

## 4. IDENTIFYING LDC NEEDS

### 4.1 Priority needs communicated by LDCs to date

#### Sierra Leone

Sierra Leone communicated its needs for financial and technical assistance to the TRIPS Council on 28<sup>th</sup> September 2007. In its communication, Sierra Leone acknowledges that the country can use the protection of IPR as a tool for development and as an integral part of sustainable policies on science, technology, culture and innovation, in line with the conclusions of the WIPO Development Agenda and the report of the UK Commission on Intellectual Property Rights of 2002. However, owing to its low technological base, institutional weakness as well as pressing needs for human, social, and economic development, the 2007 communication of Sierra Leone stresses that the country needs ample time to modernise its own policy, legal and administrative framework on IP. The communication sets out the priority needs and plan of action for financial and technical assistance for the country to fulfil its obligations under TRIPS. The priority needs identified by Sierra Leone are organised around the following four clusters:

- Under the IP policy and legal frameworks cluster, the specific priority needs identified are: the strengthening of the IP policy/legal development and coordination capacity in the Ministry of Trade and Industry; supporting IP legislative development and policy coherence; enabling Sierra Leone's regular and effective participation in meetings of the WTO Council for TRIPS and WIPO; and developing a multidisciplinary IP policy research and analysis capacity in the University of Sierra Leone.
- Under the IPR administration cluster, the specific priority needs identified are: modernising the organisational status of IPRs administration in Sierra Leone; human resource capacity-building in terms of additional manpower and new types of skills; automation of registries for trademarks, industrial designs and patents; and the establishment of an Industrial Property Appeals Tribunal.
- Under the enforcement and regulation cluster, the specific needs identified are: improving business and consumer education and awareness about IPRs; training of enforcement agencies in IPR concepts and national legislation; provision of access to networked, computerised national IP registries for the Sierra Leone Customs Service; and enhancing co-operation with foreign enforcement agencies on counterfeiting.
- Under the cluster on innovation, technology transfer and use of IP as a development tool, the specific needs identified are: development of a domestic innovative and creative base; improving business education and awareness about IP management for Small and Medium-sized Enterprises (SMEs); development of a Patent Information Service to support innovation and technology transfer; and development of a multi-disciplinary IP policy teaching capacity in the University of Sierra Leone.

In addition to the specific needs as clustered above, the communication elaborates a plan of action for the realisation of the priority needs. The plan of action contemplates the realisation of specific activities much of which were meant to run between 2007 and 2013. This was also followed up with the submission to the TRIPS Council in 2008 by Sierra Leone of a project document for a comprehensive national IP capacity building programme (see Text box 2).

As it stands, there has been no official submission to WTO as to how successful Sierra Leone has been in mobilising the resources to implement the proposed national IP capacity building programme and what has been achieved so far.

With regards to the EIF Diagnostic Trade Integration Study (DTIS) formulated for Sierra Leone in 2006, the key technical and financial needs communicated in relation to IP were with regards to border management and the introduction of Flexible Anti-Smuggling Teams (FASTs), which have been introduced in many other countries.<sup>160</sup>

### **Text box 2. Sierra Leone's follow-up to needs communication**

Subsequent to its needs communication submission to the TRIPS Council in 2007, in 2008 Sierra Leone took the initiative to make a follow-up communication, identifying their priority needs and translating these into a national IP technical assistance programme.

Sierra Leone followed up with a modest, two-year initial technical assistance project proposal to enable the country to start moving forward with implementation of the TRIPS Agreement. A number of stakeholders were incorporated, including government ministries, the police, the University of Sierra Leone and a number of business sector associations.

The overall goal of the project is to further integrate Sierra Leone into the global economy and world trading system by increasing the contribution of IP towards the achievement of sustainable economic growth and poverty reduction, with the specific purpose of upgrading the national system for IP generation, protection, administration, and enforcement. The document outlines the expected results, projected components and activity clusters, project implementation and management arrangements, governance, monitoring, review and evaluation, and the implementation timeframe.

The inter-linked activity clusters focus on industrial property, specifically trademarks, and copyright, where a basic regime already exists and the IP infringement situation is most problematic.<sup>161</sup>

## **Uganda**

Uganda made its submission of priority needs for technical and financial assistance on 3<sup>rd</sup> October 2007. The priority needs for technical and financial assistance identified by Uganda in its initial submission targeted the following priorities:

- The IP policy framework, focusing on the support for the coordination of IP policy development.
- Training for policy makers on IPRs concepts, international IPRs conventions and best practices from other countries.
- Development of a multidisciplinary IP policy teaching, research and analysis capacity in the academic community.
- Innovation, technology transfer and the use of IP as a development tool.
- The administration of IPR including such specific needs as the enhancement of human resources capacities at the URSB and the computerisation of the IP system in Uganda, considering that Uganda is member of the Patent Cooperation Treaty (PCT) and ARIPO.
- The enforcement and regulation of IPRs.

To realise the action plan pertaining to addressing the priority needs identified in its October 2007 submission, Uganda requested that consultations be pursued with international agencies such as the WIPO, United Nations Conference on Trade and Development (UNCTAD), World Health Organisation (WHO), United Nations Educational, Scientific and Cultural Organisation (UNESCO), Food and Agriculture Organisation (FAO), the World Bank and other interested international organisations and INGOs such as ICTSD. Uganda's needs communication was followed up with the submission to the TRIPS Council of a comprehensive national IP capacity building programme document in 2008. The follow-up

<sup>160</sup> Sierra Leone, DTIS: Adding Value through Trade for Poverty Reduction, 2006

<sup>161</sup> WTO TRIPS Council, Priority Needs for Technical and Financial Cooperation, Communication from Sierra Leone, IP/C/W/523, 2008

document submitted by Uganda detailed the establishment of the Uganda Trade and Intellectual Property Programme (UTIP), aiming to further integrate Uganda into the global economy and world trading system by increasing the contribution of IP towards the achievement of sustainable economic growth and poverty reduction (see Text box 3).

Since communicating its needs to the WTO TRIPS Council in October 2007, some actions have been undertaken to address some of the needs initially identified and these include:

- The enactment of some legal instruments such as the Copyright and Neighbouring Rights Act (2006) and Regulations 2010; the Trade Secrets Act 2009 and the Trade Mark Act (2010) and Regulations 2012.
- A number of bills are going through parliamentary scrutiny including the Industrial Property Bill 2009, the Geographical Indications Bill 2009 and the Anti-Counterfeit Goods Bill 2009.
- The organisation of an IP forum in 2008 that addressed the strengthening of the public-private dialogue in order to update the Ugandan National IP Policy.
- In 2011, a national IP advisory group was formulated under the Uganda National Council for Science and Technology. This group is proposed to be transformed into an inter-institutional committee on IP.
- The Uganda National Council for Science and Technology has developed a National Science Technology and Innovation Plan 2012/13 to 2017/18.

Uganda received support from TradeCom (EU), UNDP and UNCTAD for the review of its industrial property bill and copyright law. For the organisation of the IP forum, support was provided by the BizClim (EU) project.

The Uganda Registration Services Bureau has been restructured as an autonomous body with the support of WIPO and there has been some automation of the system for trademark registration, the development of IP policies for Universities and the creation of a technology and innovation support centre at URSB.

One training session was organised in 2009 with the support of TradeCom to facilitate general sensitisation of judges, public prosecutors and attorneys. There have also been workshops facilitated by WPO, WTO and the United States Patent and Trademark Office (USPTO).

In relation to the use of IP as a development tool, Uganda received support from Light Years IP to develop a strategy for vanilla and shear butter. Light Years IP and the African IP Trust have been providing training to shear butter producers in Northern Uganda. WIPO is equally supporting branding for vanilla, cotton and sesame seeds in Uganda.

### **Text box 3. Uganda's follow-up to needs communication**

Subsequent to its needs communication submissions, Uganda took the initiative to submit a follow-up document to the TRIPS Council in 2008, identifying their priority needs and translating these into a national IP technical assistance programme.

The follow-up document submitted by Uganda detailed the establishment of the Uganda Trade and Intellectual Property Programme (UTIP), aiming to further integrate Uganda into the global economy and world trading system by increasing the contribution of IP towards the achievement of sustainable economic growth and poverty reduction.

The programme's principle component was an upgrade of the national system for IP generation, protection, administration, and enforcement, in line with TRIPS and applicable regional and international IP agreements.

The document outlines the expected results; implementation and management arrangements; and timeframe for the programme, identifying four main inter-linked activity clusters: updating national IP Policy, legal and

regulatory framework; using IP for business, creativity, innovation and technology transfer; modernising IPR administration; and strengthening enforcement and pro-competitive regulation of IPRs.<sup>162</sup>

## Bangladesh

Bangladesh submitted a communication to the WTO TRIPS Council in March 2010 outlining its needs for financial and technical assistance. The communication describes the legal and institutional framework on IP in Bangladesh and includes a list of specific projects with estimated budgets, the implementation of which will contribute to developing an enabling IP environment in Bangladesh.

Some of the projects proposed address the formulation of an IP policy; specialised training for officials of the ministries of industries, commerce, cultural affairs and agriculture as well as the copyright office, police, judiciary, custom officials, business people and other IP users. The priority needs of Bangladesh, reflected in the specific projects earmarked in the submission, are detailed in the form of an action matrix for encouragement and commercialisation of creation and innovations and enforcement of IP rights. The actions identified in the matrix are structured under three clusters including:

- IP policy.
- Encouragement and commercialisation of creation and innovation.
- Legal issues that include the improvement of the legal system, strengthening of the IP institutions, IP enforcement and the protection of folklore, traditional knowledge and cultural expressions.

Since the March 2010 submission by Bangladesh, a number of actions have been initiated whilst some key needs expressed in the submission are yet to be addressed. At the 2012 symposium, Bangladesh reported that needs which have not been met include the following:

- The formulation of a national intellectual property policy and strategy despite being in the process of amending some key IP laws.
- The restructuring of national IP institutions.
- The delivery of training and awareness-raising to targeted actors such as policy makers, the judiciary, police and custom officials.
- Development of IP related legal instruments aimed at genetic resources.

A number of actions where the country has engaged in order to improve its legal framework include the following:

- The revision of the patents and designs Act 1911 and the patents and designs rules 1933 toward the formulation of a new law (Bangladesh Patent Bill 2012).
- The development of a law on Geographical indications (Geographical Indications Bill 2012) which is in the process of finalisation.

On the modernisation of the IP system, work is on-going to attain an operationally fully automated system including an attractive website facilitating online application and e-payment. This automated system will generate databases of patents, industrial designs and trademarks. On the enforcement of IP, there are no specialised courts that address IP matters. IP matters are treated in the same procedures like the other criminal or civil litigation matters.

<sup>162</sup> WTO TRIPS Council, Priority Needs for Technical and Financial Cooperation, Communication from Uganda, IP/C/W/510, 2008

In terms of responses from co-operation partners and resource mobilisation, at the 2012 WTO symposium Bangladesh reported that the Swiss government has responded positively to its request for the formulation of a national IP strategy and policy including the conduct of some awareness-raising and training programmes. This would build on a previous EU-WIPO project in Bangladesh.

## Rwanda

On 28<sup>th</sup> May 2010, Rwanda communicated its needs to the TRIPS Council. The submission encapsulates the country's financial and technical capacity needs to bring its IP regime to the level where it can support the broader Vision 2020, under which Rwanda intends to transform its economy into a middle-income economy. In this regards, the country will require significant transformations and large investments in science and technology, innovation and entrepreneurship. In pursuing this vision, the IP regime of Rwanda has undergone important development. Chief among them is the enactment of the IP code of Rwanda in 2009.

Furthermore, Rwanda adopted its IP Policy on 24<sup>th</sup> March 2010. The mission of this policy is to ensure that national IP laws, institutional practices and strategies in public research institutions and industry are developed and implemented in a manner that contributes to building Rwanda's technological base and cultural industries and that advancements in science and technology benefit society. The 2010 IP Policy of Rwanda is based on six interrelated objectives notably:

- Increasing technological literacy and advanced scientific and technological skills that in turn would increase the innovation capacity.
- Promotion of innovation and creativity including minor and incremental innovations to provide an opportunity for the largest number of individuals and firms to participate in innovation.
- Increasing access to foreign and local technology by local firms and research institutions.
- Improving access to IP-based essential goods and services especially health and food.
- Facilitating investments in innovative and creative activities.
- Enhance the protection of traditional knowledge and facilitate equitable access to genetic resources and benefit-sharing.

Rwanda's May 2010 communication has identified the country's priority needs for financial and technical assistance for TRIPS implementation and organised them around the following clusters namely:

- Under the cluster for promotion of innovation, creativity and technology transfer for development, there is a need for financial and technical support to develop IP policies and strategies for public research institutions, including through specialised curricula and training on innovation and IP management for the research and scientific community. Furthermore, support is needed to developing industry support services and awareness including helping firms to identify relevant technologies from patent information; providing a patent information service not only about patents in Rwanda but also internationally; assisting industry to identify relevant public domain technologies and in examining the terms and conditions of licensing agreements.
- Under the IP policy and legal framework cluster, support is required for example for the development of a special law on traditional knowledge and genetic resources pursuant to Article 289 of the 2009 IP code. Also, there is an urgent short-term need



to sensitise and train key stakeholders, within government, the private sector, research institutions and civil society and consumer organisations on TRIPS and the IP Code, including on TRIPS flexibilities and exceptions in IP laws, and to promote public awareness on innovation and IP. In the medium-term, the priority is the development of advanced tailor-made university courses on development, innovation and IP for government officials, particularly in key ministries and agencies.

- Under the IPR administration cluster, the submission identifies the need for support for human resource development, in particular on-the-job training for the new staff of the Rwanda Development Board (which is the institution newly in charge of IP administration), study missions to other IP offices in Africa and elsewhere, and advanced courses in IP administration and management. There is also need for support in computerisation of documentation and operations, and IT support, in particular, procurement of equipment and specialised software to cover the costs of scanning and archiving the old paper records, training of staff and obtaining access to relevant international repositories and databases.
- Under the IPR enforcement cluster, financial and technical support is required on such activities as developing and rolling out public awareness campaigns; training for enforcement agencies, particularly the police, customs officials and the judiciary through advanced specialised courses in the short and medium term; provision of detection and testing equipment and the development of IP enforcement manuals for key enforcement agencies and access to jurisprudence and research resources for the Commercial Courts including through the establishment of a special IP section in the Commercial Court library.

Annexed to the May 2010 submission is a project document aimed at boosting the development of IP capacity building in Rwanda. The overall objective of this project is to further integrate Rwanda into the global economy and world trading system by ensuring that the implementation of the TRIPS Agreement and related agreements in Rwanda is undertaken in a manner that ensures that IP laws, institutional strategies and practices contribute to building Rwanda's technological base and cultural industries and thereby its national development.

The activities identified for the project are clustered around the support to the implementation of the IP policy; the establishment of a baseline on the status of innovation and creative industries; the development of balanced IP policies and strategies for public research institutions; the further development of the national IP legislative framework; the enhancement of IP-related human resource development and provision of on-job-trainings; the provision of equipment, training and educational resources on innovation, creativity and IP and the development and implementation of public awareness programmes.

Rwanda's DTIS (2005) specified the ICT sector as vital for prosperity and growth requiring sound IP legislation. The principal recommendation was support for the RITA in its role of supervising the development of the ICT sector and to aggressively pursue the legislative and regulatory changes that are necessary to stimulate a modern and competitive sector, especially with regard to competition law and IPR. A comprehensive audit and needs assessment has been recommended to pursue the ICT strategy goals.

Further, private sector collaboration and strengthening of private sector organisations has been identified as a principal component. An additional service that an exporter organisation could provide is assistance using IPRs to build product identity and protect innovations. It has been suggested that donors could help strengthen existing organisations through training in technical issues as well as building skills needed to effectively manage a membership organisation.<sup>163</sup>

<sup>163</sup> Rwanda, DTIS, 2005

## Tanzania

Using the diagnostic toolkit designed by the International Centre for Trade and Sustainable Development (ICTSD) and Saana Consulting in 2007, Tanzania undertook the identification of its priority needs under the leadership of the Ministry of Industry, Trade and Marketing in collaboration with the Business Registrations and Licensing Agency (BRELA). In October 2010, Tanzania submitted its priority needs communication for financial and technical support to the WTO TRIPS Council.

The document identifies a number of priority areas for technical and financial assistance around the following three main clusters:

- The modernisation of the IP system and strengthening of the IP administration.
- Strengthening of the enforcement and regulatory regime of IP with specific needs for training and capacity building of special agencies like the judiciary and customs officials.
- The use of IP as a development tool, especially as a tool for the promotion of innovation, creativity and technology transfer.

Since the 2010 submission, a number of activities are being carried out and are in progress including:

- The review of the industrial property legislation which should result in a new industrial property act.
- A few IP awareness creation programmes are being conducted and are complemented by participation at some exhibitions such as the International Trade Fair.
- A Tanzanian National IP strategy is under formulation with WIPO support.
- An Industrial Property Automated System (IPAS) has been installed by the Tanzanian Business Registrations and Licensing Agency (BRELA). However, a lack of capacity to sustain this IPAS is a serious threat to its viability.
- Modalities to improve the Tanzanian Intellectual Property Advisory Services and Information Centre (TIPASIC) are being considered in consultation with WIPO.
- There are initiatives to develop a national Branding Strategy.
- Specifically, a study on Coffee Branding Strategy is being organised in collaboration with WIPO.

Current priority needs expressed by Tanzania at the symposium fall under the four main clusters earmarked in the 2010 submission notably:

- The improvement of the policy and legal framework on IP.
- Promotion of innovation, technology transfer, creativity and using IP as a development tool.
- IPR enforcement and strengthening of the regulatory and institutional frameworks impacting on IP (customs authority, police force, judiciary).
- IPRs administration infrastructure.

At the 2012 WTO symposium, Tanzania stated that its main technical assistance provider on IP is WIPO.

IPR were mentioned initially in Tanzania's EIF DTIS Update (2009) focusing on the need to develop the capacity of support institutions assisting producers to meet international competitiveness standards including sanitary and phyto-sanitary standards, other technical standards, and IPR.<sup>164</sup>

## Senegal

In June 2011, Senegal communicated its needs to the WTO TRIPS Council. Senegal's communication emphasises that most of the national laws impacting on IP matters needed updating to reflect developments in the international context. Another critical element was the country's intention to produce a National Plan for the Development of Intellectual Property. This plan was meant to be supported and coordinated by the National Coordination Council for Intellectual Property which should be established to oversee and supervise the national IP system and advise the state on the implementation of the National Plan for the Development of IP. In 2011, Senegal signed a Memorandum of Understanding (MoU) with WIPO for the realisation of the National Plan for IP development.

Overall, the priority needs identified by Senegal in its 2011 communication centred on:

- The administration of IP.
- The legal framework on IP.
- Intellectual property enforcement.
- Intellectual property and development: the promotion of innovation, creativity and technology transfer.

In reporting on progress made in addressing the needs identified in the June 2011 submission, at the 2012 symposium Senegal reported that with its own resources it has initiated some actions to strengthen the national brigade for the fight against violation of IP. Other on-going actions include the reform of the customs code; preparation of a draft law to regulate traditional medicine; on-going process for the establishment of the Senegalese agency for literary and artistic property and the creation of Senegalese National Collective Management Society. There is also a planned national workshop for the creation of the National Coordination Committee for IP in Senegal.

Next to these national initiatives, Senegal updated its priority needs as presented during the 2012 symposium, which now focus on:

- The modernisation and strengthening of the administration of the IP system.
- Capacity building to fight against the violation of IP at the national level.
- The utilisation of IP as a development tool through the promotion of innovation, creativity and technology transfer.
- The integration of IP in research and academia.
- Training of examiners of applications for plant breeders' rights and in particular training of staff of the Senegalese Institute of Agricultural Research on DUS tests.<sup>165</sup>
- Support on Geographical Indications.

In terms of co-operation partners, WIPO reported at the 2012 WTO Symposium that in collaboration with OAPI and the University of Yaoundé II, there is a programme on IP based

<sup>164</sup> United Republic of Tanzania, Ministry of Industry, Trade and Marketing; *Tanzania Trade Integration Strategy*, 2009-2013.

<sup>165</sup> DUS-tests are: testing that the variety is distinct (D) from any other variety whose existence is a matter of common knowledge at the time of the filing of the application and that it is sufficiently uniform (U) and stable (S).



at this University and supported through the Japanese fund in trust at WIPO. This IP programme is delivered in French. In a recent Art 67 notification, the US reported on a programme on Geographical Indications that was carried out in Senegal in 2011 and has a regional scope. Japan indicated its support to the establishment of Technology and Innovation Support Centres (TISC) in Senegal and indicated broader support on training, capacity building and others but through its cooperation agreement with WIPO. The EU indicated having contacted Senegal via its delegation in Dakar. That communication included offer of assistance on a number of priority needs raised by Senegal.

Senegal's EIF DTIS (2003) recognises the weakness of current legislation to protect the rights of composers, lyricists and artists in the music industry. Assistance could be provided to enforce collection of royalties from radio stations and the subsequent distribution of such royalties to poor musicians. Financing has been provided by the World Bank to support the rewriting of the copyright legislation.<sup>166</sup>

## Mali

Mali communicated its priority needs to the TRIPS Council in August 2012. In this communication, Mali articulates its priority needs for technical and financial assistance under four main pillars:

- Pillar 1: strengthening of the legal, regulatory and institutional frameworks of IP. Under this pillar, there are specific requirements such as technical assistance in the formulation of policies and programmes on IP, the formulation of a custom code etc.
- Pillar 2: strengthening of human resources and infrastructures for the implementation of TRIPS. Specific needs under this pillar include the organisation of a national workshop on IP, training of IP experts, training of researchers on the exploitation of scientific information contained in patent applications etc.
- Pillar 3: capacity building on science and technology with the specific need being the creation of a technology and innovation support centre in academic and research institutions.
- Pillar 4: promotion of IP including the creation of agencies for the fight against IP violation and counterfeiting activities, and the establishment of a national museum on IP.

In meeting these needs, assistance programmes must be supported by a strong communication strategy according to the August 2012 communication.

During the November 2012 WTO symposium, Mali gave further information on its priority needs for technical and financial assistance:

- Capacity building of staff in charge of TRIPS implementation: the request here is for the development and delivery of a three-year training programme on IP issues.
- Need for technical and financial assistance in all on-going programmes including the development of a national strategy and policy on IP.
- The provision of support to the institutions in charge of TRIPS implementation to fight counterfeiting activities.
- Improvement of the infrastructures of the institutions in charge of IP administration.
- Financial assistance to the communication strategy on IP issues and TRIPS implementation.

<sup>166</sup> Senegal, DTIS, 2003

As noted in Mali's EIF DTIS (2004), technical and financial assistance could be provided in the form of IP specialists and training courses. Further assistance is required with regards to public sector engagement, as well as changes in customs procedures relating to imported pirated media, and a review of the functions and structure of Mali's royalty collecting society (BuMDA).<sup>167</sup>

## Madagascar

In February 2013, Madagascar communicated its priority needs for technical and financial cooperation to the WTO TRIPS Council. In this communication, Madagascar has indicated seven strategic objectives.

Strategic objective 1 - updating IP policy and legal framework:

- The two bodies responsible for the administration of IP (OMAPI and OMDA) have called for technical and financial assistance to strengthen IP policy and legal development as well as coordination capacity by upgrading the Malagasy National Cultural Policy Law.
- Support has been requested for the reform of IP legislation and the harmonisation of sectoral policies with the different laws. Specifically the development of an IPR framework is required that is consistent with related policies in areas of culture, science and technology, health, competition, agriculture, livestock, fisheries and the environment.
- Technical assistance is required to update industrial property and copyright legislation. It is also necessary to draft laws in which traditional knowledge and folklore need to be highlighted given the abundance of cultural products and handicrafts that could be exported.
- Assistance is also requested to introduce a system for controlling products and strengthening efforts to combat counterfeiting.

Strategic objective 2 - modernisation of IP administration infrastructure:

- Separate building for the OMAPO and upgrading of the OMDA building.
- Computer materials and equipment for both offices.
- Digitisation of the archives for both offices.
- Computerisation of OMDA procedures for the allocation of rights.
- Open-air infrastructure for the promotion of folk dancing near cultural sites.
- Creation of and equipment for a museum devoted to the traditional wood-crafting knowledge of the Zafimaniry community (UNESCO Cultural Heritage of Humanity), which is typically Malagasy and could contribute to the promotion of handicrafts and tourism.
- Institutional capacity building (materials, training etc).

Strategic objective 3 - using IP for development, promoting innovation, research, creativity and technology transfer:

- Organisation and systemisation of technological information.
- Strengthening and optimising technological development assistance structures and mechanisms.

<sup>167</sup> Mali, Expanding and Diversifying Trade for Growth and Poverty Reduction: DTIS, 2004

- Identification of key technologies requiring priority (energy, climate change) and organisation of command groups.
- Human and material capacity building.
- Support for Chambers of Commerce and Industry in the IP area to promote innovation and creativity and speed up registration of patents with OMAPI.
- Information and awareness-raising for MSMEs on IP issues.
- Capacity building for craftsmen.
- Operational capacity building for administrative officials.

Strategic objective 4 - strengthening IP enforcement and regulation regime:

- Organisation of IP forums and events down to the grassroots level to reach out directly to the population and provide information.
- Set up of a coordinating structure in the form of a committee.
- Capacity building of all economic and social actors in their respective areas to fulfil role effectively.
- Training must be tailored to each group and an awareness campaign will need to be implemented.

Strategic objective 5 - strengthen health departments responsible for enforcing the regulations governing pharmaceutical and phytosanitary products:

- Assistance for health departments.
- Materials and equipment needed for the production of medicines.
- Capacity building on standardisation of control procedures for pharmaceutical, phytosanitary and veterinary products.
- Assistance for the body responsible for protecting inventions deriving from pharmaceutical and phytosanitary products.
- Training with a view to raise awareness of the harmful effects of counterfeit pharmaceutical products and medicines.

Strategic objective 6 - improvement of IP dispute management:

- Training on IP procedures, both national and international, as well as the management of IP conflicts between applicants and authors.
- Assistance for negotiations relating to the identification and repatriation of cultural goods on display in foreign museums.

Strategic objective 7 - enhanced regional and international cooperation:

- To strengthen cooperation and create a capital of leadership and knowledge technical assistance is needed along with material and financial support for WIPO meetings.
- Cultural events stand to develop relations with partner countries, promote culture and art as well as improving the copyright industry.
- Need to establish, in cooperation with Customs and public entities responsible for border control, some kind of regional cooperation in implementing a common procedure that complies with the TRIPS Agreement to fight piracy and counterfeiting in the region.

Madagascar's EIF DTIS (2003) notes that the highest priority should be granted to regional economic cooperation beyond trade preferences. Examples include matters related to customs and WTO agreements regarding standards and IP.

## 4.2 Ongoing and planned communication of needs by LDCs

### Malawi

In a paper circulated during the November 2012 symposium, Malawi indicated that it needs to develop its own IP infrastructure and strengthen its financial and administrative capacities to encourage innovation and enforcement of IP. In relation to its priority needs that have to be captured through a needs communication process, Malawi outlined:

- The development of an IP policy.
- The formulation and strengthening of certain IP laws.
- The restructuring of the country's IP institutions.
- The realisation of IP related training and awareness raising programmes among policy makers.
- The strengthening of IP enforcement agencies.
- The promotion of use of IP as a development tool, contributing to technology transfer and the promotion of innovation and creativity.

Malawi's commitment to preserve its genetic resources and traditional knowledge means that the country also intends to develop IP related instruments for the regulation of the use of these resources.

Malawi indicated some key capacity and resource challenges in the preparation of its needs communication and the submission of the country's priority needs to the WTO TRIPS Council. However, there has been some assistance provided to Malawi for its IP oriented activities including:

- The World Bank has provided funding that is aimed at helping in the drafting of some laws. With this funding, Malawi should be able to develop a new law on Geographical Indications.
- WIPO has already supported the organisation of an IP forum in 2011 which included training on general IP issues to IP policy drafters.

### Nepal

Nepal indicated during the 2012 symposium its intention to undertake its needs communication, potentially using the ICTSD/Saana 2007 toolkit as a tool in the process. Nepal indicated its current weaknesses in relation to its national IP system, which cut across such areas as:

- The legal and policy framework.
- IP administration.
- Enforcement of IP.
- Use of IP as a development tool.

From Nepal's perspective one key constraint the country faces within the framework of its plan to develop its needs communication and to mobilise technical and financial assistance is identifying potential co-operation partner(s) willing to support the realisation of the country's needs.

Nepal's lengthy legislative action plan suggests a number of areas where technical and financial assistance is required. Existing patent protection must be enhanced with capacity development included as a priority.

Nepal's EIF DTIS (2005) highlights that the country has requested the establishment of an enquiry point for non-agricultural products; the building of judicial capacity to handle IP disputes; public education campaigns on the commercial benefits of patents, geographical indications and the commercial value of traditional knowledge; and promotion of the private provision of IP legal services to SMEs.<sup>168</sup>

Nepal's EIF DTIS Update (2010) notes the lack of awareness of IP protection among Nepalese producers and the need for building a culture of IPRs among business, government and legal professionals. A number of intervention areas have been identified, notably: ensuring the Industrial Property (IP) Act complies with the TRIPS Agreement; amending the IP Act to include collective and certification marks; adopting new legislation covering Traditional Knowledge (TK) and Geographical Indications (GI); establishing a semi-autonomous agency to consolidate enforcement of IP and copyright; creating a public database of patents; and creating fiscal incentives to encourage Nepalese firms to utilise IPR protections and develop IPR products and service.

Further areas for technical assistance, as outlined in the Nepal Action Matrix, focus on strengthening the technical capacity of domestic NTB and other business environment supportive institutions. Specific actions include: strengthening the capacity of current IP offices, including training of staff and equipment; developing relevant registration databases; launching awareness campaigns among businesses on the use of IP protection as a competitive advantage, including among exporters in NTIS export potential sectors; establishing GIs for several export commodities; and establishing an IP training institute to train users, regulators, creators, judges, lawyers, and all who work on IP issues.<sup>169</sup>

## Cambodia

Cambodia has not yet submitted its needs communication to the WTO TRIPS Council but in a document circulated during the 2012 symposium Cambodia indicated that since acceding to the WTO in 2004, the country has undertaken some actions in order to modernise its legal framework. These include the following:

- The adoption of regulations on procedures for the registration of industrial design and the grant of patent and utility model certificates in force since November 2006.
- The promulgation in 2006 of a sub-decree No 46 on the implementation of the 2002 Law on Trade Marks, Trade Names and Acts of Unfair Competition.
- The adoption of legislation on plant variety protection in 2008 as the Law on Seeds Management and Plant Breeders' Rights Protection.

Other bills are in the pipeline include the following:

<sup>168</sup> Nepal Trade and Competitiveness Study, Conducted as part of the integrated framework for trade related technical assistance, 2003

<sup>169</sup> Nepal Trade Integration Strategy 2010, Executive Summary and Action Matrix, Government of Nepal Ministry of Commerce and Supplies, 2010



- Bill on geographical indications.
- Bill on layout design of integrated circuit.
- Bill on the protection of undisclosed information and trade secrets.
- Bill on compulsory licensing for public health.
- Draft sub-decree on the establishment of collective management organisations.

As a member of WIPO, Cambodia plans to accede to key international treaties such as:

- The Protocol relating to the Madrid Agreement concerning the International Registration of Marks (accession expected by 2015).
- The Berne Convention for the Protection of Literary and Artistic Works related to Copyrights and Related Rights.
- The Patent Cooperation Treaty.
- The International Convention for the Protection of New Varieties of Plants (UPOV).

Despite these on-going and planned activities, Cambodia is conscious of the fact that there is a long way to go in order to modernise the country's IP regime. Based on this recognition Cambodia requires technical assistance in the following areas:

- Workshop on the Madrid Protocol to review and monitor the steps required to attain full membership.
- Need for a WIPO consultant mission for setting up the process of granting patents and the organisation of a workshop on this matter.
- Support for a study tour abroad to observe the process of registration and deposit of copyrights works and copyrights administration system.
- Drafting of the sub-decree on enforcement of IP rules for each of the agencies involved in IP enforcement.
- Training on the Berne Convention compared to the copyright law of Cambodia, and necessary actions for the preparation of Cambodia to accede to the convention.

Cambodia's EIF DTIS (2007) highlighted the importance of IPR enforcement to meet international obligations and project an image that strengthens credibility and competitiveness. Priority bottlenecks to be addressed are the establishment of a commercial court system and the need to strengthen human resources knowledgeable in IPRs issues and the development of intellectual property education at university level.

In addition, the EIF DTIS recognises the importance of identifying those areas of the Cambodian economy that would best benefit from IPR-based technology transfer; the need to focus efforts on developing a strong system of patents as well as join international conventions, such as the Patent Cooperation Treaty (PCT), to make it easier for Cambodian innovators and businesses to attract potential foreign investment and access information on technologies more easily.

Finally, the development of trademarks and geographical indications (GIs) are two areas requiring technical assistance, which could strengthen Cambodia's competitiveness in exports of potential products and services, including agricultural and handicraft product sectors such as rice, pepper, silk and others.<sup>170</sup>

<sup>170</sup> Cambodia's Ministry of Commerce and UNDP Cambodia, *Cambodia's 2007 Trade Integration Strategy; Executive summary and action matrix*, 2007

## Lesotho

Lesotho did not make a presentation or intervention at the 2012 WTO symposium. However, the EC Delegation at the 2012 symposium advised that Lesotho had submitted a request to the EU-ACP Multilateral Trading System Facility Programme Management Unit for assistance in carrying out a TRIPS-related needs assessment communication for technical and financial assistance. The request had been agreed by the Programme Management Unit and a consultant would be mobilised to undertake the assignment in Lesotho.

Lesotho's EIF DTIS (2003) and corresponding Action Matrix identifies deeper integration with South Africa's IPR regime through technical assistance in the form of training, legal expertise and support for administrative re-organisation.

The study recommends that Lesotho's government consider implementing the TRIPS Agreement through regulatory integration at the regional level, rather than attempting to implement it independently. Regional cooperation spreads the costs of administrative investments, allowing partners to take advantage of economies of scale in administering IPR protection. These facets are particularly relevant with regards to compulsory licenses on AIDS drugs, as every country in the region faces the same public health crisis and all stand to benefit from coordinated waivers of patent enforcement. This is especially true for smaller countries lacking a domestic pharmaceutical industry, such as Lesotho, and they must, therefore, find foreign firms willing to ship generic drugs under compulsory import licenses.<sup>171</sup>

---

<sup>171</sup> Lesotho, *Diagnostic Trade Integration Study, Integrated Framework: Volume 1, Integration into the World Trading Environment*, 2003