



EAST AFRICAN REGIONAL INTELLECTUAL PROPERTY (IP) POLICY (2023-2033)





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LIST OF ACRONYMS

AMU	Arab Maghreb Union
ARIPO	Africa Regional Intellectual Property Organization
ASEAN	Association of Southeast Asian Nations
API	Burundi Investment Promotion Agency
AU	African Union
AUC	African Union Commission
BPO	Business process outsourcing
BRA	Burundi Revenue Authority
BRELA	Business Registrations and Licensing Agency, mainland Tanzania
CAT	Content Analysis Technique
CEN-SAD	Community of Sahel-Saharan States
CFCIB	Federal Chamber of Commerce and Industry of Burundi
CNSTR	National Commission of Science, Technology and Research, Burundi
COMESA	Common Market for Eastern and Southern Africa
COSOTA	Copyright Society of Tanzania
COSOZA	Copyright Society of Zanzibar
COSTECH	Commission of Science and Technology, United Republic of Tanzania
EAC	East African Community
EAHRC	East African Health Research Commission
EALA	East African Legislative Assembly
EASTECO	East African Science and Technology Commission
ECOWAS	Economic Community of West African States
EOI	Expression of Interest
EPO	European Patent Office
EU	European Union
EUIPO	European Union Intellectual Property Office
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
GI	Geographical Indication
GII	Global Innovation Index
ICT	Information and Communication Technology
IGAD	Intergovernmental Authority on Development
IK	Indigenous Knowledge
IP	Intellectual Property
IPO	Intellectual Property Office
IPR	Intellectual Property Right
ISABU	Agricultural Research Institute of Burundi
ISAR	Rwandan Agricultural Research Institute
ITES	Information Technology Enabled Services
IUCEA	Inter University Council of East Africa
JPO	Japan Patent Office
KALRO	Kenya Agricultural and Livestock Research Organization
KAMP	Kenya Association of Music Producers



KARI	Kenya Agricultural Research Institute
KCCA	Kampala City Council Authority
KEBS	Kenya Bureau of Standards
KECOBO	Kenya Copyright Board
KEMRI	Kenya Medical Research Institute
KENIA	Kenya National Innovation Agency
KIA	Kenya Investment Authority
KIIs	Key Informant Interviews
KIPI	Kenya Industrial Property Institute
KIRDI	Kenya Industrial Research and Development Institute
KOPIKEN	Reproduction Rights Society of Kenya
KOPITAN	Reproduction Rights Society of Tanzania, mainland Tanzania
KRA	Kenya Revenue Authority
MAAIF	Ministry of Agriculture, Animal Industry and Fisheries, Uganda
MARI	Mikocheni Agricultural Research Institute
MDAs	Ministries, Departments and Agencies
MDGS	Millennium Development Goals
MEAC	Ministry of East African Community, Kenya
MEAC	Ministry of East African Cooperation, United Republic of Tanzania
MEACA	Ministry of East African Community Affairs, Uganda
MGLSD	Ministry of Gender, Labour and Social Development
MIA	Ministry of Internal Affairs, Uganda
MINEAC	Ministry of Eastern Africa Community
MINICOM	Ministry of Trade and Industry, Rwanda
MININFRA	Ministry of Infrastructure, Rwanda
MITEC	Ministry of Information and Communication Technology, Rwanda
MITI	Ministry of Industry, Trade and Investment, Tanzania
MOES	Ministry of Education and Sports, Uganda
MOH	Ministry of Health, Uganda
MOJCA	Ministry of Justice and Constitutional Affairs, Uganda
MOJNNCA	Ministry of Justice, National Cohesion and Constitutional Affairs
MOSTI	Ministry of Science, Technology and Innovation Uganda
MPAKE	Music Publishers Association of Kenya
MSME	Micro, Small and Medium Enterprises
MTIC	Ministry of Trade, Industry and Cooperatives, Uganda
MTS	Multilateral Trading System
M&E	Monitoring and Evaluation
NACOSTI	National Commission for Science, Technology and Innovation, Kenya
NARO	National Agricultural Research Organization, Uganda
NCHE	National Council for Higher Education, Uganda
NIRDA	National Industrial Research and Development Agency, Rwanda
NSCT	National Council of Science and Technology, Rwanda
OBR	Office Burundais des Recettes (Burundi Revenue Authority)
PAT	Participatory Analytical Techniques



PCT	Patent Cooperation Treaty
PRISK	Performers Rights Society of Kenya
PSFU	Private Sector Foundation Uganda
RBC	Rwanda Biomedical Centre
REC	Regional Economic Community
RDB	Rwanda Development Board
RRA	Rwanda Revenue Authority
RSAU	Rwanda Society of Authors
R&D	Research and Development
SADC	Southern African Development Community
SDGs	Strategic Development Goals
SMEs	Small and Medium Enterprises
SSIA	South Sudan Investment Authority
SSNBS	South Sudan National Bureau of Standards
SSPS	South Sudan Police Service
STI	Science, Technology and Innovation
TAAS	Tanzania Academy of Sciences
TBI	Technological Business Incubation
TBS	Tanzania Bureau of Standards
TCE	Traditional Cultural Expression
TIRDO	Tanzania Industrial Research and Development Organization
TK	Traditional Knowledge
TLS	Tanganyika Law Society
TOR	Term of Reference
TPF	Tanzania Police Force
TRA	Tanzania Revenue Authority
TRIPS	Trade Related Aspects of Intellectual Property Rights
UIA	Uganda Investment Authority
UIRI	Uganda Industrial Research Institute
ULS	Uganda Law Society
UMA	Uganda Manufacturers' Association
UNBS	Uganda National Bureau of Standards
UNCST	Uganda National Council for Science and Technology
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNHRO	Uganda National Health Research Organization
UNIDO	United Nations Industrial Development Organization
UPF	Uganda Police Force
URA	Uganda Revenue Authority
URSB	Uganda Registration Services Bureau
WIPO	World Intellectual Property Organization
WTO	World Trade Organization



GLOSSARY OF TERMS¹

The following terms carry the meanings/interpretations ascribed below, throughout this EAC Regional IP Policy.

“Academic and Artistic Works” means personal art works, books (including textbooks), educational courseware, syllabi, lesson plans, articles, non-fiction, novels, poems, musical works, dramatic works including any accompanying music, pantomimes and choreographic works, architectural drawings, design artefacts, pictorial, graphic and sculptural works, software, motion pictures and other similar audio-visual works, and sound recordings.

“Benefit” means the contribution to the socioeconomic needs and includes capacity development, knowledge and technology transfer, job creation, enterprise development, social transformation and products, or processes or services that embody or use the IP.

“Commercialization” means any activity or initiative undertaken with the objective of, or that could contribute to, development or exploitation of IP in a way or ways that might or are intended to generate commercial returns or other material benefits to the owners of the IP.

“Computer Software” means any computer program (including, without limitation, microcode, subroutines and operating systems), regardless of form of expression or object in which it is embodied, together with any user manuals and other accompanying explanatory materials and any computer database.

“Copyright” means an IP right pertaining to the exclusive legal right, given to an author or an assignee of a literary, artistic or scientific work.

“Creative works” means novels, short stories, poems, plays; songs, operas, musicals, sonatas, sketches, drawings, paintings etc.

“Creativity” means the ability to create, conceive, reduce to practice, author, or otherwise make a substantive intellectual contribution to the creation of IP.

“Creator” means any person(s) to whom this policy is applicable, who creates, conceives, authors, or otherwise makes a substantive intellectual contribution to the creation of IP and who meets the definition of “creator” as generally defined in copyright and related rights acts.

“Cultural Expression” means “those expressions that result from the creativity of individuals, groups and societies, and that have cultural content.”

“Dissemination” means disclosure by any appropriate means other than those resulting from the formalities of IP protection, and including the publication in any medium.

“Enforcement” means the act of compelling observance of or compliance with a law, regulation, rule, or obligation.

“Employee” means a person who has entered into an employment relationship with an organization or institution, whether academic or professional, administrative, support staff, paid or unpaid, full or part time, partly or fully appointed, affiliated or an assistant.

¹ The majority of these definitions are drawn from the World Intellectual Property Organization (WIPO) glossary of key terms related to Intellectual Property (IP) and the TRIPS Agreement. It is however, noteworthy that there are as yet no universal/international accepted definitions for some IP-related terms.



“Generation” means the creation, production, initiation, origination, inception, inspiration of something.

“Genetic Resources” means genetic material of actual or potential value that includes plants, animals or organisms of other origin containing functional units of heredity.

“Geographical Indication” means an IP right pertaining to a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin.

“Industrial Design” means an IP right that protects the ornamental or aesthetic aspect of an article. An industrial design may consist of three dimensional features, such as the shape of an article, or two dimensional features, such as patterns, lines or colour.

“Infrastructure” means, in context of this document, all materials and systems required to deliver on the mandate of the policy.

“Innovation” means doing something new that improves a product, process or service.

“Intellectual Property Agreement (IPA)” means any written agreement entered into between an employee, student, or third party and an organization or institution which relates to the ownership and use of any form of IP which may arise.

“Intellectual Property (IP)” means a legal concept which refers to creations of the mind for which exclusive rights are recognized. These rights are conferred to a variety of intangible assets, such as musical, literary and artistic works; discoveries and inventions; words, phrases, symbols, and designs.

“Intellectual Property (IP) Asset” means patent, utility model, industrial design, design layout, trademark, copyright, seed/plant variety, trade secret, geographical indication, traditional/indigenous knowledge, traditional cultural expression as well as unique idea.

“Intellectual Property (IP) Policy” means a set of measures formulated and implemented by government/institution/organization, to encourage and facilitate effective creation, development and management of IP assets. It defines approaches towards developing the infrastructure and capacities necessary for enabling inventors and creative industries protect, develop and exploit their inventions and innovations.

“Intellectual Property (IP) Professional” means skilled IP management personnel, particularly in generation, protection, exploitation and enforcement. These include but are not limited to IP trial attorneys, trademark practitioners and patent attorneys.

“Intellectual Property (IP) Rights” means the assignment of monopoly rights on the use of intellectual content for a specified period of time; through patents, copyright, trademarks, industrial designs, geographic indicators, utility models and trade secrets.

“Intellectual Property (IP) Service Provider” means companies that deliver software tools, search databases, IP publications and other IP-related products that support IP maintenance.

“Invention” means a new, useful and non-obvious discovery, process, composition of matter, article of manufacture, design, mask-work, model, technological development, biological or plant material, strain, variety, culture or portion, modification, improvement, translation, or extension of these items. It includes any discovery or other development of a technical nature, whether or not patentable.

“Inventor” means any person(s) to whom this policy is applicable, who invents, conceives, reduces to practice, or otherwise makes a substantive intellectual contribution to the creation of IP and who meets the definition of “inventor” as generally defined in industrial property acts.



“Patent” means an IP right from a government authority or license conferring a right or title for a set period, especially the sole right to exclude others from making, using, or selling an invention.

“Pirated Copyright Goods” refers to any goods which are copies made without the consent of the right holder or person duly authorized by the right holder in the country of production and which are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right under the law of the country of importation.

“Protection” means a legal or other formal measure intended to preserve civil liberties and rights.

“Public Disclosure” means, in the absence of a non-disclosure or confidentiality undertaking, the oral or written communication of information relating to IP to a person, or people, that are external to an organization or institution, but not limited to, emails, web blogs, news reports, press releases or interviews, journal articles, abstracts, posters, conference presentations and through the submission of theses for examination. A thesis placed in a library constitutes a public disclosure.

“Public Domain” means works that do not qualify for protection under any IP title, either because the rights have expired or the rights have been forfeited; and as such are held by the public at large and are available for anybody to use without permission from the original creator or the original right owner(s).

“Research Agreement” means a Research Service Agreement or Cooperative Research and Development Agreement or Material Transfer Agreement or Confidentiality Agreement or Consultancy Agreement and any other type of agreement concerning research pursued by researchers and/or IP created by host or participating organization(s) or institution(s).

“Researcher” means someone who conducts an organized and systematic study or investigation (“research”) into a subject carefully and comprehensively, in order to interrogate existing and discover new information that improves the understanding of the subject matter. A researcher may be: i) a person employed by a Research Institute/University, that may be a student, employee or technical staff; ii) a student (graduate or postgraduate) of the Research Institute/University; iii) any person, including a visitor who uses the Research Institute’s/University’s resources and who performs any research task at the Research Institute/University or otherwise participates in any research project administered by the Research Institute/University, including those funded by external sponsors.

“Spin-off /Spin-out Company” means a company established for the purpose of exploiting IP originating from an organization or institution, typically a Research Institute or University.

“Stakeholders” means entities (both persons and organizations) that have an interest in and/or investment in and/or are impacted by and care about the outcomes of IP for personal reasons or their organizations.

“Sui Generis” is a Latin term meaning “of its own kind” or class and is often used to describe that which is unique or peculiar.

“Technology” means the tangible and intangible results of research and scholarship and related IP rights, whether or not patentable or copyrightable, but excluding Copyrightable Works. Technology may include, but is not limited to prototype devices; novel biological materials; new chemical compounds; materials having novel optical or electronic characteristics; and software and programming code, where software is not excluded as a Copyrighted Work.

“Technology Development” means the use of scientific and technological knowledge to solve practical problems, especially in industry and commerce.



“Technology Transfer” means the transfer of new technology from the originator to a secondary user, especially from developed to less developed countries in an attempt to boost their economies.

“Technology Transfer Office (TTO)” means the Research Contracts and IP Services office of an organization or institution, typically a Research Institute or University.

“Technovation” means a solution to a specific problem in the field of technology proposed by an employee of an enterprise, for use by that enterprise and which relates to the activities of the enterprise but which on the date of the proposal has not been used or actively considered for use by that enterprise.

“Third Party” means any legal entity which is not a party to a Contract or a transaction, but has an involvement.

“Trademark” means an IP right pertaining to a symbol, word, or words legally registered or established by use as representing a company or product. Synonyms for trademark include; logo, brand, emblem, sign, mark, stamp, symbol, badge, crest, monogram, colophon.

“Trademark Counterfeit Goods” refers to goods, including packaging, bearing without authorization a trademark which is identical to the trademark validly registered in respect of such goods, or which cannot be distinguished in its essential aspects from such a trademark, and which thereby infringes the rights of the owner of the trademark in question under the law of the country of importation.

“Trade Secret” means a formula, practice, process, design, instrument, pattern, or compilation of information which is not generally known or reasonably ascertainable, by which a business can obtain an economic advantage over competitors or customers.

“Traditional Knowledge (TK)/Indigenous Knowledge (IK)” means knowledge resulting from intellectual activity in a traditional context, and includes knowledge, practices, skills and innovations. It embodies the traditional lifestyles of indigenous peoples and local communities and is transmitted from generation to generation².

“Utility Model” means an IP right to protect inventions, through national statute provisions. It is similar to a patent, but with a shorter term and less stringent requirements.

“Value Chain” means the process or activities by which value is added to an article or system. In this policy the value chain involves generation, protection, exploitation and enforcement.

²See Nagoya and Swakopmund Protocols for alternative/indicative definitions.



EXECUTIVE SUMMARY


The EAC Partner States as members of the World Trade Organization (WTO) are obliged to comply with the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs Agreement). EAC Partner States have recognized the importance of using science, technology and innovation to achieve sustainable growth through the EAC Vision 2050. Protection of IP creates incentive for more knowledge and technology generation as scientists and other creators are recognized and rewarded.

The potential value of IP will be derived from commercialization of protected products and services. Regional approach to IP protection will benefit international trade facilitation and will provide harmonized rules for registration of IP rights within a given region contributes to ease of international trade. A regional cooperation framework would foster the harnessing of complementarities and pooling of resources for collective enhancement of the IP development effort like capacity building; administration of rights; skilled human capital; and physical and technological infrastructure.

The harmonisation of existing IP legislations, regulations and rules will strengthen the development, exploitation and monitoring of IP content at regional level and will also foster the creation of bilateral development strategies and programs on specific IP-related issues. This policy will complement ongoing Partner State efforts in technology development, transfer, adaptation and diffusion. The acquisition and application of technologies for value addition and other economic enterprise is critically dependent on IP. The IP protection will provide an incentive for increased innovation and creativity as inventors and creators are recognized and rewarded for their efforts. This policy will also encourage technological innovation and creativity, as well as promotion of industrial and commercial use of inventions, in order to contribute to the social, cultural, economic, industrial and technological development of the EAC Partner States.

The IP policy development process followed below steps: assessment of the current IP situation in the EAC, through a combination of Participatory Analytical Techniques (PAT) of consultation; compilation and analysis of primary (survey) and secondary (literature review) information/data captured from comprehensive assessment of IP situation in Partner States; benchmarking and reviewing of IP ecosystems in other regional and international communities for purposes of benchmarking the prevailing situation in the EAC; preparation and of interim Report on the status of the IP situation in the EAC region; presentation of Draft EAC Regional IP Policy to stakeholder's at Regional Validation Workshop convened by EASTECO management; and the final draft EAC Regional IP Policy presented to EASTECO Governing Board.

The East African Regional Policy for Intellectual Property is divided into 5 chapters; Chapter 1 presents: The background and context for development of the EAC Regional IP Policy; Chapter 2 presents analysis of the IP situation in the EAC with focus on; comprehensive review of relevant IP literature on the status of IP in the EAC, regional and international communities, comprehensive analysis of the EAC IP situation and key issues (gaps) that ultimately inform formulation of the EAC Regional IP Policy; chapter 3: presents the EAC Regional IP Policy (including policy options, issues, problem statement, vision, mission, goal, objectives, statements, strategies and key actions); chapter 4: presents the Policy Implementation Plan including Approach to Policy Implementation, Policy Implementation Timeline, Projected costs, Popularization of IP in EAC Region and Resource Mobilization; and chapter 5: presents the Monitoring and Evaluation (M&E) framework that will act as a barometer for policy effectiveness that includes anticipated results and indicators.



Chapter 1: Background and Context for EAC Regional IP Policy Development

1.1 INTRODUCTION

The development of the EAC Regional IP Policy is founded on a holistic and pragmatic approach that aims to facilitate the effective application of IP as a vehicle for development across key sectors of Partner State economies. The approach used to develop the policy renders due attention to key aspects related to the generation, protection, exploitation and enforcement of “conventional forms” of IP (industrial design, trademarks, copyright and related rights, trade secrets, geographical indications and seed/plant variety rights); encouraging innovation and creativity; promoting the growth of technology-based and creative industries; advocating for the protection and exploitation of Traditional/Indigenous Knowledge (TK/IK), Traditional Cultural Expressions (TCEs) and Biological Resources; safeguarding the welfare of EAC citizens; and comprehensively/equitably meeting IP stakeholder needs.

The EAC Regional IP Policy is presented in five (5) Chapters. **Chapter 1** presents the background and context for development of the EAC Regional IP Policy. It states the overall objective of the policy and articulates the methodology used to develop the policy. **Chapter 2** presents analysis of the IP situation in the EAC with focus on; (i) comprehensive review of relevant IP literature on the status of IP in the EAC, as well as the findings of benchmark review of the status of IP in a selection of other regional and international communities conducted for purposes of reliably informing the policy development process and ensuring best practices are upheld, and (ii) comprehensive analysis of the EAC IP situation based on a Stakeholder Survey conducted over the period 7th May to 29th June 2018, for purposes of attaining primary information/data. The Chapter further presents the key issues (gaps) that ultimately inform formulation of the EAC Regional IP Policy. **Chapter 3** presents the EAC Regional IP Policy (including



policy options, issues, problem statement, vision, mission, goal, objectives, statements, strategies and key actions). **Chapter 4** presents the Policy Implementation Plan. **Chapter 5** presents the Monitoring and Evaluation (M&E) framework that will act as a barometer for policy effectiveness.

In addition to these five (5) Chapters, the EAC Regional IP Policy documentation includes a number of Annexes associated with content presented in the different Chapters. Annexes include: a list of EAC IP related documents reviewed during the policy development process; a list of Partner State IP related documents reviewed during the policy development process; and a list of regional and multilateral IP Protocols, Treaties and Agreements Partner States have acceded to and must therefore, comply with; a list of other relevant reference documents; the EAC Regional IP Policy Implementation Plan matrix; and the EAC Regional IP Policy Monitoring and Evaluation Framework matrix.

1.2 BACKGROUND

The East African Community (EAC) is a regional intergovernmental organisation of six (6) Partner States, comprising Burundi, Kenya, Rwanda, South Sudan, United Republic of Tanzania and Uganda, with its headquarters in Arusha, United Republic of Tanzania. One of the main objectives of the EAC is developing policies and programs aimed at fostering integration and deepening cooperation among the Partner States in economic; political; security; legal; social and cultural; research and development; science, technology and innovation; and other spheres considered important for their individual and collective development.

The East African Science and Technology Commission (EASTECO) is a semi-autonomous institution of the East African Community (EAC) that was established by the fifth Extra-Ordinary Summit of the EAC Heads of State on 18th June 2007, in accordance with the relevant provisions of the Treaty on the Establishment of the EAC, as set out in Chapter 16, Article 103 (a), where the Partner States, with a common market of over 150 million people at that time, undertook to promote cooperation in the development of science and technology.

EASTECO's overall objective is to promote and coordinate the development, management and application of science and technology to support regional integration and socioeconomic development.

The leaders of the EAC Partner States have explicitly recognised the importance of Science, Technology and Innovation (STI) in the EAC Treaty, as exemplified by the launch of a number of regional STI initiatives, including the establishment of EASTECO, Inter University Council of East Africa (IUCEA) and East African Health Research Commission.

Under the EAC Common Market Protocol, STI has been accorded significant prominence as a driver for economic growth with Article 42 speaking of the cooperation of Partner States in Research and Development (R&D), Article 43 the importance of cooperation in IP and Article 44 espousing the modalities for cooperation in industrial development. The EAC Vision 2050, aims to achieve a per capita income of US\$ 10,000 by 2050. The community has recognised that this target can only be achieved if STI plays a significant role in catalysing innovation and development to meet the current challenges facing the region. STI is important for the enhancement of the socioeconomic status of individuals and communities and is key to strengthening the competitiveness of regional economies. It will be altogether impossible, to create wealth and improve the living standards of the people of the EAC without developing and applying STI and strengthening systems that harness innovation. Key to this is protection and exploitation of IP derived from various STI initiatives and interventions.



The economies of EAC Partner States are increasingly dependent on knowledge and technology, with industrial design and technological innovation playing more fundamental roles towards the improvement of citizens' social and economic welfare. Along with the complimentary creativity across various sectors of Partner State economies, industrial and technological innovation directly contributes to enhanced productivity, the start-up of new enterprises and the creation of new jobs, as well as strengthening the competitiveness of national companies in global markets. It is noteworthy that in this sphere, IP protection, notably industrial design protection also provides a foundation for cooperation between universities, R&D institutions and industry, and promotes the transfer of technologies to productive and creative sectors.

1.3 PERSPECTIVES ON PURPOSE OF IP POLICY

Intellectual Property (IP) policies are formulated and implemented by institutions, governments and regions to encourage and facilitate effective creation, development, management and exploitation of Intellectual Property (IP) assets. They define approaches towards developing the infrastructure and capacities necessary for enabling researchers, inventors and creators protect, develop and exploit their findings, inventions and innovations.

IP policies invariably include strategies that outline policy implementation processes, with focus on the coordinated manner and framework(s) within which overall policy objectives and goals can be achieved, within prescribed timelines. In essence, the strategies spell out how best to develop capacities for IP-driven socioeconomic transformation, through: robust institutional and legal frameworks; enhanced innovation and creativity; inclusive IP benefit sharing mechanisms; and other strategic interventions such as incentives and support mechanisms for Technology Transfer initiatives. IP policies generally seek to strengthen institutional, national and regional abilities to generate and exploit economically valuable IP assets.

The ultimate goal of a sound IP policy is to provide short, medium and long-term plans and guidelines that enable stakeholders effectively work together towards identifying, creating, protecting and exploiting research results, innovations and creative works.

1.4 RATIONALE FOR EAC REGIONAL IP POLICY

The rationale for the development of the EAC Regional IP Policy is imbedded in the fact the concept of IP is intrinsically territorial in nature. The advent of a global economy that is knowledge based has rapidly rendered the territorial nature of IP regional and multilateral. Accordingly, the proactive cooperation and integration of the Partner States in the field of IP is, for various reasons, critically important to the overall socioeconomic development and transformation of the EAC.

In the first instance, the potential value of IP derived from commercialization of protected products and services goes beyond the confines of a given Partner State. This is all the more true in the case of the wider COMESA-EAC-SADC Tripartite region where free movement of goods and services is the order of the day. It is therefore, inevitable that IP protected products and services such as, trademarked merchandise, patented technology and copyrighted music in a given Partner State find their way beyond national borders. Accordingly, the IP system of an individual Partner State is incapable of adequately safeguarding the rights of its inventors and creators against IP challenges across national borders. The other major IP-related cross-border issue that currently obtains is collaborative research between



institutions in neighbouring countries. The IP generated through such collaborations is best addressed through a regional policy framework. There is therefore, need for a regional approach to IP protection that provides for mutual acknowledgement and enforcement of IP rights in neighbouring countries. It is also envisaged that endemic challenges to IP rights protection such as counterfeiting and piracy can be more efficiently suppressed through a regional approach where neighbouring countries cooperate towards common goals.

Another area where a regional approach to IP protection would be beneficial is international trade facilitation. Many national enterprises are engaged in international trade and currently find it difficult to register their IP assets in a manner that can facilitate international marketing of their innovative goods and services in their immediate region and beyond, due to the multiple legislations and regulations that apply within that region and have not been harmonized. In particular, industrial design and trademark right registration can be problematic. A regional IP framework that provides harmonized rules for registration of IP rights within a given region contributes to ease of international trade.

The other justifications for a regional approach to IP development in the EAC are prevailing limited capacities for: administration of rights (notably protection and enforcement); skilled human capital; and physical and technological infrastructure (notably repositories of documentation, information systems and automated mechanisms for fast-tracking the assessment, registration and grant of IP rights). At present, none of the Partner States is endowed with comprehensive capabilities in these areas. It is therefore, envisaged that a regional cooperation framework would foster the harnessing of complementarities and pooling of resources for collective enhancement of the IP development effort. The Partner States can further establish shared institutions and infrastructure that serves the region.

Further justification for regional cooperation in IP among Partner States is the harmonisation of existing IP legislations, regulations and rules. The result would be standardization of the IP administration system with focus on strengthening IP administration institutions and enhancing the integrity and efficiency of procedures and processes related to IP rights protection, exploitation and enforcement. Operationally, such an effort would also significantly strengthen the development, exploitation and monitoring of IP content at regional level. It would also foster the creation of bilateral development strategies and programs on specific IP-related issues.

Another key justification for development of the EAC Regional IP Policy is the fact EAC Partner States are obliged to comply with the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement), by virtue of their membership of the World Trade Organisation (WTO). The TRIPS Agreement requires Partner States to provide for the protection of IP rights. However, it is important to note that IP rights are not only important because EAC Partner States acceded to the TRIPS Agreement, but because they offer an even more important and far reaching means of stimulating research, innovation and creativity; enabling access to technology; and promoting the growth of enterprises.

One of the objectives of IP administration and management is to protect the IP assets/wealth generated through research, innovation and creativity. From a global perspective, the protection and exploitation of IP generated in EAC Partner States are rapidly becoming essential and indispensable to socioeconomic transformation through integration into the knowledge economy. It is noteworthy that there are many unprotected research results, innovations and creative industry outputs due to lack of institutional, national and regional IP policies. Consequently, many of these outputs end up being released to the public domain without benefits accruing to researchers, inventors and creators and/or commercial gain to these stakeholders and their institutions.



Therefore, IP protection provides an incentive for increased innovation and creativity as inventors and creators are recognized and rewarded for their efforts. While the primary purpose of IP protection is sometimes not necessarily financial reward, particularly among publicly funded universities and R&D institutions, the income generated by IP assets can significantly contribute to further R&D and catalyse further innovation.

There are challenges and limitations that hinder effective use of intellectual property in EAC member States. These include: the lack of intellectual property policies, poor intellectual property infrastructure, lack of awareness, non-harmonized intellectual property regimes, lack of support for research and development, lack of political will and outdated legislation, poor intellectual property administration and shortage of skilled manpower and limited financial support. There is need for the development of national intellectual property policies and strategies where they do not exist, harmonization of intellectual property laws, enforcement and automation, capacity development in intellectual property examination, intellectual property auditing, interface between intellectual property rights and competition laws and development of intellectual property infrastructure. The accession of EAC Partner States to the Treaties and Conventions administered by WIPO at the international level as well as joining ARIPO at the continent level will help accelerate progress towards creating a harmonized intellectual property environment. The critical of SADC to be aligned to the aspirations of EAC and COMESA

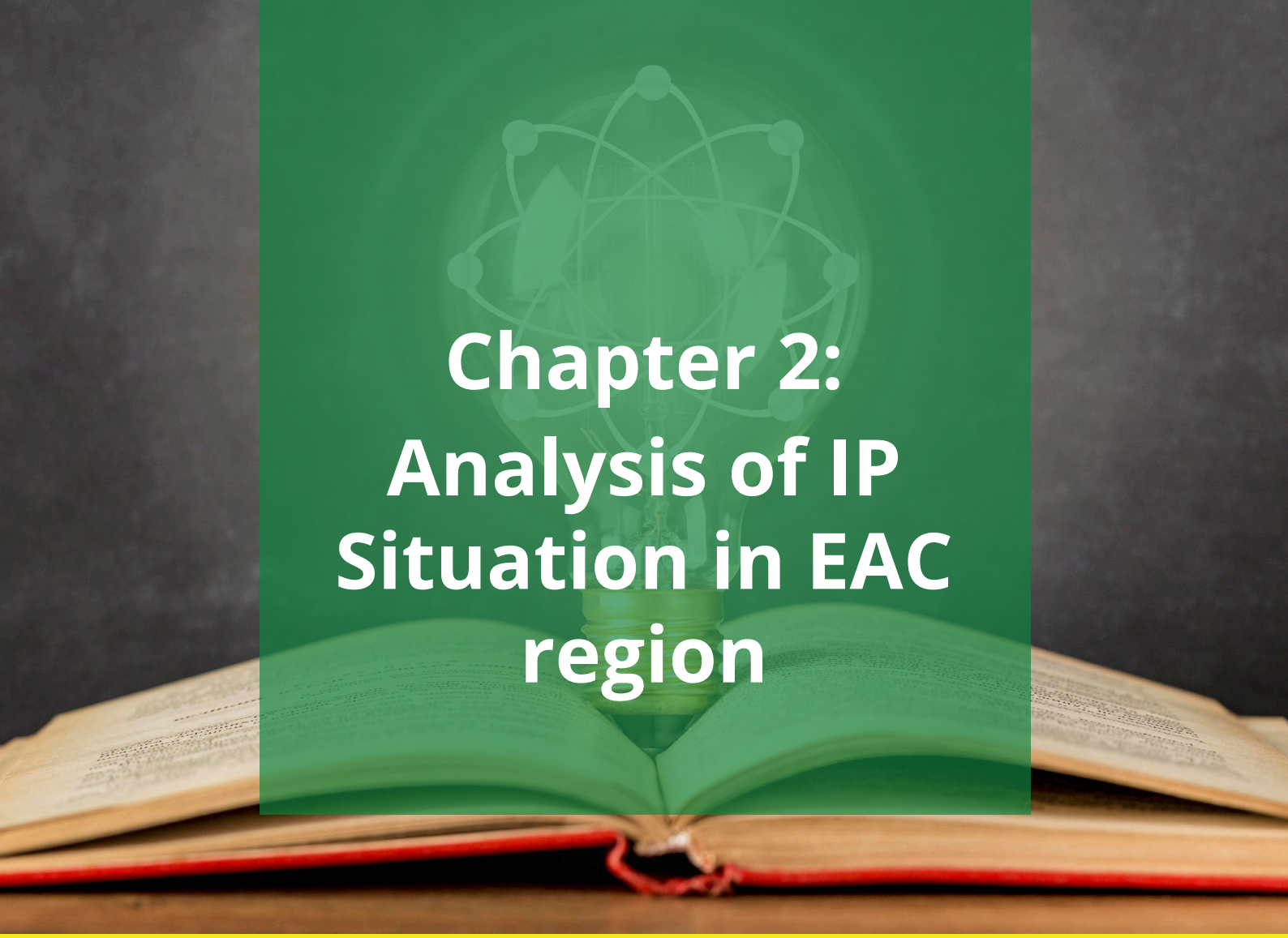
In view of the foregoing, the EAC Regional IP Policy under development aims to provide a foundation for enhanced IP generation, protection, commercialization and enforcement to a level that can promote sustainable innovation and creativity in the Partner States. The policy strategies seek to foster a higher level of awareness and appreciation of the value of IP and changing the mind-sets of key stakeholders in universities, R&D institutions, private and informal sectors, as well as policy makers and civil society actors that are collectively responsible for sharing research results, innovations and creative works, with a view to exploiting them, all within an equitable framework that retains sight of the primary academic responsibility to contribute to the development of the knowledge base.

A well-functioning STI system requires, among other things, political stability; robust institutions; an educated work force; comprehensive research and education infrastructure; and effective linkages between public and private stakeholders in the innovation and creativity ecosystem. Additionally, such a system requires enterprises that are committed to R&D as well as a balanced IP policy framework.

The EAC Regional IP Policy is intended to encourage technological innovation and creativity, as well as promotion of industrial and commercial use of inventions, in order to contribute to the social, cultural, economic, industrial and technological development of the EAC Partner States.

1.5 OVERALL OBJECTIVE

The overall objective of the EAC Regional IP Policy is to create a dynamic, vibrant and balanced IP system in EAC partner states. It aims to use the IP system as a means for stimulating innovation and creativity, as well as promoting advancement in the exploitation of Traditional/Indigenous knowledge (TK/IK), Traditional Cultural Expressions (TCEs) and biological resources.



Chapter 2: Analysis of IP Situation in EAC region

2.1 REVIEW OF RELEVANT IP LITERATURE

Broad/online desk research study was conducted for acquisition of relevant public domain IP-related literature (secondary information/data) on the status of IP in the EAC region, in conjunction with other recommended benchmark reference materials and documentation on the status of IP in a selection of other regional and international communities. This information/data has been acquired with intent to complement primary information/data acquired through subsequent Partner State stakeholder survey on the status of IP in the EAC region, with a view to reliably informing the EAC Regional IP Policy development process and why this Policy is needed. The Detailed outcome of the situational research study are contained in the Status Report.

Documents reviewed included: EAC regional vision, protocols, policies, strategies and plans; EAC Partner State National and Sectoral Policies, Strategies and Plans; National, Regional and Multilateral Legal Frameworks for IP Protection in the EAC; and documents on IP ecosystems in selected other Regional & International Communities.

2.1.1 EAC Regional Vision, Protocols, Policies, Strategies, legal framework and Plans

The EAC Regional Vision, Protocols, Policies, Strategies and Plans reviewed for purposes of informing and guiding the EAC Regional IP Policy development process included: the EAC Vision 2050, the EAC Treaty and Protocol and EAC Sectoral Policies, Strategies and Plans such as; the Protocol on the Establishment of the EASTECO, EASTECO Strategic Plan (2017/18 - 2021/22), EAC Regional Pharmaceutical Manufacturing



Plan of Action (2012-2016), EAC IP Policy on Utilization of Public Health-Related WTO–TRIPS Flexibilities and the Approximation of National IP Legislations, and EAC Industrialization Strategy (2012-2032), EAC Knowledge and Technology Transfer Institutions Report, EAC Export Promotion Strategy (2013-2016), EAC Regional Science, Technology and Innovation Policy, EAC Food Security Action Plan (2011-2015), and EAC Industrial Competitiveness Report 2017. Annex 1 presents a list of EAC IP-related documents reviewed.

Analysis of IP-related gaps in the above policy frameworks is articulated in the associated EAC Regional IP Status Report which reveals the key issue the EAC Regional IP Policy needs to address, in respect to promoting integration of IP into existing EAC regional vision, protocols, policies, strategies and plans is **“inadequate utilization of the IP system”**.

2.1.2 Partner State National and Sectoral Policies, Strategies and Plans

The EAC Partner State National and Sectoral Policies, Strategies and Plans reviewed for purposes of examining and elucidating the extent to which IP is currently linked to and/or integrated into the various Partner State national and sectoral policies, strategies and plans included: National Visions; National Development Plans and Strategies; National Intellectual Property (IP) policies, strategies and plans; National Science, Technology and Innovation policies, strategies and plans; National Industrial policies, strategies and plans; National Education policies, strategies and plans; National Agricultural policies, strategies and plans; National ICT policies, strategies and plans; National Health policies, strategies and plans; National Trade policies, strategies and plans; National Energy policies, strategies and plans; National Environmental policies, strategies and plans; National Biodiversity policies, strategies and plans; National Biotechnology & Biosafety policies, strategies and plans; National Standards and Quality policies, strategies and plans; and National Culture & Heritage policies, strategies and plans.

Given the cross-cutting nature of IP, the goal of this examination has been to identify IP relevant objectives and aspects of existing Partner State national and sectoral policies, strategies and plans which the EAC Regional IP Policy should be cognizant of, in order to ensure coherent, coordinated and sustainable mainstreaming of IP across relevant sectors of Partner State economies, in a manner that promotes deeper EAC regional integration and development. Annex 2 presents a list of additional Partner State IP-related documents reviewed during the EAC Regional IP Policy Development process.

Analysis of the IP-related gaps in the above policy frameworks is articulated in the associated EAC Regional IP Status Report which reveals existing policies for key sectors such as agriculture, education, health and industry lack IP content, yet they are predominantly knowledge based. Therefore, the key issue the EAC Regional IP Policy needs to address, in respect to promoting integration of IP into existing Partner State national and sectoral policies, strategies and plans is **“inadequate utilization of the IP system”**.

2.1.3 National, Regional and Multilateral Legal Frameworks for IP Protection in the EAC

The National, Regional and Multilateral Legal Frameworks for IP Protection in the EAC reviewed included: Partner State Legal Frameworks for IP Protection; Regional Frameworks for IP Protection in the EAC; and Multilateral Frameworks for IP Protection in the EAC.



2.1.3.1 Partner State Legal Frameworks for IP Protection

The existing national legal frameworks for IP protection in Partner States currently comprises of legislations (laws), regulations and rules for: *industrial property* (patents, industrial designs, utility models, design layouts and technovations); *copyright and related rights*; *trademarks*; *trade secrets*; *geographical indications*; *seeds and plant varieties*; as well as *Traditional/Indigenous Knowledge (TK/IK)* and *Traditional Cultural Expressions (TCEs)* protection. Documents reviewed have included legal frameworks (legislation, regulations and rules) for: Industrial Property (Patents, Industrial Designs, Utility Models, Technovations, Design Layouts); Copyright and Related Rights; for Trademark; Trade Secret; Geographical Indication; Plant Variety protection; Traditional/Indigenous Knowledge (TK/IK); and Traditional Cultural Expressions (TCEs) protection.

Analysis of the IP-related gaps in the above national legal frameworks is articulated in the associated EAC Regional IP Status Report which reveals the main challenge to be **“incomplete IP legislations, regulations and rules”**. It is however, observed that this challenge can be overcome within existing policy frameworks, the same frameworks that have given rise to the legislations, regulations and rules currently in place in the Partner States. Accordingly, this challenge does not qualify as a “gap or key issue” the EAC Regional IP Policy must directly address at goal and objective level. This notwithstanding the policy can provide strategies and recommend key actions aimed at promoting establishment of a comprehensive legal framework for IP protection in the region under the already identified key issue of **“inadequate utilization of the IP system”**.

2.1.3.2 Regional Frameworks for IP Protection

The framework for IP protection in the EAC region is characterized by the existence of several protocols, treaties and agreements that Partner State have acceded to and are therefore, obliged to comply with. The regional IP protection instruments reviewed have included the: Treaty Establishing the EAC; EAC-SADC-COMESA Tripartite Free Trade Agreement; Cotonou Agreement; EU-EAC Trade Cooperation Framework; Harare Protocol on Protection of Industrial Design, administered by ARIPO; Banjul Protocol on Trademark Protection, administered by ARIPO; and the Swakopmund Protocol on Traditional Knowledge, Culture and Expressions of Folklore, also administered by ARIPO. Annex 3 provides a list of regional IP-related Protocols, Treaties and Agreements to which EAC Partner States are signatories and must therefore, be compliant.

Analysis of the IP-related gaps in the above regional frameworks for IP protection is articulated in the associated EAC Regional IP Status Report which reveals the key issue the EAC Regional IP Policy needs to address, in respect to maximising the benefits that can accrue from comprehensive integration of Partner States into existing and emerging regional frameworks for IP protection is “inadequate utilization of the IP system”.

2.1.3.3 Multilateral Frameworks for IP Protection in the EAC

The EAC Partner States have acceded to several multilateral IP Protocols, Treaties and Agreements with the goal of promoting the development of IP in the region. The multilateral IP protection instruments reviewed have included the: Industrial Property Protection Frameworks (WIPO administered Paris Convention on Protection of Industrial Property, 1883 and WTO-TRIPS Agreement, 1994); Copyright and Related Rights Protection Frameworks (Berne Convention for the Protection of Literary and Artistic Works, 1965 and Marrakesh Treaty, 2013); Seed and Plant Variety Protection Frameworks (WTO-TRIPS



Agreement, 1994 and International Convention for the Protection of New Varieties of Plants [UPOV]); and Traditional/Indigenous Knowledge and Traditional Cultural Expressions Protection Framework (WTO-TRIPS Agreement, 1994 – on basis of conformity with Berne Convention). Annex 3 provides a list of multilateral IP-related Protocols, Treaties and Agreements to which EAC Partner States are signatories and must therefore, be compliant.

Analysis of the IP-related gaps in the above multilateral frameworks for IP protection is articulated in the associated EAC Regional IP Status Report which reveals the IP Systems of Partner State are currently not equipped to facilitate multi-sectoral compliance to the requirements and obligations of the several multilateral IP-related protocols, treaties and agreements. This is partly due to operational constraints that include: inadequate national legislation and regulations; staffing, skills and expertise; and lack of requisite physical and technological infrastructure. As a result, the majority of existing multilateral protocols, treaties and agreements have either not been domesticated/remained dormant or only partially operationalized since Partner States acceded. These include the Patent Cooperation Treaty (PCT). The EAC Regional IP Policy seeks to devise strategies for the realization of the capacities required for full operationalization of existing multilateral legal frameworks for IP protection, in order to unlock the benefits that are expected to accrue.

It is also important to consider Partner State membership to other international IP-related Agreements, Treaties and Protocols that stand to serve the best interests of the EAC region. Examples include: the Madrid Protocol for international registration of Trademarks which only Kenya has acceded to; the Hague Agreement for international registration of industrial designs; Berne Convention for protection of literary and artistic works; Nice Agreement for international classification of goods and services; Budapest Treaty on international recognition of the deposit of microorganisms for the purpose of patent procedure; Swakopmund Protocol for traditional knowledge and folklore; WIPO Copyright Treaty; and WIPO Performances and Phonograms Treaty.

Overall, effective linkage between Partner State and multilateral IP Systems is critical to facilitating: realization of critically lacking IP-related capacity building initiatives; sustainable technology transfer, diffusion and exploitation; and adoption of internationally benchmarked IP-related best practices. This can be achieved through proactive efforts to fully align and utilize existing multilateral IP dispensations.

The key issues the EAC Regional IP Policy needs to address, in respect to maximising the benefits that are expected to accrue from comprehensive integration of Partner State IP systems into existing and emerging multilateral frameworks for IP protection are; **“lack of appropriate infrastructure to support innovation and creativity”, “inadequate human capital development for the IP value chain” and “inadequate utilization of the IP system”.**



2.1.4 Review of IP Ecosystems in Other Regional and International Communities

IP ecosystems in a selection of other regional and international communities have been reviewed for purposes of benchmarking the prevailing IP situation in the EAC, with a view to identifying IP management best practices, guidelines and recommendations that can be integrated into the EAC Regional IP Policy development process, in order to ensure success, as well as pitfalls to avoid.

The regional and international economic communities examined during the benchmarking exercise have included: the Common Market for Eastern and Southern Africa (COMESA); the Southern African Development Community (SADC); and the African Intellectual Property Organization (OAPI) Member States. In addition to these African Union (AU) communities, the review has also studied Regional Economic Communities (RECs) in other continental settings such as: the Association of Southeast Asian Nations (ASEAN) and the European Union (EU).

Analysis of the above IP ecosystems in other regional and international communities is articulated in the associated EAC Regional IP Status Report which reveals best practices for IP management include: establishing institutional IP policies; encouraging use of authorized IP rights; promoting exploitation of public domain intellectual information; proactive identification and protection of own IP; appointment of IP compliance officers; defining employee IP obligations; conducting institutional IP awareness and training initiatives; notifying suppliers and clients of internal IP culture; utilizing IP legitimate inputs; mainstreaming of IP into contracting; ensuring supplier and client IP credibility; providing proof of IP rights; performing IP rights due diligence; ensuring safety of IP through effective physical and network security; ensuring robust IP asset management; protecting Trade Secrets and confidential information; implementing technological Anti-Piracy and Anti-Counterfeiting measures; improving IP-related information recordkeeping practices; clear labelling of IP-related information, materials and products; conducting regular IP audits; spot-sampling of IP-related products; and cooperation with IP owners and public authorities (including enforcement agencies).

2.2 SURVEY OF IP STAKEHOLDERS IN EAC REGION

A survey of IP stakeholders in EAC Partner States was conducted over the period 7th May to 29th June 2018, using quantitative primary data collection methods, namely; *Survey Questionnaires* that facilitated the incisive capture of information on the status of IP in the EAC region; *Key Informant Interviews (KIIs)*; and *Focus Group Discussions (FGDs)*.

2.2.1 Stakeholder Analysis

The approach used for EAC region IP stakeholder analysis employed the 5-Step process outlined below:

1. Identification and listing of key stakeholders whose participation was sought from the large array of institutions and individuals that could potentially affect or be affected by the EAC Regional IP Policy;
2. Assessing the interests and potential impact of identified stakeholders in regard to policy formulation and implementation;



3. Categorization of stakeholders according to their interests and the roles they play in the IP value chain. The distinct IP stakeholder categories/core groups are:
 - a. **IP Administration** - Partner State IP Offices (including dedicated IP Offices; departments under Ministries of Justice and their affiliated institutions; departments under Ministries of Trade/Commerce on IP trade-related policy issues; IP Tribunals; Civil Societies on policy advocacy);
 - b. **IP Stakeholders (involved in IP generation, protection and exploitation activities)** - Higher Education institutions (mainly Universities); Research and Development (R&D) institutions; Councils of Science and Technology (some of which have a dual IP administration role); Private Sector; Ministries of Science Technology and Innovation, Industry, Agriculture, Health, ICT, Higher Education and Culture etc.);
 - c. **IP Rights Enforcement** - Ministries of Justice and their affiliated institutions, Ministries of Internal Affairs and their affiliated institutions, National Bureaus of Standards on counterfeit issues, Customs and Excise Department on issues of import/export of counterfeit good, and Copyright Management Organizations on piracy issues.
4. Assessing and ranking the relative influence and importance of identified stakeholders in relation to informing and directing the policy development process; and
5. Applying a Stakeholder Participation Strategy that ensures close involvement of high influence and high importance stakeholders throughout the policy development process, in order to ensure their continued support and active participation.

IP stakeholders were surveyed through field engagements in Burundi, Kenya, Rwanda, South Sudan, United Republic of Tanzania and Uganda. It is noteworthy that in order to ensure the capture of quality primary information/data that can reliably contribute to the development of a robust and evidence-based EAC Regional IP Policy, thorough one-on-one interviews were conducted for durations of 45 minutes to 1 hour.

2.2.2 Analysis of Survey Information and Data

The primary information/data acquired from the stakeholder survey in the Partner States has been analysed under the following thematic areas:

- a) Status of national IP policy development;
- b) Institutional frameworks for IP administration;
- c) Institutional frameworks for IP enforcement;
- d) Level of coordination among IP administration institutions and stakeholders;
- e) Level of IP awareness;
- f) Level of skilled and professional human capital for IP administration;
- g) Status of infrastructure for IP administration;
- h) Level of IP generation, protection and exploitation;
- i) Level of political will to support IP development;
- j) Stakeholder recommendations;
- k) Statistics on status of IP in the EAC region; and
- l) SWOT Analysis of IP Situation in EAC Region.

The analysis has been carried out with focus on: validating secondary information/data acquired from review of relevant IP literature; clear understanding of prevailing IP situation, priorities, challenges and key issues (gaps) in the region.



2.2.3 Status of National IP Policy Development in EAC Partner States

Partner State	Status of National IP Policy Development
Burundi	<p>Burundi recently launched its Policy of Development of the System of the IP of Burundi [PDSPi] (2018-2023). The policy vision is, “To use the intellectual property system as an effective tool in achieving economic, social, cultural and technological development of the country as outlined in the Burundi Vision 2025”. The policy mission on the other hand is “To promote and implement an appropriate and perfect IP operation system of administration and creation”.</p> <p>The policy is operational and identifies key priority sectors where IP is relevant to development. These include; agriculture, health, creative industries, Small and Medium Enterprises (SMEs), research and innovation. The policy is also expected to stimulate the establishment of currently lacking institutional IP policies.</p>
Kenya	<p>A Draft National Intellectual Property Policy was developed in 2005 was never approved by cabinet and implemented. In spite of this several major IP-related legal and policy developments have emerged at a sectoral level since 2006. These include: Kenya Vision 2030 which covers the role IP in development; the National Policy on Traditional Knowledge, Genetic Resources and Traditional Cultural Expressions, 2009; the National Policy on Culture and Heritage, 2009; Copyright (Amendment) Acts of 2012 and 2014; National Music Policy 2015; Protection of Traditional Knowledge and Cultural Expressions Act 2016.</p> <p>Additionally, the draft policy has enabled a number of higher education and research institutions develop institutional IP policies (e.g. University of Nairobi, Kenyatta University and Moi University). However, in order to ensure coherence in the IP arena, there remains urgent need to establish and implement a National IP Policy that can better coordinate all these efforts.</p>
Rwanda	<p>Rwanda launched its first National IP Policy in 2009 and revised in Oct 2018. The policy vision is “To contribute to the economic and social transformation of Rwanda by creating an enabling environment for the economic utilization of the rights of creators, innovators and business enterprises”. The policy is aimed at providing guidance and a road map to ensure that the IP laws, practices and strategies in Rwanda support and facilitate the achievement of the country’s high-level vision and targets. The policy provides a comprehensive framework for the IP system in Rwanda.</p>



United Republic of Tanzania	<p>A Draft National Intellectual Property Policy is currently under development for mainland Tanzania but is yet to be published. The United Republic of Tanzania uses a dual IP framework for mainland Tanzania and Zanzibar and, Zanzibar is yet to embark on development of its own sovereign policy.</p> <p>Prior to the ongoing national policy development process, mainland Tanzania relied on an IP Strategy developed with the support of WIPO to guide IP development in the country. The strategy has enabled a number of higher education and research institutions develop institutional IP policies (e.g. Sokoine University of Agriculture and University of Dar Es Salaam). However, the strategy proved ineffective on the National stage due to not being a legal instrument that could be used for IP protection, exploitation and enforcement.</p>
South Sudan	<p>At present there is no National IP Policy or Strategy and there are no ongoing efforts towards putting a policy in place. This is partly due the broad challenge faced with policy development in the country following its independence. Many foundational and enabling national frameworks are not yet in place to facilitate the establishment of several sectoral policies, strategies and plans at national, regional and international levels.</p>
Uganda	<p>A National IP Policy was developed and validated by stakeholders in 2017 and was approved by the cabinet of the Republic of Uganda. in 2019. The policy vision is “A Uganda where innovation and creativity stimulate sustainable socioeconomic development”. The policy mission on the other hand is “To create a robust IP value chain that fosters innovation and creativity as pillars for socioeconomic development in Uganda”. The policy provides a comprehensive framework for IP development and utilization in Uganda.</p>

According to several of the stakeholders interviewed during the EAC Regional IP Policy survey, the operationalization of national IP policies and strategies in Kenya, South Sudan, Tanzania and Uganda is expected to help provide a critically lacking foundation for a coordinated and comprehensive approach to IP development by promoting innovation and creativity across all sectors of the economies of the respective countries. These national IP policies are also expected to play a critical role in encouraging, guiding and providing a legal basis for the development of institutional IP policies, particularly among higher education and research institutions.

It is noteworthy that some institutions in the Partner States have already established institutional IP policies. These include but are not limited to: Kenyatta University (KU), University of Nairobi (UoN) and Kenya Medical Research Institute (KEMRI), in Kenya; University of Rwanda (UR); Sokoine University of Agriculture (SUA) and University of Dar Es Salaam (UDSM), in Tanzania; Makerere University (MAK), Uganda Christian University (UCU) and the National Agricultural Research Organization (NARO) in Uganda;

However, there efforts towards achieving higher levels of innovation and creativity through these policies and their associated strategies which include; equitable benefit sharing among students, researchers and institutions; exploitation/commercialization of research outputs; protection of IP rights prior to publication, are rendered ineffective due to lack of overarching national policy frameworks that can ensure effective enforcement of rights.



2.2.4 SWOT Analysis of IP Situation in EAC Region

This following Strengths, Weaknesses, Opportunities and Threats (SWOT) Analysis of the current IP situation in the EAC region encapsulates the main findings that emerged from the EAC regional IP stakeholder survey, more elaborate details of which are captured in the associated EAC Regional IP Status Report.

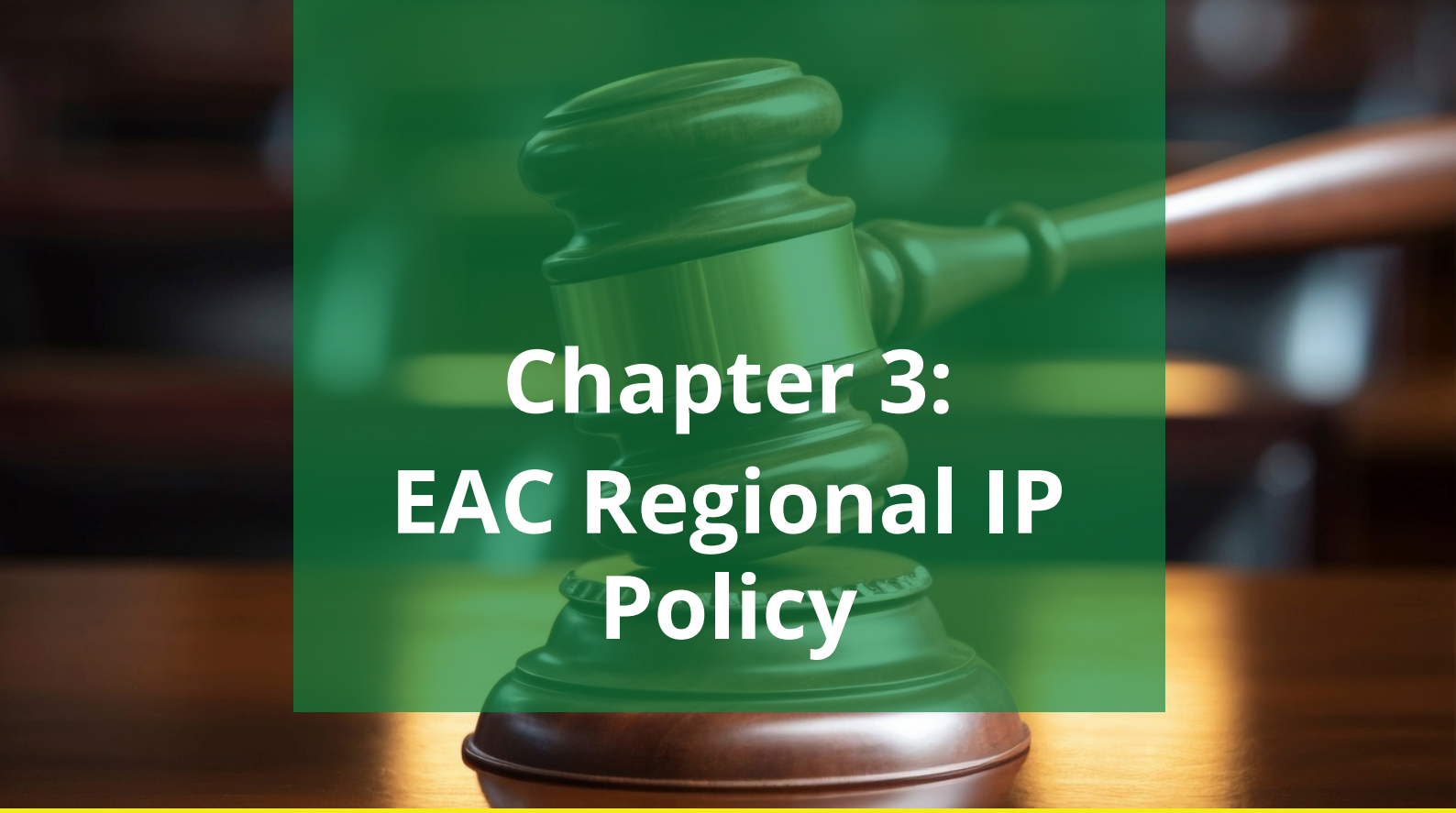
STRENGTHS	WEAKNESSES
<ul style="list-style-type: none"> • Existing National IP Polices in some partner States. • Existing institutional policies in some partner States.. • Existing intellectual property offices in some partner States.. • Existing pool of IP experts and practitioners in some partner States.. • Existing IP legislations in some partner States.. • Established specialized commercial courts and tribunals for prosecution of IP-related cases. 	<ul style="list-style-type: none"> • Limited appropriate infrastructure to support innovation and creativity • Inadequate human capital development for the IP value chain • Inadequate utilization of the IP system
OPPORTUNITIES	THREATS
<ul style="list-style-type: none"> • Existing regional IP frameworks and institutions that can support IP capacity building (e.g. ARIPO) in some partner States. • Existing multilateral IP frameworks and institutions that can support IP capacity building (e.g. WIPO) in some partner States. • Existing WIPO training programs and technological tools for access to IP information. • Some law firms offering IP-related legal services in some partner States. • Existing law firms offering free legal services related to IP cases 	<ul style="list-style-type: none"> • Lack of political will to elevate the status of IP as a key development priority and pillar. • Limited financial support for IP administration and enforcement. • Weak enforcement of IP legislation and associated high levels of counterfeiting and piracy. • Prohibitive cost of IP rights protection for inventors/innovators and creators. • Lack of funding and incentives to stimulate invention, innovation and creativity. • Ineffective copyright Collective Management Organizations (CMOs). • Poor linkage and synergy between IP administration legal and licensing departments. • Existing of counterfeit



The weaknesses emerging from SWOT analysis of primary stakeholder survey information on the current IP situation in the EAC region are in resonance with key issues (gaps) acquired from review of relevant regional IP literature. These are:

- a) Lack of appropriate infrastructure to support innovation and creativity;
- b) Inadequate human capital development for the IP value chain; and
- c) Inadequate utilization of the IP system.

These are the issues (gaps) the EAC Regional IP Policy must address and therefore, the basis for: definition of the *problem statement*; formulation of the policy *vision, mission, goal, objectives, statements, strategies* and *key actions* that follow herein. The strengths, opportunities and threats on the other hand, inform the development of appropriate policy strategies and actions. Another source of policy strategies and actions is stakeholder survey recommendations on key areas the EAC Regional IP Policy should pay attention to, substantially as presented in the associated EAC Regional IP Status Report.



Chapter 3: EAC Regional IP Policy

3.1 PROBLEM STATEMENT

Intellectual Property (IP) relates to human innovation and creativity, and there should be no constraints from the exploitation of one's freedom of innovation and creativity. However, in the East African Community (EAC) the freedom for innovation and creativity is constrained by limited capacity for the generation, protection, commercialization and enforcement of IP rights for individuals and institutions. These constraints include lack of appropriate infrastructure to support innovation and creativity; inadequate human capital development along the IP value chain; and inadequate utilization of the IP System. The constraints have had a negative impact on the EAC region's drive towards attainment of the aspirations of EAC Vision 2050, Partner State National Visions and the 2030 Sustainable Development Goals (SDGs), all of which are geared towards driving the region towards middle income status. The EAC Regional IP Policy aims to realize an effective and efficient IP system that can address these constraints and promote innovation and creativity for sustainable development in the EAC.

3.2 POLICY DEVELOPMENT OPTIONS

This section presents and analyses the options available for development of the EAC Regional IP Policy. The analysis is carried out with the aim of selecting the most appropriate policy option, based on: the principles outlined in the problem statement; findings of the regional IP situation analysis; identified key issues (gaps) the policy must address; and best practice guidelines emerging from benchmark review of IP ecosystems in other regional and international communities.

In regard to the legal basis for development of the EAC Regional IP Policy, Article 43 of the EAC Common Market Protocol makes it an imperative for the Partner States to cooperate in the field of IP, in order to promote and protect innovation and creativity for social, economic, technological, and cultural development in the EAC. Under this Article, the Partner States are expected to, put in place a regional IP policy that can promote innovation, creativity and development of intellectual capital. The policy development options available are summarized in the matrix below:



Option 1 Abandon the intervention to develop the EAC Regional IP Policy.	
<p>This option addresses the scenario in which the EAC region abandons the effort to develop a regional IP policy. It is premised on two considerations; (i) the possibility establishment of a regional policy would not solve the key IP issues (gaps) emerging from the Regional IP Situation Analysis or (ii) better utilization of existing policy instruments could address the issues identified. This “zero action option” also provides the “baseline” against which subsequent options are benchmarked.</p>	<p>This option is not viable since the key IP issues (gaps) emerging from the Regional IP Situation Analysis, which the policy needs to address, in respect to generation, protection, commercialization and enforcement of IP rights cannot adequately be addressed by any of the existing policy instruments and would therefore, remain unresolved.</p> <p>Specifically, the issues for which there is a complete policy gap that must be filled are: (i) lack of appropriate infrastructure to support innovation and creativity; (ii) inadequate human capital development for the IP value chain; and (iii) inadequate utilization of the IP system.</p>
Option 2 Develop an EAC Regional IP Policy that only addresses “conventional” forms of IP (Industrial Property, Trademarks, Copyright, Trade Secrets, Geographical Indications, and Seed/Plant Variety Rights).	
<p>This option considers development of an EAC Regional IP Policy that only addresses “conventional” forms of IP (Industrial Property, Trademarks, Copyright, Trade Secrets, Geographical Indications and Seed/Plant Variety Rights). This option does not consider protection of Traditional/Indigenous Knowledge (TK/IK), Traditional Cultural Expressions (TCEs) and Biological Resources and is in effect in some of the regional and international communities reviewed for purposes of benchmarking the prevailing situation in the EAC. For example the Regional IP Framework for OAPI Member States excludes measures for TK/IK, TCEs and Biological Resource Protection.</p> <p>The rationale for exclusion of TK/IK, TCEs and Biological Resource from such frameworks is partly rooted in WIPO and ARIPO recommendations for separate “sui generis” legislation for the protection of TK/IK, TCEs and biological resources on the basis of the principle such “intellectual assets” fall outside the realm of the conventional IP system. Although TK/IK, TCEs and biological resources could arguably be classified as forms of IP, from a rights ownership perspective the normal entitlements of IP that relate to individuals do not apply since they are generated collectively and preserved by indigenous or local communities. They are therefore, distinctively associated with groups of people and are invariably not personal or proprietary nature.</p>	<p>This option is at odds with the present assignment Terms of Reference (TOR) which require development of a regional IP policy that includes protection of TK/IK, TCEs and Biological Resources. It is also not viable since some Partner States have already embraced TK/IK, TCE and Biological Resource protection in their national IP legal and policy frameworks. Accordingly, exclusion of measures for protection of these intellectual assets would create a policy conflict. Various national IP legislations in Burundi, Kenya, Rwanda, United Republic of Tanzania and Uganda already provide for protection of TK/IK, TCEs and Biological Resources (see Matrices 9 to 14).</p> <p>Further policy conflict would also arise from Burundi, Kenya, Rwanda and Uganda being already committed to promoting the protection and use of TK/IK, TCEs and Biological Resources by virtue of their COMESA Membership. The COMESA IP Policy aims to promote the use of sui generis systems to prevent misappropriation, misuse and illegal exploitation of TK/IK, TCEs and Biological Resources and, requires Member States to create systems to govern their protection, promotion and utilization. COMESA countries are further encouraged to develop guidelines for Access and Benefit Sharing (ABS); Prior Informed Consent (PIC) and to ensure the acknowledgment and recognition of the sources of TK/IK, genetic resources (GR) and TCEs by users. The policy further encourages Member States to ratify or accede to and effectively implement international treaties such the Convention on Biodiversity (CBD) and International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) that promote the protection of TK and GR. Some COMESA Member States already have ABS regulations. For instance, Kenya enacted the Environmental Management and Coordination (Conservation of Biological Diversity and Resources, Access to Genetic Resources and Benefit Sharing) Regulations in 2006. Similarly, Uganda enacted the Guidelines for Accessing Genetic Resources and Benefit Sharing (UG021) in 2005.</p>

**Option 3**

Develop an EAC Regional IP Policy that addresses “conventional” forms of IP (Industrial Property, Trademarks, Copyright, Trade Secrets, Geographical Indications, and Seed/Plant Variety Rights) and pays due attention to protection of Traditional/Indigenous Knowledge (TK/IK), Traditional Cultural Expressions (TCEs) and Biological Resources from the perspective of developing strategies for their integration into the regional IP ecosystem.

This option considers development of an EAC Regional IP Policy that addresses “conventional” forms of IP (Industrial Property, Trademarks, Copyright, Trade Secrets, Geographical Indications and Seed/Plant Variety Rights) and pays due attention to protection of Traditional/Indigenous Knowledge (TK/IK), Traditional Cultural Expressions (TCEs) and Biological Resources from the perspective of developing strategies for their integration into the regional IP ecosystem.

This option is the most viable since it complies with the present assignment Terms of Reference (TOR) which require development of a regional IP policy that includes protection of TK/IK, TCEs and Biological Resources. It also complements existing efforts to promote the protection and utilization of TK/IK, TCE and Biological Resource in Partner States, through various national IP legal and policy frameworks. Accordingly, the inclusion of measures for protection of these intellectual assets would ensure alignment of the EAC Regional IP Policy with relevant Partner State national, regional and multilateral IP legislation and policy frameworks.

Furthermore, the inclusion of TK/IK, TCEs and Biological Resources protection in the EAC Regional IP Policy would contribute to alleviating the prevailing problem of misappropriation of TK/IK and TCEs through grant of “inappropriate patents” and “inappropriate copyright”, respectively.

On the basis of the foregoing analysis, the preferred policy option for the EAC Regional IP Policy is development of a policy that ***addresses “conventional” forms of IP (Industrial design, Trademarks, Copyright, Trade Secrets, Geographical Indications, and Seed/Plant Variety Rights) and pays due attention to protection of Traditional/Indigenous Knowledge (TK/IK), Traditional Cultural Expressions (TCEs) and Biological Resources from the perspective of developing strategies for their integration into the regional IP ecosystem.***

It is noteworthy that in selecting this option, the experiences of other Regional Economic Communities (RECs), have been reviewed as a benchmark, while keeping sight of the reality of the IP-related circumstances that prevail in the EAC region. Due recognition of the future trends such as the anticipated increased importance attached to the protection and exploitation of TK/IK, TCEs and Biological Resources (particularly the advent of the “Bio-economy”) has also been a major factor in the selection of the preferred policy development option.

3.3 POLICY VISION

A socio- economically transformed community that harnesses creativity for knowledge development and technological advancement.

3.4 POLICY MISSION

To create a robust and dynamic IP environment that fosters social economic development.

3.5 POLICY GOAL

The goal of the EAC Regional IP Policy is to create an enabling environment that enhances utilization of the IP system.



3.6 POLICY OBJECTIVES

The policy goal provides the basis and context for the specific policy objectives and associated statements, strategies and key actions that follow.

Policy Objective 1: To enhance infrastructure capacity for the generation, protection and exploitation of IP assets and enforcement of IP rights in the EAC Partner States.

Policy Statement 1: The EAC Partner States will enhance infrastructure capacity for the generation, protection, exploitation of IP assets and enforcement of IP rights, through an enabling environment, interventions and **incentives that stimulate innovation and creativity.**

Strategies:

- a. Strengthen the physical and technological infrastructure of Partner State IP Offices, in order to enable effective service delivery;
- b. Enhance infrastructure for hands-on and interactive arts, science, engineering and technology programs at all levels of the educational system, in order to develop innovative and creative potentials among students;
- c. Advocate for increase in research and development and innovation funding to at least 1% of Partner State GDP.
- d. Provide incentives to encourage and enable the private sector increase its contribution and participation in research and development as well as innovation infrastructure; and
- e. Create dynamic regional IP resource centres and repositories (including online libraries, portals and databases) that provide information on public domain, protected and commercialized IP assets, for the benefit of IP owners; end-users; enforcement agencies; policy makers; and the general public.
- f. Provide guidelines on IP incentives sharing

Key Actions:

- a. Conduct regional IP infrastructure baseline study;
- b. Facilitate Partner State IP Offices to develop capacity for fully automated and online registration of all IP, in conformity with regional and international standards;
- c. Encourage Partner States to establish and/or strengthen in-country branches for more effective IP outreach services;
- d. Establish an EAC IP Unit to facilitate liaison with regional and international organizations on IP issues on behalf of Partner States;
- e. Facilitate all Partner States to become members of ARIPO and promote full utilization of ARIPO IP protection and capacity building services;
- f. Advocate for the establishment IP court circuit/chambers at the national level and capacity building for national and regional judges;
- g. Utilize WIPO's IP related infrastructural development and support programmes such as Technology and Innovation Service Centres (TISCs); Access to Scientific Publication and Information (ASPI); and Access to Research for Development and Innovation (ARDI);
- h. Support the creation of Intellectual Property Management Offices (IPMOs) and Technology Transfer Offices (TTOs).



Policy Objective 2: To enhance human resource capacity for the generation, protection, exploitation and enforcement of IP in the EAC Partner States.

Policy Statement 2: The EAC Partner States will enhance human resource capacity for the generation, protection, exploitation and enforcement of IP, in order to foster effective management of IP.

Strategies:

- a. Develop and implement a regional IP skills capacity enhancement strategy;
- b. Conduct periodic regional IP human capital audits;
- c. Identify IP centres of excellences in the region and collaborate with them to spearhead regional capacity building initiatives in the Partner States; and
- d. Establish programmes for regional exchange of IP knowledge and personnel.

Key Actions:

- a. Conduct regional IP human resource capacity baseline study;
- b. Establish a regional IP academy to facilitate the creation of a critical mass of skilled IP Professionals and Service Providers;
- c. Devise and implement a registration and certification system for IP professionals in the EAC Partner States;
- d. Establish a regional state-of-the-art universal IP library; and



Policy Objective 3: To foster a conducive environment for utilization of the IP system in the EAC Partner States.

Policy Statement 3: The EAC will foster a conducive environment for utilization of the IP system, in order to promote the generation, protection and exploitation of IP assets for improved competitiveness of Partner State economies.

Strategies:

- a. Formulate a regional legal instrument (Protocol/Legislation) for IP to facilitate harmonized protection of rights in all Partner States and expedite access to regional and multilateral IP services from ARIPO and WIPO;
- b. Promote awareness of the value of IP asset protection and exploitation at all levels of the education system, research institutions, creative industries, private sector firms, informal sector, individuals and the general public;
- c. Promote an all-inclusive³ culture of innovation and creativity through incentives that enhance the generation, protection and exploitation of IP assets;
- d. Advocate for rationalization of costs associated with securing various IP rights in Partner States, with a view to minimizing them to encourage originators register their IP rights;
- e. Strengthen Partner State IP Offices to effectively serve as a development and service oriented entities capable of supporting the generation, protection and exploitation of IP assets as well as enforcement IP rights in the region;
- f. Facilitate development and operationalization of institutional IP policies, particularly among education and research institutions in Partner States;
- g. Strengthen capacity to deliver IP-related information and advisory services to education institutions, research organizations, creative industries, private sector firms, informal sector and individuals, in order to assist them effectively generate, protect and exploit their IP assets;
- h. Strengthen linkages among IP asset generating institutions to ensure proactive identification and exploitation of IP rights;
- i. Encourage regional private sector firms towards improving their services, product quality/range and brands through use of IP;
- j. Promote protection and commercial exploitation of Partner State IP assets in foreign countries; by linking national to the regional and international IP registration systems
- k. Improve access to IP information/data through e-platforms such as online databases and Technology and Innovation Support Centres (TISCs) in Partners States;
- l. Provide appropriate incentives for local and appropriate foreign investments that contribute to the generation and exploitation of IP assets in the region;
- m. Promote market-driven research in Partner State higher education and research institutions, in order to enhance prospects for IP-related outputs and innovations.

³This includes concerted efforts towards activities related to mainstreaming of IP in youth and gender development initiatives.

**Key Actions:**

- a. Facilitate Partner State IP Offices to enhance publication of IP-related best practice guidelines and notifications through appropriate media channels, as well as exchange of information and data with regional and international IP organizations such as ARIPO and WIPO;
- b. Establish a Regional IP Forum responsible for overseeing and coordinating coherent implementation of the EAC Regional IP Policy;
- c. Formulate a Regional IP development Strategic Plan in order to facilitate implementation of effective programs that guarantee high quality IP service delivery to elevate IP as a tool for regional integration;
- d. Promote the practice of Partner State IP Offices to serve as one-stop IP development service oriented entities;
- e. Advocate for Partner State higher education and research institutions to retain and utilize revenue generated through commercialization of their IP assets for further innovative and creative undertakings;
- f. Facilitate the development of regulations for equitable sharing of benefits accruing from commercialization of IP in Partner State institutions, organizations and communities;
- g. Identify and make effective use of IP champions in order to popularize IP as a vehicle for socioeconomic development;
- h. Promote dissemination of regional IP-protected innovations and creative works through exhibitions, conferences and trade fairs;
- i. Establish high-profile and prestigious regional innovation and creativity award schemes that recognize and reward inventors, innovators and creators; and
- j. Facilitate Partner State institutions to establish internal IP policies that are in line with regional and national IP policies.



Policy Objective 4: To promote IP-driven Local technology development and exploitation in the EAC Partner States.

Policy Statement 4: The EAC Partner States will promote IP-driven indigenous technology development and exploitation by providing an enabling environment and appropriate incentives to ensure effective utilization of home-grown inventions and innovations.

Strategies:

- a. Advocate for strengthening of Partner State Research and Technological Organizations (RTOs) and Science and Technology University infrastructure for more effective reverse engineering of public domain technologies and local technology development for commercial exploitation;
- b. Facilitate the establishment of Technology Business Incubators (TBIs) in higher education and research institutions, in order to promote indigenous technology development and diffusion for commercial exploitation in the region and beyond;
- c. Ensure Partner State higher education institutions, research institutions, creative industries and private sector firms develop dynamic capabilities for the acquisition, assimilation, transformation and exploitation of knowledge and know-how;
- d. Create a conducive and enabling environment with essential strategic infrastructure, shared facilities, technologies, skills, funding and incentives, in order to encourage local technology development, adaptation and transfer in the region;
- e. Promote IP-driven local technology development that supports commercial exploitation of diverse regional endowments and culture for the production of attractive and standardized goods and content that can compete in regional and international markets; merge a and e
- f. Promote market-driven technology development and transfer collaborations between regional actors in academia, research and the private sector; and
- g. Facilitate for tax incentives to promote investments in indigenous technology development and exploitation within the region.

Key Actions:

- a. Conduct regional IP-driven indigenous technology development and exploitation baseline study;
- b. Develop a framework for indigenous Knowledge verification and certification
- c. Facilitate commercialization of indigenous technologies developed in the region through appropriate schemes and incentives; and
- d. Develop a regional I and T policy and strategy



Policy Objective 5: To promote IP-driven technology transfer, adaptation and exploitation in the EAC Partner States.

Policy Statement 5: The EAC Partner States will promote IP-driven technology transfer and exploitation through an enabling environment and appropriate incentives in order to enhance productive and creative sector competitiveness.

Strategies:

- a. Devise mechanisms (e.g promoting local filing of the foreign IP,) to safeguard the rights of technology IP right holders, in order to encourage technology-centric Foreign Direct Investments (FDIs) and net transfer and exploitation of proprietary technologies into the region;
- b. Promote establishment of science and technology parks; science, technology and innovation hubs; technology business incubators; and industrial parks in order to spur technology transfer, adaptation and exploitation in the region;
- c. Facilitate the establishment of institutional Technology Transfer Offices (TTOs) in Partner States for effective and sustainable transfer, adaptation and exploitation of technologies;
- d. Facilitate the development of strong incentives (e.g tax holidays, guaranteed market share and) for investments in appropriate technologies in the region;
- e. Promote for IP-driven technology transfer that supports a strategic shift towards a knowledge-based regional economy;
- f. Promote technology transfer oriented international collaborations in Partner State higher education and research institutions;
- g. Strengthen higher education institutions, research institutions and creative industries in the region for more effective technology transfer, adaptation and exploitation; and
- h. Promote private sector-led technology transfer through appropriate incentives such as tax holidays and preferential market for in the region.

Key Actions:

- a. Conduct regional IP-driven technology transfer, adaptation and exploitation baseline study;
- b. Develop and implement effective mechanisms (tracking the technology through database portal) for tracking the impact of acquired technologies (information resources on technology transfer, adaptation and exploitation in the region);
- c. Facilitate Partner State investment codes to include appropriate provisions that require foreign investors to transfer technologies, with monitoring and evaluation mechanisms that facilitate review of impact of technologies they transfer;
- d. Strengthen WIPO Technology Innovation Support Centres (TISC) Programs at Partner State IP Offices to facilitate greater stakeholder access to information on priority technologies available for transfer.



Policy Objective 6: To facilitate for the establishment of a sui generis framework for the identification, cataloguing, protection and equitable exploitation of TK/IK, TCEs and Biological Resources in the EAC Partner States.

Policy Statement 6: The EAC Partner States will advocate for the establishment of a parallel sui generis framework for the identification, cataloguing, protection and equitable exploitation of TK/IK, TCEs and Biological Resources in the EAC Partner States.

Strategies:

- a. Advocate for establishment of an appropriate and workable legal framework, system and mechanisms for the protection and exploitation of TK/IK, TCEs and biological resources in the region;
- b. Encourage Partner States to identify, document, develop and exploit TK/IK, TCEs and Biological Resources assets;
- c. Establish a regional program for the evaluation (including exploitation/commercialization potential) of identified TK/IK, TCEs and biological resource endowments;
- d. Enact appropriate legal instruments to prohibit third party from acquiring IP rights over the TK/IK, TCEs and biological resources;
- e. Advocate for establishment of a legal framework that grants rights that empower communities to promote their traditional TK/IK, TCEs and biological resources and benefit from their commercial exploitation;
- f. Promote exploitation of community-based TK/IK, TCEs and biological resources through targeted initiatives e.g. proactive investment and privatisation; and
- g. Provide incentives and mechanisms (indigenous knowledge investment fund) for commercialization of TK/IK, TCEs and biological resources.

Key Actions:

- a. Facilitate the protection of traditional remedies, indigenous art and music against misappropriation, and enable communities collectively control and benefit from their commercial exploitation;
- b. Create a regional digital database of TK/IK, TCEs and biological resources with a view to archiving, registering and protecting cultural heritage and indigenous content from unauthorized exploitation.



Policy Objective 7: To ensure effective IP rights enforcement in the EAC Partner States.

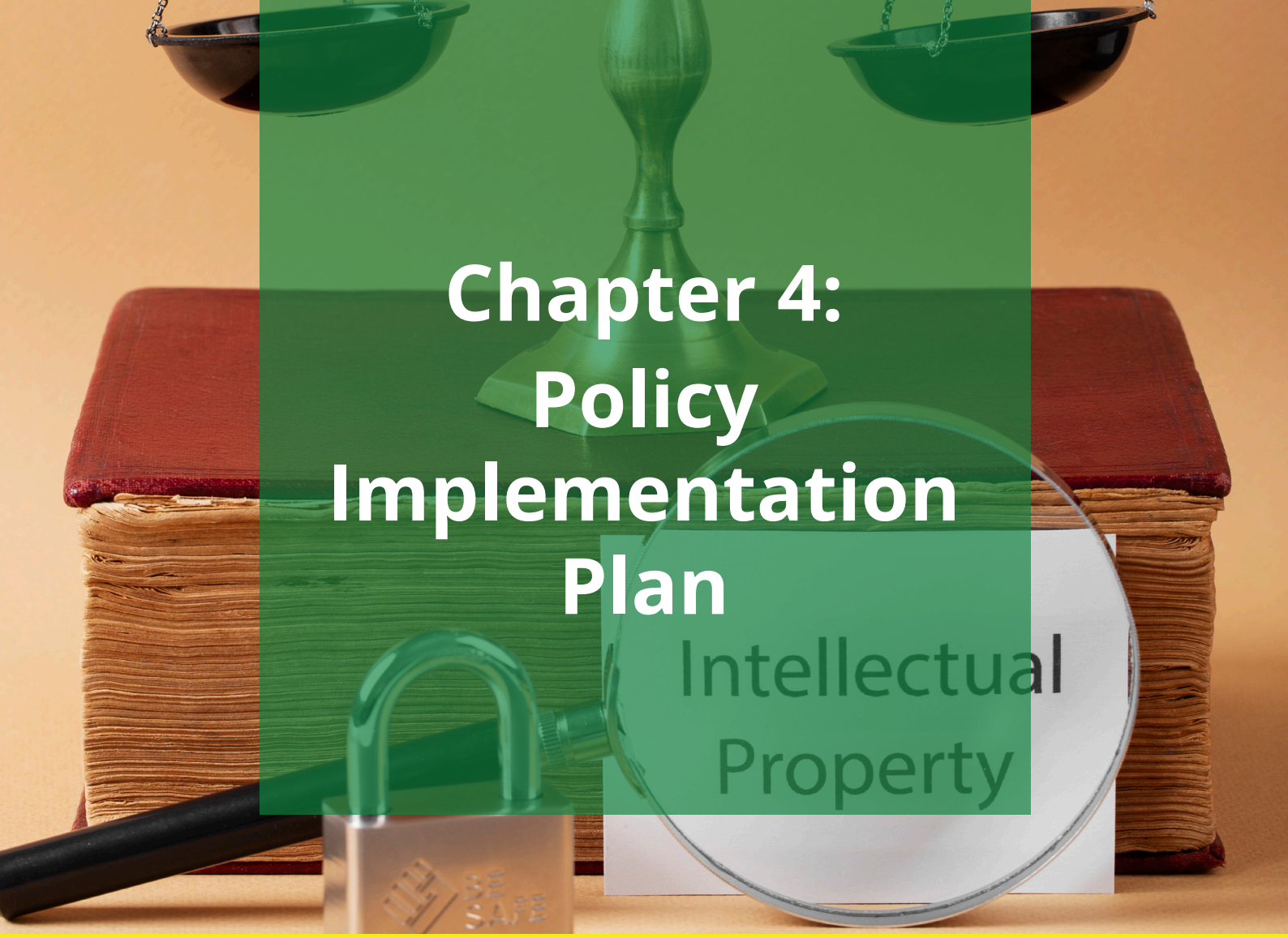
Policy Statement 7: The EAC Partner States will ensure effective IP rights enforcement by strengthening linkages between and coordination among designated IP enforcement institutions, agencies and authorities.

Strategies:

- a. Strengthen working relationships, linkages and coordination among the various institutions that have active roles to play in IP enforcement in the region;
- b. Facilitate the strengthening of Partner State Justice Law and Order Sectors (JLOS) for more active participation in enforcement of IP legislation and regulations, particularly prosecution of IP rights disputes and violations;
- c. Facilitate the strengthening of interagency collaboration among Partner State IP enforcement institutions with academia, government departments/agencies and private sector actors to ensure compliance with IP legislations and regulations;
- d. Facilitate the establishment of infrastructure and mechanisms to enable IP enforcement officers recognize and differentiate IP infringing products and services in the region;
- e. Facilitate the establishment of capacity building cooperation mechanisms between Partner State IP enforcement agencies and regional/international IP enforcement organizations; and

Key Actions:

- a. Establish platform for active collaboration between IP owners and enforcement agencies in the region;
- b. Facilitate establishment of regional IP right holders' associations to advocate for continuous improvements in IP enforcement;
- c. Establish adequate and appropriate capacities for proper and expeditious handling of IP cases in existing commercial courts in the region; and
- d. Publicize court pronouncements and verdicts on IP rights infringement cases, in order to deter the practice in the region.



Chapter 4: Policy Implementation Plan

Intellectual Property

4.1 INTRODUCTION

The EAC Regional IP Policy Implementation Plan is intended to guide the realization of practical aspects of the policy, notably objectives, strategies and key actions. In developing the framework for implementation of the policy, *Specific, Measurable, Achievable, Realistic and Time-bound* ("SMART") planning principles have been employed in order to ensure that the implementation plan is formulated in a manner that it is both technically and operationally sound, particularly in regard to achieving desired impacts and outcomes.

The practical perspectives presented in the implementation plan seek to offer guidance in key areas where effective utilization of policy provisions by stakeholders are expected to greatly contribute to the advancement of the IP system in the EAC region.

Key considerations related to the operationalization of the policy include: recommended approach to implementation; implementation timeline; strategies for popularization of IP among stakeholders and the general public; capacity building interventions; initial estimate of policy implementation cost; and strategies for resource mobilization.



4.2 APPROACH TO POLICY IMPLEMENTATION

Since the EAC Regional IP Policy will affect the nature and scope of IP rights in the six Partner States, it is essential that a robust “management entity” is put in place to oversee proper implementation, coordination, monitoring and evaluation of policy performance, across the entire regional IP value chain (generation, protection, exploitation and enforcement). The Policy implementation will consider all forms of IP that include; copyright and related rights, industrial design, geographical location, trademarks, trade secrets, geographical indications and seed/plant variety rights.

This function will be performed by an EAC Regional IP Forum with participants from the various IP stakeholder constituencies, namely; inventors, innovators, creators, researchers, academia, users, companies, entrepreneurs, investors, brokers, regulators, enforcement agencies, lawyers in IP practice, MDAs, Civil Society Organisations and the general public. The Forum will have participants rather than members in order to facilitate diversity of expertise and participation.

The management and coordination of activities of the Forum will be handled by a Technical Steering Committee (TSC) comprising of a high-level group of officials and IP experts drawn from the region. Members will include representatives of Partner State: IP Offices; Science and Technology Commissions; and Ministries in charge of Trade. The EASTECO Secretariat will also be a member of the TSC and responsible coordination and operationalization of Forum activities and informing EASTECO Management of IP development plans, strategies and activities organized by the TSC.

The Terms of Reference (TORs) of the EAC Regional IP Forum Technical Steering Committee (TSC) will include:

- a. Managing the activities of the EAC Regional IP Forum;
- b. Advocating for accelerated establishment and operationalization of National IP Policies in all Partner States;
- c. Ensuring a multi-disciplinary approach to policy implementation by embracing the role of social sciences, humanities and ethics in the development of a socially and economically viable and workable IP system that can sustainably drive innovation and creativity in the region;
- d. Conceptualizing establishment of an EAC Regional IP Academy for specialized skills capacity building across the entire IP value chain;
- e. Providing expert advice and guidance on processes related to IP-driven knowledge transfer; technology development, transfer and adaptation; Foreign Direct Investments (FDIs); and commercialization of research outputs, innovations and IP assets;
- f. Instigating and coordinating the sharing of existing IP-related physical and technology infrastructure, as well as the establishment of new shared facilities/resources in the EAC region, and ensuring their effective utilization;
- g. Monitoring the integration of IP into the regional development agenda;
- h. Participating at regional and international IP development meetings, conferences and symposia, with a view to establishing/deepening linkages and collaborations with strategic partners such as ARIPO, OAPI and WIPO;



- i. Advocating for establishment of a regional court and/or tribunal to deal with IP-related litigation. This could be a specialized division of the East African Court of Justice (EACJ);
- j. Advocating for establishment of a parallel sui generis framework for the identification, cataloguing, protection and equitable exploitation of TK/IK, TCEs and biological resources in the EAC region. This framework is essential since it is not practically feasible to protect, exploit and enforce TK/IK, TCEs and biological resources rights through conventional IP policy frameworks, due to unique aspects related to their community ownership dimension that are at odds with legal provisions for individual ownership of rights;
- k. Developing a framework for effective linkage between Partner State national IP policies and EAC Regional IP Policy programs and activities;
- l. Formulating a high-profile program for recognizing and rewarding innovation and creativity in the EAC region;
- m. Organising regular Forum meetings and activities related to IP development in the region;
- n. Compiling evidence-based status reports on IP development in the region;
- o. Advising EASTECO on integration of IP in emerging regional development issues;
- p. Advising EASTECO on strategies, plans and activities related to development of IP infrastructure, human capital and utilization;
- q. Promoting IP-centric collaborations and partnerships at regional and international level;
- r. Advising EASTECO on the appropriate structure and institutional arrangements for IP management and administration in the region; and
- s. Sharing and disseminating relevant IP information with regional stakeholders.

4.3 POLICY IMPLEMENTATION TIMELINE

The lifespan of the EAC Regional IPR Policy will be a period of ten (10) years, from the date it comes into effect, as recommended by Partner State stakeholders and guided by existing policy duration norms. There will be periodic review of policy effectiveness during this period, in line with the EAC Regional IP Policy Monitoring and Evaluation (M&E) Framework presented in the section that follows. The performance of the policy will be reviewed after the first five (5) years of operation for purposes of ensuring sustainability; adaptation to new issues and trends; and effective response to findings of policy M&E and impact assessment activities, audits and studies.

Effective policy implementation will rely on following an approach where timely and measurable flow of required enabling resources, including infrastructure, human capital and financing is upheld.



4.4 POPULARIZATION OF IP IN EAC REGION

The popularization of IP in the EAC region is deemed a critical success factor for the EAC Regional IP Policy. Accordingly, the promotion of IP and sensitization of stakeholders and the general public in the region will require extensive and sustained awareness promotion campaigns undertaken and coordinated by the Technical Steering Committee (TSC) of the EAC Regional IP Forum. The strategies used for popularization of IP and awareness promotion will include, but not be limited to:

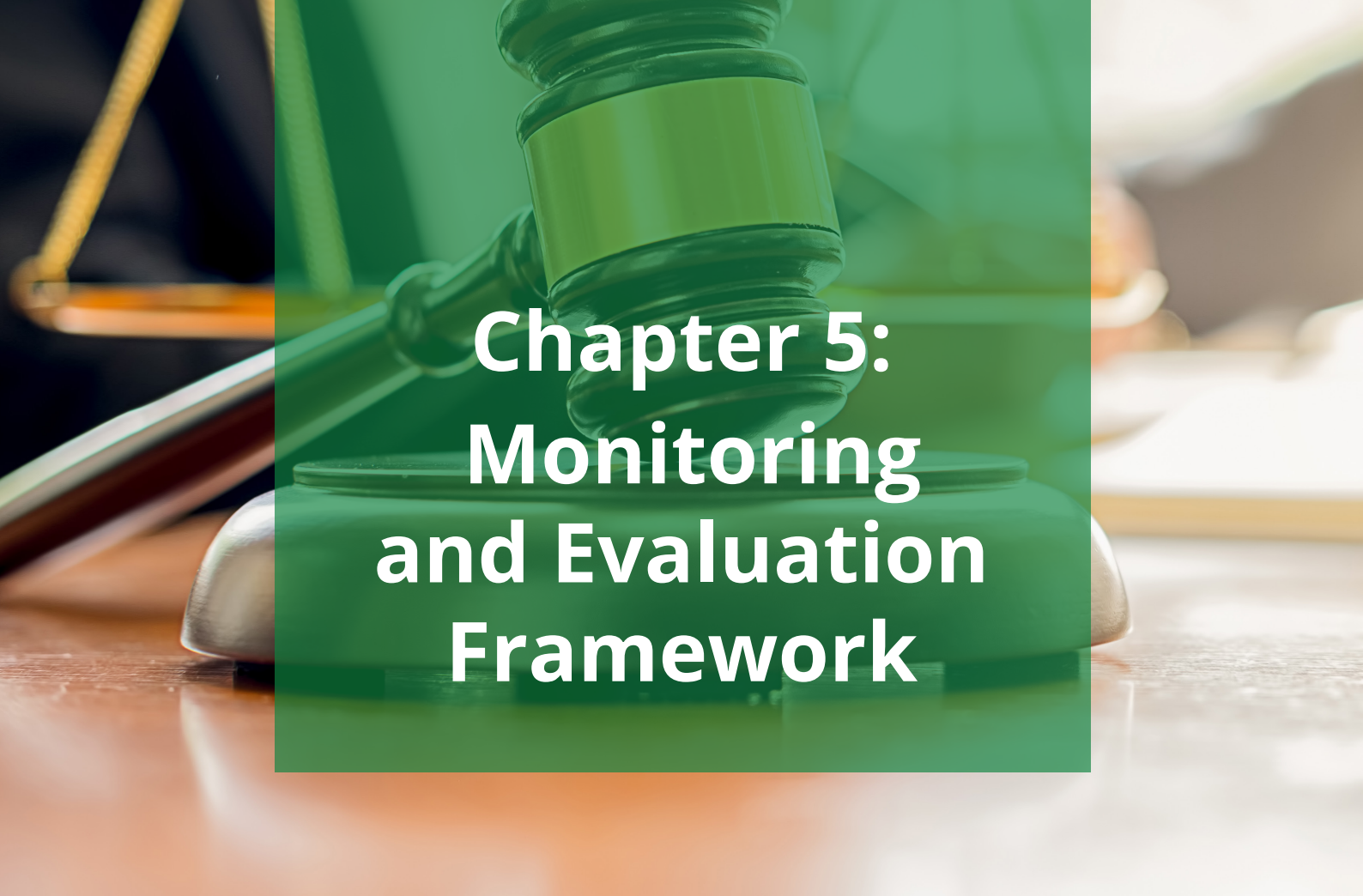
- a. Creating a critical mass of IP awareness and appreciation among stakeholders and the general public;
- b. Ensuring active stakeholder and public participation during policy implementation; and
- c. Use of print and electronic media publicity and sensitization campaigns tailored to target different IP stakeholder categories with the aim to consciously utilize and invest in IP, resulting in higher rates of IP asset generation, protection and commercialization.

4.5 RESOURCE MOBILIZATION

The implementation of programs/activities related to the EAC Regional IP Policy will require substantial financial, human capital and infrastructure resources. These resources will have to be mobilized through appropriate initiatives in collaboration with various potential benefactors and will include:

- a. **Financial capital** for operationalization of regional policy programs and activities. These resources should be mobilized from Partner State contributions, regional and international cooperation agencies and development partners, as well as IP system beneficiaries, through mechanisms and modalities elaborated and agreed through the Technical Steering Committee (TSC) of the EAC Regional IP Forum.
- b. **Human capital** to undertake the various regional policy programs and activities related to policy implementation. The human capital required for a sustainable IP system in the EAC region should primarily be supported through Partner State contributions and regional and international cooperation agencies.
- c. **Infrastructure** to support the various programs and activities related to implementation of the policy. The infrastructure necessary for a sustainable IP system in the EAC region should be supported through Partner State contributions, regional and international cooperation agencies and development partners.

Annex 5 presents the EAC Regional IP Policy Implementation Plan Matrix.



Chapter 5: Monitoring and Evaluation Framework

This EAC Regional IP Policy Monitoring and Evaluation (M&E) Framework is intended to complement the EAC Regional IP Policy Implementation Plan. Responsibility for operationalization of this framework will also reside with the TSC of the EAC Regional IP Forum. The framework is aimed at tracking the impact and efficacy of the policy, particularly operational aspects related to its implementation, as measured against the following indicators:

- a. Number of new innovation centers established in the region;
- b. Number of IPR registration centres established in the region;
- c. Number of accessible IPR information management systems established in the region;
- d. Number of new products and services emerging from incubation centers and penetrating Partner State, regional and international markets;
- e. Number of new technologies generated in the region;
- f. Number of IPR enforcement systems strengthened in the region;
- g. Number of operational IPR human resource development initiatives in the region;
- h. Number of IP trainings and awareness promotion initiatives undertaken in the region;
- i. Extent of IP integration into all levels of the regional education system;
- j. Number of Research/Innovation Funds established in the region;
- k. Number of IPR assets protected by public and privately funded institutions in the region;



- l. Number of IPR licenses and assignments granted in the region;
- m. Degree of reduction in cost of IPR registrations and grants in the region;
- n. Number of IP protected indigenous technologies, goods and services in the region;
- o. Number of IP protected technologies transferred and commercialized in the region;
- p. Number of IP protected technology transfer partnerships and collaborations in the region;
- q. Number of imported products substituted in the region;
- r. Number of value added proprietary products exported from the region;
- s. Number of counterfeited and pirated products seized in the region;
- t. Number of IPR infringement prosecutions in the region; and
- u. Number of IPR violators penalized in the region.

The ultimate goal of the M&E framework is to determine the extent to which the EAC Regional IPR Policy goal, objectives, strategies and key actions are achieved, while at the same time, identifying and rationalizing emerging IP issues for inclusion in future policy review processes.

Annex 6 presents the EAC Regional IP Policy Monitoring and Evaluation (M&E) Matrix. The matrix articulates anticipated results and indicators related to implementation of specific policy strategies and actions.



Annex 1: EAC Regional IP Policy Implementation Plan Matrix (2019 – 2029)

No.	Policy Objective	Activities (related to Actionable Policy Strategies & Actions)	Timeline from launch (Years)	Projected Cost (USD) ⁴	Responsible Centres/Actors
1	To enhance infrastructure ⁵ capacity for the generation, protection and exploitation of IP assets and enforcement of IP rights in the EAC.	<ul style="list-style-type: none"> Conduct regional IP infrastructure baseline study Establish an EAC incentives Develop and implement a regional IP infrastructure development strategy Fully automate online registration of all IP Utilize international organization IP-related infrastructure and resources Establish an EAC Act for IP to facilitate protection of rights in all Partner States Establish regional IP resource centres Create online and dynamic regional IP information repositories Conduct regional IP infrastructure audit 	<ul style="list-style-type: none"> Years 1 Year 1 Year 1 & 2 Years 1 & 2 Years 1 & 2 Years 1 & 2 Years 2 & 3 Years 2 & 3 Years 4 & 5 	80 million	<ul style="list-style-type: none"> EASTECO Partner State Governments & MDAs Technical Steering Committee (TSC), EAC Regional IP Forum EAC Organs and Institutions Regional IP stakeholders Regional and International IP development organizations
2	To enhance human resource capacity for the generation, protection, exploitation and enforcement of IP in the EAC.	<ul style="list-style-type: none"> Conduct regional IP human resource capacity baseline study Establish IP regional centres of excellence Develop and implement an all-inclusive and fully integrated regional IP skills capacity development strategy Establish programmes for regional exchange of IP knowledge and personnel Implement a registration and certification system for IP professionals operating in the EAC region Establish a regional IP academy to facilitate the creation of a critical mass of skilled IP Professionals and Service Providers Conduct regional IP human resource capacity audit 	<ul style="list-style-type: none"> Year 1 Years 2 & 3 Years 2 & 3 Year 3 Years 3 & 4 Years 3 to 5 Years 4 & 5 	30 million	<ul style="list-style-type: none"> EASTECO Partner State Governments & MDAs Technical Steering Committee (TSC), EAC Regional IP Forum EAC Organs and Institutions Regional IP stakeholders Regional and International IP development organizations



3	To foster a conducive environment for utilization of the IP system in the EAC.	<ul style="list-style-type: none"> • Establish a Regional IP Forum • Encourage Partner State IP Offices to enhance publication of IP-related best practice guidelines and notifications • Formulate a Regional IP development Strategic Plan • Improve access to IP information/data through e-platforms such as online databases and Technology and Innovation Support Centres (TISCs) • Initiate and/or strengthen working relationships between Partner State IP Offices and strategically selected foreign IP Offices • Promote dissemination of regional IP-protected innovations and creative works 	<ul style="list-style-type: none"> • Year 1 • Years 1 & 2 • Year 2 • Years 2 to 5 • Years 2 to 5 • Years 2 to 5 	35 million	<ul style="list-style-type: none"> • EASTECO • Partner State Governments & MDAs • Technical Steering Committee (TSC), EAC Regional IP Forum • EAC Organs and Institutions • Regional IP stakeholders • Regional and International IP development organizations
3a	To promote IP-driven indigenous technology ⁶ development and exploitation in the EAC.	<ul style="list-style-type: none"> • Conduct regional IP-driven indigenous technology development and exploitation baseline study • Promote IP-driven local technology development • Promote market-driven technology development and transfer collaborations between regional actors in academia, research and the private sector • Conduct regional IP-driven indigenous technology development and exploitation audit 	<ul style="list-style-type: none"> • Year 1 • Years 2 to 5 • Years 2 to 5 • Years 2 to 5 • Years 4 & 5 	24 million	<ul style="list-style-type: none"> • EASTECO • Partner State Governments & MDAs • Technical Steering Committee (TSC), EAC Regional IP Forum • EAC Organs and Institutions • Regional IP stakeholders • Regional and International IP development organizations

⁴ Projected costs for implementation of the various EAC Regional IP Policy activities cover a 10-year time horizon and are based on extrapolated budgetary estimates for similar planned activities in some Partner States as well as other regional and international benchmark sources. More precise and detailed budget estimates will be generated through activities undertaken by the TSC of the EAC Regional IP Forum on behalf of EASTECO.

⁵ Infrastructure in this document is defined as materials and systems required to deliver on the mandate of this policy...



3b	To promote IP-driven technology transfer, adaptation and exploitation in the EAC.	<ul style="list-style-type: none"> • Devise and implement effective mechanisms for tracking the impact of acquired technological information resources on technology transfer, adaptation and exploitation in the region • Promote establishment of science and technology parks; science, technology and innovation hubs; technology business incubators; and industrial parks in order to spur technology transfer, adaptation and exploitation in the region • Conduct regional IP-driven technology transfer, adaptation and exploitation audit 	<ul style="list-style-type: none"> • Years 1 & 2 • Years 2 & 3 • Years 2 to 5 • Years 2 to 5 • Years 4 & 5 	50 million	<ul style="list-style-type: none"> • EASTECO • Partner State Governments & MDAs • Technical Steering Committee (TSC), EAC Regional IP Forum • EAC Organs and Institutions • Regional IP stakeholders • Regional and International IP development organizations
3c	To advocate for the establishment of a parallel sui generis framework for the identification, cataloguing, protection and equitable exploitation of TK/IK, TCEs and Biological Resources in the EAC.	<ul style="list-style-type: none"> • Encourage Partner States to identify, document, develop and exploit TK/IK, TCEs and Biological Resources assets • Advocate for establishment of an appropriate and workable legal framework, system and mechanisms for the protection and exploitation of TK/IK, TCEs and biological resources in the region • Create a regional digital database of TK/IK, TCEs and biological resources 	<ul style="list-style-type: none"> • Years 1 to 5 • Years 1 & 2 • Years 2 to 5 	9 million	<ul style="list-style-type: none"> • EASTECO • Partner State Governments & MDAs • Technical Steering Committee (TSC), EAC Regional IP Forum • EAC Organs and Institutions • Regional IP stakeholders • Regional and International IP development organizations



3d	To ensure effective IP rights enforcement in the EAC.	<ul style="list-style-type: none"> • Strengthen working relationships, linkages and coordination among the various institutions that have active roles to play in IP enforcement in the region • Publicize court pronouncements and verdicts on IP rights infringement cases, in order to deter the practice in the region • Facilitate establishment of regional IP right holders' associations • Establish infrastructure and mechanisms to enable IP enforcement officers recognize and differentiate IP infringing products and services in the region • Establish capacity building cooperation mechanisms between Partner State IP enforcement agencies and regional/international IP enforcement organizations • Strengthen cross-border measures to eliminate inflows and outflows of counterfeit and pirated products 	<ul style="list-style-type: none"> • Years 1 to 5 • Years 1 to 5 • Years 2 to 5 • Years 2 to 5 • Years 2 to 5 • Years 2 to 5 	20 million	<ul style="list-style-type: none"> • EASTECO • Partner State Governments & MDAs • Technical Steering Committee (TSC), EAC Regional IP Forum • EAC Organs and Institutions • Regional IP stakeholders • Regional and International IP development organizations
		<ul style="list-style-type: none"> • Operationalization of EAC Regional IP Policy Monitoring and Evaluation Framework 	<ul style="list-style-type: none"> • Years 1 to 5 	2 million	
Estimated Cost for EAC Regional IP Policy Implementation (spread over 10 year time horizon)				250 million	



Annex 6: EAC Regional IP Policy Monitoring and Evaluation Matrix

Policy Issue	Policy Objective	Anticipated Results	Indicators
Lack of appropriate infrastructure to support innovation and creativity	1. To enhance infrastructure capacity for the generation, protection and exploitation of IP assets and enforcement of IP rights in the EAC.	<ul style="list-style-type: none"> IP registration centres established IP information management systems established IP enforcement systems strengthened 	<ul style="list-style-type: none"> Number of One-Stop-Centres for IP registration established Number of accessible IP information management systems established Number of IP enforcement systems strengthened
Inadequate human capital development for the IP value chain	2. To develop and enhance human resource capacity for the generation, protection, exploitation and enforcement of IP in the EAC.	<ul style="list-style-type: none"> Critical mass of IP professionals IP knowledgeable and skilled citizenry 	<ul style="list-style-type: none"> Number of IP professionals Number of IP trainings and awareness creation initiatives
Inadequate utilization of the IP system	3. To provide a conducive environment for utilization of the IP system in the EAC.	<ul style="list-style-type: none"> Increase in IP licenses and assignments 	<ul style="list-style-type: none"> Number of IP licenses and assignments granted
	3a. To promote IP-driven indigenous technology development and exploitation in the EAC.	<ul style="list-style-type: none"> Indigenous technologies developed and commercialized 	<ul style="list-style-type: none"> Number of IP protected indigenous technologies, goods and services



<p>3b. To promote IP-driven technology transfer, adaptation and exploitation in the EAC.</p>	<ul style="list-style-type: none"> • Increase in technology transfer and commercialized • Enhanced productivity and competitiveness 	<ul style="list-style-type: none"> • Number of IP protected technologies transferred and commercialized • Number of IP protected technology transfer partnerships • Number of imported products substituted • Number of value-added products exported
<p>3c. To advocate for the establishment of a parallel sui generis framework for the identification, cataloguing, protection and equitable exploitation of TK/IK, TCEs and Biological Resources in the EAC.</p>	<ul style="list-style-type: none"> • Identification and registration of TK/IK, TCE and Biological resource assets • Exploitation and commercialization of TK/IK, TCE & Biological resource assets • Increased community benefits from TK/IK, TCE & Biological resource exploitation 	<ul style="list-style-type: none"> • Number of identified and registered TK/IK, TCE and Biological resource assets • Number of TK/IK, TCE and Biological resource assets exploited and commercialized • Contribution of TK/IK, TCE and Biological Resource exploitation to community welfare
<p>3d. To ensure effective IP rights enforcement in the EAC.</p>	<ul style="list-style-type: none"> • Infringement of IP rights minimized • Strengthened IP enforcement mechanisms 	<ul style="list-style-type: none"> • Number of offenders penalized • Number of counterfeited and pirated products seized



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