. The curricula should emphasise not just the legal aspects of IPR, but present IP within the broader framework of using technology and innovation for development and business, as well as stimulating novel scientific enquiry.
- Need technical and financial assistance to improve quality and availability of local business and legal services to support improved IP management by SMEs in Uganda.

Most companies in Uganda don't have R&D or IP units to manage their brands, innovation and use of technology so as to add value to their products and services.

- Also there is a need to provide improved incentives for SMEs, national industries and research organisations to use the IP system, and obtain rights to protect and commercialise their IP assets, and acquire technology. The SME sector in particular can be highly creative and innovative but they are outside of the formal IPR system currently - around 95% of IPRs in Uganda today are foreign owned.
- Need for additional government policy incentives and funding for R&D, innovation and technology acquisition (e.g. licensing) in the public and private sectors. Although Uganda has in place a reasonable public sector scientific and technological institutional infrastructure, available funding goes mainly to cover running costs rather than investments in R&D as such.
- Related need for government research organisations to co-ordinate and complete a national stock-taking of Uganda's IP assets and technology survey, including patent mapping and technology forecasting. This would identify priority areas for development of the national IP regime and infrastructure and highlight priorities for allocation of public spending on new R&D.

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 <http://www.iprsonline.org/ictsd/LDCneeds.htm>
- 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 Uganda, Kenya, Tanzania, Rwanda and Burundi.
- 8 See Policy for Industrial Transformation 2007-2017 (Draft), page 6, Ministry of Tourism, Trade and Industry.
- 9 The Uganda Registration Services Bureau Act, Cap 210. The Bureau is not yet functional as stipulated by this Act.
- 10 See: <http://www.wipo.int/ip-development/en/strategies/>
- 11 The Uganda Registration Services Bureau Act, Cap 210, 1998.

- 12 See Annex D for a complete list of “relevant laws” administered by URSB.
- 13 The feasibility study may suggest that some of these functions may be outsourced while management accountability would remain with the IP Office.
- 14 <http://www.espacenet.com/access/index.en.htm>
- 15 http://www.wipo.int/ipstats/en/statistics/patents/pdf/patent_report_2007.pdf, Page 9.
- 16 Faculty of Technology 2006 Brochure, Makerere University.

