



THE EAST AFRICAN COMMUNITY

**FORMULATION OF AN EAC POLICY ON ANTI-COUNTERFEITING, ANTI-PIRACY
AND OTHER INTELLECTUAL PROPERTY RIGHTS VIOLATIONS**

INCEPTION REPORT

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2.0 Executive Summary

- 2.1 Counterfeiting and piracy of trade marks and copyrights have been a problem since intellectual property laws were first widely enacted in the nineteenth century and well before that as well. It has never been particularly difficult to piggy-back onto someone else's creativity or marketing spend in order to make a quick profit, especially when the penalties for doing so have always been relatively light – if they are actually enforced in the first place. But while it existed as a low level inconvenience for many years, over recent decades, as the world's economy has globalised, trade barriers have come down and technology has become more accessible, the problem has evolved into something far more serious.
- 2.2 In 1982, the US's International Trade Commission estimated that counterfeiting and piracy caused industry losses of approximately \$5.5 billion. Just 14 years later in 1996, the figure had risen to \$200 billion, and by 2000 it stood at \$450 billion. In this way, revenues derived from counterfeiting and piracy have increased by more than 400% since the early 1990s, in contrast to growth in legitimate trade of around 50% over the same period of time. It all means that around 10% of world trade is now accounted for by the illegal exploitation of intellectual rights.
- 2.3 Of course, this is a huge problem for IP owners, many of whom are missing out on substantial amounts of income as a result. Take the software industry, for example. The Business Software Alliance estimates that piracy of its members' products costs them around \$12 billion each year. Whilst some of this amount is accounted for by copying in the workplace, much more occurs as the result of people buying pirate versions of products such as Microsoft's Windows 95 complete with counterfeit packaging. In the same way, George Abbott and Lee Sporn in their 2001 publication

Trademark Counterfeiting stated that counterfeit car parts cost automobile makers something like \$12 billion annually in lost sales. Enough, they said, for the industry to take on an additional 200,000 workers.

- 2.4 And this is where the intellectual property theft begins to have an impact on society as a whole. Not only does it eat into the profits of legitimate rights owners, it also costs jobs as the money that could have been ploughed into investing in product development and manufacture is not available to spend. But this is only the beginning. Counterfeiters do not pay the taxes legitimate businesses do, so governments – local, regional and national – miss out on money that in normal circumstances would belong to them.
- 2.5 In the US, for example, New York City was said to have lost \$350 million in tax revenue every year in the early 1990s as a result of IP theft, whilst a 1993 Business Wire release stated that California’s state government missed out on billions of dollars each year as a result of counterfeiting. At a national level, it is estimated that the Russian government is deprived of \$1 billion a year in unpaid VAT, income tax and customs duties because of the endemic levels of IP theft in the country. This is income that could be spent on public health, education, infrastructure and myriad other worthy causes. Governments therefore are faced with a difficult choice – curtail projects or look for tax revenue from other sources. Either way, society as a whole is made to pay.
- 2.6 But it gets even worse. Counterfeiting and piracy not only involve products such as clothing, computer programs and films; they are also major threats in industries such as pharmaceuticals, food and drink. “Perhaps most troubling is the widespread threat counterfeiting poses to public health and safety,” said US Senate Judiciary Committee Chairman, Senator Orrin Hatch at a press conference in 1995. And the statistics certainly show he

has a point. A recent survey by the Nigerian Institute of Pharmaceutical Research stated that 80% of the drugs on sale in the capital Lagos were fake or counterfeit; whilst the state-owned Chinese newspaper the Shenzhen Evening News claimed 192,000 died in China as a result of fake drugs in 2001.

- 2.7 Counterfeiting and piracy not only cripple legitimate local industry by unfair competition but, local services firms and channel players also lose revenue while businesses waste time and money working with faulty and unsupported products such as pirated software.
- 2.8 Meanwhile in Estonia – soon to be member state of the European Union – illicit vodka containing methyl alcohol killed 60 people in 2001. On top of all this, there are a variety of cases in which counterfeit vehicle, aircraft and helicopter parts have been discovered in wreckage after fatal accidents. IP theft, therefore, not only cost billions of dollars, it also costs lives.
- 2.9 The grim picture is not any better in the East African Community Area. In a report entitled *“Counteracting Counterfeiting: Strategies for improving the integrity of Medicinal Marketplace in Tanzania”* given in September 2005, the Director General of the Tanzania Food and Drugs Authority noted that fake medicines are alarmingly on the increase and a number of serious cases have been detected where unscrupulous dealers repackage and re-label expired drugs or drugs with non-active ingredients such as chalk.
- 2.10 In Kenya a number of industries have collapsed or are near collapse due to counterfeiting and piracy. Textile and dry cell manufacturers are cases in point. It is estimated that over 90% of all recorded music sold in Kenya is pirated. Officials of the Pharmacy and Poisons Board regularly discover mind boggling quantities of fake drugs circulating in the market. A random

survey by the National Quality Control Laboratories recently found almost 30% of drugs in the market to be fake. Figures from the Kenya Association Pharmaceutical Industry show counterfeit products account for about Kshs. 7.8 billion annually in sales. Some of the fake drugs discovered are no more than just chalk or water being marketed as competent pharmaceutical products.

2.11 The BSA estimates that in 2007 alone, 81% of all the software sold in Kenya was pirated, costing the owners of copyright in such software a whopping US\$ 28 Million (Kshs. 2 Billion). This translates into a colossal loss of revenue in terms of Customs Duty, VAT and corporation tax.

2.12 The EAC Secretary General Ambassador M. Wapachu commenting on the severity of the problem at the initiation of the current project noted that: “of greater concern is that consumers are increasingly exposed to major health and safety risks”. Citing examples of counterfeited electrical conductors and cables which catch fire, fertilizers which could result in total loss of crops, batteries which explode or leak and personal care products which cause skin and body disfigurement to poisonous foods and drugs which may kill, he called the project timely and one which is imperative for the survival of the East African economies.

2.13 Appreciating that the EAC Partner States fall under the category of emerging markets in global trade jargon, the problem of counterfeiting and piracy is most prevalent in such regions due to a combination of peculiar factors found in these regions. For instance, 80% of the world’s population and 70% of the world’s small businesses reside in those regions. Coupled with high population densities and the unaffordable cost of genuine products, counterfeiting and piracy become almost acceptable and the only means of enjoying the delights of modern technology.

2.14 This Inception report sets out the methodologies and approach for fulfilling the project imperative of assessing the scale of the problem with the EAC, evaluating existing policies and laws and making policy recommendations and uniform laws to combat counterfeiting and piracy trading and protect intellectual property rights within the region.

3. Abbreviations and acronyms

ACTA	Anti Counterfeiting Trade Agreement
ARIPO	African Regional Industrial Property Organization
BBS	Burundi Bureau of Standards
BET	Board Of External Trade
BRELA	Business Registration and Licensing Agency
BSA	Business Software Alliance
COMESA	Common Market for East and Southern Africa
CTI	Confederation of Tanzanian Industries
CAMARTEC	Centre for Agriculture Mechanization and Rural Technology
COSOTA	Copyright Society Of Tanzania
CED	Customs and Excise Department
CBE	College Of Business Education
EAC	East African Community
EABC	East African Bureau Council
EPZ	Export Processing Zone
EU	European Union
FBI	Federal Bureau of Investigation
FCT	Fair Competition Tribunal
FCC	Fair Competition Commission
GDP	Gross Domestic Product
GBLAAC	Global Business Alliance Against Counterfeiting
IFPMA	International Federation of Pharmaceutical Association
IP	Intellectual Property
IPR	Intellectual Property Rights
IMPACT	International Medicine Products Anti Counterfeiting Task Force
IIPA	International Intellectual Property Alliance
IIPi	International Intellectual Property Institute

KACITA	Kampala City Traders Association
KEPHIS	Kenya Health Inspectorate Services
KIPI	Kenya Industrial Property Institute
KEBS	Kenya Bureau of Standards
KRA	Kenya Revenue Authority
KCB	Kenya Copyrights Board
KAM	Kenya Association of Manufacturers
MPA	Motion Picture Association
MINICOM	Ministry of Trade and Industry
MITM	Ministry of Industry Trade and Marketing
MCSK	Music Copyright Society of Kenya
NBS	National Bureau of Statistics Tanzania
NGO's	Non Governmental Organization
NDC	National Development Corporation
OECD	Organization for Economic Co-operation and Development
PSFU	Private Sector Foundation of Uganda
PCT	Patents Corporation Treaty
PRO-IP	Prioritizing Resource and Organization for Intellectual Property
RIAA	Recording Industry Association of America
RBS	Rwanda Bureau of Statistics
SME's	Small & Medium Enterprises
STOP	Strategy Targeting Organized Piracy
SECURE	Standards to be Employed by Customs for Uniform Rights Enforcement
SIDO	Small Industries Development Organization
TIRDO	Tanzania Industrial Research Development Organization
TEMDO	Tanzania Engineering and Manufacturing Design Organization
TBS	Tanzania Bureau Of Standards

TRA	Tanzania Revenue Authority
TRIPS	Trade in Related Aspects of Intellectual Property Rights
TFDA	Tanzania Food and Drugs Association
UNBS	Uganda National Bureau of Standards
UCPA	Uganda Consumer Protection Association
UMA	Uganda Manufacturers Association
US	United States
UNCST	Ugandan National Council for Science and Technology
URSB	Ugandan Registration Services Board
VAT	Value Added Tax
WIPO	World Intellectual Property Organization
WHO	World Health Organization
WTO	World Trade Organization
WMA	Weights and Measurements Agency

4. Background

- 4.1 Product counterfeiting and trade in counterfeit products, labels and packaging involve imitation of genuine products. The counterfeits are marketed under brand names similar or identical to those of the genuine product for purposes of deceiving consumers and luring them to buy the counterfeit products in the mistaken belief that they are purchasing the genuine product. The influx of counterfeit and pirated products is already a major problem for consumers, innovators, traders, investors and government agencies (mainly revenue and law enforcement agencies) in East Africa.
- 4.2 With technological advancement over the last few decades, it has become much easier than ever before to copy genuine products or manufacture counterfeit products. For example, the advent of digital technology has made it particularly easy for counterfeiters to copy genuine copyright works to a level that makes the counterfeit product almost indistinguishable from the genuine product both in appearance and functionality.
- 4.3 Advancement in marketing skills and technologies, coupled with the benefits of the internet also ensure that it is much more easier for counterfeit products to reach wider markets at virtually no cost on the counterfeiter/pirate.
- 4.4 While definite figures on the extent of the problem of counterfeiting and piracy in the region are hard to come by due to the illegal nature of the activity, the problem is thought to be quite extensive. Kenya's Attorney General, Hon. Amos Wako, addressing the Third Global Congress on Combating Counterfeiting and Piracy at the International Conference held in January 2007 remarked on the problem as follows
- 4.5 *“Counterfeiting and piracy are not just issues of concern to the developed countries and the industrial giants of the western countries. Counterfeiting*

and piracy have a negative impact even in the developing third world countries. In Kenya, it has had a negative effect on foreign direct investment and discouraged the growth of local entrepreneurship. It is estimated that right holders in Kenya lose an estimated Kenya Shillings 30 Billion per annum to trade in counterfeit and piracy. Several industries have had to shut down, such as the textile industry and the music industry leading to loss of jobs. The private sector is the engine for economic and social development and to the extent that the private sector is adversely affected by counterfeiting and piracy, it becomes difficult to eradicate poverty.”

4.6 According to the Kenya Revenue Authority estimates, counterfeiting costs the Government of Kenya Shillings Six (6) billion (about \$84 million) in lost revenue annually. The situation is not any different in the other four members of the East African Community.

4.7 While opening a conference on enforcement of intellectual property rights and anti-counterfeiting in Dar es Salaam in October 2007, the Chief Justice of the Republic of Tanzania, Hon. Augustino Ramadhani, noted that counterfeits are now a world-wide problem. The criminals involved in this trade manufacture counterfeit products and sell them to countries where anti-counterfeit regulations are either weak or are not enforced effectively. In Tanzania he noted, the issue of counterfeits, although a recent phenomenon, had become rampant and citizens have begun to question why the country is being turned into a dumping ground for sub-standard goods. The Confederation of Tanzania Industries (CTI) had in response commissioned a study to assess the magnitude of the phenomenon in the country.

4.8 The Ugandan authorities and stakeholders have long come to appreciate the magnitude of the problem and are exploring collaborative efforts between government and private sector stakeholders to address the problems of counterfeiting and piracy. The head of the Quality Assurance Division at Uganda’s National Bureau of Standards (UNBS), in 2007 unveiled plans to

have a joint force with Kampala City Traders Associations (KACITA) on combating counterfeits as part of the strategy to protect competitiveness of Ugandan products.

4.9 Globally, a number of studies show that the problem of counterfeiting and piracy sharply on the increase and even in countries such as China where the annual anti-piracy rate in software has reduced, the value of lost sales by manufacturers of genuine products has not decreased. The preliminary findings of a major OECD report show an alarming expansion of the types of products being counterfeited, from luxury items to basic house-hold products and items that have a direct impact on health and safety, such as food, drink, medical equipment, toys and automotive spare parts. Life-threatening counterfeit drugs have been estimated to account for some thirty per cent (30%) of sales in some parts of Africa, Asia and Latin America. The former Director General of the World Intellectual Property Organization, Dr. Kamil Idris, recently stated that as companies rely increasingly on Intellectual Property as a key component or value added to their products, IP-crime has become a major concern for all business sectors in all countries. These crimes stifle and usually kill local industries, reduce employment, create links to organized crime, discourage international trade and foreign direct investment, and place a heavy burden on enforcement authorities.

4.10 Fortunately member countries of the East African Countries have relatively progressive Intellectual Property Laws. Indeed both Uganda and Kenya have gone even further to develop Anti-Counterfeiting Bills (which are identical) and which are currently awaiting debate and enactment in the respective National Assemblies. We shall, in this project, examine these Bills and take into account the work already done leading to their formulation and publication. It is, however, worrying that despite the rigorous legislative and regulatory framework available, enforcement continues to be weak and counterfeiting and piracy continues unabated.

5.0 Assignment Terms of Reference and Expected Outputs

- 5.1 In recent years, East Africa's business environment has been inundated with a broad range of counterfeit and pirated products. Cheap and substandard products supplied through foreign and local traders and manufacturers are illegally replicating genuine and well-known brand names and designs on their packages and labels. Imitation products is common in a variety of product areas including currencies, batteries, detergent products, ball point pens, electrical and electronic appliances, perfumes, cosmetics, pharmaceuticals, agrochemicals, building appliances, computer software and hardware, audio and visual disks, automotive spare parts, to mention but just a few.
- 5.2 The profitability and market share of legally registered East Africa companies, especially those involved in manufacture of fast moving consumer goods have been negatively affected by counterfeits and pirated products. This has serious negative impacts in the viability of industries, jobs, tax revenues and the health of consumers across the region. Furthermore, the prevalence of counterfeits and pirated products in the market has become a major deterrent to investors, both domestic and foreign in East Africa.
- 5.3 Counterfeits and pirated products pose other serious risks including: the loss of international competitiveness by intellectual property owners, damage to human health and safety, loss of government revenue, stifling of creativity and innovation and loss of trade and investment competitiveness.
- 5.4 The EAC Customs Union comes into effect in January 2010 with the effect that circulation of products within the region will be free, thereby leading to a high likelihood that unless the problem of counterfeiting and piracy is urgently addressed, trade in counterfeit and pirated products will continue thriving in the region if a regional framework is not put in place to control it.

5.5 The problem of regional trade in counterfeit and pirated products is caused by a myriad of factors including but not limited to:-

- (a) lack of stand alone anti-counterfeiting and piracy national legislation, or weak legislation and enforcement machinery;
- (b) lack of public awareness of policy and strategy on counterfeiting and piracy;
- (c) ignorance amongst consumers of risks involved and pervasiveness of poverty in the region;
- (d) weak institutional capacity and capabilities for legal enforcement;
- (e) corruption, particularly at Customs entry points;
- (f) limited cooperation and coordination between and within private and public sector; governments and enforcement agencies; and
- (g) low drive by governments in fighting counterfeiting and piracy.

5.6 Initiatives to date to tackle counterfeiting and piracy have taken place mainly at the national level and have been uncoordinated and without a strong and harmonized regional control mechanism, The risk is therefore high of escalation of trade in counterfeit and pirated goods. Fortunately, as a starting point at the regional level, importation of counterfeit goods of all kinds is one of the prohibitions contained in the Second Schedule to the East African Customs Management Act of 2004.

5.7 The current project is thus timely as it aims to formulate a regional policy on the control of counterfeiting and piracy. The main activity involves developing a regional policy to combat piracy and counterfeiting and the protection of other intellectual property rights in the EAC Partner States as well as the EAC supra-national level.

5.8 The project has the overall objective of undertaking a study to identify and evaluate sources, causes, forms and the magnitude of counterfeiting, piracy and intellectual property rights violations in EAC Partner States and to recommend an appropriate

policy that would lead to the development of a robust regional law to combat these violations. It is intended to undertake a number of tasks in the project including:

- 5.8.1 developing a clear understanding of what counterfeiting and piracy means within the context of the EAC region, distinguishing them from the problem of imported, sub-standard products;
- 5.8.2 undertaking a study in EAC Partner States to identify and evaluate the nature and magnitude of counterfeiting, piracy of goods and violation of intellectual property rights;
- 5.8.3 determining the sources of the problem, identifying the purveyors of the violations and the possible reasons thereof;
- 5.8.4 evaluating the challenges of counterfeiting, pirated goods and violation of IP rights pose on EAC national economies, as well as impact on cross-border trade;
- 5.8.5 identifying current policies in EAC Partner States in these areas including institutional, legal and regulatory arrangements;
- 5.8.6 reviewing relevant policies at international level on piracy and counterfeiting and their impact and relevance to the EAC;
- 5.8.7 identifying existing or planned laws or regulatory structures to combat counterfeiting and piracy, and evaluating their effectiveness; and
- 5.8.8 recommending an EAC policy to combat counterfeits, piracy and intellectual property rights violations.

5.9 It is expected that this project will produce:

- (a) A comprehensive Assessment Report on the nature and magnitude of counterfeiting, piracy of goods and violation of IP rights in the East African Community region (Data Analysis and Assessment Reports)
- (b) An Assessment Report on the EAC and EAC Partner States policies and law dealing with counterfeiting and piracy of goods (Legal and Policy Assessment Report).
- (c) Recommended EAC Policy to combat counterfeits, piracy and intellectual property Rights violations (Policy Document).

6.0 Comment on Approach and Scope

6.1 Counterfeiting and Piracy – Measurement and Statistical Issues

- 6.1.1 Counterfeiting and piracy are a covert phenomenon. This in essence means that statistics on these vices when found are either, often of poor quality, or based largely on custom seizures which are hard to relate to actual market figures. Thus, to understand the scope of the problem it is often necessary to base estimates on various data sources and use extrapolating techniques.
- 6.1.2 Data on counterfeiting and piracy activities can be developed using various methods and sources, each of which can contribute to the development of an overall understanding of the situation, albeit from different perspectives. As such, combining and confronting methods and results constitutes a potentially sound approach in estimating the magnitude of the activity. Information obtained through some of these methods can also be of value for estimating impacts. Following is a description of the four types of information that are available:
- 6.1.3 *Enforcement information.* – Enforcement information would include information generated through physical discovery of counterfeit goods, and through legal actions taken against counterfeiters. Customs and Standards seizures would be key sources
- 6.1.4 *Surveys and sampling.* – Survey information would include information generated through inquiries of producers, suppliers, consumers and other parties that would have relevant knowledge of, or experience with, counterfeiting and piracy.
- 6.1.5 *Anecdotal information.* – Anecdotal information would include information that surfaces gratuitously, such as reports on accidents or health problems

precipitated by sub-standard counterfeit products, and “whistle-blowing” activities that signal the production or use of counterfeit products. It should be noted, however, that while anecdotal information can be important in uncovering IPR violations and demonstrating the existence of infringements in different sectors, it is not systematic and therefore is viewed as contributing relatively little to developing a more rigorous framework for assessing broader developments and trends.

6.2 Study Methodology

- 6.2.1 As noted above there are difficulties in establishing the exact magnitude of the problem of counterfeiting and piracy. First, this is largely a clandestine business where few records are kept for scrutiny or at all. Secondly, in many instances, the distinction between counterfeits and genuine products is difficult, if not impossible, to establish. Thirdly computation is difficult where the business is transitional in nature or where border control is ineffective.

- 6.2.2 It is intended in this project to critically assess the region’s respective national Intellectual Property, Trade, Revenue and related laws and the various institutions responsible for their enforcement. The starting point will be an analysis of these policies and legislation, setting out their strengths and weaknesses in light of the assignment Terms of Reference. We will consider the specific content of the Policy and regulatory frameworks and how such can be harmonized and strengthened to develop a robust EAC policy to deal with the problem. This will involve in particular a consideration of the nature of Intellectual Property rights, institutional and administrative organs for enforcement of such rights and the need for streamlined and appropriate institutional and legal structures for ensuring that an East African Anti-Counterfeiting and Anti-Piracy Policy is adopted and eventually implemented by the various Governments of the EAC Partner States.

6.2.3 The issues to be considered will include :-

- (a) the incidences of counterfeiting and piracy in the EAC and the major causes for such violations;
- (b) different stakeholder attitudes to counterfeiting and piracy within the region including consumers, IP right holders, administrative authorities, judicial officers, customs and revenue officers, police and other enforcement agencies, professionals and business associations;
- (c) how to provide an appropriate policy framework dealing with the problems of counterfeiting, piracy and other IP rights violations within the region that addresses development of capacity; enhances institutions, provides for strong enforcement mechanism and creates a harmonized and effective implementation strategy;
- (d) how to harmonize existing policy and legislative frameworks in member countries of the EAC to develop a Community- wide Anti- Counterfeiting and Piracy Policy. This will include considering best international practices in terms of harmonized regional enforcement mechanisms such as those of the OECD and the EU. In addition, we will look at appropriate national laws – what role should national agencies play within the framework of a regional Policy in dealing with the problem?
- (e) what are the required legal, regulatory and institutional reforms to fully implement the EAC Anti-counterfeiting and Anti-Piracy Policy are.

6.3 Data Collection and Analysis

6.3.1 It is intended to employ methodologies and techniques that measure: (i) the magnitude; (ii) scope and; (iii) effects of counterfeiting piracy and other Intellectual Property Rights violations.

- 6.3.2 The project will focus on production, distribution, and sale of counterfeit/pirated products and provide analysis of trends and effects. Three types of information are generally available being (a) enforcement information; (b) surveys and sampling and; (c) economic modeling and other approaches information
- 6.3.3 Enforcement information includes data that have been compiled on seizures of infringing products within partner states of the EAC, and at borders, and information compiled on legal actions that have been taken by parties to defend their protected Intellectual Property Rights. The information on seizures would seem to provide a good basis for developing information on the scope of the problem (ie information on what is being counterfeited or pirated and where counterfeiting is taking place. Data on successful legal and administrative challenges would also provide useful insights into both the magnitude and scope of the problem.
- 6.3.4 Enforcement data shall be sourced from customs offices, the police, IPR administrative offices such as Uganda's Industrial Property office, manufacturers and IP rights holders, Industry associations such as the music Copyright Society of Kenya.
- 6.3.5 It is also intended to conduct both Consumers and Producers/Distributor surveys to not only provide first hand observation of the magnitude of the violations but also for input into the more sophisticated impact measurement models. We are sensitive to the way questions are structured, as well as the willingness of respondents to tell the truth about unlawful behavior.
- 6.3.6 Consumer surveys are well suited for developing information on the purchasing patterns and attitudes of consumers. The surveys will help in better understanding of the markets for different types of counterfeit and

pirated items. In addition, the surveys will be useful for developing information on the distribution channels by which counterfeits flow to end users. From surveys conducted in other regions, there is also evidence that, in addition to price, income and product availability are often factors influencing counterfeit purchases.

6.3.7 Producer/distributor surveys will also be conducted to complement consumer surveys particularly in product areas where awareness of counterfeiting of goods is lacking. It is intended that such survey be directed both at producers/distributors who might have done market investigations of their own with respect to counterfeiting of their products, and to distributors, who can give details about the sources and legitimacy of their stock. Producers/distributors and their trade associations are usually acutely aware of counterfeit or piracy activity in their product area, and would therefore be valuable information sources.

6.3.8 While sampling is theoretically one of the most effective ways to develop information on the magnitude of counterfeiting and piracy, the cost and logistics involved however will greatly limit its practicality in the current project. We therefore do not intend to use sampling in our research.

6.3.9 Economic modeling as an approach provides a promising means to use various types of information to develop frameworks for estimating counterfeiting and piracy in specific product sectors (as well as for larger product aggregates). The principal challenges faced in utilizing this model concern (a) selection of the information to be used in the models; (b) the assumptions that need to be made in building the models and; (c) the ways that the different pieces of information will be used in the models.

6.3.10 It is intended to use one of the approaches that have been commonly used before in other surveys which is based on an estimation of total market

demand for a product. Sales of “legitimate” products shall be deducted from the total demand figure to arrive at an estimate of counterfeit or pirated production. The demand for the product would however be based on estimation derived from producers survey and associations own estimates. This methodology will be used to assess the magnitude of counterfeiting/piracy on key selected products including dry cell batteries, pharmaceuticals, automotive spare parts and computer software. We believe that it would not be suitable for a number of products such as audio and video disks, textiles and luxury goods with restricted demand.

6.3.11 On effects, like most previous studies, it is planned to focus on the impact of counterfeiting and piracy on the direct effects of infringing products on the sales and profits of rights holders. A critical element in such analysis is the degree to which consumers are aware that the products that they are purchasing are fake and the assumptions made on the degree of substitutability between infringing and legitimate items.

6.3.12 Further, counterfeiting and piracy can have and for EAC economies, do have significant indirect effects including adverse economic effects on GDP, employment, tax revenues, foreign direct investment, trade and innovation. Although evidence form previous studies is inconclusive, there is cogent evidence that strong IPR regimes generally tend to have positive impact in all these areas. We hope to draw useful conclusions on these knock-on effects from this study.

7.0 National Policies and Laws of Partner States

7.1 Republic of Kenya

- 7.1.1 The country has recently comprehensively reformed its IP Laws to ensure that the Intellectual Property Laws conform to the internationally accepted standards as per the TRIPS Agreement. The main legal instruments arising from this reform and now governing Intellectual Property Rights protection include: a) Industrial Property Act of 2001; b) Copyright Act of 2001; c) Trade Marks Act; d) Seeds and Plant Variety Act; e) Trade Descriptions Act; and f) Weights and Measures Act.
- 7.1.2 The administration of Intellectual Property Rights in Kenya is the shared responsibility of the Registrar General's Department in the Attorney General's Chambers, under which the Kenya Copyright Board falls, the Kenya Industrial Property Institute (KIPI), Customs Department of the Kenya Revenue Authority, Kenya Bureau of Standards (KEBS), the Weights and Measures Department of the Ministry of Trade and the Kenya Health Inspectorate Service (KEPHIS).
- 7.1.3 ***Industrial Property Act, 2001*** - This Act was passed to ensure that industrial property laws in Kenya were in tandem with the provisions of the TRIPS Agreement. This Act under sections 3 and 5 created an independent statutory body. The Kenya Industrial Property Institute (KIPI) - to consider applications for and grant industrial property rights, promote inventiveness and innovativeness in Kenya and to provide the public with industrial property information for technological and economic development. The Act also provides for a Tribunal to deal with disputes arising from the implementation of the Act. The Tribunal also has the mandate to determine civil cases and grant the appropriate relief such as injunctions, damages or any other remedy that may be provided by the law for infringement of

industrial property. This law also provides for criminal sanctions for infringement.

7.1.4 ***The Copyright Act*** - Parliament passed the Copyright Act in 2001. It came into effect in 2003 and provides specifically for administrative and enforcement structures and mechanisms for copyright and related rights. The salient features of the Act include: The creation of the Kenya Copyright Board under section 3 is charged with the overall administration and enforcement of copyright and related rights in Kenya, the provision for both civil remedies and criminal sanctions for copyright infringement, the specific provision for Anton piller orders under section 37 of the Act, the introduction of the anti piracy security device and the appointment of copyright inspectors and special prosecutors to deal with copyright infringement cases. The Act prohibits the engagement in activities that are likely to encourage counterfeiting and piracy such as circumvention of technological devices used to protect copyright or the removal of rights management systems.

7.1.5 ***The Seed and Plants Variety Act-*** This Act, which came into force in 1975, provides for the testing and certification of seeds. It further provides for the establishment of an index of names of plant varieties. The Act reserves the power to impose restrictions on the introduction of new varieties as well as to control the importation of seeds. It provides for the grant of proprietary rights to persons breeding or discovering new varieties. Section 28 of the Act establishes a Seeds and Plants Tribunal to hear matters related to seeds and their propagation. The administrative body that ensures compliance with the provisions of the Act is the Kenya Plant and Health Inspectorate Service (KEPHIS). The Act provides for the creation of a Seeds and Plants Tribunal. The Tribunal's functions are, among others, to hear appeals among disputing parties and to provide for the suspension of or the operation of any related activity pending the determination of the appeal.

The Act does not impose penalties, but recognizes that criminal proceedings may be instituted against a person who falsifies seed varieties.

7.1.6 ***The Trade Marks Act*** - The Trade Marks Act of 1955 was inherited from the colonial era and has been amended several times with the last major amendment in 2002. The Act does not create a separate agency to administer trademarks in Kenya. Instead, it provides for the appointment of a Registrar of Trademarks and is currently administered by the Kenya Industrial Property Institute. The 2002 amendment introduces criminal offences under the Act. Most counterfeit cases in Kenya involve the infringement of registered trademarks and it is important that the fines are punitive and deterrent, which is not reflected in the Act.

7.1.7 ***The Trade Descriptions Act*** - Currently, this is the most commonly used Act in the fight against counterfeiting and piracy. This law was passed to prohibit mis-description of goods, services, accommodation and facilities provided in the course of trade; to prohibit false or misleading indications as to the price of goods; to confer powers to require information or instructions relating to goods to be marked on or to accompany the goods or to be included in advertisements; and for purposes incidental to and connected with the foregoing. The Act is administered by the Department of Weights and Measures within the Ministry of Trade and Industry. This Act was extensively amended in 2002 to provide for more severe punishment for offenders. So far this is the only statute that gives a deterrent and punitive sentence i.e. a maximum fine of Kenya Shillings 2,000,000/= and a custodial sentence of a maximum of two years. The Trade Descriptions Act has been used to successfully prosecute cases involving trading in counterfeit and pirated goods in Kenya.

7.1.8 ***The Weights And Measures Act*** - This is an Act of Parliament to amend and consolidate the law relating to the use, manufacture and sale of weights and measures and to provide for the introduction of International System of

Units (SI) and for connected purposes. Under Legal Notice Number 24 of 1999, the Act makes it illegal for one to sell goods with the wrong description in relation to the quantity and packaging. It has also been used on several cases in relation to counterfeit and pirated goods, although its application is limited.

7.1.9 ***The Anti-Counterfeit Bill, 2007-*** The bill in its current state has generated both positive and negative reviews concerning its provisions. The Bill provides for the formation of an Anti Counterfeit Agency whose functions in part will be to combat counterfeiting, trade and other dealings in counterfeit goods in Kenya, devise and promote training programmes on combating counterfeiting, coordinate with national, regional or international organizations involved in combating counterfeiting. The Bill envisions the setting up of a Tribunal that will limit the cost by small and medium size enterprises and manufacturers who may have found filing of cases against those who import counterfeits inordinately expensive. The Bill also recommends the formation of a board whose task will be to act as a policing body with representatives drawn from industry, government ministries and corporations. Another provision worthy of highlight is the vesting of the executive director and the KRA commissioner general with the power to seize counterfeit consignments and put them in depots pending determination in court. The Bill contains penal provisions including imprisonment and fines amounting to 3-5 times the retail price of the imitated goods.

7.1.10 Protection and Enforcement Institutions

7.1.11 ***Kenya Industrial Property Institute (KIPI)*** – is a Government institute administratively falling under the Ministry of Trade and Industry. KIPI was established on 2nd May 2002 upon the coming into force of the Industrial Property Act, 2001. The management of KIPI is under the supervision of a

board of directors who have the mandate to oversee the performance of KIPI as prescribed by the Act. KIPI is headed by a Managing Director who is responsible for the day to day management of the affairs of the Institute. KIPI's functions include administering industrial property rights, providing technological information to the public, promoting inventiveness and innovativeness in Kenya; and providing training on industrial property.

7.1.12 ***Kenya Copyrights Board (KCB)*** – KCB is a statutory organisation created under the Copyright Act No.12 of 2001. KCB is in the process of de linking from the office of the Attorney General in order to have sufficient autonomy to ensure the effective administration and enforcement of copyright and related rights in Kenya. KCB is charged with coordinating all licensing and treaty activity and has the authority to inspect, seize, and detain suspect articles and to prosecute offenses. KCB established an IPR enforcement unit in October 2006 consisting of two police investigators attached to the Board as copyright inspectors. Since they assumed office in November 2006, they have completed investigation on several major cases which have seen infringers of copyright arraigned in court, charged and convicted. Some cases are still pending in court. Under the same Act, the Attorney General has appointed five special prosecutors to deal with copyright infringement cases. However, owing to the magnitude of the vice, lack of sufficient staff has hampered the ability of the Board to effectively carry out its mandate. KCB is currently in the process of introducing anti piracy security devices that will be used to identify the legitimate products especially in the audio and audio-visual works. Trading in works without the anti piracy security device will amount to an offence under the Act.

7.1.13 ***The Kenya Revenue Authority (Customs Department)*** - Customs authorities play an important role in the fight against counterfeit and pirated products. Border measures have become a useful tool in dealing with counterfeit. Their role in curtailing pirated and counterfeit goods has

become increasingly important due to the increased cross border trade. There are certain administrative measures conferred upon the customs officers to help them deal with counterfeit goods. Customs can seize and destroy goods that are prohibited under the Weights and Measures Act, Trade Descriptions Act and any other law in force, which makes them prohibited under Customs. By virtue of the goods being infringing under intellectual property law Customs officials are empowered to seize and detain suspected counterfeit/pirated goods until a competent court can determine the matter. Their powers to search and seize counterfeit/pirated goods complement those of the police and other enforcement agencies.

7.2 United Republic of Tanzania

7.2.1 Tanzania has three main laws governing Intellectual Property Rights namely: the Patent Act of 1987; the Trade and Service Marks Act of 1986; and the Copyright and Neighbouring Rights Act of 1999. The legislation is mainly administered by the Business Registration and Licensing Agency (BRELA) an Executive Agency established under the *Executive Agencies Act No. 30 of 1997*. In its organizational structure, BRELA has an intellectual property division, which is headed by a Deputy Registrar. The main activity of this division is to administer the Trade and Service Marks and Patents Acts. The Chief Executive Officer of BRELA, Mr. Esteriano Mahingilia, speaking at a WIPO workshop on intellectual property rights for SMEs in 2005 noted that BRELA does not effectively perform these functions as it does not cover the full range of IP products and suffers from under-capacity and poor exposure to international best practice

7.2.2 Combating counterfeiting in Foods and Drugs are the mandate of the Tanzania Food and Drugs Authority (TFDA). The Tanzania Food and Drugs Authority (TFDA) is a regulatory body under the Ministry of Health and Social Welfare which is responsible for regulating the quality and safety of

food, drugs, cosmetics and medical devices. It is established under the *Tanzania Food, Drugs and Cosmetics Act No. 1 of 2003*, which repealed the Pharmaceutical and Poisons Act No. 9 of 1978 and established the Pharmacy Board and (Food Control of Quality) Act No. 10 of 1978. TFDA, a semi-autonomous body, became operational on 1st July 2003. The Mission of TFDA is to protect the health of consumers against hazards associated with food, drugs, herbal drugs, cosmetics and medical devices

7.2.3 Tanzania, like all member states of the EAC, is a member of the World Intellectual Property Organisation (WIPO) since 1982 and has been a member of the Paris Convention on Industrial Property from 1963. Tanzania has been a member of the Berne Convention from 1964 and has recently joined the Patent Cooperation Treaty, the Madrid Union on Trade Marks and the Nice Agreement on International Classification of Goods. Tanzania is also a member of African Regional Industrial Property Organisation (ARIPO) and recently joined the Harare Protocol on Patents and, Banjul Protocol on Trade Marks. The foregoing clearly demonstrates the esteem with which this area of economic growth is held by the government of Tanzania.

7.2.4 ***The Patents Act, 1987*** - governs the protection of patents. A patent may be registered for inventions (other than a discovery, scientific theory, mathematical method, aesthetic creation, computer program or presentation of information) which satisfy certain specified requirements relating to novelty, utility and inventiveness. Once, registered, patents endure for an initial period of twenty (20) years, subject to the payment of annual renewal fees commencing from the third year, after the filing of a complete patent application.

7.2.5 *The Copyright and Neighboring Rights Act, 1999* - governs copyright protection. Generally, copyright protection is available to works, unpublished works, audio visual works, architectural works, performance, phonograms, broadcasts and expressions of folklore carried out in Tanzania. The Copyright and Neighboring Rights Act, 1999 contains rules on availability of copyright protection for works, unpublished works, audio visual works, architectural works, performance, phonograms, broadcasts and expression of folklore in situations whereby the publication, production, performance, broadcasting, etc was not carried out by a Tanzanian national or was not carried out in Tanzania.

7.2.6 *The Trade and Service Marks Act, 1986* - govern protection of trademarks. Registration of a trademark is for a period of seven years and may be renewed for further periods of ten years in perpetuity. In terms of this Act, no mark or logo may be registered that is inherently deceptive or which would be likely to cause confusion. Unregistered trademarks are also offered protection under common law provided that it can be shown that the proprietor has established goodwill associated with its mark

7.3 Republic of Uganda

7.3.1 There are a number of legal provisions pertaining to the administration and enforcement of intellectual property rights. These are contained in the various pieces of legislation that have been enacted since independence in 1962 and many of which were replicas of the law on IP as obtaining in England at the time. While a number of these laws have subsequently been amended and/or repealed, others remain intact and obsolete. As a result of the activities of the Uganda Law Reform Commission and other stakeholders, there are a number of Bills and draft Bills in the pipeline targeting provisions relating to IP rights administration and enforcement. These are intended to up-date the Ugandan law to bring it in line with the

country's international obligations under the TRIPS Agreement. The following is a sample of the laws pertaining to IP in Uganda today.

- 7.3.2 ***Trademarks Act Cap. 217*** - The current law on trademarks in Uganda is the Trademarks Act Cap. 217 which is based on the United Kingdom Trademarks Act 1938. The Act came into force on 1st January 1953. The United Kingdom Trademarks Act 1953, however, has been amended by the Trademark (Amendment) Act 1984 which introduced the registration of service marks, the Patents Designs and Trademark Act 1986 and the Copyright, Designs and Patents Act 1988 which made the forgery of a trademark a criminal offence.
- 7.3.3 The Government of Uganda has now published The Trademarks Bill 9/1008 which seeks to repeal The Trademarks Act (Cap 217). The Bill seeks to inter alia: (a) widen the scope of the definition of a “trademark” to include both goods and services; (b) extend the remedies available to the proprietor of a trademark against infringement to include injunctions, prohibition on import of goods bearing infringing trademarks and enhancing penalties for infringement and remedies available to rights holders.
- 7.3.4 ***The Uganda National Council for Science and Technology Statute***- This Statute creates the Uganda National Council for Science and Technology (UNCST) which it empowers with the function of protecting intellectual property rights. The Statute also provides for the operation of a National Patent Office by the UNCST.
- 7.3.5 ***The Patents Act Cap 216*** - The Statute provides for the grant, registration, and protection of patents and for other purposes incidental thereto. It also provides for the registration and protection of IP rights in patents and utility models. It takes cognizance of Uganda's obligations under the Patents

Cooperation Treaty (PCT) which provides for International Patent applications. An application from a member country of the PCT can designate Uganda and Ugandans can designate PCT member countries in their own applications under the PCT. Proposals have been floated to amend or even repeal the Patents Statute to bring it in line with Uganda's international commitments. This arises from a multiplicity of developments in IP law on the international scene including a number of treaties and organizations to which Uganda is now a signatory such as TRIPS Agreement.

7.3.6 ***The Industrial Property Bill, 2001-*** This Bill provides for the promotion of inventive and innovative activities to facilitate the acquisition of technology through the grant and regulation of patents, utility models, technovations and industrial designs. The Bill, if enacted into law, would modernise an important part of Uganda's regime of IP law. It covers all industrial property rights (patents, industrial designs, utility models, and technovations) except trademarks.

7.3.7 ***The Copyright Act -*** This law makes provision for copyright of literary, musical and artistic works, cinematograph pictures, gramophone records and broadcasts and other purposes connected therewith. A major weakness of the existing law is that infringement of copyright is not a crime, civil action for damages and injunction being the only remedies. Secondly, the law is outdated having been promulgated in 1964. Consequently, it does not take into account developments, particularly arising from international treaties, which were introduced after 1964.

7.3.8 ***The Trade Marks Act -*** This is an Act governing the registration of Trade Marks. It provides for the appointment of a Registrar of Trade Marks (section 3) and the keeping of a register of trademarks (section 4). In 1994, the Trademark law was amended to ensure further protection for the

trademark owner. However, the amendments have not translated into effective law because the Act is still out dated and ineffective in combating infringement and counterfeiting.

7.3.9 Enforcement of IPRs in Uganda, although reportedly difficult, is being addressed by authorities including the Uganda Revenue Authority's Customs and Excise Department (CED), Uganda National Bureau of Standards (UNBS), Uganda Registration Services Bureau (URSB), the Inspectorate General of Police and the Commercial Division of the High Court. The needs assessment exercise identified a general lack of awareness and understanding of fundamental intellectual property concepts including the protection available under existing national legislation. The URSB is not yet fully functional as envisaged under its enabling Act. Fee-paying users of IP are demanding better quality and service levels in patent, trademark, industrial design and copyright processing than the URSB is currently capable of providing principally due to serious resource constraints. There is an urgent need for technical co-operation to identify the most appropriate and feasible legal and operational structure as envisioned by the Act.

7.3.10 At the moment there is general agitation in as far as national policy is concerned on intellectual property rights in Uganda. This is not only in furtherance of the countries regional obligations but also because of its international responsibilities. What could be referred to as the national policy may only be construed from the various pieces of legislation (both substantive and subsidiary legislation) that are currently in the statute books as well as from the various policy statements that have been issued by various government officials in this regard. In addition, part of the policy pertaining to IP rights may be, by implication, read in international conventions and treaties to which Uganda is a signatory, like the TRIPS

Agreement. The National Science and Technology Policy¹ on the other hand provides for the formulation of a policy on intellectual property rights. The specific policy, though, is yet to be finalized.

7.4 Republic of Rwanda

7.4.1 The Government of Rwanda, in keeping with its dynamic economic recovery road map, has undertaken various reforms geared towards improving its business environment. It is against this background that a comprehensive draft law on intellectual property has been developed. It was passed by Cabinet and the Lower Chamber of Parliament and is currently being reviewed by the Senate. It is expected to be in force by the end of the year.

7.4.2 The protection of intellectual property rights includes all matters affecting the availability, acquisition, scope, maintenance and enforcement of intellectual property rights, as well as those matters affecting the use of intellectual property rights.

7.4.3 The Draft Law provides for two branches of Intellectual Property, namely:
a) Industrial Property which applies to the exclusive right to use inventions, innovations or utility models, product or service marks, industrial designs or models, trade names, geographical indications, layout designs (topography) of integrated circuits and the right to request the elimination of acts of unfair competition; and b) Copyrights and related rights which apply to literary, artistic and scientific works, and performances of artists, phonograms and

¹ See the Uganda National Science and Technology Policy (September 2001), Ministry of Finance, Planning and Economic Development, Kampala.

broadcasts.² A brief analysis of the provisions of the existing laws in Rwanda now follows:

7.4.4 ***Intellectual Property Act - This*** law was passed recently in the Rwandan Parliament and the projection is that it may come into force by the end of this year.

Currently, there is no policy on intellectual property in Rwanda. However, a consultant has been hired to draft one in consultation with the relevant stakeholders.

Enforcement Mechanisms

- (i) *Rwanda Revenue Authority, Customs Department* - The Draft Law on Protection of Intellectual Property empowers the Customs Department to suspend release of goods into the market upon its own initiative or upon the request by the owner of the protected right, of the licensee or of any interested person, who has valid grounds for suspecting that the importation of counterfeit trademark goods is taking place or infringing a protected rights owner or is imminent.³

- (ii) *Commercial Courts* - Upon request by a competent authority or any person, association or interested trade union, such as of producers, manufacturers, traders or consumers, commercial courts would have the competence to handle cases related to intellectual property, anti-counterfeiting and anti-piracy.⁴ On request by the owner of the protected right, of the licensee or of any interested person, a competent

² The Draft Law on Protection of Intellectual Property, Article 4

³ The Draft Law on Protection of Intellectual Property, Article 272.

⁴ Organic Law No. 59/2007 of 16.12/2007 establishing the Commercial Courts and Determining their Organization, Functioning and Jurisdiction,

tribunal may order: a) cessation of release of counterfeit trademark goods or goods infringing owner's rights into the market; b) that the counterfeit trademark goods or goods infringing owner's rights be disposed of outside the channels of commerce, without compensation of any sort, in such a manner as to avoid any harm caused to the rightful owner; c) that materials or instruments the predominant use of which has been or may be the creation of pirated goods be disposed of outside the channels of commerce without compensation of any sort in such a manner as to minimize the risks of further infringement of the owner's rights; and d) the seizure, forfeiture or destruction of the counterfeit goods and of any materials and instruments having mainly served in the commission of the offence.⁵

(iii) *Ordering Border Special Measures* - The Draft Law empowers a competent tribunal to impose special measures at borders to prevent the importation of goods which infringe intellectual property rights protected in Rwanda, subject to fulfillment of certain conditions. A competent tribunal is also empowered to prevent the importation of goods, the production and /or the commercialization of which, in Rwanda, is an act of unfair competition. Where imported goods have been found to be infringing or are causing serious injury to intellectual property rights, the Draft Law empowers a competent tribunal to order the destruction of counterfeit goods and their disposal outside the market in order to prevent injury to the owner of the rights.

(iv) *The Ministry of Trade and Industry (MINICOM)*- MINICOM is the principal Government agency responsible for matters relating to intellectual property, anti-counterfeiting and anti-piracy including supervision of the Agency in charge of intellectual property; passing

⁵ The Draft Law on Protection of Intellectual Property, Article 257.

decrees related to intellectual property, as well as developing policies related to the promotion of intellectual property.⁶

7.5 Republic of Burundi

7.5.1 As far as Intellectual Property Rights are concerned, Burundi's national legislation is largely structured around the international conventions and protocols to which the country is a signatory. Because of this, a comprehensive analysis of its domestic system can and will be undertaken after we have conducted an exploratory examination of the domestic legislation currently in place.

7.5.2 Burundi has five core pieces of legislation that protect intellectual property rights, namely:- The Copyright and Related Rights Law of 1978, Trademarks Law of 1964, Industrial Designs and Patents Law (1964), and the Control of Anti-Competitive Practices and Contractual Licenses Law of 1950. These laws are mainly enforced by the Ministry of Trade, Industry and Tourism which registers Trademarks and handles infringement complaints. In addition, the country has acceded to the WIPO convention and other conventions administered by WIPO such as the Berne Convention and Trade Mark Law Treaty.

⁶ The Draft Law on Protection of Intellectual Property, Article 10.

8.0 International Benchmark Policies, Laws and Institutional Arrangements

8.1 The proliferation of infringements of Intellectual Property Rights (IPR) particularly in the context of counterfeiting and piracy poses an ever increasing threat to sustainable development of the world economy. The consequences of such IPR infringements include (i) depriving legitimate businesses and their workers of income (ii) discouraging innovation and creativity (iii) threatening consumer health and safety and (iv) providing an easy source of revenue. It is little wonder therefore that a number of countries and trading economic blocks have formulated a number of policies, legal and regulatory instruments to combat the problem.

8.2 *Republic of South Africa* - The main legal instrument is the Counterfeit Goods Act No. 37 of 1997 which came into operation by proclamation on 1st January, 1998. This law provides essential protection for trade marks and copyright and at its most basic level seeks to prevent trading in counterfeit goods by introducing dramatic and far reaching measures to assist brand owners in dealing with counterfeit goods.

8.3 The South African Act prohibits the possession control by any person of counterfeit goods in the course of business the manufacturers, producing or making and the selling, hiring and exchanging, exhibiting, distributing or disposing of counterfeit goods in any manner in the course of trade. The law provides for criminal procedures, civil action and customs procedure for enforcement.

8.4 *OECD* – (a) Anti-Counterfeiting Trade Agreement (ACTA); (b) Interpol’s SECURE; (c) The US Chamber of Commerce “Coalition Against Counterfeiting and Piracy Intellectual Property Initiative Campaign to Protect America”; (d) the WHO’s IMPACT, (e) WIPOs ACE discussions and; (f)

Economic Partnership Agreements and other Bilateral and Multilateral Trade Agreements.

8.5 *United States of America* – The flagship initiative is “The Campaign to Protect America. This campaign is the USCC’s Coalition Against Counterfeiting and Piracy Intellectual Property Enforcement Initiative which lays the ground work for all of the other efforts as it comprehensively outlines the full court and press strategy that industry and government agencies are pursuing. The campaign presents six initiatives namely:-

- (i) to improve coordination of Federal Government Intellectual Property enforcement resources which has already achieved some result by the passing of the Prioritizing Resources and Organization for Intellectual Property Act –[PRO – IP] by the US House of Representatives; The White House Strategy Targeting Organized Piracy (STOP!) and the establishment of the National Intellectual Property Enforcement Council;
- (ii) to focus on border protection against Counterfeiting and Piracy. This involves expanding information – sharing capabilities, developing databases to flag suspect shipments, funding more agents and training programs, giving Customs and border protection agents more legal authority “to audit and assess fines for importers, exporters and other parties”.
- (iii) to enhance law enforcement capacities to crack down on intellectual property theft by increasing funding for law enforcement (US Attorneys, FBI, training for state and local law enforcement), enhancing penalties for counterfeiters who cause bodily injury or death and increasing coordination between law enforcement and industry;

- (iv) to coordinate with law enforcement and customs officials across borders and abroad. Activities include training and technical assistance;
- (v) to establish a pilot program for Judges to handle counterfeiting and piracy cases, and institute treble damages against complicit activity related to counterfeiting;
- (vi) to create and administer a nation-wide consumer awareness campaign revealing the harms caused by counterfeiting and piracy (including paid and donated ads for television, radio, print and the internet).

8.6 *The OECD Project on Counterfeiting and Piracy* - Responding to concerns in governments and the business community, the OECD launched a project in 2005 to assess the magnitude and impact of counterfeiting and piracy. The objective of the project is to improve factual understanding and awareness of how large the problem is and the effect that infringements of Intellectual Property rights has on governments business and consumers in member countries and non-member economies. In its preliminary Report released in late 2007, it reports an alarming expansion of the types of products being infringed from luxury items to basic household products and items that have a direct impact on health and safety, such as food and drink, medical equipment, toys and car parts. The Report estimates that life threatening drugs account for some 30% of sales in some parts of Africa, Asia and Latin America. The project has been conducted in cooperation with international organizations that are active in counterfeiting/piracy area, including the WTO, World Customs Organization, WIPO, Interpol and relevant NGOs. Liaising with business community and labour has been coordinated through the Business and Industry Advisory Committee to the OECD and the Trade Union Advisory Committee to the OECD.

8.7 *The EU Policy in IPR Enforcement Strategy* was adopted in November 2004 and sets guidelines for EU Action in the provision of IPR enforcement around the world. It focuses on bilateral and multilateral co-operation, technical assistance programs, cooperation with the private sector and identification of priorities. The EU played an active role in the adoption by the G8 Heads of State of a statement on fighting Counterfeiting and Piracy at St. Petersburg Meeting of 2006.

8.8 Other Institutional Initiatives include the World Customs Organization's Provisional standards to be employed by Customs for Uniform Rights Enforcement (SECURE) which considerably expand the scope and level of enforcement protection. SECURE extends the scope of enforcement to cover all types of IPR, requires governments to designate a single authority as a contact point for customs; gives Customs administration the legal authority to impose deterrent penalties against entities knowingly involved in the export or import of goods which violate IPRS.

8.9 WIPO's Advisory Committee on Enforcement (ACE) was established in 2002 and has devoted its efforts to considering strengthening enforcement efforts globally. WHO's International Medicinal Products Anti-Counterfeiting Task Force (IMPACT) supported by the International Federation of Pharmaceutical Associations (IFPMA) concentrates on combating counterfeiting within the Pharmaceutical market/sector.

8.10 Anti-Counterfeiting Trade Agreement (ACTA) is perhaps one of the most debated recent initiatives in addressing the menace of Counterfeiting and Piracy today. Critics charge that it is A TRIPS – PLUS measure sought to be introduced by powerful Business lobby groups through the back-door. The idea was first mooted at the 2004 first Annual Global Congress on combating Counterfeiting of 2004. The Global Business Alliance Against Counterfeiting (GBLAAC) has strongly supported ACTA. It is feared by a number of critics

that ACTA sharply reduces policy space for developing countries to design appropriate policies for their public policy for innovation and economic development. In addition, it would create an additional International Intellectual Property governance layer atop an already remarkably complex and increasingly incoherent Intellectual Property regime.

8.11 Interpol has increasingly become involved in IP enforcement. It has been a prominent participant in the Annual Global congresses on combating Counterfeiting and Piracy which has become an important global forum for government officials and IP rights holders to exchange information, best practices and discuss ways to stop counterfeiting and piracy. It facilitates and coordinates regional law enforcement interventions in transnational and organized Intellectual Property crime throughout the world. One of its signature programs has been operation Jupiter. This operation focused on enhancing partnership and prevention in the tri-border area of South America – Argentina, Brazil and Paraguay.

8.12 Industry Associations are the other actors that have been actively engaged in the fight against counterfeiting and piracy for quite some time. The major global/western associations include: Motion Picture Association (MPA), the Recording Industry Association of America (RIAA), the International Intellectual Property Alliance (IIPA), the Business Software Alliance (BSA), International Intellectual Property Institute (IIPi), the Global Business Alliance Against Counterfeiting (GBLACC), etc.

9. Work Plan and Time Schedule

9.1 Project Logo

	TASK	DURATION	PROPOSED DATES	PERSONS INVOLVED
1.	Project Commencement	1	1 st September 2008 (Arusha)	Consultants, EAC, ICF
2.	Planning, Research, preparation and presentation of Inception Report	14 days	1 st – 14 th September 2008 (Nairobi and Arusha)	Consultants
3.	Developing Research Tools including Questionnaires, Data Collection Sheets, etc	21 days	22 nd September - 16 th October 2008 (Nairobi)	Consultants
3.	Consultative Meeting with EAC Technical Steering Committee, IP Administration and Enforcement Agencies from the EAC Partner States representatives of East African Business Council (EABC) and other selected private sector representatives	2 days	23 rd - 24 th October 2008 (Arusha)	Consultants, EAC, EABC, ICF and selected private sector representatives
4.	Further Study and Research (in-depth assessment of existing laws, policies and regulations; comparative international bench marking)	21 days	21 st October - 14 th November (Nairobi, Dar es Salaam, Kampala, Kigali and Bujumbura)	Consultants
5.	Data Collection in major commercial centers, border points, and involving major law enforcement agencies	45 days	21 st October – 11 th December 2008 (various cities, border points and towns in Kenya, Uganda, Tanzania, Rwanda and Burundi)	Consultants, EAC, EABC and other Private Sector stakeholders
6.	Data Analysis Report	7 days	12 th – 19 th December 2008 (Nairobi)	Consultants/ sub-consultants (research analyst, economists, policy

			experts)
7. Preparing Draft Policy	30 days	5 th January – 2 February 2009	Consultants
8. Consultative Fora for stakeholders	20 days (two consultant teams will work concurrently)	1. Dar es Salaam or Dodoma (10 th February 2009) 2. Nairobi (17 th February 2009) 3. Kigali (10 th February 2009) 4. Bujumbura (12 th February 2009) 5. Kampala (17 ^h February 2009)	Consultants, EAC, EABC
		<i>(Note: It is assumed that these Consultative Forums will be well and prior publicised by EAC to invite written memoranda during the entire project period from the public)</i>	
9. compiling, review and analysis of Consultative Forum feedbacks and Re-drafting Policy	10 days	18 February 2009 – 28 February 2009	Consultants
12. Stakeholder Workshop/Technical Forum in Arusha	3 days	3 rd – 5 th March 2005	Consultants/EAC
13. Preparing Final Policy Drafts on Anti-counterfeiting , Anti-Piracy and other IP Violations	10 days	6 th – 16 th March 2009	Consultants/EAC
14. Completion – Presenting Final Report, Policy and Draft EAC Anti-counterfeiting and Piracy Law	1 day	17 th March 2009	Consultants, EAC, ICF

9.2 Completion and Submission of Reports

Reports	Period	Dates	Persons to receive and Approve
1. Inception Report	14 days after the date of Commencement (T+14 days)	14 th September 2008	EAC Project Steering Committee/ICF
2. Research Tools	(T+38 days)	16 th October 2008	N/A
3. Report of the Consultative Meeting	(T+52days)	30 th October 2008	EAC Secretariat
4. Report on Assessment of Laws and Policies including benchmarks with International best practice	(T+ 75 days)	20 th November 2008	EAC Secretariat
5. Data Analysis Report	(T+140 days)	5 th January 2009	EAC Secretariat
6. First Draft Policy on Ant-Counterfeiting and anti-Piracy	(T+165 days)	2 nd February 2009	EAC Project Steering Committee/Secretariat
7. Reports of the Consultative/Stakeholder Forums	(T+180 days)	28 th February 2009	EAC Secretariat
8. Re-draft of the Policy (Draft 2)	(T+180 days)	28 th February 2009	EAC Project Steering Committee/Secretariat
9. Final Draft Policy and Report of the Validation/Technical Workshop	(T+ 190) days	16 th March 2009	EAC Secretariat
10. Complétion Reports	(T+191days)	17th March 2007	EAC Secretariat/ICF

10. APPENDICES

Appendix I: List of Primary Legislation and Policy Documents

10.1.1 Kenya

- a) Industrial Property Act of 2001
- b) Copyright Act of 2001
- c) Trade Marks Act; d) Seeds and Plant Variety Act
- d) Trade Descriptions Act;
- e) Weights and Measures Act.
- f) Anti-Counterfeiting Bill 2008

10.1.2 Uganda

- a) The Trademarks Act (Cap 217)
- b) The Trademarks Bill 2008
- c) The Patents Act (Cap 216)
- d) The Draft Industrial Property Bill 2004
- e) The United Kingdom Designs (Protection) Act Cap 218
- f) The Copyright And Neighbouring Rights Act 19/2006
- g) Draft Counterfeits Bill
- h) Penal Code Act (Cap 120)
- i) Trade Secrets Policy

10.1.3 Tanzania

- a) The Patent Act of 1987;
- b) The Trade and Service Marks Act of 1986
- c) The Copyright and Neighbouring Rights Act of 1999.

- d) The Business Registration and Licensing Agency (BRELA) an Executive Agency established under the Executive Agencies Act No. 30 of 1997
- e) Tanzania Food, Drugs and Cosmetics Act No. 1 of 200

10.1.4 **Rwanda**

- a) Draft Law on Intellectual Property
- b) Law on Patents of February 25, 1963;
- c) Law on Trademarks of February 25, 1963;
- d) Law on Industrial Designs of February 25, 1963;
- e) Law N° 27/1983 on Copyrights of November 15, 1983; and
- f) Legislative Order N° 41/63 on the Elimination of Unfair Competition of February 24, 1950;

10.1.5 **Burundi**

- a) The Copyright and Related Rights Law of 1978,
- b) Trademarks Law of 1964, Industrial Designs
- c) Patents Law (1964), and the Control of Anti-competitive Practices and Contractual Licenses Law of 1950.

Appendix 2: Index of Key Institutions/Organizations

This section provides background information on institutions for developing guidelines to be used while conducting interviews and consultative meetings with various stakeholders.

KENYA

1. ATTORNEY GENERAL'S CHAMBERS

The function of the office of the Attorney General is charged with advising Government on all legal matters for the purposes of facilitating and monitoring the rule of law, protection of freedoms, democracy and efficient delivery of legal services.

INPUT : Policies and other prepared legislation for the purpose of law creation.
OUTPUT : Enacted laws and gazette notices, policies to be implemented.

Contacts

Location : Office of the Attorney General.
Sheria House
Website : www.attorney-general.go.ke
Telephone :
Fax :
E-mail :

2. KENYA INDUSTRIAL PROPERTY INSTITUTE (KIPI)

KIPI is established under the Industrial Property Act, 2001. It is mandated with the duty of registering Intellectual property rights such as patents, industrial designs, utility models and technovations.

Contacts

Location : Weights and Measures Complex
Popo Road. Off Mombasa Rd. South C
Postal : P.O. Box 51648, City Square 00200
Website : www.kipi.go.ke
Telephone : 254-02-602210/602211
Fax : 254-02-606312
E-mail : kipi@swiftkenya.com or info@kipi.go.ke

3. KENYA COPYRIGHT BOARD (KCB)

The Kenya Copyright Board is comprised of 17 members drawn from both the public and private sectors. From the Private sector, there are seven members representing the software industry, producers of sound recordings, publishers, film distributors, performers, broadcasting stations and audio visual industry. There are four experts on copyright and related rights and five representatives from the Office of the Attorney

General, Commissioner of Police, Ministry of Information, Ministry of Gender, Sports and Culture, and the Ministry of Finance and an Executive Director.

Functions

The Board is mandated to administer and enforce copyright and related rights in Kenya. The Board may thus;

1. direct, co ordinate and oversee the implementation of laws, international treaties to which Kenya is party;
2. license and supervise the activities of Collective Management Organizations established under the Act;
3. devise and carry out training and sensitization programs on copyright and related rights in Kenya;
4. update copyright legislation; and
5. maintain an effective database on copyright and related rights in Kenya.

Contacts

Location : Kenya Copyright Board,
Office of the Attorney General,
Sheria House, 2nd floor.

Website : www.attorney-general.go.ke/copyright

Telephone : 254-020-227461 Ext 37419

Fax :

E-mail : copyright@ag.go.ke

4. **KEPHIS**

The mandate of KEPHIS is to provide an effective and efficient science-based regulatory service for the quality assurance of agricultural inputs and produce.

Contacts

Location : Waiyaki Way

Website : www.kephis.org

Telephone : 254-020-3597201/2/3
254-020-3536171/2

Fax : 254-020-3536175

E-mail : director@kephis.org ; kephisinfo@kephis.org

5. **WEIGHTS AND MEASURES DEPARTMENT (W&M)**

Weights and measures service is a department under the Ministry of Trade and Industry. Its mandate is to ensure the use of accurate weighing and measuring equipment, encouraging fair trade practices and protecting the consumer in order to enhance socio-economic development of the country.

Contacts

Location : Office of the Deputy Prime Minister and Ministry of Trade
Teleposta Towers, 18th Floor
Website : www.trade.go.ke
Telephone : 254-020-315001-6
Fax :
E-mail : info@trade.go.ke

6. **KENYA REVENUE AUTHORITY (KRA)**

The Kenya Revenue Authority is a Government agency mandated with promoting compliance with Kenya's tax, trade, and border legislation and regulation by promoting the standards set out in the Taxpayers Charter. The strategic objective is the maximization of revenue collection at the least possible cost for the socio-economic well being of Kenyans.

Contacts

Location : KRA Headquarters, Times Tower, Harambee Avenue, Nairobi
Website : www.revenue.go.ke
Telephone :
Fax :
E-mail :

7. **KENYA ASSOCIATION OF MANUFACTURERS (KAM)**

This Association is the voice of industry and premier representative organization for manufacturing value-add industries and other related sectors in Kenya.

The Association provides an essential link for co-operation, dialogue and understanding with the Government by promoting trade and investment, upholding standards and representing members' views and concerns to the relevant authorities.

KAM pursues its vision by encouraging the formulation, enactment and administration of sound policies in order to improve the business environment, reduce the cost of doing business, and ensure that Kenyan firms attain and maintain world-class competitiveness. This is intended to deepen Kenya's industrial sector and improve competitiveness. The KAM Strategy is facilitated by three support pillars namely:

Policy Research & Advocacy: Provides proactive evidence-based intelligence to effectively deliver policy advocacy services to members.

Business Support Services: Provides demand-driven, value-added, fee-based services to members to facilitate firm-level interventions and continuous improvements aimed at enhancing industry's performance and profitability.

Membership Development & Communication: Promotes membership, services, information and networking to ensure that KAM remains the preference of value-adding industries and is recognized by Government partners.

Contacts

Location : Mwanzi Rd, Off Peponi Road WESTLANDS
Postal : PO Box 30225 - 00100 GPO Nairobi
Website : www.kam.co.ke
Telephone : (254-20) 3746005 / 7 / 21 / 22
Fax : (254-20)3746028 / 30
E-mail :

9. KENYA NATIONAL BUREAU OF STATISTICS (KNBS)

KNBS is a Government agency under the Ministry of State for Planning, National Development and Vision 2030. The mandate of the bureau is statistical production and management for national development.

Contacts

Location : Treasury Building
Website : www.knbs.go.ke
Telephone : 254-20-317583/317586/317588/317612
Fax : 254-20-315977
Email : director@knbs.go.ke

10. JUA KALI ASSOCIATION OF KENYA**11. MUSIC COPYRIGHT SOCIETY OF KENYA (MCSK)**

Music Copyright Society of Kenya (MCSK) is a registered Society for authors' composers and publishers of Music.

MCSK is the body that issues licenses for public performance and broadcasting of musical artistic works of composers, authors and publishers in Kenya. It is also charged with administering the right of its members.

Contacts

Location : Brookside Grove, Off Waiyaki Way
Postal : P.O.Box 14806-00800

Website : www.mcsk.or.ke
Telephone : +254 020 4440970
Fax : +254 020 4444244
E-mail : info@mcsk.or.ke

12. **THE JUDICIARY**

13. **REGISTRAR OF BUSINESS AND SOCIETIES**

14. **KENYA BUREAU OF STANDARDS (KEBS)**

This is a core Division entrusted with the development of all Kenya Standards through the established committee structures. The Division is further divided into Departments based on broad functional areas, namely:

a) **Food and Agriculture Department**

This Department is responsible for the development of standards covering food technologies, food safety, fertilizers, agricultural produce, livestock and livestock products, poultry and poultry products, etc.

b) **Chemical Department**

This Department is responsible for the development of standards covering soaps, detergents, paints, pesticides, stationery and related equipment and all products based on chemical formulations.

c) **Service Standards Department**

This Department is charged with the development of standards in the service industry such as tourism, hotels, transport, education, social activities, etc. These standards are aimed at addressing the evolving needs in the service sector and represent a growth area.

d) **Engineering Department**

This Department develops standards covering civil engineering, electro technology, information technology, renewable energy, textile engineering and mechanical engineering.

e) **Standards Information and Resource Section**

This section is responsible for the maintenance and availability of standards information, library, WTO NEP and sales of standards.

f) **Publishing Section**

This section is responsible for the editing and publishing of all Kenya Standards and related documents.

Contacts

Location : Kapiti Road, Off Mombasa Road.
Behind Belle vue cinema
Postal : P.O Box 54974 Nairobi 00200, Kenya
Website : www.kebs.org

Telephone : +254 020 605506/605550
Fax : +254 020 604031/609660/602213
E-mail : info@kebs.org

UGANDA

1. MINISTRY OF JUSTICE AND CONSTITUTIONAL AFFAIRS

The mandate of this ministry is to promote and facilitate effective and efficient machinery capable of providing a legal framework for good governance and delivering legal advice and services to the Government, its allied institutions and the general public.

Matters related to industrial property, copyright, intellectual property and related rights are supervised by this ministry.

Contacts

Location : Parliament Avenue
Postal : P.O.Box 7183 Kampala
Website : www.justice.go.ug
Telephone : 256-41- 230538
Fax : 256-41-254829
E-mail : info@justice.go.ug

2. INDUSTRIAL PROPERTY OFFICE

This is the office responsible for the registration of intellectual property rights in Uganda.

Contacts

Location : Ministry of Justice and Constitutional Affairs,
Registrar General's Department
12th Floor, Uganda House
Plot No.10 Kampala Road
Postal : P.O. Box 6848, Kampala.
Website : registrargeneralbkatureebe@infocom.co.ug

3. MINISTRY OF TOURISM AND TRADE

The mandate of the Department of Trade is to develop, promote and facilitate both internal and external trade with particular emphasis on export promotion and diversification.

Specific functions of the ministry include:-

- i. Initiating and formulate policies and legislation on trade.

- ii. Collaboration with other Ministries, government institutions, embassies, the private sector and civil society in the design and implementation of activities designed to promote Trade.
- iii. Collecting, collating, and providing information for sector investment opportunities.
- iv. Providing assistance in training the business community for improved performance and service delivery.
- v. Participating in negotiations and conclusion of bilateral, regional and multilateral agreements/treaties.
- vi. Analyzing trade data and design policy interventions that promote trade.

Contacts

Location :
 Website : www.mtti.go.ug
 Telephone : 256-041-314268
 Fax :
 E-mail : mintrade@mtti.go.ug
 Postal : P.O.Box 7103 Kampala

4. **UGANDA NATIONAL BUREAU OF STANDARDS (UNBS)**

Uganda National Bureau of Standards (UNBS) is a statutory organization established by an Act of Parliament of June 1983 and became operational in 1989. UNBS is mandated with enhancing national development of standards in trade, industry and consumer protection.

Contacts

Location : Plot M217 Nakawa Industrial Area
 Website : www.unbs.go.ug
 Telephone : 256-414-505995
 Fax : 256-414-286123
 E-mail : unbs@infocom.co.ug

5. **UGANDA MANUFACTURERS ASSOCIATION (UMA)**

The Uganda Manufacturers Association (UMA) is one of the leading organizations in Uganda and the wider East African region representing the broad industrial and commercial sectors of Uganda's economy and providing an important forum and voice for the private sector. Since it was revived in 1988, UMA has championed the growth of a strong industrial base in Uganda. The Association ensures that the views of its members, as well as the Ugandan business community in general, are considered by the Government in formulating policies and legislation affecting them. UMA has a membership comprising of small, medium and large enterprises drawn from both the private and public sector.

Contacts

Location : Lugogo Show Grounds,

Kampala, Uganda.
Website : www.uma.co.ug
Telephone : +256-41-220831/221034/287615/287612
Fax : +256-41220285
E-mail :

6. **PRIVATE SECTOR FOUNDATION OF UGANDA (PSFU)**

PSFU serves as a focal point for private sector advocacy as well as capacity building and continues to sustain a positive dialogue with Government on behalf of the private sector.

Right from its inception in 1995, PSFU has been Government's implementation partner for several projects and programmes aimed at strengthening the private sector as an engine of economic growth.

Key Tasks performed by PSFU include:-

- (i) undertaking policy research and advocacy on behalf of the private sector;
- (ii) providing a forum for the discussion of policy issues, and the impact of those policies on the private sector in Uganda;
- (iii) Maintaining dialogue with Government on behalf of the private sector; and
- (iv) Undertaking capacity building for the private sector through training and the provision of business development services.

Contacts

Location : Private Sector Foundation Uganda
Plot 43, Nakasero Hill Road
Website : www.psfuganda.org.ug
Telephone : 256-312-263850/ 312-261850
Fax : 256-41-259109
Postal : P.O Box 7683 Kampala, Uganda.
Email : psfu@psfuganda.org.ug,

7. **CUSTOMS EXCISE DEPARTMENT**

The Commissioner Customs and Excise is responsible for planning, managing and coordinating the collections and accounting for International trade taxes in accordance with the Tax Laws, Government policy and the provisions of COMESA and the EA Customs Union. The Commissioner is assisted by 5 Assistant Commissioners and 1 Senior Principal Revenue Officer.

Contacts

Location : Uganda Revenue Authority
Plot 3, Parliament Road
Website : <http://www.ugrevenue.com/administration/customs.htm>
Telephone : 256-41-243967/230923
Fax : 256-41-236786
Postal : P.O. Box 7279

E-mail :

8. UGANDA CONSUMERS' PROTECTION ASSOCIATION (UCPA)

Contact

Location :
Website : <http://ucpa.eac-quality.net>
Telephone :
Fax :
Postal :
E-mail :

TANZANIA

1. TANZANIA FOODS AND DRUGS AUTHORITY (TFDA)

Tanzania Food and Drugs Authority (TFDA) is a regulatory body under the Ministry of Health and Social Welfare which is responsible for regulating the quality and safety of food, drugs, cosmetics and medical devices.

The authority provides education to the public about food, drugs, cosmetics and medical devices.

Contacts

Location : TANZANIA FOOD AND DRUGS AUTHORITY (TFDA)
Dar Es Salaam, Tanzania.
Website : www.tfda.or.tz
Telephone : +255 22 2450512 / 2450751 / 2452108
Fax : +255 22 2450793
Postal : P. O. BOX 77150, Dar es Salaam, Tanzania.
E-mail : dper@tfda.or.tz

2. MINISTRY OF INDUSTRY, TRADE AND MARKETING (MITM)

The mandate of MITM is to facilitate the development of sustainable industry and trade sectors through creation of enabling environment and provision of improved services.

Institutions under the Ministry of Industry, Trade and Marketing are divided into Industrial support organizations, Trade support organizations and Agencies.

a) Industrial Support

- National Development Corporation (NDC)
- Tanzania Industrial Research Development Organization (TIRDO)
- Tanzania Engineering And Manufacturing Design Organization (TEMDO)
- Centre for Agricultural Mechanization and Rural Technology (CAMARTEC)

- Export Processing Zone (EPZ)
- Small Industries Development Organization (SIDO)

b) Trade support

- Board Of External Trade (BET)
- College Of Business Education (CBE)
- Tanzania Bureau Of Standards (TBS)
- Copyright Society Of Tanzania - COSOTA
- Fair Competition Commission (FCC)
- The Fair Competition Tribunal (FCT)

c) Agencies

- Business Licensing And Registration Agency- BRELA
- Weights And Measure Agency (WMA)

Contact

Location : Ministry of Industry, Trade and Marketing,
NSSF Waterfront Building, Sokoine Drive

Website : www.mitm.go.tz

Telephone : +255-22-2127898/97

Fax : +255-22-2125832

Postal : P.O. Box 9503 Dar Es Salaam

E –mail : ps@mit.go.tz

3. TANZANIA BUREAU OF STANDARDS (TBS)

Tanzania Bureau of Standards (TBS) is Tanzania's sole body for the preparation and publication of Tanzania Standards. TBS was established by an Act of Parliament the Standards Act No. 3 of 1975 that was amended by Act No. 1 of 1977. This Act is the basis for TBS authority and activities.

The mandate of TBS's is to develop and promote Standardization and Quality assurance work in industry and commerce.

Specific functions include:-:

- To undertake measures or quality control of commodities of all description and to promote standardization in industry and commerce.
- To provide for the testing of locally manufactured and imported commodities with a view to determining whether such commodities comply with the provisions of the Act establishing TBS or any other law dealing with standards relevant to such commodities.
- To make arrangements or provide facilities for testing and calibration of precision instruments, Ganges and scientific apparatus, for the determination of degree of accuracy by comparison with standards approved by the Minister on recommendations of the council and the issue of certificate in regard thereto.

Contact

Location : Tanzania Bureau of Standards
Ubungo Area, Morogoro Road/Sam Nujoma Road.
Website : www.tbstz.org
Telephone : +255-22-2450206 / 2450298
Fax : +255-22-2450959
Postal : P. O. Box 9524 Dar es Salaam
E-mail : info@tbstz.org

4. COPYRIGHT SOCIETY OF TANZANIA (COSOTA)

This is a statutory body set up by the government of Tanzania under the Ministry of Industry and Trade. Established under S.46 of the Copyright and Neighboring Rights Act, No. 7 of 1999, the Copyright Society of Tanzania is vested with power to administer the Copyright Act. This in itself is a great improvement on the old Act which, among other things, did not provide for an Institution to administer the Act.

Contact

Location :
Website : www.cosota-tz.org
Telephone :
Fax :
Postal :
E-mail :

5. TANZANIA REVENUE AUTHORITY (TRA)

The mandate of the TRA is to become an effective and efficient tax administration which promotes voluntary tax compliance by providing high quality customer services with fairness and integrity through competent and motivated staff.

Contacts

Location : Tanzania Revenue Authority Headquarters
Sokoine Drive, Dar es Salaam
Website : www.tra.go.tz
Telephone : +255-22-211 9591-4 / 213 7703
Fax : +255-22-212 4466
Postal : P. O. Box 11491 Dar es Salaam
E-mail : info@tra.go.tz

6. CONFEDERATION OF TANZANIA INDUSTRIES

The mission of the organization is to create a wide base of voluntary members and provide services through lobbying, advocacy and representation to establish a credible and predictable business environment in the country, the region and globally, which will enable members to compete and prosper, hence contribute to poverty reduction.

Specific objectives include:-

- to present the views of members, and co-operate with the Government of the day, local authorities and other bodies essential to industry;
- to promote a competitive minimally regulated business environment in Tanzania in which sustained development is possible;
- to act as a prime source of information about manufacturing and associated industries for its members, the Government, potential investors and media;
- to collect, disseminate and make available statistics and other information on matters concerning or affecting industry;
- to gather and maintain information from the members with regard to matters related to industry for subsequent translation into policies;
- encourage and promote membership in CTI and to ensure that the organization is adequately financed.

Contacts

Location : Confederation of Tanzania Industries
9th Floor - NIC Investment House, Samora Avenue
Website : www.cti.co.tz
Telephone : +255-22-2114954 / 2123802 / 2130327
Fax : +255-22-2115414
Postal : P.O. Box 71783, Dar es Salaam, Tanzania
Email : cti@cti.co.tz

7. TANZANIA ENGINEERING AND MANUFACTURING DESIGN ORGANIZATION (TEMDO)

TEMDO's mission is to promote engineering design, technology development and enhancement of the competitiveness of local manufacturing enterprises through provision of quality technical support services.

Specific functions include:-

- to design and promote the designing of products and processes for Tanzania industry in accordance with national Industrial development Policy;
- to adopt foreign design for machinery and equipment to suit local conditions of manufacture, use and maintenance; and
- to manufacture and develop prototypes and spares based on the designs produced by the organization as well as those which may be brought to the organization.

Contact

Location :

Website :
Telephone : +255-27-2508058 / 2506220
Fax : +255-27-2500072
Postal : P. O. Box 6111, Arusha, Tanzania.
E-mail : temdo@habari.co.tz

8. **SMALL INDUSTRIES DEVELOPMENT ORGANIZATION (SIDO)**

SIDO was established in October 1973 as a parastatal organization under now Ministry of Trade, Industry and Marketing. Its objective was to develop the small industry sector in Tanzania. It was expected to fulfill a very wide range of functions, from policy formulation to direct support to industries, to hands-on involvement in the establishment of SMEs in both rural and urban areas.

Contact

Location :
Website : www.sido.go.tz
Telephone :
Fax :
Postal :
E-mail :

9. **FAIR COMPETITION COMMISSION (FCC)**

The Fair Competition Commission (FCC) is an independent Government body established under the Fair Competition Act, 2003 (No. 8 of 2003) to promote and protect effective competition in trade and commerce and to protect consumers from unfair and misleading market conduct.

10. **FAIR COMPETITION TRIBUNAL (FCT)**

The Fair Competition Tribunal is an independent body established under Section 83 of the Fair Competition Act, No. 8 of 2003 to hear and determine appeals from Fair Competition Commission.

11. **BUSINESS LICENSING AND REGISTRATION AGENCY – (BRELA)**

BRELA is a Government Executive Agency established under the Government Executive Agencies Act No. 30 of 1997.

It was established on the 28th of October, 1999 by Government Notice No. 294 published on the 8th October, 1999. It was officially inaugurated on the 3rd December, 1999.

Contact

Location :
Website : www.brela-tz.org
Telephone :
Fax :
Postal :
E-mail :

12. **WEIGHTS AND MEASURES AGENCY (WMA)**

The roles of the Agency as stipulated under the Weights and Measures Act, (No. 20 of 1982) and the Executive Agencies Act, (No. 30 of 1997) to provide protection of consumers in relation to weights and measures.

The Weights and Measures Agency's mission is to provide consumer protection through accurate measurements for fair trade transaction.

Specific functions include:-

- provision of certification services of Weights and Measures by conducting inspection, verification and calibrations so as to protect consumers;
- maintaining the traceability of weights and measures standards in order to realize accuracy and uniformity of standards at all levels, i.e. from the international level down to the commercial level;
- ensuring a well managed agency through efficient and effective service delivery;
- increasing consumer awareness in weights and measures;
- enforcing the Weights and measures laws.

Contacts

Location :
Website :
Telephone : +255 -(0)22 – 2864046 / 2864808
Fax : +255-22-2863639
Postal : P.O. Box 313, Dar es Salaam
E-mail : vipimo@africaonline.co.tz

13. **NATIONAL BUREAU OF STATISTICS TANZANIA (NBS)**

According to the Statistics Act, 2002 one of the main functions of the National Bureau of Statistics (NBS) is to establish statistical standards and ensure their use by all producers/users of official statistics so as to facilitate the integration and comparison of statistics produced both nationally and internationally.

Contacts

Location :
Website : www.nbs.go.tz
Telephone : +255-22-2122722 / 3
Fax : +255 22 2130852
Postal : P.O.Box 796, Dar es Salaam-Tanzania

E-mail : dg@nbs.go.tz

RWANDA

1. Rwanda Bureau of Standards (RBS)

Rwanda Bureau of Standards (RBS, the Bureau) is a public institution established by Rwanda Government Legislation No. 03/2002 of 19/01/2002, reviewed by the Law N° 43/2006 of 05/10/2006 determining the responsibilities, organization and functioning of the Rwanda Bureau of Standards (RBS) to undertake all activities pertaining to the development of Standards, Quality assurance and Metrology in the country.

It is the only body with powers to define and process national standards. Public services and public or private firms must present their standards to RBS for adoption at national level. The Bureau is governed by the Board of Directors composed of major stakeholders from government, industry and academic institutions, as well as consumer associations.

Contacts

Location :
Website : www.rwanda-standards.org
Telephone : +250-58 61 03
Fax : +250-58 33 05
Postal : P.O. Box 7099 Kigali-Kicukiro
E-mail :

2. MINISTRY OF TRADE, INDUSTRY AND COOPERATIVES

In this ministry, there is an Industrial Property office under the Technology Policy and Standardization Division charged with dealing with industrial property and related rights.

Contacts

Location :
Website :
Telephone : +250 74725 / 75463
Fax : +250 75465
Postal : P.O. Box 73 Kigali, Rwanda
E-mail :

3. MINISTRY OF YOUTH, CULTURE, SPORTS AND VOCATIONAL TRAINING

The ministry has a department charged with issuing and licensing of copyright and related rights.

Contacts

Location :

Website :
Telephone :
Fax : +250 82162
Postal : P.O. Box 624 Kigali, Rwanda
E-mail :

BURUNDI

1. Ministry of Trade, Tourism and Industry
2. **BURUNDI BUREAU OF STANDARDS (BBS)**

The Burundi Bureau of Standards has been created in May 1992. In the first time, the activity was to explain to the companies and the consumers the importance of standardization and quality control.

The Bureau began with two departments: technical department and compatibility. One year after; the structure of the bureau has been produced. On the top there is administration council, the second level is occupied by the director and after there are five divisions (services):

- Standardization and Metrology
- Training and Companies Technical Assistance (quality insurance)
- Certification and laboratory inspection and accreditation
- Documentation and information on standards
- Finance and administration.

The aims of the creations were export promotion, the consumers', environment and national economy protection.

Contacts

Location :
Website :
Telephone :
Fax :
Postal :
E-mail : [bbn\(a\)onatel.bi](mailto:bbn(a)onatel.bi)

3. **MINISTRY OF EDUCATION AND CULTURE**

Under this Ministry, under the department of Arts and Culture, there is the copyright office and is mandated with issuing and licensing intellectual property copyrights.

Contact

Location :
Website :
Telephone : +257 22 228994 / 946086
Fax : +257 22 228477
Postal : B.P. 1095, Bujumbura, Burundi.
E-mail : biefbdi@cbinf.com

4. **INDUSTRIAL PROPERTY OFFICES**

This office is a department under the Ministry of Trade and Industry and is charged with issuing and licensing Industrial property and designs.

Contact

Location :
Website :
Telephone : +257 249805 / 226192
Fax : +257 249805 / 225595
Postal : Boîte postale 492, Bujumbura, Burundi.
E-mail : mutchryso@yahoo.fr

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- III. *WIPO Intellectual Property Handbook: Policy, Law and Use, Chapter 4, Enforcement of Intellectual Property Rights pg 207-235, Chapter 2 Fields of Intellectual Property Protection pg 17- 160*
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