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An Assessment of

Mozambique's Intellectual Property System

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Mozambique's Intellectual Property System

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This report is based on information gathered from a variety of public sources and supplemented by personal interviews conducted in Mozambique by Judy Goans, with support from Sabina Sequeira. The research and analysis on which the recommendations are based are directed Industrial Property Institute (IPI) or the Ministry of Industry and Trade for an agenda of constructive and accelerated improvement of intellectual property protection in Mozambique.

Electronic copies of reports and materials related to trade, investment and the business environment in Mozambique are available at www.tipmoz.com.

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Executive Summary

Mozambique has an active business sector and substantial creative community that could benefit from greater participation in the intellectual property system, but additional measures are needed to realize the benefits of intellectual property in a way that supports Mozambique's economy.

Industrial Property: The Industrial Property Institute (IPI) receives good reports from stakeholders. Domestic participation in the trademark system is increasing but remains very low in the patent system. Priority should be given to

- Implementing regulations for geographical indications, which could contribute substantially to the value of Mozambique's agricultural products by creating consumer demand, adding value, and permitting premium rather than commodities pricing. Regulations should be developed with stakeholder input.
- Completing the patent procedures manual.
- Joining the Hague Convention to facilitate international protection of industrial designs, and the Patent Law Treaty and Trademark Law Treaty to facilitate filing.
- Expanding successful outreach programs that dramatically increased domestic patent filing.
- Continuing efforts to develop domestic capacity to prepare original patent applications.

The IPI should expand its staff by two attorneys and one patent expert. Over time, some thought should be given to phasing in a limited patent examination for domestic inventions. Useful areas for assistance include training and support for outreach and public awareness activities.

Copyright: The Ministry of Education and Culture is responsible for policy, regulations, and outreach on copyright and related rights. It should be a high priority to

- Complete accession to the Berne Convention for copyright protection for Mozambican authors in 164 foreign countries,
- Complete the drafting and adoption of implementing regulations, with stakeholder participation in the formulation of the regulations. These should provide better remedies against infringement and clarify procedures for collective rights societies.
- Increase public awareness activities, particularly with regard to piracy.
- Join the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty.

Measures are urgently needed to address rampant piracy and complete implementation of copyright and neighboring rights laws. Piracy discourages investment in cultural activities, while incomplete implementation deprives local authors, performers, and artisans of benefits to which they are entitled. Implementation and enforcement are impeded by the lack of implementing regulations. The Ministry should make it a priority to employ attorneys who can draft laws and regulations.

Plant varieties: Mozambique's Agricultural Research Institute produces new plant varieties and domesticates native varieties but has no legal means to recover this investment. A proposed plant variety protection law was not enacted or published. It should be a high priority to

- Adopt and publish a plant variety protection law that is consistent with UPOV, the international agreement that permits international protection of new plant varieties, and
- Join UPOV as soon as possible.

Assistance may be needed with implementation, and with training for breeders and researchers.

Enforcement: Enforcement is carried out through Customs (for goods entering or leaving Mozambique) and the police, yet counterfeit and pirated goods are sold widely and publicly

throughout Mozambique's large informal sector. Enforcement is impeded by compartmentalization of authority, as the need for consultations slows official activities and increases the chance of leaks, and by too few resources to address a problem of the magnitude that exists in Mozambique.

Priority should be given to

- Reorganization of responsibilities to provide more efficient and effective enforcement, and increasing the number of enforcement officials.
- Identifying strategies that will increase the number and success of enforcement activities.
- Training that addresses the social and economic costs of counterfeiting as well as technical issues related to enforcement.
- Educating the public on the costs/harms of counterfeiting and piracy.

Assistance would be useful in planning a reorganization that would permit more effective enforcement.

Judicial enforcement: Intellectual property cases are enforced through the courts, yet there is no organized training program for judges on intellectual property. Priority should be given to the following:

- Organize courses on intellectual property for judges, prosecutors, and court experts, through the Judicial Training Institute
- Organize courses on remedies for judges, prosecutors, and court experts, through the Judicial Training Institute
- Develop bench books and provide reference materials to assist judges in preparing their opinions.

Mozambican Society of Authors (SOMAS): This copyright collective society is responsible for ensuring that authors, performers, and producers receive the royalties to which they are entitled for the performance of their works, but its ability to carry out this responsibility is limited by the lack of regulations. Possibly due to the small amounts of income received, overhead is high relative to the amounts disbursed. Priorities for this organization include:

- The promulgation of implementing regulations for copyright and neighboring rights.
- Review of procedures and operations to ensure a fair balance between overhead and disbursements. Expand the number of agreements with foreign collective societies.

Universities: Courses on intellectual property are available in a few universities, primarily in the Faculty of Law, but only on a special basis. Priorities should include

- Identification or development of agreed Portuguese language text(s) and curriculum materials
- Extending the courses to other universities and developing courses for other faculties, in particular, to the faculties of science and engineering

Administrative Court: Appeals from Government agencies are made to the Administrative Court, which is reportedly slow to respond. It would be useful to conduct a brief assessment of the Administrative Court to determine what measures, if any, could help it improve its performance.

Courts: Intellectual property training should be offered to judges and other court officials.

Public Awareness: The business and creative communities need greater awareness on how to protect intellectual property and the general nature of the measures involved. Outreach should involve journalists and media professionals. Programs should extend to Mozambican industries, artisans, and SMEs on benefits of intellectual property and how it can be used to promote business

development and profitability. While there is no international standard on how public awareness is organized, in most countries, successful awareness efforts are spearheaded by IP offices.

Acronyms and Abbreviations

ARI	Agricultural Research Institute (Instituto de Investigação Agrária de Moçambique)
ARPAC	Social and Cultural Research Institute, or Arquivo do Património Cultural
ARIPO	African Regional Intellectual Property Office
BAUs	Maputo One-Stop Shops
CISAC	Confédération Internationale des Sociétés d'Auteurs et Compositeurs, or International Confederation of Societies of Authors and Composers
CTA	Confederação das Associações Económicas
GI	Geographical indications
INC	Instituto Nacional de Cinema or National Film Institute
INLD	National Audiovisual and Cinema Institute
IP	Intellectual Property
IPI	Industrial Property Institute or Instituto da Propriedade Industrial
MCT	Ministry of Science and Technology
MEC	Ministry of Education and Culture
MIC	Ministry of Industry and Trade or Ministerio da Industria e Comercio
MoRENet	Mozambique Research and Education Network
NGO	Non-governmental organization
NIBR	National Institute of Books and Records
SOMAS	Associação Moçambicana de Autores or Mozambican Society of Authors
TIFA	Trade and Investment Framework Agreement
TIPMOZ	Trade and Investment Project
TRIPS Agreement	Agreement on Trade-Related Aspects of Intellectual Property Rights
UPOV	International Convention for the Protection of New Varieties of Plants
USPTO	US Patent and Trademark Office
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

Introduction

An adequate and effective industrial property system is essential for economic development. Industrial property rights allow entrepreneurs to create wealth and improve profitability, by providing a legal means to protect reputation and capture some of the value of their creations. Industrial property rights also provide a vehicle for technology transfer. Economic studies show that a country's protection of industrial property is important to its ability to compete for foreign investment and the wealth, jobs, and technology transfer associates with those investments.¹

Industrial property is also a factor in Mozambique's international trade relations. As a WTO Member, Mozambique has agreed to meet international norms as set forth in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). Mozambique has also joined a number of international agreements on intellectual property, including membership in the African Regional Intellectual Property Office. In addition, Mozambique is currently engaged in discussions regarding a Trade and Investment Framework Agreement (TIFA) that may be concluded with the United States, and intellectual property is a significant issue in those discussions.

To support Mozambique's trade and development interests, the USAID-funded Trade and Investment Project (TIPMOZ) arranged for an assessment of Mozambique's intellectual property system. The purpose of this assessment was to provide a "snapshot" of the intellectual property system, that is, a broad overview of the situation as it existed at a moment in time, and identify measures that could make the system more effective and productive. The assessment was conducted by Judy Goans, an intellectual property attorney, and Sabina Saquiera from the TIPMOZ Project. This team looked briefly at the legal framework for the protection of intellectual property, Mozambique's participation in international intellectual property activities, particularly those administered by the World Intellectual Property Organization, participation by local interests in the intellectual property system, and the organizations responsible for implementing the intellectual property system. The team's findings and recommendations are included in this report.

Mozambique's intellectual property activities are governed by Mozambican law and regulations (see page 12), and by international agreements to which Mozambique is a party (see page 13). Intellectual property is divided into two main areas: "industrial property, which includes inventions (patents), trademarks, industrial designs, and geographic indications of source; and copyright, which includes literary and artistic works such as novels, poems and plays, films, musical works, artistic works such as drawings, paintings, photographs and sculptures, and architectural designs. Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and those of broadcasters in their radio and television programs. (Source: WIPO) This latter set of rights is also referred to as related rights or neighboring rights.

In Mozambique, the administration of the intellectual property system is divided between industrial property and copyright and related rights.

¹ Mansfield, Edwin, *Intellectual Property Protection, Foreign Direct Investment, and Technology Transfer*, IFC Discussion Paper No. 19 (1994), World Bank, http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/1994/02/01/000009265_3970311123634/Rendered/PDF/multi_page.pdf, accessed April 30, 2009. Also see Mansfield, Edwin, *Intellectual Property Protection, Direct Investment, and Technology Transfer, Germany, Japan, and the United States*, IFC Discussion Paper No. 27 (1994), World Bank, http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/1995/09/01/000009265_3961219105244/Rendered/PDF/multi_page.pdf, accessed April 30, 2009.

The industrial property system is administered by the Ministry of Science and Technology, which is responsible for policy, the Industrial Property Institute, which is responsible for patents, trademarks, industrial designs, and geographical indications, and the Conservatory for Registration of Legal Entities, which is responsible for company names.

Copyright and neighboring rights are the responsibility of the Ministry of Education and Culture. Implementation of the rights of authors is primarily carried out by the Associação Moçambicana de Autores (SOMAS). No organization yet has responsibility for plant variety protection. Enforcement is carried out, for imported and exported goods, by the Customs authorities, and domestically, by the police, in both cases with judicial review.

The protection of new plant varieties has not yet been provided for in Mozambique, and no agency has yet been given responsibility for its protection.

These organizations, and others that administer or depend on the intellectual property system, are discussed below. The report is organized by branch of intellectual property, with additional crosscutting topics presented in separate chapters. Some repetition may be noted, as a single issue, such as lack of copyright regulations, was cited as creating multiple problems or problems for multiple organizations.

In the following report, priority recommendations are presented at the beginning of each chapter, with other important recommendations highlighted within the narrative that follows.

Intellectual Property and Mozambique's Economic, Scientific, Cultural, and Social Goals

Adequate and effective protection of intellectual property is essential to achieving a number of Mozambique's economic, scientific, cultural, and social goals.

Intellectual Property and the Economy

Agriculture

Agriculture accounts for 23.4% of Mozambique's GDP and occupies 81% of its labor force,² yet Mozambique has not yet implemented protection for new plant varieties. The protection of new plant varieties and participation in an international convention that protects those varieties in foreign countries would offer a number of potential advantages:

- It would facilitate access to foreign varieties that offered a local advantage such as resistance to drought, floods, or insects, higher yields, or better suitability for exports.
- It would encourage the breeding of new varieties, and the domestication of wild varieties, and enable Mozambique to capture some of the economic benefit of its vast variety of plants.

Industrial Sector

Mozambique's industrial sector accounts for 30.7% of its GDP but occupies only 6% of its labor force.³ Non-agricultural production includes chemicals (fertilizer, soap, paints), aluminum, petroleum products, textiles, cement, glass, and asbestos, but its major industrial exports come from only two large industries, the Mozal aluminum smelter and the Cahora Bassa Hydroelectricity company.

Strengthening the intellectual property system would improve the environment for business and help make Mozambique a more attractive location for foreign direct investment. This could improve conditions in Mozambique in several ways:

- A single industrial investor could significantly increase Mozambique's industrial exports and improve the availability of desirable jobs.
- Foreign direct investment is a significant source of technology transfer, important for a country without widespread access to the latest technologies.
- Effective intellectual property protection encourages support for research and the development of businesses from domestic innovation.

² Mozambique, The World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/geos/mz.html>, accessed March 3, 2009.

³ *Id.*

Poverty Reduction

Despite recent improvements in the economy, the majority of Mozambique's population remains below the poverty line, and subsistence agriculture employs the vast majority of the country's work force.⁴ Mozambique's major exports, other than aluminum and bulk electricity, are agricultural commodities: prawns, cashews, cotton, sugar, citrus, and timber.⁵ A poverty-reduction strategy that has been employed with success in a number of places involves capturing more of the value for such commodities by marketing the product directly to retailers or consumers. A key factor in these strategies is to promote consumer recognition of the quality of these products based on their geographic origin and the measures employed in their production. Protecting the country's interest in the reputation of its products, and capturing the value of that reputation, depends on the availability of intellectual property protection:

- Trademarks promote consumer recognition of the quality of goods or services.
- Geographical indications protect the reputation of goods based on their qualities, characteristics, or reputation arising from their geographical origin.
- Certification marks encourage the implementation of higher standards of quality.

Services

The remainder of Mozambique's GDP is accounted for by services, estimated at 45.5% in 2008. Within this sector, tourism represents a potential growth area. Stronger intellectual property protection can support the development of tourism by

- Supporting the development of standards of quality, through the implementation of certification mark programs,
- Reducing influences that detract from tourists' enjoyment, and ensuring better consumer satisfaction, by reducing the presence of counterfeit and pirated goods and acts of unfair competition,
- Promoting greater cultural opportunities, as described below.

Intellectual Property and Scientific Development

The Government of Mozambique sponsors a number of research activities, particularly those related to agriculture and fishing. These include the Botany Center for Research and Development and the Agricultural Research Institute (Instituto de Investigação Agrária de Moçambique) but also include public research institutions in other fields. These public research institutions invest resources in scientific research in areas that are, among other things, expected to improve Mozambique's competitiveness in agriculture.

The intellectual property system offers a way for Mozambique to

⁴ *Id.*

⁵ *Id.*

- Recover a portion of its investment and
- Encourage the development of new businesses that will contribute to Mozambique's economy, international trade, and domestic employment.

Intellectual Property and Cultural Goals

Mozambique's population includes numerous ethnic groups. Each of these groups has its own culture, as conveyed through music, folklore, and dance. These assets are part of Mozambique's cultural heritage and should be preserved and protected. One means of preserving cultural assets is by recording them. Another approach to preserving cultural works is by using them to generate income, thus ensuring that there is an economic incentive for perpetuating cultural heritage as living art forms. Both the records of cultural works – written materials describing them, and audiovisual works in which they can be observed – and the live performances of those works are protected by intellectual property law.

- Copyright laws ensure that authors can capture the economic benefit and moral rights associated with their writings.
- Neighboring rights allow performers, producers of sound recordings, and broadcasting organizations, to capture the economic benefit of live performances, recordings of live performances, and the broadcasting of live performances or recordings.
- These forms of protection also promote the development of cultural opportunities that can be patronized by the public – including tourists – and help ensure the continued availability of these cultural works.

Intellectual Property and Social Goals

The intellectual property system can be applied to help further social goals such as poverty alleviation and development of rural areas. A good example of this approach is the work done by the National Federation of Coffee Growers of Colombia, which makes use of the intellectual property system to increase the value of Colombian coffee and promote its sales, and invests significantly in building roads, bridges, schools, and health centers in rural areas where its coffee farmers live. Similar strategies could be adopted in connection with proposals to develop additional outlets for Mozambican goods, such as cashews. This approach is consistent with the Mozambique Research and Education Network (MoRENet) plans that are included in the Ministry of Science and Technology's science and innovation program.⁶

Another social goal of that program is return of the African diaspora, i.e., an attempt to reverse the flow of scientifically skilled personnel who frequently emigrate to find greater opportunities in other countries.

⁶ See http://www.cofisa.org.za/innov_systems/downloads/present_leao_2009.pdf, accessed April 30, 2009.

Legal Framework for Intellectual Property Protection

Priority Recommendations

As soon as possible, Mozambique should enact the following new provisions:

- **Plant Variety Protection Law, consistent with the International Convention for the Protection of New Varieties of Plants (UPOV),**
- **Regulations to implement protection of geographical indications,**
- **Complete copyright regulations, and**
- **Consider amending the law to allow for a grace period for filing patent and industrial design applications**
- **Stronger enforcement provisions, in particular, to ensure the availability of injunctions.**
- **Address potential conflicts between MIC license to operate an establishment and provide entertainment with need to obtain copyright license.**

Legislative Framework

Mozambique's intellectual property system operates within the framework of the Industrial Property Code, Decree Nr. 04/2006 of April 12 (effective June 12, 2006), its Copyright Law, Decree Nr. 4/2001 (effective on February 27, 2001), and laws concerning civil and judicial procedure, as well as applicable implementing regulations and procedures. Decree Nr. 04/2006 of April 12 (effective June 12, 2006) modified the Industrial Property Code of Mozambique 04/05/1999, No. 18/99 (Approved by Decree No. 18/99 of May 4), which replaced the previous Industrial Property Code enacted by Decree 30679 of 24 August 1940 and brought into force in Mozambique by Edict (Portaria) 17043 of 20 February 1959.

Implementation is carried out by the Industrial Property Institute (IPI), the Conservatory for Registration of Legal Entities, the Ministry of Industry and Trade (MIC), the Ministry of Education and Culture (MEC), the Customs Authorities, the courts, and other organizations responsible for intellectual property implementation and enforcement.

Mozambican laws recognize and give precedence to international agreements that Mozambique has joined, and the country's membership in the regional organization African Regional Intellectual Property Office (ARIPO) is a significant feature of its system of industrial property protection.

At this time, Mozambique has not promulgated legislation providing for the protection of new plant varieties, and no organization has been identified as having responsibility for that area of intellectual property protection. A plant variety law was reportedly passed in 2005 but has not been published and therefore has not yet taken effect. **The Government of Mozambique should immediately adopt and publish a new, UPOV-consistent plant variety protection law and designate an organization to be responsible for its implementation.** Internationally, there is no particular organizational structure that is required for the protection of new plant varieties, but the two most common arrangements are to assign the protection of new plant varieties to 1) an office within the Ministry of Agriculture, chosen because of its expertise in the characteristics of plants, or 2) the industrial property office, because of its expertise on intellectual property.

Mozambican law provides for the protection of geographical indications, but there are as yet no implementing regulations. These implementing regulations are important because they provide operational guidance to the organizations charged with implementing various portions of the intellectual property code, i.e., regulations provide essential procedural guidance and other details

needed for the effective implementation of a statute. A draft Council of Ministers decree has been developed to promulgate a new regulation.

Recommendations for Additional Legislation

A major issue identified in this assessment is the relatively low level of participation by domestic inventors in the patent system. When inventors and their employers are not familiar with the requirements of patent law, they may make disclosures that they do not realize will make their inventions unpatentable. One solution that has been adopted in a number of countries is the “grace period,” a statutory provision that allows the applicant to file and obtain a patent notwithstanding certain types of disclosures provided those disclosures are made within a limited period prior to filing. Grace periods of six months or one year are the most common. **Strong consideration should be given to amending the Industrial Property Code to provide for a limited grace period for patents, industrial designs, and utility models.** Given the relative unfamiliarity of many Mozambican inventors with the patent system, and the limited resources available for preparing and filing patent applications, Mozambican inventors are likely to need the additional flexibility that a grace period would bring to Mozambican industrial property law.

In addition, it would be useful to examine the current IP laws to ensure that there are adequate enforcement provisions. In particular, it is important to have easy access to injunctions, that is, court orders that would prevent a party from continuing an infringing activity until an agreement could be reached with the right holder, during pending litigation, or on a permanent basis thereafter. Injunctions and orders to destroy infringing goods and the implements of infringement are important to protect long-term interests such as the value of a mark and to prevent the necessity of multiple enforcement actions against the same defendant. **In addition, the copyright should more clearly specify how penalties should be assessed for each type of offense, e.g., how enforcement might differ for a hotel or nightclub.**

In addition, regulations should be adopted to address potential conflicts between an MIC license to operate an establishment and provide entertainment (e.g., play music) with the need to obtain a license to perform a work protected by copyright or neighboring rights.

Participation in the International Framework for Intellectual Property Protection

Priority Recommendations

Mozambique is not yet part of any of the following agreements. Mozambique should join and implement the following international agreements as soon as possible:

- **Berne Convention**
- **UPOV**
- **Hague Convention on industrial designs**
- **Rome Convention**
- **WIPO Copyright Treaty, and**
- **WIPO Performances and Phonograms Treaty.**

Consideration should also be given to joining the **Vienna Agreement (Classification)**, the **Trademark Law Treaty**, and the **Patent Law Treaty**.

Membership in International Agreements on Intellectual Property

Participation in international agreements offers significant benefits for Mozambique's creative sector and helps to encourage foreign investment. International agreements provide different types of benefits: some set minimum standards of intellectual property protection, some provide automatic protection for certain types of intellectual property or make it easier to obtain their protection in other countries, and some provide classification systems that facilitate search and examination. Membership in agreements that facilitate protection in other countries will open doors for Mozambican authors and inventors to secure their rights in foreign markets. Membership in those agreements, and in agreements that set minimum standards of protection, improves the investment climate and signals to potential investors that Mozambique has taken steps to facilitate business operations for investors.

Mozambique has a good basic framework of international relationships but needs to increase its participation in the international intellectual property framework. These measures would be helpful to Mozambique's economy and will also be useful in connection with TIFA discussions as measures that Mozambique has taken to strengthen its intellectual property framework. Moreover, the cost of joining additional international agreements is largely financially beneficial. Joining international agreements administered by WIPO will entail no additional fees since the contribution assessed for membership in WIPO is the same regardless of whether a country is a member of WIPO only, of one or more Unions (i.e., a member of one or more than one international agreement), or both (WIPO Financial Regulation 3.3). Implementation costs depend on the agreement but are highly cost-effective and in some cases generate additional revenues for the office.

Since the IIP is self-sustaining, joining additional international agreements will have no net impact on the general budget.

Current Membership in International Agreements

Mozambique is a member of the following agreements on intellectual property:

TREATY OR INTERNATIONAL AGREEMENT	ENTRY INTO FORCE
Paris Convention	July 9, 1998
Patent Cooperation Treaty	May 18, 2000
Madrid Agreement (Marks)	October 7, 1998
Madrid Protocol	October 7, 1998
Nice Agreement	January 18, 2002
WIPO Convention	December 23, 1996
WTO TRIPS Agreement	26 August 1995
Lusaka Agreement, Harare Protocol	

Membership in these agreements gives Mozambique access to substantial benefits, as described below:

Paris Convention for the Protection of Industrial Property

Membership in the Paris Convention provides Mozambican nationals with access to industrial property protection – patents, trademarks, industrial designs and models – in 172 foreign countries. Protection guarantees national treatment and a right of priority. The right of priority gives a fixed period in which an applicant who has already filed an application in one country – in Mozambique or another country – can then file the application in another Paris country and have the subsequent application treated as if it were filed on the same date as the first application. Acts that occur within the priority period – disclosures, the filing of other applications – are not considered for purposes of determining whether to grant rights, i.e., to register a mark or design or issue a patent. Since the filing of a patent application destroys novelty, most foreign patent protection would be barred by the initial filing or by acts done subsequent to the initial filing if patent applicants were not able to claim their right of priority.

Patent Cooperation Treaty (PCT)

Membership in this treaty facilitates foreign filing of patent applications, an important measure to facilitate foreign filing for Mozambican inventors and to encourage foreign investment. Applicants may file a single application in a PCT Receiving Office and designate the country or regional office in which protection is desired. ARIPO is the designated Receiving Office for patent applications originating in Mozambique. The application is subject to a single search and examination by an International Search and Preliminary Examination Authority. If approved, separate patents are granted in each of the countries designated by the applicant. There are 139 countries and regional organizations that are PCT members.

Madrid Agreement Concerning the International Registration of Marks

Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks

Membership in these agreements facilitates the international protection of trademarks. A Mozambican applicant can secure protection in a total of 80 foreign countries, including the

55 foreign countries that are members of the Madrid Agreement and the 77 foreign countries or regional organizations that are members of the Madrid Protocol, by filing a single application through the domestic office and designating the countries where protection is desired. Membership also facilitates international trademark registration in Mozambique, a measure that is important for attracting foreign investment. A company will typically protect its marks in countries where it is considering investing. Since trademark registration is one of the early contacts that the company has with the country's business environment, ease of trademark registration is an important indication of the ease of doing business in that country.

Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks

The Nice Agreement provides an international system of classification of goods and services, which facilitates trademark searching, and is required for use under the Madrid Agreement and Protocol. Membership ensures that Mozambique will receive regular updates on the classification system.

Convention Establishing the World Intellectual Property Organization

Membership in WIPO gives Mozambique access to technical information, training, industrial property software, and other resources on intellectual property.

Agreement Establishing the World Trade Organization, Agreement on Trade-Related Aspects of Intellectual Property Rights

Membership in the World Trade Organization gives Mozambique favorable trade relations with other WTO Members and expands the number of countries in which Mozambican authors and inventors have access to intellectual property rights.

Lusaka Agreement, Harare Protocol

The Harare Protocol of the Lusaka Agreement provides for regional filing of patent applications through the African Regional Intellectual Property Office. Membership offers a simplified procedure for obtaining regional patent protection.

International Agreements Important for Mozambique

Mozambique should consider joining a number of other international agreements. Notably missing from the list of international agreements to which Mozambique is a party are the following:

Berne Convention for the Protection of Literary and Artistic Works

Membership in the Berne Convention would provide automatic copyright protection for Mozambican authors, including sculptors, composers, photographers, architects, and individuals who produce new designs for fabrics, in 164 foreign countries. Membership in Berne also is an essential element of the environment for trade and investment.

Mozambique has reportedly already made the decision to join the Berne Convention, but its ability to enjoy the benefits of Berne membership is awaiting action by the Ministry of Foreign Affairs to deposit its instrument of accession with WIPO. This step should be taken as quickly as possible to ensure international protection for Mozambican authors.

WIPO Copyright Treaty

The WIPO Copyright Treaty is a special agreement under the Berne Convention. It expands the protections offered under Berne by clarifying that Berne-type protection must be available for computer programs and data bases that constitute intellectual creations. In addition, the WIPO Copyright Treaty specifically addresses the rights of authors to control distribution, the rental of their works, and the communication of their works to the public. Finally, the WIPO Copyright Treaty addresses the issue of effective enforcement and technological measures to prevent infringement. Joining the WIPO Copyright Treaty would signal to the international business community that Mozambique is preparing a legal framework to support high-technology industries and greater technological development.

Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations**WIPO Performances and Phonograms Treaty**

These two agreements provide minimum standards for the protection of neighboring rights, that is, the rights of performers, phonogram producers, and broadcasting organizations. Joining these agreements would provide Mozambique with additional ability to protect against the unauthorized recording, reproduction of recordings, and broadcast of live performances or recordings of live performances of Mozambique's performing artists – singers, dancers, actors, and the like. Membership would therefore be beneficial to Mozambican performers, and to its music industry. Joining these agreements is also an important step toward strengthening the intellectual property system in Mozambique and creating a more attractive environment for trade and investment.

International Convention for the Protection of New Varieties of Plants (UPOV)

Joining UPOV requires the adoption of a UPOV-consistent law on the protection of new plant varieties. Membership facilitates the process of obtaining international protection of new (not yet commercialized) plant varieties in 67 countries. A variety can be protected by the person who bred the variety or one who discovered and developed a new variety. The ability to protect new plant varieties both domestically and abroad offers the ability to capture the value of those varieties to others and is sometimes a requirement for importing a desirable variety from abroad.

Hague Agreement Concerning the International Registration of Industrial Designs
Membership in the Hague Agreement facilitates international protection of industrial designs in 55 countries.

Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure

This treaty provides procedures for the deposit of microorganisms in internationally recognized depositories as well as conditions for access to those deposits once the patent is granted. This simplifies the process of filing patent applications for inventions involving microorganisms, since access to the microorganism may in some cases be necessary for an enabling disclosure – and therefore to permit free use of the patented invention once the patent has expired. It also relieves industrial property offices of the obligation and expense involved in establishing and monitoring the safekeeping of those deposits over many years.

Patent Law Treaty

The Patent Law Treaty obligates members to simplify filing requirements for patent applications. Membership in this treaty signals to potential investors that Mozambique is creating a more favorable climate for investment.

Trademark Law Treaty

The Trademark Law Treaty obligates members to simplify filing requirements for trademarks. Membership in this treaty signals to potential investors that Mozambique is creating a more favorable climate for investment.

Vienna Establishing an International Classification of the Figurative Elements of Marks

The Vienna Agreement provides an international classification for figurative elements of marks, i.e., the images or designs that are included in trademarks. This is useful for conducting trademark searches. Mozambique is free to adopt and use this classification system, with or without membership, but membership would enable the Industrial Property Office to obtain the latest updates promptly.

Implementation of International Agreements

International agreements are implemented through the domestic law. In some cases, this may require amending statutes or regulations to conform with the provisions of the international agreement. For international agreements administered by WIPO, there is no additional charge for joining additional international agreements.

Participation in International Activities on Intellectual Property

Mozambique has limited participation in the activities of the World Intellectual Property Organization. The Director-General of the IPI often attends meetings of the General Assembly of the World Intellectual Property Organization (WIPO), but Mozambique is not typically able to send a representative to other meetings where discussions are held that may affect Mozambique's international intellectual property interests. **It would be useful to expand Mozambique's participation in these activities** for several reasons:

- Greater participation would increase Mozambique's voice in WIPO decision that affect the allocation of its resources, its priorities for assistance and for other work, and the policies advocated in WIPO bodies, to ensure that Mozambique's national interests are adequately reflected.
- WIPO is an important source of potential assistance to Mozambique's intellectual property community. WIPO has developed software for use in intellectual property offices. It sometimes is able to help organize commodities assistance such as computers and is a major source of help with training and public awareness activities.
- WIPO is the International Bureau that administers several important international agreements on intellectual property, such as the Madrid Agreement (marks) and Madrid Protocol, and the Patent Cooperation Treaty. WIPO can provide or arrange for technical assistance in implementing these agreements.

- **It is important to involve individuals with experience in intellectual property in WIPO activities.** Individuals with experience in this field will be better able to evaluate proposals discussed in WIPO meetings, and participation is a learning experience for junior employees.

The intellectual property community should also be considered and have input into Mozambique's participation in the WTO, particularly with regard to discussions involving the TRIPS Agreement.

Industrial Property

Industrial property is the branch of intellectual property that includes inventions, marks, trade names, industrial designs, undisclosed information, and the repression of unfair competition.

Priority recommendations

- **Complete procedures to protect geographical indications and aggressively pursue efforts to identify and protect Mozambican geographical indications.**
- **Develop procedures to protect well-known marks.**
- **Establish a grace period for filing patent, utility model, and industrial design applications.**
- **Complete the patent procedures manual.**
- **Establish courses on intellectual property in Faculties of Science and Technology.**
- **Expand IPI staff by two attorneys and one patent expert**
- **Expand successful outreach activities to Mozambican scientists, engineers, and inventors to protect inventions and designs, and to Mozambican industries to protect trademarks.**
- **Join Hague Convention to facilitate international protection of industrial designs.**
- **Build local capacity to prepare original patent application at international standards.**
- **Join Trademark Law Treaty (TLT) and ease filing requirements for marks consistent with TLT standards.**
- **Increase IPI participation in international intellectual property activities (WIPO)**
- **Complete data bases of company names and integrate these data bases nationally.**
- **Develop and implement procedures to prevent confusion between commercial registrations or company names and registered or well-known marks and amend the Regulations of the IPI and Conservatory for Registration of Legal Entities to incorporate these procedures.**
- **Initiate outreach program to encourage informal businesses to register.**

Ministry of Science and Technology

The Ministry of Science and Technology (MCT) is responsible for coordinating implementation of the Government's intellectual property strategy, which MCT developed in partnership with IPI, the National Audiovisual and Cinema Institute (INLD), the Botany Center for Research and Development, and many other organizations. The Ministry's vision for innovation and technology development is summarized in a presentation that can be found online at http://www.cofisa.org.za/innov_systems/downloads/present_leao_2009.pdf. Its program includes the development of three regional technology centers.

Through the National Innovator Program, the Ministry looks for potential innovators across the country. The program has mechanisms to identify inventors/innovators. The Ministry's program helps inventors obtain protection for their rights and links them with companies that can commercialize their product.

Industrial Property Institute

Industrial property rights are obtained by filing an application with the Industrial Property Institute (IPI), which is responsible for determining whether the application meets legal standards to permit the grant of a patent or registration of a mark. The IPI was created by law in 2003 and became operational in 2004.

Trademark registration makes up the vast majority of the work of the IPI. Trademark applications are examined, but patent and industrial designs applications are not examined for substantive compliance with the law. The IPI is also responsible for geographical indications and is working to develop procedures, but these have not yet been completed or implemented.

The IPI is currently trying to identify gaps in the intellectual property law, with the hope of addressing any needed changes in another year. Except for geographical indications, regulations are in place. Trademark examination is conducted according to a written procedures manual. There is no written patent procedures manual yet, but the office is working to develop one.

The IPI is self-funding through fee income. In recent years, limited resources have prevented it from undertaking public awareness activities to the extent it would prefer, but this situation is expected to improve as the office begins to receive renewal fees. The IPI has not yet developed a strategic plan, although this would be desirable. In addition to fees, the IPI receives income from publication of the Bulletin, as industrial property agents and attorneys pay to be listed in the Bulletin.

The Institute is located in a pleasant downtown location. Space appears to be adequate for the current staff and level of filing. Records in trademark and patent cases are automated back to 1999, when the current Industrial Property Code was enacted. (The Code was modified in 2006).

Human Resources and Organizational Structure

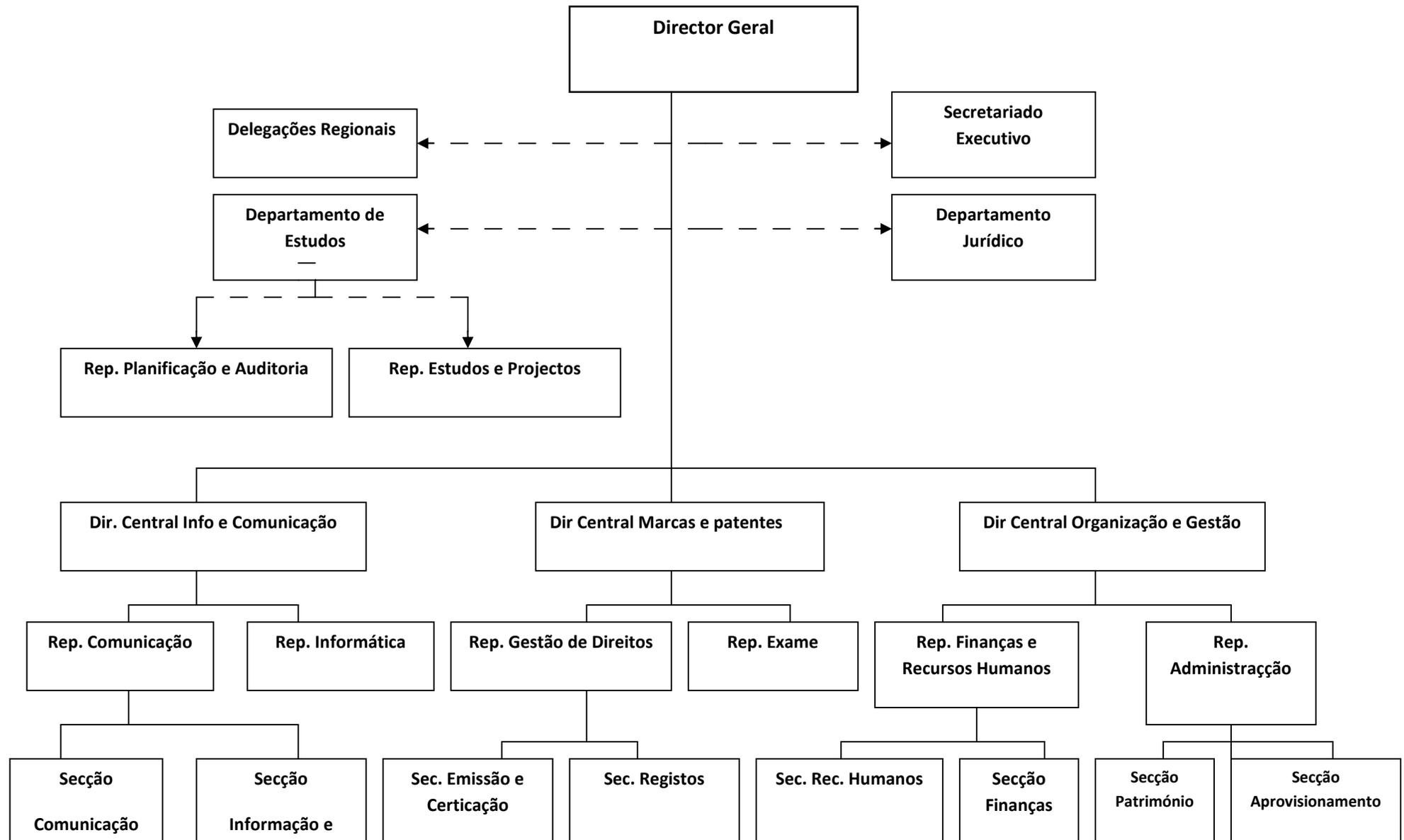
The IPI operates with a staff of 19 regular employees and 8 contract employees. The organizational structure is shown on the following page.

IPI employees participate in training on an ongoing basis, in particular, making good use of distance education through the World Intellectual Property Organization and in some cases providing training abroad. Training is of appropriate breadth, including such topics as management, computer science, negotiation, English language, and copyright. These topics are all appropriate to the IPI mission and should help to strengthen the performance of the organization. All of these activities should be continued.

Participation in International Organizations

The Director General typically attends meetings of the WIPO General Assembly but does not attend committee meetings, primarily due to funding issues. Participation in WIPO events can be useful, in ensuring that Mozambique's interests are adequately represented, keeping staff informed about international issues and norms, and staying abreast of opportunities for technical assistance.

As funding improves, some resources should be set aside to permit attendance at one more meeting or training event per year. It would also be useful to permit IPI staff to participate in at least one foreign event annually, whether a WIPO training event or attendance at a WIPO meeting, workshop, or conference, as this would help build understanding of international issues.



IPI Organizational Chart

Trademark Filing Requirements

To file an application to register a trademark, an applicant that is a national company must submit copies of its articles of incorporation, which may be provisional, or its corporate charter, as well as an authorization to do business in the particular area from the Ministry of Trade and Industry. Foreign companies must submit a power of attorney with an appropriate stamp. Foreign entities are not required to submit legalized copies of these documents. Where the power of attorney includes a stamp, additional notarization is not required.

The Institute and has developed procedures that appear to be workable, since the IPI receives good reports from stakeholders, and the office appears to deal with most cases promptly. Current procedures offer practical solutions to a number of potential problems. For example, Mozambique follows a first-to-file system, and to avoid a loss of substantive rights as a result of a formality, applicants are accorded a filing date notwithstanding delays in furnishing a power of attorney, although the application is set aside and not considered while the office waits to receive the power of attorney.

Mozambique is not a member of the Trademark Law Treaty (TLT) and therefore does not conform to its requirements. **It would be useful, and would help improve the business environment, for Mozambique to join the Trademark Law Treaty and relax its filing requirements to meet TLT criteria.**

Work Flow in Trademark Cases

1. An application is received by the IPI at a reception desk (right).



IPI reception desk.

2. From there, the application moves to a second room (right), where a serial number is assigned, information from the application is entered into the computer and documents are placed into a file folder (far right).



IPI: Trademark serial number is assigned.



IPI: Trademark file is prepared.

3. Next, the IPI conducts a formal examination to ensure the completeness of each application.

A small group is convened to discuss whether all requirements have been met and record the proceedings. If there are deficiencies, the applicant is notified and given an opportunity to correct them within a fixed period of time. If there are deficiencies in the application, the applicant is given a fixed period to remedy the application, which is set aside until the applicant's response is received and the deficiencies are resolved, or the time limit expires and application is considered abandoned.

Formal examination is conducted within a group that consists of

- 1) one individual who deals with the file and data base, enters information for publication, and is responsible for tracking the application;
- 2) one who checks the classification under the Nice Convention;
- 3) one who writes a formal examination report;
- 4) one who prepares any notifications to the applicant, using an approved form; and
- 5) a legal advisor to the group.

Formal examination takes approximately 5 minutes per application, and the group typically devotes about 1 ½ hours for each session of formal examination. For applications where requirements are made, the group devotes approximately 10 minutes per application to formal examination, unless the application designates numerous goods and services, in which case, commensurately more time is required.

4. After formal examination is completed, the trademark application is published in the *Bulletin*, which is issued every other month. The public has 60 days in which to file an opposition to the registration of a mark. It takes about 15 days to prepare

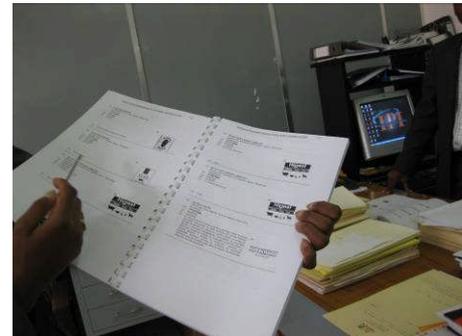
5. IPI begins substantive examination 30 days after publication, that is, during the oppositions period, since IPI has the authority to refuse registration before publication, e.g., on grounds that the proposed registration is contrary to morality. Substantive examination is also conducted in a group that preferably includes 2-3 individuals with legal skills and one individual to track information.

the Bulletin for publication.

Working from the law, this group discusses legal issues related to the invention, such as similarity of the mark to other marks, likelihood of confusion, or absolute grounds for refusal. In determining whether there is a likelihood of confusion, the group gives primary consideration to similarity in the appearance and sound of the mark, whether similar marks relate to the same goods or services, or whether the goods or services are in the same area of business even if the marks are not the same, or whether the goods or services are used together.

If there is agreement within the group, the application is awarded either a

- Provisional refusal
- Registration or
- Final refusal.



Marks are published in the Bulletin.

If there is disagreement, the application is referred to the Director General, who makes the final decision on all complicated cases.

Oppositions and responses to oppositions are referred to the Legal Department, with the final decision made by the Director General.

IPI writes to notify applicants of refusals but not of acceptances.

6. Acceptance of mark is published in the Bulletin. The entire registration process typically takes 5-6 months, so that registrations would be published in April for applications published in December. This publication is the method by which applicants are notified that their mark has been registered.

7. Files are stored in the archives (right) until needed again. The archives contain about 14000 files.

8. Five years after the date of application, the applicant must file an intent-to-use statement. However, no proof is required.



IPI file storage.

Domestic and International Participation in the Industrial Property System

Domestic filing of trademark applications (that is, the number of applications filed by Mozambican residents) reflects the extent to which Mozambican businesses are aware of the benefits of protecting their marks and are participating in the formal sector of the economy. A growth in domestic filings suggests a growth in business development in the formal sector, an increasing awareness of the benefits of intellectual property, e.g., its importance in exporting, or both. International participation in the trademark system reflects the extent to which foreign companies are doing business in Mozambique or are considering expanding into Mozambique. Protecting a trademark is one of the first steps a country is likely to take when it is considering investing in a particular country.

The number of trademark applications filed has been rising over the past ten years, as shown in Table 1 below. Figures for this period (1999-2009) reflect participation under the present industrial property law, which was adopted in 1999. Before adoption of this Code, industrial property was protected in Mozambique by registering or patenting it in Portugal. Filings in the years 1999 and 2000 are high because they reflect the fact that a new filing was required, even by companies that had previously protected their marks in Portugal, to secure protection in Mozambique.

Domestic participation in the trademark system is about 40% and has been steadily increasing for the past ten years, as shown in the following charts and graph (Figure 1 and Tables 1a, b, and c), which were provided by IPI. Note that domestic trademark filings increased in absolute numbers in most years and, after accounting for the atypical filing statistics in 1999 and 2000, has also increased as a percentage of filings in most years.

Table 1a: Trademark Applications by Residents and Non-Residents.

Year	Residents	Non-Residents	Total	% Residents
1999	117	3059	3176	3,6
2000	119	1762	1881	6,3
2001	162	802	964	16,8
2002	172	733	905	19
2003	158	604	762	20,7
2004	241	781	1022	23,5
2005	490	663	1153	42,5
2006	553	943	1496	36,9
2007	519	746	1265	41
2008	713	886	1599	44,5

Table courtesy IPI.

Comparable figures are shown in Tables 1b and 1c for patent and industrial design applications:

Table 1b: Patent Applications by Residents and Non-Residents, 1999-2008

Year	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Residents	2	0	0	0	0	0	0	0	25	15
Non-Residents	18	6	1	9	15	5	14	21	19	1
Totals	20	6	1	9	15	5	14	21	44	16
Percent by Residents	10%	0	0	0	0	0	0	0	57%	94%

Table 1c: Industrial Design Applications by Residents and Non-Residents, 1999-2008

Year	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Residents	1	6	10	31	3	9	2	6	23	14
Non-Residents	0	10	0	2	1	2	1	3	32	1
Totals	1	16	10	33	4	11	3	9	55	15
Percent by Residents	100%	37.5%	100%	94%	75%	82%	67%	67%	42%	93%

As shown above, most patent applications have been filed by non-residents, except in 2007 and 2008, when the IPI conducted a major outreach campaign, and most industrial design applications have been filed by residents, with the exception of three years (2000, 2007, and 2008), when foreign interests filed a significant number of industrial design applications. These figures are discussed in more detail below under *Outreach and Increased Participation in the Industrial Property System*.

Need to Increase Domestic Participation in the Trademark System

Despite these encouraging statistics, interviews with businesses suggest that there is still room for significantly increased participation in the trademark system. Interviews with stakeholders and observations in Maputo revealed that many businesses that could benefit from trademark protection have not yet taken advantage of this opportunity and, in some cases, appear to be unaware either of the advantages of securing protection or of the risks of failing to do so. This problem exists even among Mozambican industries engaged in international trade.

Among small and medium-sized enterprises, participation is likely even lower, given the number of obviously informal businesses that serve a substantial portion of Maputo's market for consumer goods. This is a serious shortcoming, since trademarks represent a measure of the goodwill, or intangible assets associated with a business. Unregistered businesses lack the legal personality that would allow them to obtain a trademark in the name of the business, as opposed to the name of the owner, and thereby to build the value of the business. This also affects the ability to obtain financing independent of the obligations of the business's owner, and other benefits that would help to build stronger businesses.

Increasing domestic participation in the trademark system is essential for the development of the domestic economy. Mozambique needs to develop its own brands for export, and the businesses that own these brands need to take steps to protect them. The IPI should continue to promote greater participation in the trademark system by providing greater outreach and education to Mozambican businesses about the benefits of the trademark system and the requirements for registering a mark. Outside assistance could be helpful in sponsoring outreach activities. This topic is described below under *Outreach and Increased Participation in the Industrial Property System*.



Maputo street vendors sell a wide variety of consumer goods.



Busy informal market, Maputo.

Patents, Utility Models, and Industrial Designs

IPI receives fewer applications for patents, utility models, or industrial designs than it receives for trademarks. In a given year, IPI typically receives fewer than 20 applications for patents and utility models, and 15-55 industrial design applications, as compared with 1300-1600 trademark applications. These types of applications are registered without substantive examination. All procedures are handled by a single examiner, who also participates in the examination of trademarks.

IPI does not conduct substantive examination of patent applications and does not have personnel with the necessary technical skills to examine applications in various fields of technology.

It is *not* recommended that IPI institute technical examination of patent applications since this would require substantial resources, both in terms of patent documentation and other reference materials and also trained personnel. The cost of conducting substantive examination of patent applications clearly outweighs the benefit, given the low level of filing, and it would not be a good

utilization of scarce resources for Mozambique's scientists and engineers conduct examination of patent applications at the expense of their research and industrial duties.

At the same time, some thought should be given to developing a system to ensure that Mozambique does not accord rights to inventions that do not meet the legal requirements for protection. These invalid patents can be addressed through the judicial system, but typically at greater cost than through administrative procedures, and courts are often less prepared to analyze technical claims than a patent office.

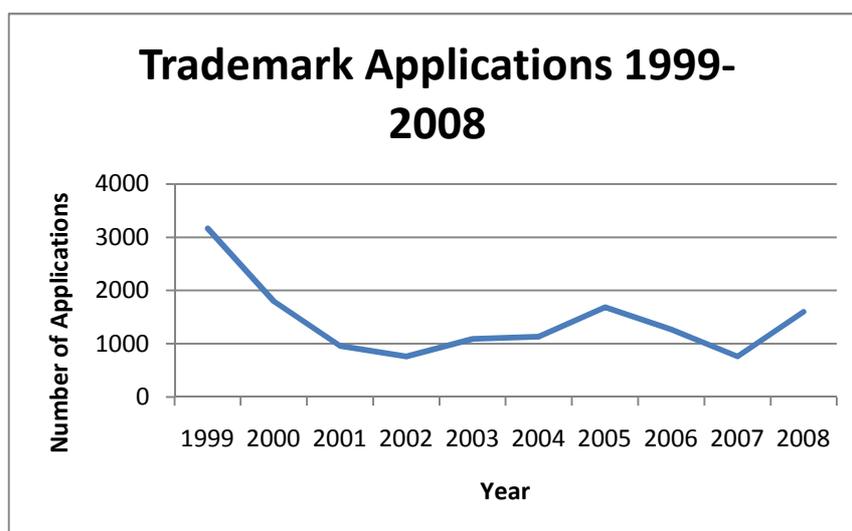
One possible strategy might be to arrange for examination by a foreign office that conducts substantive examination. Most foreign applications will already have been subject to a rigorous examination in another country, and it should not be a great burden for an examination-based office to agree to conduct a search and examination for the small number of patent or utility model applications that are first filed in Mozambique. In view of other issues facing the IPI, this effort is not an immediate priority and could reasonably be phased in over a period of time.

Examination of industrial designs does not require the same variety of technical skills and could be instituted on an earlier basis. In the absence of evidence that industrial designs registrations are being approved for designs that do not meet the legal requirements for approval, this initiative could also be deferred until it is clear that there is a need to institute substantive examination.

Trademark Workload Projections

The above tables show considerable annual variation in trademark filings, as shown in Figure 2a. Figures 2a and 2b, and Tables 2a and 2b, are based on data provided by the IPI, as are Table 3 and Figure 3.

Figure 2a: Trademark Applications 1999-2008

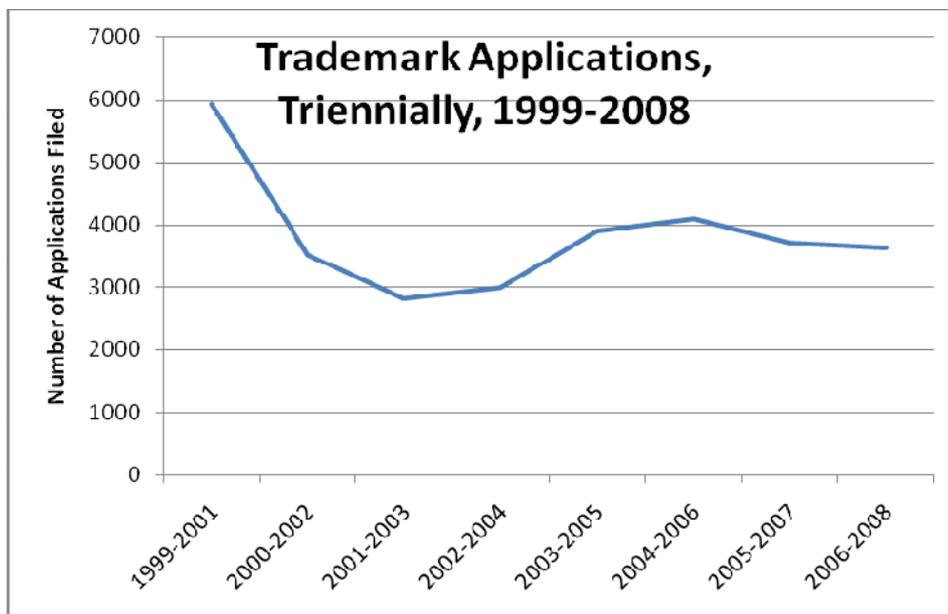


However, trends can be better observed by viewing filing statistics in multiple-year increments. Table 2a and Figure 2b, below, present the same data in increments of three years, that is, the sum of all applications received during the period 1999-2001, the sum of all applications received during 2000-2002, etc. This has the effect of smoothing annual variations and allowing better observation of long-term trends.

Table 2a: Trademark Applications, Triennially, 1999-2008

Years	Applications Filed
1999-2001	5929
2000-2002	3523
2001-2003	2813
2002-2004	2982
2003-2005	3904
2004-2006	4079
2005-2007	3707
2006-2008	3623

Figure 2b: Trademark Applications, Triennially, 1999-2008



From these figures, the following can be seen:

- An initial burst of trademark filing activities after adoption of the 1999 Industrial Property Code
- The number of trademark applications re-established at a baseline of about 930 applications/year

- A general trend of increasing trademark filings in which the number of applications filed with IPI has increased by nearly 30% over the baseline to an average of more than 1200 applications/year.
- In 2008, the number of trademark filings reached almost 1600.

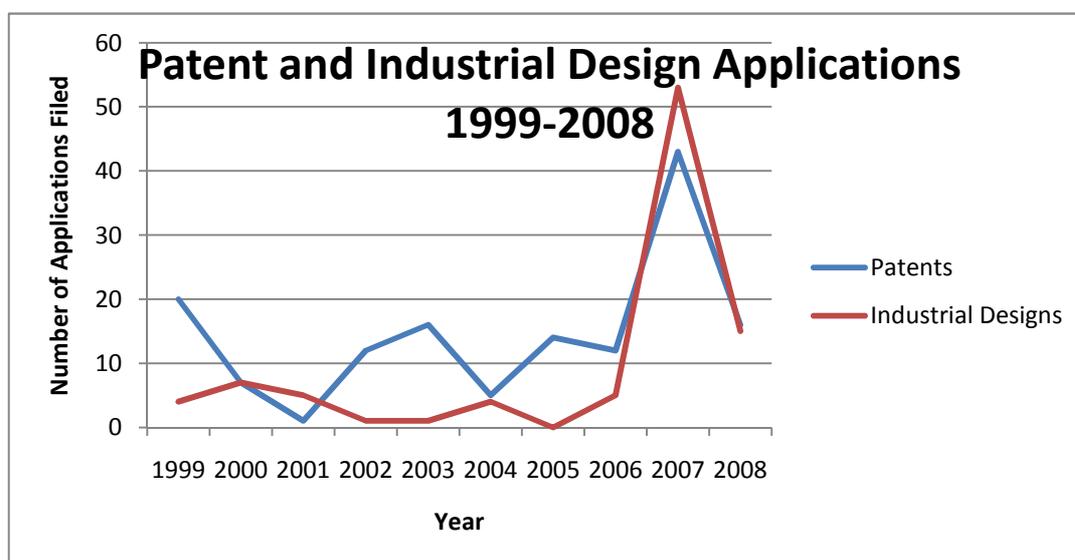
At present, it appears that the number of trademark applications filed annually may be leveling off, but improvements in the local economy or additional outreach activities could easily give rise to continued increases in the numbers of applications received. In planning to meet its workload, the IPI should assume that trademark filings will remain continue to increase at a rate of 3-5% per year over its 2008 figures. If the IPI conducts significant outreach activities, it should expect an even larger increase in the number of filings.

Patent and Industrial Designs Workload Projections

Patent and industrial designs represent a far smaller portion of IPI's workload than trademarks, but they are significant for Mozambique's economic and industrial development. Statistics for these filings are shown graphically in Figure 3. Looking at the figures, it is clear that there is a gradual increase in the number of filings, both of patents and of industrial designs, with the exception of 2007, which showed a marked increase. In the years other than 2007, the IPI has received an average of 11.4 patent applications (standard deviation = 6.04) and 4.7 industrial design applications (standard deviation = 4.50). Except for 2007, all of the annual fluctuations in patent filings are normal variations (i.e., less than twice the standard deviation from the mean). For industrial designs, all of the annual fluctuations are normal variations except those for 2007 and 2008. The significance of the variations for those years is discussed below under *Outreach and Increased Participation in the Industrial Property System*.

Workload projections depend critically on whether the IPI engages in significant outreach activities. If no outreach is conducted, workload projections should be based on filings in years not significantly influenced by outreach activities. Without outreach, the IPI should prepare for the number of patent filings to double over the next ten years, and for industrial design filings to remain relatively static, subject in both cases to normal annual variations. If IPI does conduct significant outreach, the IPI can expect both patent and industrial design applications to remain near their 2007 levels.

Figure 3: Patent and Industrial Designs Applications 1999-2008



Workload and Productivity

The IPI carries out a number of different activities, including searching records, receiving and examining or otherwise processing applications for industrial property protection and providing certified copies of documents.

Searches of official records are carried out against a fee. The offices carried out about 20 searches a week. However, these figures fluctuate considerably. On occasion, this has resulted in requests to carry out 10-20 searches in a single day. On average, the number of patent applications is increasing annually.

In 2008, IPI received applications to protect:

- 1599 marks;
- 16 patents;
- 1 utility model;
- 15 industrial designs;
- 76 logotypes;
- 22 commercial names;
- 5 insignias of establishment.

This represents a workload of approximately 133 trademark applications per month on average, or about 6 per day, although the actual number of applications received in a given month fluctuates substantially. For example, the April-May Bulletin published about 259 applications for opposition, for an average trademark examination workload of 6 per working day. By contrast, the June-July bulletin published 386 TM applications published for opposition, for an average workload of about 8.5/working day. Workload figures for the past ten years are shown below in Table 2b, which shows the number of applications filed, and in Table 3, which gives the total number of registrations or patents granted:

Table 2b: Industrial Property Rights Registrations 1999-2008

Year	Marks	Patents	Utility Model	Logo	Industrial Designs	Names	Insignias
1999	3167	20	0	36	4	15	1
2000	1800	7	10	39	7	24	20
2001	962	1	3	49	5	26	0
2002	761	12	32	30	1	21	4
2003	1090	16	2	0	1	15	1
2004	1131	5	17	4	4	28	3
2005	1683	14	1	13	0	21	2
2006	1265	12	1	69	5	38	6
2007	759	43	1	62	53	48	2
2008	1599	16	1	76	15	22	5

Source: IPI.

Table 3: Comparação do n.º de registos dos DPI por cada tipo

Direito		2007	2008	Variação (%)
Marca	Nacional	1264	1599	26,5
Patente	Nacional	6	3	-50.0
	Fase Nacional/PCT	12	13	8.3
	Modelo de Utilidade	1	1	0
Logotipo		62	76	22.5
Nome Comercial		38	22	-42.1
Insígnia de Estabelecimento		2	5	150
Desenho Industrial		53	15	- 71.6
Indicação Geográfica		0	0	N/A
Denominação de Origem		0	0	N/A
Recompensa		0	0	N/A

Source: IPI.

Oppositions

Applications are published for opposition. This is a normal part of the trademark examination process (and is required under the TRIPS Agreement). Two individuals are tasked with dealing with oppositions, in addition to their other duties.

Compared with the IPI's normal quick handling of trademark applications, oppositions require a longer period of time to address. In 2007, 75 oppositions were filed, and 41 in 2008. Of the 41 oppositions filed during 2008, 30 had been disposed of and 11 were still pending at the end of the year, along with about 5 oppositions still pending from 2007.

Part of the time required to address oppositions relates to workload issues. Part is due to the parties themselves. Some oppositions are filed with missing documents. In these cases, the parties are given time to supply the missing documents, and in some instances, the parties may request and be granted additional periods of time to supply a response. A third significant source of delay in oppositions involves cases that are appealed to the Administrative Court.

Appeals

There are two ways to appeal decisions of the IPI. These include an appeal to the Minister, and an appeal to the Administrative Court. There are very few appeals, perhaps four per year, all of them to the Administrative Court, not to the Minister. Normally about 200 trademark applications are filed every two months. Of these, the office refuses about 5-10 because of similarity or an opposition, or some other reason. This is a refusal rate of about 30-60 per year, of which only about four cases are appealed.

Issues related to the Administrative Court are discussed below under *Judicial System*.

Legal Department

The Legal Department

- Provides advice to the Director on legal issues related to the operation of the IPI. The Director must consult the Legal Department on a number of decisions, including those relating to personnel and contracts. In each of these instances, the attorneys draft a memorandum on the issue.
- Provides opinions on industrial property issues to the Director and other institutions such as the General Inspectorate, Customs, and sometimes the civil courts other organizations.
- Assists the Director in making decisions on grants and cancellations of industrial property rights. The Legal Department analyzes documents and recommends to the Director a decision that meets legal requirements. Attorneys in the Legal Department also assist the Directorate of Marks and Patents on international applications and on oppositions.
- Draft industrial property legislation and other materials related to the protection of industrial property. Attorneys in the Legal Department were responsible for drafting the current industrial property code. The Legal Department is currently preparing materials on the protection of geographical indications and applications of origin, and this work is about to go to the Council of Ministers.

There are no provisions to regulate the behavior of agents or attorneys, as no problems have ever been noted to warrant the creation of such a system.

Attorneys in the Legal Department have had training abroad in Stockholm, China, Ethiopia, the United States, Geneva, and Lisbon. This training is important since attorneys have often not had the benefit of courses on intellectual property in law school. Much of the foreign training is perceived as providing good theoretical knowledge, but more practical training would be useful.

There are only two attorneys in the Legal Department, and both are relatively new at their jobs. **The IPI needs to employ two more lawyers to meet IPI's current workload, which is expanding, and to provide training for all attorneys since intellectual property is not a course that was previously offered in law school. It would also aid productivity to provide the attorneys with laptops to facilitate the additional work they perform.**

Legal Research

Legal research is an essential function performed by lawyers in order to provide accurate and up-to-date advice. There is no legal library available to assist attorneys in conducting legal research. **It would be useful to develop a small legal library and stock it with appropriate Mozambican and international reference materials, and to provide computers and access to the internet to facilitate legal research. Computers and internet access are essential, since much of the international framework of intellectual property is accessible via websites of the World Intellectual Property Organization and the World Trade Organization. New and up-to-date software is also needed to provide more efficient access.**

Mozambique is a civil code jurisdiction. Although first level appellate cases do not establish legal precedent as in common law jurisdictions, it is still important for attorneys to stay abreast of significant developments in the courts in order to identify problem areas and advise on the need for improvements. It is difficult to access copies of court decisions except where the IPI is a party. **This**

should be addressed by creating a data base of legal cases, beginning with appellate cases, and making these cases available for online searching via keyword or preferably full-text search. The Legal Department expects to receive some assistance on geographical indications from the EU's BIZCLIM project.

Legal Department Workload

In a given month, the attorneys participate in the formalities review of about 100 applications, which occupies about 17 hours per month. They also address about 5-10 oppositions per month. Work on each opposition takes 8-15 hours, with an average of 10 hours per case, for a total of 50-100 hours per month. Attorneys participate in two substantive examination sessions per week, for a total of about 24 hours per month. These duties must be reconciled with advice to the Director and other institutions such as the General Inspectorate and Customs, and sometimes the civil courts, which frequently occupy 5-6 hours per day on most days.

These duties represent a high workload for a small staff, who often continue working at home after close of business. Moreover, the IPI attorneys must divide their time among examination of applications and the drafting of new laws; providing legal advice on general issues to the Director General; and the development of new regulations, procedures, and similar documents to strengthen the law and respond to changing needs. This gives the existing staff too little time to devote to strengthening the legal framework, which should be a priority.

Quality Management System

The IPI should institute a quality management system to reduce the instance of errors in the Bulletin and to address errors that are reported. As errors are identified, it would be useful to use information about the errors to make improvements that will reduce the number of such errors in the future. A quality management system should include a procedure for reviewing documents to identify errors and noting errors that are reported to the IPI; designating a management group to meet regularly to review errors and categorize the types of errors that occur, and propose solutions to strengthen IPI procedures. Using this system, managers will be better able to make adjustments that will improve future performance. For example, one type of error might indicate a need for a change of procedure to prevent future recurrences, another might suggest a need for training on a specific topic, either of all personnel or of a particular individual, while other errors might suggest a need to exercise greater oversight and mentoring of an individual or group. The IPI should model its quality management system on the system used under the Patent Cooperation Treaty, with appropriate modifications for trademarks and industrial designs.

Outreach and Increased Participation in the Industrial Property System

In 2007, the IPI conducted an outreach program to increase domestic participation in the industrial property system, in particular, domestic participation in the patent system. This campaign included several components:

- A public awareness activity aimed at informing and educating inventors about the patent system,
- A program to develop domestic capacity to prepare original patent applications, and
- An active program of assisting inventors to prepare and file patent applications.

This program was highly successful. Initially, two individuals received training on the preparation of original patent applications. ARIPO conducted a seminar on patent drafting, and at present, a total of 5 individuals have had such training. The ability to prepare a patent application that will meet international standards is a critical skill if Mozambican inventors are to have any chance to obtain the benefits of the patent system. The program also worked with individual inventors to encourage them to prepare a patent application.

The results of IPI's outreach program are impressive. For the ten years of the IPI's operation, the mean number of patent applications filed in years other than 2007 is 11.4 ± 6.04 , while the number of applications filed in 2007 increased to an astounding 43. For industrial design applications, the mean number of applications filed in years other than 2007 was 4.7 ± 4.50 but increased in 2007 to 53.

This increase is far beyond the normal annual variation, a fact that can be verified by comparing the number of applications in 2007 with the mean for all years from 1999-2008 other than 2007. For patents, the number of applications filed in 2007 is 5.24 standard deviations above the mean for 1999-2008 (excluding 2007), and for industrial designs, the number of applications filed in 2007 is 10.7 times the standard deviation more than the mean for 1999-2008 (excluding 2007). Moreover, the increase in industrial design filings due to outreach clearly carried over into 2008, as the number of filings (15) remained 2.3 times the standard deviation above the mean (excluding 2007).

The results of the outreach program are even more impressive with regard to its effect on domestic participation in the industrial property system. Referring back to the figures provided in Table 1b, residents of Mozambique filed a grand total of 2 patent applications in the years 1999-2006, or about 2% of all patent applications filed during that 8-year period. During the two-year period 2007-2008, residents filed a total of 40 patent applications, or two-thirds of all applications received during this period. The figures from Table 1b also demonstrate that the outreach program conducted in 2007 was most effective in that year, with a total of 25 applications being filed by residents, but that the benefits of the outreach program carried over into the following year, when 15 patent applications were filed by residents. In terms of percentage participation in each of those years, the filing of a significant number of patent and industrial design applications by foreign interests in 2007 is most likely unrelated to the outreach program but, in view of the generally small numbers of applications filed, may obscure the actual impact of the outreach program, which can only be described as phenomenally successful.

The notable increase in filings in 2007 demonstrates the effectiveness of IPI's outreach programs in the short term. To increase domestic participation in the patent and industrial design systems and ensure that Mozambican inventors and designers can obtain the benefits of the protection offered by these systems, the IPI should continue its outreach activities. Supporting these initiatives would be a highly cost-effective area for technical assistance.

One limitation on IPI's outreach activities is the availability of appropriate informational materials. IPI already has developed an informational booklet on the trademark system. Copies are limited, but this document could easily be reprinted if funds are available. In addition, it may be useful to produce a series of smaller flyers that could be printed on a single sheet of paper, for more widespread distribution, as well as expanding the number of booklets to address other industrial property topics. In addition, better use could be made of the website to provide information on the industrial property system. This topic also discussed below, in the chapter on *Public Awareness*.

Increasing Accessibility for Inventors and SMEs

Strong consideration should be given to amending the Industrial Property Code to provide for a grace period for the filing of applications for patents, industrial designs, or utility models. A grace period allows an inventor to file an application and obtain protection notwithstanding that some action has made the subject matter part of the public domain, provided that action occurred within a specified period of time before filing the application. Often this action can be something as simple as describing the invention to another person in an attempt to obtain information on how to benefit from the invention, or filing an application that does not result in the registration of a design or model or grant of a patent.

Regulations should specify that the filing of an application does not, by itself, destroy novelty, and that the invention will not be considered to be disclosed or part of the public domain as a result of filing until the application is published, laid open, or patented. In addition, it would be useful to amend the law to provide a grace period of a year in which an inventor can file an application notwithstanding any action taken by the inventor him/herself or by someone acting on behalf of the inventor.

A grace period will not address all problems arising from lack of information but should help Mozambican inventors them take advantage of the patent system in their home market. A grace period offers a critical second chance for inventors just learning about the patent system. This system is likely to offer the greatest benefit to Mozambican inventors, since most foreign applicants will have met the stricter absolute novelty standard required by many foreign countries. This approach will not necessarily result in more patents, since Mozambique does not presently examine patent applications, but it should reduce the number of invalid patents granted.

Geographical Indications

The IPI is actively working to establish the necessary framework for the protection of geographical indications. This is an important undertaking for Mozambique's economic development, as geographical indications can be used charge a premium for products that are otherwise sold as bulk commodities indistinguishable from similar products of lower quality or desirability.

The IPI plan includes not only the development of a system of protection but also a plan for implementation. Implementation plans include such measures as a study on the potential uses of geographical indications for Mozambican products, the development of regulations, the development of models to be used, mapping the products to be developed and demarcating production zones, creation of a national entity responsible for the development of products, identifying markets and marketing strategies, and the like.

While it is appropriate for the IPI to participate in these planning activities, some of the activities themselves are likely beyond the competence of an industrial property organization to carry out – a fact that appears to be recognized in the planning. It is, however, entirely appropriate for the IPI to be involved in the development of regulations on geographical indications.

In developing regulations, the IPI will be largely guided by EU policy. **To the extent that Mozambique does business with the EU, it will be important to adhere to EU rules on geographical indications and appellations of origin so as not to impede Mozambican industry's ability to export its goods. With regard to other markets, however, it would be well to take advantage of the greater flexibilities offered under the TRIPS Agreement for the protection of geographical indications.** The chief differences relate to the use of comparative advertising – whether it is

permitted to advertise a product as being like, or similar to, one advertised under a geographical indication – and whether a particular term must be the name of a geographical region in order to qualify for protection.

Under the TRIPS Agreement, it is required only that a geographical indication be an indication, which could include something other than a place name. In a country with limited literacy, some consideration should be given to permitting the use of indications that suggest geographic origin as well as those that actually consist of a place name. While such indications may not be protectable in the EU as appellations of origin, they would necessarily be accorded protection in any WTO Member, provided, of course, that they are first protected in Mozambique.

IPI Branch Offices in the Provinces

The IPI is considering the possibility of setting up branch offices to extend its assistance into the provinces. A true branch office is not under consideration, that is, an office that replicates all of the examination functions and records of the primary office, and such an office would not be a good use of resources. **However, given limitations in communications in the distant provinces, it would be useful, when resources permit, to extend some IPI activities into the provinces if possible.**

While the establishment of even a limited branch office carries significant costs, in terms of personnel, equipment, and office space, a more cost-effective approach is to develop a cooperative arrangement with an existing organization. A good model to emulate would be the US Patent and Trademark Office (USPTO) Patent and Trademark Depository Library Program, which cooperates with libraries – generally public libraries or academic libraries, to ensure maximum availability to the public – to provide information to interested persons. The USPTO holds training events for personnel of those libraries and provides them with resources that can be used to conduct a patent or trademark search. Since most of these materials are now available online, the cost of administering such a program is relatively low, particularly compared with the cost of maintaining large sets of paper files. These programs do not accept applications but do allow their USPTO-trained personnel to work with inventors to assist in learning how to prepare patent applications. Some help is also available from inventors associations (see below).

Establishing such a program would not necessarily require that the cooperating organization be a library. Such cooperation could be established with a Government agency, such as one of the Conservatories, a research institution, or an office in a local government, or with an appropriate NGO. The most important functions of these outreach activities would be to provide information that would enable applicants to take advantage of the industrial property system. With the development of greater automation, the possibilities for expanded accessibility become much greater. This is discussed below under *Automation*.

Inventors Associations

Inventors associations are formal or informal organizations of individuals who are inventors, or who are interested in the invention process. Often, inventors associations are formed to assist inventors with the protection of their inventions. In these associations, individuals share their experience with others who are learning about the invention process. Typically, an association will include some inventors who have filed multiple patent applications, a number of individuals with ideas who are just beginning the process, and sometimes professionals who are willing to share their expertise on a limited basis, possibly in the hope of acquiring later business. In some cases, these associations hold programs where they invite speakers to address a public gathering on some aspect of the process of

protecting and commercializing an invention, as well as working sessions where inventors are invited to bring their information, drawings, and descriptions to obtain assistance.

The IPI should consider aiding in the establishment of inventors associations. It is a worthwhile investment to provide the occasional speaker for program meetings, and to offer training to a small number of individuals who are willing to commit to sharing their knowledge with others.

Even though voluntary organizations are often not long-lived, they perform a good service while they are active and a convenient and inexpensive focus for outreach activities.

Automation

The IPI currently uses software provided by WIPO. This software is useful and satisfactory. All records back to 1999 are automated. E-mail is available, the office has a website, and each employee who needs a computer has one.

The IPI would like to expand its automated systems to provide for electronic filing. A major limitation on making this a useful system throughout Mozambique is the limited penetration of internet services in outlying parts of Mozambique. **It would also be useful to expand the information placed on the IPI website.** The present website contains a great deal of useful information, including information on the industrial property system, its legal framework, filing requirements, forms, fees, upcoming events, and industrial property agents. **It would be useful to add patents and trademark and industrial design registration information to permit online searching. Although this will require significant effort to accomplish, it would be preferable to begin this effort now rather than to wait until there are much larger numbers of documents to digitize.**

Eventually, it would be helpful to allow online filing, but before this can be seriously undertaken, arrangements will be needed to provide appropriate security, and particularly will be needed to ensure the integrity of any payment system. It would be preferable to devise a system in which payment is separated from the application process, as this would simplify the required security arrangements. One possible approach might be the system used on some countries, in which payments are made at recognized banks. In these countries, fees are deposited at the bank, directly into an account of the industrial property office. The bank then issues a receipt which is presented to the office rather than presenting cash to the office. It would then merely require a means for the applicant to communicate the receipt to the appropriate office within IPI. This could likely be accomplished by a combination of records from the bank and some documentation from the applicant, which could be provided electronically. It would be useful to send an expert mission to work with the IPI to address these issues.

Expanding the opportunities offered on the website has important possibilities for Mozambican businesses and inventors. Mozambique is a country in which it is often difficult for inventors or businesspersons to travel to the office to conduct a search or file an application. Providing for online searching and filing would significantly expand the office's ability to serve populations at some distance. With online searching and filing, any internet-connected computer, in effect, becomes a branch office. This approach offers the possibility for IPI to provide substantially greater service to stakeholders outside Maputo.

Finance and Planning

The IPI is self-funding through fees. It is subject to regulation as to the number and types of employees it can engage, but there appears to be no major problem obtaining the necessary approvals.

In 2008, IPI had revenues of 6,116,667.78 meticaís, an 11% increase over the 2007 revenues of 5,491,414.39 meticaís.⁷ These revenues come from filing and other fees. Trademark fees account for about 56% of revenues, followed by fees for certified documents at about 13% of the total, fees for presenting a declaration of intention of use a mark accounting for about 8%, and search fees accounting for 5%. Patent annuities were received last year, and trademark renewal fees will begin next year for applications filed in 1999.

IPI operations should be mission-driven. This can be encouraged by strengthening its planning process. Planning is a crucial consideration for an organization that is entirely dependent on fees and that has numerous stakeholders with a spectrum of needs and concerns.

One approach to ensuring that IPI meets the needs of its stakeholders in a way that is financially sound and cost-effective is to engage in a strategic planning process. The IPI currently has no strategic plan. It would be useful to undertake this planning process and to ensure that IPI has staff with the requisite skills to help the IPI continue to operate on a business-like basis.

Elements of a strategic plan should include (among other items) a

- Mission statement,
- Workload projections,
- Financial projections,
- Budget, and
- Human resources analysis and plan.

The plan should address stakeholder interests. The plan should be based around the Government's personnel and financial approvals process and should also take into account the legislative calendar as well. The plan may also need to provide for a chief financial officer to assist with financial planning and to serve as a champion within the Government to secure the necessary approvals. Some technical assistance may be in order to help the IPI adopt such a plan.

The IPI has good ideas about possible future activities, including building the capacity of the IPI itself through management training and the addition of a human resources manager, improvements in technical skills such as those related to the PCT, and increased outreach, including working directly with SMEs and the design of courses on the strategic use of industrial property. The development of a strategic plan would help the IPI set priorities that are suitable to its stakeholders and also make realistic projections on workload and income that would help the IPI to stay within its budget.

Conservatory for Registration of Legal Entities

The Conservatory for Registration of Legal Entities opened in 1997. Its primary responsibility is registering new companies. The Maputo conservatory has a central database that covers all of Mozambique. Each province has its own *Conservador*, and all provincial capitals have an online

⁷ Source: IPI.

connection to the database. Unfortunately, this connection can be very slow, which impedes communication.

Workload

The Maputo conservatory receives nearly 200 registration requests per month per month. This figure includes registration both for businesses and for general organizations. Most applications are from Mozambican nationals. Further statistics are not available.

Human Resources

The Maputo *Conservador* and the majority of provincial *Conservadores* have studied law. The Maputo Conservatory has 22 staff members, including one in the Maputo One-Stop Shop (BAUs), and another in the General Notary and Registration Records of Maputo. Five have higher education. Of these, three (including the *Conservador*) have undergraduate degrees in law, and two have IT degrees. Most of the rest have finished secondary school and perform administrative work such as receiving documents, confirming information, and completing forms.

Registration Procedure

Applications for commercial registration are received at one of the One-Stop Shops. The application then goes through the following process:

- The Conservatory verifies legal aspects and the validity of the required documentary information.
- The application is then sent to the accounting department to determine the value to be paid for the registration.
- The application is then returned to the One-Stop Shop, and data is entered into the system.
- The application is approved by the *Conservador*.
- The registration is delivered to the requester.

For a commercial registration, the entire process typically takes about 40 minutes. Required documents include the company statutes/constitution, contract, and bank deposit slip showing payment of the fees. After commercial registration is completed, the company constitution is published. It is sent electronically to the national press for publication in the Bulletin of the Republic, which is separate from the IPI Bulletin.

The Conservatory has instituted two measures to prevent corrupt activities. One is the adoption of procedures that involve a number of individuals in the approval process. The other is the introduction of an automated system of records in Maputo. This system has in place a number of requirements that make it difficult to introduce duplicative names, the likeliest object of corrupt activity.

A significant issue facing the Conservatory is the need to integrate company names from the different provinces. Previously, each provincial office was autonomous and kept its own, separate index of company names. These indexes of provincial province company names have not yet all been integrated into the Maputo system of records.

Company Name Reservation

A company name can be reserved by completing and submitting a form. A staff member checks to determine whether the name already exists in the automated database. If not, the *Conservador* reviews the request, approves the name, and the process is completed in 10 minutes.

Conflicts with Trademarks

The Commercial Code gives the Conservatory the right to refuse a request to register a company name that is identical to that of an existing international company. However, the Conservatory has no connection with IPI that would allow it to avoid approving a commercial registration or company name that would create a likelihood of confusion with a registered or well-known mark. Consequently, there is a significant loophole that would allow a party to register a registered or well-known trademark as its company name, provided that name was not already registered.

The regulations do not address this issue and, in particular, do not address whether the responsibility for preventing such confusion rests with the Conservatory or with the IPI. **It would be useful to provide in the regulations a system for avoiding conflicts between commercial registrations and trademarks. Regardless of how this system is initiated, resolving this problem will require cooperation by both organizations.**

Automation

An electronic database for registrations was created at the end of August 2006. Previously, entries were handwritten into books, a system that required 15 days to register a business. Presently, the index of company and organization names is digitalized, but the details of each registration are not included in the data base. If the details of old registrations are needed, it is necessary for an individual to examine the books systematically. Consequently, the Conservatory's staff size has not shrunk since the digital system was introduced in 2006.

Several aspects of commercial registrations changed with the approval of Law 1/2006. Before the law, reserving a company name took 6 months, as the requester had to complete forms at the Conservatory for name reservation, have the forms notarized, and take the company's constitution to the national press for publication. This last step typically required a period of months before the requests were actually published. Under the present electronic system, requests are published within three days.

Completing automation is important for a number of reasons. Besides the obvious advantage of greater efficiency, automated records are often more reliable. Moreover, a well-constructed automated system makes it more difficult to engage in corrupt activities, such as paying a bribe to register a company name that already exists.

There are a number of issues that need to be resolved with the current automated system.

- The government internet connection has saturation problems and is therefore extremely slow. This makes commercial registrations take much longer in the provinces than in Maputo.
- The electronic data base needs to be completed by entering all files into the database, both in Maputo and in the provinces. This should be a high priority, as it would enable the Conservatory to begin resolving issues related to duplicative commercial registrations.

- The IT system allows for the entry of details on new registrations but does not permit entry of the details of old registrations into the system. This omission is important, as it has prevented the Conservatory from making significant progress on converting all its data into digital form. The Conservatory has requested assistance from a consultant from the Norwegian company that won the Ministry of Justice bid to set up the digital system. The consultant is expected to teach technicians in all the provinces how to overcome this problem.
- The IT database does not accept similar names. However, errors are occasionally made in which a later requester is notified that a name has been approved, even though it is already approved for another party.

Problem Resolution

Errors such as notifying that a name has been approved when it has already been approved for another party are generally resolved administratively. In these situations, the *Conservador* asks both parties to meet in his office, explains the situation, and notifies the second person with the approved name that he or she must change that name.

If this procedure does not resolve the conflict, the parties can resolve them through the courts. Informal resolution of errors works in the vast majority of cases. The one exception involves a situation in which a business had already made a significant investment in creating a logo with its name and adding the logo to all company items. That company refused to change its name unless the Government reimbursed its costs. This case appears likely to require judicial resolution.

Duplication of Company Names

Another set of issues revolves around the sometimes intentional duplication of the names of existing companies. This is most likely to affect major companies such as Agroalfa, which has had more than one such problem with duplication of its name. There are also reports of other instances of duplication of company names, many of which create significant difficulties and incur substantial legal costs for the business that is the senior user and that has developed a reputation within its field. In one case that arose before the conservatory opened in 1997, the problem is ongoing in the courts. In another, the junior party agreed to change its name through the administrative procedure.

This is a problem that needs to be addressed. The duplication of company names detracts from Mozambique's business environment. The cost of these duplications thus goes well beyond the legal expenses incurred by the companies involved and includes the cost to Mozambique of lost investments.

Copyright and Related Rights

Priority Recommendations

- **Complete accession to the Berne Convention.**
- **Recruit and employ a team of 4-6 attorneys to help the NIBR develop regulations.**
- **Initiate dialogue with the private sector on needed elements in copyright regulations.**
- **Complete and publish copyright regulations.**
- **Issue decrees requiring Government agencies to use only authentic (i.e., licensed) software and to refrain from making or purchasing illegal copies of any works subject to copyright.**
- **Amend legal framework to create a single focal point with authority for domestic enforcement.**
- **Develop and implement phased plan to reduce piracy of various types of works.**
- **Continue public awareness activities on rights under copyright and neighboring rights, cooperating with IPI, the private sector, and other organizations where possible. Explore possibilities for donor assistance.**
- **Institute measures to foster development of private sector organizations to protect and exploit copyright and neighboring rights on behalf of authors that are not currently represented.**
- **Promote measures to capture the benefit of Mozambican folklore and assist artisans.**
- **Consider joining the Rome Convention, the WIPO Copyright Treaty, and the WIPO Performances and Phonograms Treaty**

Ministry of Education and Culture

Primary responsibility for copyright policy lies with the Ministry of Education and Culture (MEC). Within the MEC, the organization tasked with responsibility for these matters is the National Institute of Books and Records, which is responsible for copyright issues ranging from drafting of regulations to working to reduce piracy.

National Institute of Books and Records

The National Institute of Books and Records (NIBR) is responsible for copyright issues as they relate to music, books, and crafts. The NIBR mission includes helping authors to reduce the high level of piracy for music, promoting protection for crafts, advising on copyright policy, and improving the legal framework as needed. The NIBR conducts outreach activities to inform the public about copyright, and it supported SOMAS (see below) by preparing legislation on the rights of authors. Two urgent issues relating to the legal framework for copyright are completing accession to the Berne Convention and completing implementing regulations for copyright and related rights.

Activities

The NIBR is responsible for, or carries out, the following types of activities:

- Drafting laws and regulations
- Participation in international meetings, i.e., WIPO
- Seminars and other training on copyright for authors, musicians, inspectors, and others

- Public awareness activities on copyright
- Development of a data base of works, to assist with enforcement
- Participation in enforcement and anti-piracy campaigns.

Work Priorities

Of all of NIBR's activities, by far the highest priority should be given to completion of regulations, Berne accession, and an effective anti-piracy campaign. Rampant piracy in Mozambique hurts Mozambican authors and discourages both domestic and foreign investment in copyright-based industries. This lack of investment decreases opportunities for Mozambican authors and composers, singers, dancers, artisans, and other performers. Without an active domestic copyright-based industry, opportunities are also limited for Mozambicans to profit from their folklore and cultural heritage.

It is useful to continue training officials engaged in combating piracy. It is also useful to continue public awareness activities to inform the public about what actions can and cannot be taken consistent with laws on copyright and neighboring rights. Until Mozambique has its legal framework in place and enforcement is being carried out more effectively, care should be taken to avoid raising unrealistic expectations, as disappointed investors may be reluctant to invest again at a later time when the system is working effectively.

Drafting Laws and Regulations

NIBR is responsible for drafting laws and regulations. The present copyright law was amended in 2001, but implementing regulations have yet to be drafted. This lengthy delay in adopting implementing regulations is creating problems in several areas, including collecting royalties for the performance of music and preventing piracy. **Completing a set of draft regulations should be a high priority. Regulations should be drafted with input from stakeholders such as SOMAS.** This input could be obtained informally, by holding discussions with stakeholders and inviting their ideas, or by holding a seminar organized for the purpose of obtaining input on the measures that should be included in the regulations and soliciting ideas about how to prepare effective regulations that will operate smoothly and leave no "loopholes."

International Copyright Relations and Participation in International Activities

Mozambique would benefit from greater participation in international copyright relations. The highest priority should be to complete Berne accession. This should require only minor effort since the decision to adhere to Berne has already been made, the Government proposed membership, and the decision to join Berne was reportedly approved by the Assembly of the Republic. Thus, a number of Mozambicans tend to view Mozambique as a Berne Convention country, even though accession has not been completed. More importantly, the World Intellectual Property Organization (which administers the Berne Convention) does not see Mozambique as a Berne Convention country.

Completing Berne accession appears to require only minor effort since reportedly, the only step remaining for Berne accession is for the Ministry of Foreign Affairs to prepare and deliver a diplomatic note. This is a subject for discussion between the MEC and the Ministry of Foreign Affairs. This discussion should take place immediately to provide Mozambican authors with access to automatic copyright protection in 164 foreign countries.

Mozambique has not yet joined the Rome Convention, although this step is under discussion inside the Institute. It would be useful to establish a higher level of protection for authors and for performers, producers of phonograms, and broadcasters, and in general improving the climate for business, trade, and investment, by joining and implementing international agreements on copyright and neighboring rights. **Mozambique should strongly consider joining the Rome Convention, the WIPO Copyright Treaty, and the WIPO Performances and Phonograms Treaty.**

NIBR staff participate occasionally in WIPO Governing Bodies meetings. **It would be useful for Mozambique to have greater participation in WIPO, in order to provide effective representation of Mozambique's interests, and particularly to request assistance in the form of expert missions.** These expert missions could be helpful with the development of regulations and identifying measures to reduce piracy.

Opportunities are also sometimes available through WIPO to participate in training events in other countries, but these opportunities are more likely to be available if Mozambique's Government develops a plan that would incorporate such training and seeks out such opportunities. At least one of the current staff has participated in a WIPO seminar that addressed internet piracy, legislation, and the TRIPS Agreement. It would also be useful to take advantage of distance learning programs offered through WIPO.

Public Awareness and Training Events

NIBR's main activity at present appears to be public awareness and training activities. These training activities are needed since intellectual property was not previously taught in Mozambique.

The head of the Copyright Department believes that Mozambicans are making good use of copyright but is not yet satisfied and feels in particular that young musicians are not satisfied with their ability to make good use of the copyright system. This is discussed below under *Piracy*.

The NIBR attempts to conduct 2-4 seminars per year. Training materials are primarily prepared within the NIBR, with many of the presentations having been prepared by the Director. The NIBR would like to conduct more outreach, but travel expense is a factor in its ability to conduct seminars or other training or public awareness activities, as are other costs of conducting the seminar. The NIBR works closely with the IPI and sometimes conducts joint seminars. Some training activities are directed toward enforcement officials. For example, recent NIBR plans recently included a 4-hour training program for inspectors in provinces in the south of Mozambique.

The NIBR is presently designing a project on teachers training to introduce the subject of intellectual property into the classroom. Intellectual property is not presently part of the curriculum. The NIBR would like to offer 30-40 hours of training for teachers would then teach the subject in the schools. This is an effective approach to public awareness, and the training of trainers approach is also cost-effective and appropriate. However, introducing the program into the schools will also require the development of an appropriate curriculum.

In this regard, it may be useful to seek assistance from WIPO and from other intellectual property offices that have undertaken a similar activity. WIPO has an extensive set of informational materials that could be easily adapted for use in Mozambique. In addition, other intellectual property offices may have undertaken similar activities. Those offices would be in a position to describe their experiences, including which measures they found useful and which worked less well. **The NIBR may also be able to identify successful programs that have had the benefit of**

professional curriculum design, or effective training materials, that could be adapted for use in Mozambique. An internet search, followed by letters to counterpart ministries or offices in other countries, would be an easy but sound investment in identifying such materials.

Data Bases

The NIBR has been trying for two years to develop a data base of works protected by copyright, and of authors, publishers, and other participants in the copyright system, with the aim of creating an archive of works. Since copyright cannot be contingent on registration or other formalities, there is no examination or registration comparable to that carried out for industrial property. Consequently, there is no data base of works subject to copyright, and no need for such a data base as a condition of protection. **Efforts to establish such a data base largely detract from the principle that all works are born subject to copyright, and whether or not a work is included in a data base cannot, under Mozambican law, the TRIPS Agreement, and the Berne Convention, be a requirement for protection.**

In some situations, a limited data base can be useful. For example, the United States offers a system of voluntary copyright registration. This is not a requirement for protection but offers additional benefits, such as the ability to demand statutory damages in the case of infringement. US Customs authorities also maintain a data base created when copyright owners voluntarily record their copyright registration with the Customs authorities. Copyright owners pay a fee to record their copyright with Customs and agree to inform Customs of any authorized shipments of the works. The Customs authorities are then able to distinguish between authorized and unauthorized shipments and are better able to interdict the importation of pirated works.

Note that both examples involve

- Voluntary registration by copyright owners,
- Payment of fees sufficient cover the cost of maintaining the registration system, and
- Additional benefits for copyright owners.

Also note that neither system constitutes a comprehensive archive of all works subject to copyright, an undertaking that is likely impossible.

Piracy

Deterring piracy requires strong leadership from the Government, which should promulgate policies and decrees requiring Government agencies to use only authentic (i.e., licensed) software and to refrain from making or purchasing illegal copies of any works subject to copyright. It would also be useful to publicize the results of enforcement activities and to carry out a highly visible activity in which infringing goods are destroyed in a dramatic way. The NIBR is seeking models of effective approaches to preventing piracy, and this search should be encouraged.

Piracy is a problem that affects many different types of authors. Although piracy is well-recognized as a problem for music and video, piracy of books is also a problem. There are relatively few books at universities. Photocopiers are available at universities, and books from libraries are widely copied. Compounding this problem is the fact that it is not easy for book authors to bring a complaint against piracy, and there is not yet a system that would compensate authors when their works are copied.

NIBR is considering an approach to reducing book piracy that it believes is used South Africa, that is, requiring students to present a textbook as a condition of sitting for an examination. If such an approach were adopted in Mozambique, the cost of books could be offset by developing a system of sales of used books.

This approach is widely used in the United States, where bookstores often sell both new and used books, with used books being sold at half to two-thirds the price of a new book and, if kept in good condition and the same text will be used again, the used books are repurchased for about one-third to half the price at which the book was purchased.

Another approach would be to prevent the use of photocopiers to copy books without permission.

This could be coupled with a fee for photocopying published works such as books or journals and a requirement to maintain a log of the works copied. These fees could be used to compensate authors for the copying of their works. Such a system is similar to the tax on blank tapes applied in France to provide compensation for piracy of musical works.

Additional models for preventing piracy could be gathered from other countries. **It would be useful to write to counterpart organizations in other countries to request this information. If funding is available, observational study tours would be useful, along with expert missions, to study useful models in countries where they are identified.**

Finally, measures should be instituted to consolidate responsibility for enforcement and create a single focal point for enforcement. The present division of authority slows enforcement, sometimes to the point that enforcement activities become ineffective. This topic is discussed in more detail under *Enforcement*. The NIBR could be useful in continuing to provide training to enforcement officials.

Human Resources and Organizational Structure

The NIBR is headed by a Director and Deputy Director. It currently has a staff of four people, with plans to expand. This small staff is divided among three departments: Administration, Copyright (which has one employee), and International Cooperation (which has one employee). The number of staff is expected to rise by 6 in 2010, and approval has been obtained to bring the number of employees up to a total of 42. Increasing the number of staff will require recruitment and training of the new staff and should also include current staff. At least one of the present staff members is still relatively new in his position, having been hired only in December 2008. For the hiring that is expected to take place in 2010, the Institute will need to submit its proposal to Finance and Planning in May or June of 2009.

None of the present staff is an attorney, even though most of the NIBR's work requires legal skills. The Institute formerly employed an attorney who remained with the Institute for only six months before being transferred. The lack of legal skills within the NIBR is a serious shortcoming that must be remedied if Mozambique is to make appropriate use of the copyright system and to develop a legal framework that will prove effective in supporting cultural development, rewarding authors and performers, and deterring piracy.

The present staff appear to be competent and committed to carrying out training, planning, and public awareness activities. However, legal duties are core activities of the NIBR: shepherding an international agreement through the Government approvals process and ensuring full accession, drafting legislation and regulations, providing training on complex legal topics, and participating in efforts to improve judicial enforcement of the laws on copyright and neighboring rights. **It is**

essential to recruit attorneys, and it is unreasonable to expect individuals who are not trained in the law to carry out duties that require sophisticated legal skills and experience. Unless this deficit is addressed, it is likely that the legal framework for copyright will continue to be defective.

Recruiting and employing a team of 4-6 attorneys should be a top priority of the NIBR. It may also be useful to employ an initial team of 1-2 economists to help with quantifying Mozambique's losses due to piracy. If plans proceed to develop a data base and website, it will be useful to employ an IT specialist as well.

The present organizational structure may be suitable for a larger complement of employees (although the division of labor may be ill-chosen), but it contains far too many divisions to function effectively with only four employees, two of whom are managers. There are two problems with the present structure:

- It is too bureaucratic, as responsibilities are divided in a way that guarantees overlapping areas of authority and therefore the need to secure multiple approvals for even simple activities, and
- It contains only bosses, with no line employees to carry out the work of the organization.

It would be more effective to consolidate the Copyright and International Cooperation divisions so that the combined organization has at least two employees now, and after a first round of hiring, has 4-6 attorneys and 1-2 economists, in addition to the present staff. It would also be reasonable to merge the Administrative section into the combined structure to form a leaner and more efficient organization.

As recruitment proceeds and staff numbers reach a level that would justify additional divisions, a more appropriate division of labor would be to separate the policy- and law-making functions from the training function and from the enforcement function. The enforcement activity should be staffed by attorneys with litigation experience as well as knowledge of copyright law and practice.

Both present staff and new employees should be offered substantial training opportunities. Employees who have not previously had university-level courses on intellectual property should be offered a comprehensive course on intellectual property, with emphasis on copyright and neighboring rights.

Planning and Resources

The NIBR has limited resources to carry out its training activities. **Cooperating with the IPI is a good strategy to permit both organizations to make effective use of their resources, but the NIBR should also explore the possibility of asking stakeholders to shoulder some of the cost of outreach. Opportunities may also be available for cooperation with international organizations, such as WIPO and UNESCO, or with donor organizations.**

In broader terms, the NIBR should consider developing a strategic plan to guide its activities. The plan should identify the objectives that will be met in support of the NIBR mission. It should also indicate the types of activities the NIBR will undertake to meet those objectives, together with a timetable for accomplishing those activities. Strategic objectives should include completing Berne accession, identifying stakeholder needs and identifying legislative and regulatory measures to meet those needs.

A training plan should also be included as an element of the strategic plan. The training plan should identify specific training objectives and the types and topics for training events that the NIBR will undertake.

The plan should provide flexibility for the NIBR to undertake of additional activities as opportunities arise. However, having a strategic plan would assist managers to set priorities and focus their attention to the priority areas. Being able to present a strategic plan would also strengthen the NIBR's ability to present requests for assistance to appropriate organizations.

Folklore, Traditional Knowledge, and Artisans

ARPAC has a great deal of information on these aspects of Mozambican culture (see below). This information, and experiences elsewhere, could guide NIBR in devising a strategy to protect and promote Mozambique's ability to benefit from these resources.

National Film Institute

The Instituto Nacional de Cinema (INC) was created in 1975 to develop domestic filmmaking capacity in Mozambique.⁸ This was primarily used to create cinematic coverage of news events (newsreels and documentaries). The market for these works has now largely been superseded by television news coverage. The present market for cinematic works is now oriented toward entertainment. This market is filled by foreign movies, as Mozambique has never developed a domestic filmmaking industry oriented toward entertainment. Since little filmmaking occurs in Mozambique, the INC's work largely supports foreign producers.

Mission

The INC is responsible for monitoring industry and trade and preparing laws and regulations in the areas of video, television, and offline multimedia. Online multimedia is the responsibility of the Institute of Communication. Eventually, the INC expects to support the production of films in Mozambique, but this will require strong support from the Government.

Laws and Regulations

The INC is currently preparing a cinema law. It expects to discuss this law in June 2009, during a Portuguese Film Festival. The Institute will use this opportunity to share a draft of the law with producers and film directors in order to receive constructive feedback from stakeholders, who can provide technical knowledge about the industry, as opposed to knowledge about legal issues. The INC would also like to obtain the benefit of the experience of other countries in ensuring good protection for cinematic works. Brazil is considered to have substantial relevant experience as well as a well-developed law – and the advantage for INC of working in the same language. The INC believes that separate regulations are needed for different types of works, e.g., architecture, films, IT, etc. and that greater detail is needed. A central focal point is needed for enforcement.

Both efforts to involve stakeholders in the development of laws and seeking the benefit of experience of other countries are appropriate and useful approaches to the development of new laws. However, greater use could be made of the current copyright law if regulations were in place.

⁸ Hall, Phil, "Kuxa Kanema: The Birth of Cinema" (2004), <http://www.filmthreat.com/index.php?section=reviews&Id=6009>, accessed May 19, 2009.

Completing the legal framework for the copyright law should be a high priority. The INC should proceed now with the preparation and publication of regulations relating to copyright of cinematic works, without waiting for completion of regulations relating to other types of works.

Cinema in Mozambique

For cinema and video, Mozambique has no film distributors, no producers, and no editors. In earlier years, there were numerous movie theatres in Mozambique.

Those theatres showed all sorts of films until the Government ordered cinemas to obtain permission to show the films they offered. Virtually all of those theatre companies closed rather than purchasing the licenses. The INC believes this was primarily

due to the cost of those licenses, which was high (on the order of \$7,000 - \$10,000 to purchase unlimited rights to show a film for one week). As a business matter, a theatre can only show a film for one week, making the cost of licensing prohibitive for most theatre companies, particularly in view of prices in the local market. An additional consideration is that, following the expansion of television, the market size for movie theatres is relatively small.

There is now only one company that shows international movies. The only company that continues to offer movies is Lusimundo, which came to Mozambique in 2001. The company now has 60 theatres, of which, reportedly only about 10 are working. Lusimundo imports films for its own theatres. It is able to bear licensing costs by showing films in its chain of theatres.

The INC has attempted to interest international producers and licensing organizations to offer arrangements that would encourage the development of more movie theatres in Mozambique, but these organizations have reportedly not responded to attempts to negotiate more favorable terms. The INC believes that these organizations are not engaging in negotiations because they believe that there is essentially no market showing films in Mozambique. There is, however an Indian film company that imports Indian films.

The INC is working to persuade Lusimundo to bring legal videos to Mozambique, with the idea that INC would then pursue pirates, but the INC understands that Lusimundo believes there is no market for videos in Mozambique.

Piracy

Virtually all films available in Mozambique are pirated. Pirated copies of foreign movies are widely and openly sold in the streets.

It is difficult to prevent the importation of pirated copies. Importers typically bring in a single, licensed copy. The single legal copy is then used as a master to create illegal copies, which are actually produced in Mozambique. There is an import tax for importing more than one copy, but not for a single copy.



Cinema, downtown Maputo.



Street vendor selling DVDs.

Films can also be downloaded from the internet, another area that is difficult to police.

Another source of piracy is illegal copying of rented films, which are obtained from stores that offer rented movies. A typical Mozambican family may rent five films a week, each at a modest fee. Many of these films are then copied onto blank CDs and DVDs, which are also widely sold in the street.

Piracy Reduction Efforts

The INC believes that it would be possible to effect a substantial reduction in piracy if authorized copies were available. It therefore has devoted some attention to attempting to identify and encourage a legitimate producer or distributor to do business in Mozambique. The INC cooperates with other organizations to reduce piracy.

If the INC could guarantee a supply of legal films, even from a single supplier, the INC expects it could clear out a large fraction of pirates and would be willing to undertake this effort. This would obviously be highly advantageous for the supplier of films. However, with no supplier of legitimate films, the INC is concerned that increased enforcement would essentially deprive the public of access to films, and it is therefore reluctant to launch an initiative to remove all pirated films from the market until access can be ensured.



Itinerant vendors selling DVD movies and blank DVDs, downtown Maputo.

This consideration is understandable, and there is merit to the idea that legitimate copies are needed to replace pirated copies. However, it seems likelier that the failure to clean up illegal copies will deter potential suppliers from being willing to make the investment to supply the local market with legitimate copies. The economic principle (Gresham's Law) that bad money drives out good money also appears to apply to pirated and counterfeit goods. That is, the public may continue to purchase illegal but familiar and perhaps somewhat less expensive pirated copies that it is used to consuming, even where the quality is less good, unless there is some incentive for seeking out legal copies. Once consumers have expended their resources on purchasing the illegal copies, they will have no interest in then purchasing a copy of the same movie or video from a legal supplier.

Moreover, potential distributors will not want to take the risk of investing in creating a new distribution network in Mozambique so long as the pirated copies are ubiquitous. Therefore, the removal of pirated copies should not be deferred until a legitimate supplier is identified, and the removal of pirated works should be a first priority.

This same principle – the need to clear infringers from the local market to create an environment conducive to investment – applies to the sale of pirated copies of movies or videos and also to attempts to encourage the introduction of legal copies.

No economic studies have been conducted to assist the INC in its efforts to negotiate a more favorable rate for licenses in Mozambique, yet the proportion of Mozambique's market with low incomes suggests that economic studies would be useful. **The INC should seek assistance to obtain**

an economic analysis of the local market. Information showing the value of the market could be useful to encourage investment in cinematic industries, while information showing a very low value of the market might be persuasive as to the need for a more favorable royalty rate. In either event, greater knowledge would provide information that the INC could use to devise a more effective campaign to promote cinema in Mozambique.

Another strategy that is under consideration is to use some fraction, perhaps 40% of the tax on imported DVDs to support the sales of legal DVDs in stores. This concept is not yet fully developed and has not had the benefit of economic studies to predict its impact. Depending on how the program is implemented, it may also be important to obtain advice on trade laws, to avoid creating a system that would be considered to be a subsidy of local industry.

An approach that has been taken in some countries is to impose a blank media tax or private copying levy on the sale of blank DVDs and using the proceeds as a source of compensation for authors and producers whose works have been copied. This model is used in Belgium, France, Germany, the Netherlands, Portugal, and Spain, to reduce losses due to private copying.

Under this approach, a tax (if received by the Government) or a levy (if received by a private organization), also known as a private copying levy, is collected on sales of blank recordable media. Proceeds are then distributed to the appropriate collective rights organization. These levies are not intended to address piracy but only to compensate rightholders for losses due to legally permitted copying.⁹ Taxes or levies may also be imposed on recording equipment.

If one of these approaches, or a similar approach, were pursued, it would be useful to undertake economic studies to ensure that the distribution of funds is both fair and economically efficient, and it would be essential to have in place a legal framework that would ensure the prompt distribution of proceeds.

Training and Outreach

The INC conducts training for inspectors and others engaged in copyright enforcement. It also conducts outreach activities designed to inform the public about relevant issues. These activities could be strengthened. This topic is discussed in more detail in the chapter on *Public Awareness*.

Human Resources and Planning

The INC has a total of 25 staff, including managers, and expects to expand to have a staff of 40 within the next one to two months. One Department is responsible for license inspections and monitoring in the domestic market. This activity is carried out through the Ministry of Education and Culture.

INC staff have a variety of educational backgrounds that appear to be useful in carrying out the INC mission. These include administration, copyright experience, legal experience including licensing, and monitoring. There is nevertheless limited capacity to carry out the organization's responsibilities.

⁹ A brief but useful discussion of this subject is available online. See, Wikipedia, "Private Copying Levy," http://en.wikipedia.org/wiki/Private_copying_levy, accessed May 19, 2009.

It would be useful to engage at least one attorney, and preferably two, to assist with drafting regulations and maintaining them up to date. It would also be helpful for the INC to obtain technical assistance in preparing plans to address piracy and promote investment in copyright-based industries.

International Participation

The INC would like greater cooperation with other countries in reducing piracy of cinematographic works. Its staff sometimes participate in international meetings and seminars conducted by WIPO. Completing adherence to the Berne Convention and joining the other conventions related to copyright and related rights would be useful. **It would also be useful to increase participation in international meetings on copyright, as these can be a source of technical assistance.**

ARPAC – Social and Cultural Research Institute

ARPAC (Arquivo do Património Cultural) documents various aspects of Mozambique's culture and government. Research covers a broad range of subjects. Research has been conducted and documents prepared on such topics as the traditional management of seeds for food security, local government, the impact of floods in a particular region, goods produced by artisans, the impact of the spread of HIV/AIDS on Mozambican culture, biodiversity and the strengthening of agriculture in rural development, and traditional music and dance. A major focus for ARPAC is to protect traditional knowledge and indigenous resources, and finding ways to protect traditional dances poses a particular challenge. Documenting and protecting traditional instruments also pose a challenge since some of these instruments are difficult to tune.

ARPAC also serves as a research center for academic studies. The head of ARPAC is a consultant for UNESCO.

There are two aspects to the protection of culture and traditional knowledge. One is the preservation of culture for future generations. ARPAC works to protect culture, in this sense, primarily by recording it in monographs, books, and scholarly articles. For aspects of culture that involve performance, such as dance, music, and traditional musical instruments, video recording would be useful but is, as a practical matter, not available. Music and dances can also be preserved for posterity by ensuring that they continue to be performed.

A second aspect of protection of culture and traditional knowledge is to protect interests in its exploitation, that is, to capture its benefits. Some aspects of culture can be protected, in this latter sense, by taking advantage of laws on copyright and related rights. These two approaches are complementary, as copyright protection generally requires placing the work in a tangible form, e.g., by choreographing a dance or recording a score, lyrics, or performance of music. Even such folklore as traditional stories or art forms can be protected, to a limited extent, by placing them into a tangible form, e.g., stories or collections of stories, paintings or drawings, and the like. However, there is no generally accepted form of protection to capture exclusive rights in the concepts, themes, or plots of these stories. **It would be useful to explore the issues surrounding the protection of folklore to determine how best to use the existing intellectual property system to protect domestic interests in folklore.**

SOMAS – Mozambican Society of Authors

The Associação Moçambicana de Autores (SOMAS) is Mozambique's collective rights organization. It is a private organization created in 1998 to protect the rights of authors. Although SOMAS represents all types of authors, its primary work has been in regard to authors of music.

Membership in SOMAS is not compulsory. However, it is typically easier for businesses that use works that are subject to copyright to deal with a single entity rather than having to deal with a large number of different authors, publishers, producers, and broadcasting organizations.

SOMAS works closely with the Ministry of Education and Culture.

Mission

SOMAS' primary work is making contracts with users, such as musicians and authors of music. It currently has agreements with television and radio stations, which pay a fixed percentage of global revenues to authors in exchange for the right to use works licensed through SOMAS. SOMAS obtained these agreements first from the public television and radio stations and then from Mozambique's private radio and television stations. SOMAS has attempted to obtain licenses from a satellite station that broadcasts foreign music, but the broadcaster reportedly responded that it is not performing music but is only diffusing the music, a response SOMAS believes is incorrect. This issue will need to be resolved, as the foreign rightholders are writing to inquire about payment in Mozambique.

SOMAS has been working to obtain agreements with other places that play music, such as restaurants, night clubs, and hotels. This work is basically on hold right now because there are no regulations yet in place to address these issues, and the private sector needs to see the legal basis for any expected payments before it will commit to an agreement to pay royalties. At present, SOMAS indicates that the copyright law provides a general framework for enforcement, that is, it provides for prosecution, fines and imprisonment, but does not specify how penalties should be assessed for each type of offense, e.g., how enforcement might differ for a hotel or nightclub. SOMAS believes it would be useful to have the possibility of an injunction ordering a party to stop playing music until an agreement could be reached, but that this is not provided in the law.

Another complication in negotiating license arrangements is that parties playing music respond that they have a license from MIC to have, for example, a bar and play music. These licenses do not provide for copyright enforcement and are already issued. A more comprehensive solution is needed from the Government.

Representatives are needed in the north and central parts of Mozambique to collect money, e.g., in Beira, so there is at least some sort of presence throughout Mozambique. Collections are centralized in Maputo and the money goes to a bank account of the association in Maputo.

Reciprocal Agreements

SOMAS has reciprocal agreements with about twelve other societies. These do not yet include the American societies such as ASCAP. SOMAS should pursue such arrangements.

International Affiliations

SOMAS is affiliated with CISAC (Confédération Internationale des Sociétés d'Auteurs et Compositeurs, or International Confederation of Societies of Authors and Composers) in Paris, a non-governmental organization (NGO) that works for increased recognition and protection of creators' rights. CISAC comprises 222 authors' societies from 118 countries¹⁰ SOMAS has been an ordinary member (as opposed to a provisional member) of CISAC since 2006. SOMAS is also a member of CAF, the FIM African committee established by the International Federation of Musicians (FIM). FIM is an NGO that represents the interests of music performers and musicians' unions at an international level.¹¹

Human Resources and Finance

SOMAS has four employees including its Executive Director, and about 500 members. Income in 2008 was approximately \$45,000. This amount is expected to increase once regulations are adopted, as there are 6,000 places in Mozambique where music is placed. About 60-70% of SOMAS's revenues are disbursed to authors, with the remaining 30-40% going to meet administrative costs. The maximum payment to any author in 2008 was 10000 metical and the minimum was 2000 metical, or a range of \$72.46 to \$362.30 US. SOMAS carries out its work by sampling, not by counting individual performances, and disburses on a proportional basis.

As a reference, CISAC states, "A fee to cover administrative costs is generally deducted from the copyright royalties. According to CISAC standards, administrative costs should not exceed 30%."¹² SOMAS's level of administrative costs is slightly high compared with this standard, probably because SOMAS is still working to capture revenues. **As SOMAS develops ongoing relationships with more organizations that perform works – hotels, clubs, etc. – its revenues should increase and the administrative cost of collecting those revenues should decrease, allowing the administrative costs to fall to 30% or below.** A major obstacle to achieving this situation is the completion of copyright regulations, which SOMAS indicates would simplify its task of developing relationships with organizations that perform works.

Works Other than Music

SOMAS is a multidisciplinary society that has responsibility for music, books, movies, paintings, sculptures, architectural works, and reprographic works. It held two seminars on literary works and reprographic works. At universities, 80-90% of materials are photocopied from books. Books are mainly imported from Brazil and Portugal so are expensive to purchase in Mozambique, but it is inexpensive to copy, at about 1 metical/ A4 page, which may copy more than one page of a book. Typically, no one requests authorization before undertaking this type of copying. The Director



Mozambican traditional handicrafts display, downtown Maputo.

¹⁰ CISAC, <http://www.cisac.org/CisacPortal/afficherArticles.do?menu=> April 30, 2009.

¹¹ FIM, <http://www.fim-musicians.com/eng/p02.html>, accessed April 30, 2009.

¹² <http://www.cisac.org/CisacPortal/afficherArticles.do?numRubrique=84>, accessed July 27, 2009.

believes that publishers must be brought into the system, as they are outside the copyright management system at present.

There is also a need to take advantage of new technologies to know how many works were played in a given period of time. The process of obtaining this type of information could be automated and emailed to SOMAS, if the software and internet access were available, instead of by hand-counting paper documents. **Additional coordination between the copyright society and user could help, as the copyright society already has a list of works that it licenses.**

No organization is currently working on the issue of legal protection for handicrafts, although the Ministry of Education and Culture works to promote handicrafts and folklore.

Legal Issues

Enacting copyright regulations is SOMAS's primary concern with the legal system. A second concern is that the Ministry of Foreign Affairs needs to complete Mozambique's accession to the Berne Convention by depositing a diplomatic note.

The copyright law is inspired by the Berne Convention. SOMAS's director believes that, with respect to copyright, Mozambique is the most advanced of Portuguese-speaking African countries – more advanced in particular than Angola.

Technical Assistance

SOMAS would welcome technical assistance from a donor agency or from another country to complete the development of regulations or provide more resources for SOMAS. Assistance from a Portuguese-speaking country would reduce translation costs. Three years ago, UNESCO promised \$30,000 for a project, which would be coordinated by INLD, to develop regulations for the law. These funds have not yet been made available but are still expected. WIPO provided SOMAS's computers and photocopy machine.

Enforcement

SOMAS has no enforcement experience yet but believes that the most urgent problem it will face with enforcement is the need for copyright regulations that better identify the types of organizations or activities that require the payment of fees, how those fees are to be set, and similar issues. SOMAS would then be better able to negotiate agreements and initiate enforcement activities as needed.

Plant Variety Protection

Priority Recommendations

- **Enact a plant variety law that is consistent with the International Convention for the Protection of New Varieties of Plants (UPOV).**
- **Draft and publish plant variety protection regulations.**
- **Take the necessary steps to join UPOV.**
- **Establish measures within research institutes to protect and capture the benefits of research and wild varieties.**
- **Develop a training and public awareness program on plant variety protection.**

Mozambique is critically dependent on its ability to cultivate and harvest plants, yet there is no system of intellectual property protection available to promote this sector of the economy or to recover investments made in the development of new plant varieties or the domestication of wild varieties.

Agricultural Development

Agriculture accounts for 23.4% of Mozambique's GDP and occupies 81% of its labor force,¹³ so strengthening the agricultural system could have significant impact. The protection of new plant varieties and participation in an international convention that protects those varieties in foreign countries would offer a number of potential advantages:

- It would facilitate access to foreign varieties that offered a local advantage.
- It would encourage the breeding of new varieties, and the domestication of wild varieties, enabling Mozambique to capture some of the economic benefit of its vast variety of plants.

Improved access to foreign varieties is important when those varieties offer specific advantages. A particular variety may be, for example, more resistant to drought, insects, or other damage. It may be more appealing to customers. It may retain its appearance and freshness longer than another variety. Owners of desirable plants are often reluctant to permit their varieties to be exported to places where plant variety protection is not available.

The ability to demand a benefit as a condition of access to a new variety is also beneficial, as this provides a breeder with the ability to gain a profit from his or her efforts, and in some cases to build a business around sales of the desirable new variety.

Moreover, the ability to become a breeder is potentially available to anyone, as the domestication of wild varieties and breeding of new varieties does not necessarily require advanced training or access to sophisticated technology.

¹³ Mozambique, The World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/geos/mz.html>, accessed March 3, 2009.

Legal Framework

Mozambique needs a legal framework that will provide protection for newly developed plant varieties. The protection of new plant varieties is a requirement for WTO Members, as the TRIPS Agreement provides that new varieties must be protected either by patents or by an effective *sui generis* system (i.e., some other system such as plant variety protection). Although TRIPS is silent as to other requirements, it is generally accepted that UPOV defines the elements of an “effective” system of protection.

The legal framework should include, at a minimum, a statute, regulations, delegation of legal authority to an implementing agency. It should also preferably include publicly available procedures manuals and other guidance on the agency’s interpretation of its legal responsibilities, for use by applicants and implementing agencies.

Once a law is enacted that is consistent with UPOV, Mozambique should also join UPOV. UPOV membership would establish international relationships that would permit Mozambican plant breeders to protect their varieties abroad. To be eligible for UPOV membership, a country must first have a law in place that complies with UPOV requirements. This can best be accomplished by using the provisions of UPOV as a guide for drafting the law, since UPOV provides a comprehensive framework that must be strictly observed in the domestic law. UPOV staff are available to review a proposed law and provide comments regarding whether the draft is UPOV-consistent. Mozambique should prepare a draft law and submit it for approval before the law is enacted in order to make the most effective use of the comments that it is likely to receive.

In developing a plant variety law, it is recommended that Mozambique plan to phase in the application of the law to all varieties, as opposed to attempting to protect all varieties initially. This will permit the new Plant Variety Protection Office to gain experience and manage its workload.

It is also recommended that Mozambique adopt a provision taking advantage of the ability to apply a longer grace period for, as provided in UPOV Article 6(2), to permit Mozambican breeders to take the maximum advantage of the new law.

Existing rights of third parties must be preserved under the law, and UPOV provides for certain mandatory exceptions to the breeder’s right. **In addition, UPOV Article 15(2) provides for an optional exception to the breeder’s right, to permit farmers to use the products of their harvest of a protected variety, on their own holdings, to propagate the variety. Since retaining seed and cuttings is a well-established practice, it is recommended that Mozambique include this exception in its law.**

Capacity-Building

Successfully implementing a new plant variety law will require the development of additional capacity in two primary areas: establishing an office to receive and examine applications for plant variety protection, and establishing capacity within counterpart organizations, such as the Agricultural Research Institute (ARI), to identify and seek protection for new varieties.

The new plant variety protection office will require appropriate facilities, operating procedures, and staff who can examine applications for compliance with legal requirements. Physical and space requirements for the office will depend on the procedures adopted. In particular, an office may conduct its own growth trials for new varieties, in which case, substantial space will be needed, or it

may require the applicant to submit information on growth trials. **In appropriate cases, it should accept information obtained from other plant variety protection offices.**

New staff will require training. There are several training opportunities available, including a distance education program offered by UPOV and a more in-depth course that is offered in the Netherlands.

Once the office is operational, it would be appropriate to conduct public awareness activities that focus not only on new plant variety law but on the broader field of intellectual property. These activities should help equip breeders and researchers use the intellectual property system to promote agricultural exports, including the ability to use the trademark system and geographical indications to establish a market and add value to their products.

Agricultural Research

Mozambique's ARI engages in plant breeding activities, with special attention to the domestication of wild varieties. Both new plant varieties that are produced by breeding and those that are produced by domesticating wild varieties could qualify for protection under a UPOV-type plant variety system. Proceeds from the licensing of new varieties would provide some income that could help support Government research. To make this possible, it would be necessary to establish a system for identifying and protecting newly-developed or newly-domesticated varieties.

Reaping the benefits of a plant variety protection system will require building capacity within the ARI to identify new varieties and prepare the necessary forms to secure protection. Personnel would need to be assigned, and training would need to be offered to all personnel, with particular emphasis on those who would be responsible for operating the program. Initial funding will be needed to pay fees – especially where it is desired to protect varieties abroad – but regulations could create a system that, once established, would be self-sustaining by reinvesting a portion of proceeds from sales or licensing to pay for the cost of the operation.

Enforcement

Priority Recommendations

As soon as possible, the Government of Mozambique should

- **Reorganize enforcement responsibilities to increase efficiency and effectiveness and to deter future infringement, and increase the number of enforcement officials.**
- **Revise regulations to provide more specific and more effective remedies for piracy and counterfeiting.**
- **Develop and implement a plan to increase the number and success of enforcement activities.**
- **Increase security for impounded goods.**
- **Introduce legislation requiring minimum warranties for goods sold or imported into Mozambique.**
- **Provide training for all enforcement officials and for judges, prosecutors, and court experts.**
- **Educate the public on the cost/harms of counterfeiting and piracy.**

Enforcement Objectives

Intellectual property enforcement is necessary to protect consumers and honest businesses. The objectives of enforcement are to

- Remove infringing items from the market,
- Deter future infringing activities,
- Compensate consumers and rightholders for their losses, and
- Replace the market for infringing goods with legal or authentic goods.

Removing Infringing Items from the Market

The removal of infringing items from the market is a primary objective of intellectual property enforcement. Removal of infringing goods is essential to the protection of consumers and honest businesses, who are often victimized by substandard counterfeit and pirated products produced abroad and imported into Mozambique, where they are inflicted on unsuspecting consumers. So long as the infringing goods remain in the market, consumers are at risk of purchasing these goods unwittingly, and honest businesses face continuing losses with each sale. Moreover, some losses cannot be adequately addressed through money damages. These include the loss of business reputation and goodwill associated with a mark, or the failure of a copyright-based industry due to widespread piracy. **Injunctions should be available to prevent future infringing activities.**

From a practical perspective, it is preferable to remove infringing items at as early a stage as possible, as this simplifies the enforcement process. For example, for imported goods, it is preferable that the shipment of goods be seized by the Customs authorities rather than requiring multiple enforcement actions once the goods have been dispersed into the domestic market. For goods that are infringed locally, it is preferable to seize goods where they are manufactured and in appropriate cases, to seize the implements used in the manufacture of the infringing goods, rather than having to pursue multiple infringement actions once the goods are dispersed into multiple locations in the market.

Deterrence

Enforcement deters infringement when both of the following conditions are met:

1. The cost to the infringer makes infringement uneconomical or otherwise too risky. These costs include fines, imprisonment, money damages to consumers or rightholders, legal fees, and loss of the value of seized goods, as well as other costs that may be provided under the law. Infringement can also be made uneconomical by decreasing the market for infringing goods.
2. Potential infringers reasonably expect that they will be caught and punished. This can be aided by increasing the number and frequency of enforcement actions and by publicizing enforcement activities.
3. The cost of infringement – punishment, money damages, seizure of goods, or other costs – must occur promptly.

Penalties and other costs must be large enough to be deterrent, that is, they must amount to more than a minor cost of doing business. To be deterrent, fines and other penalties should be proportionate to the harm involved, including the economic harm. In many cases, it is appropriate to treat each instance of infringement as a separate offense. **Even where fines and other criminal penalties are limited, courts should exercise their authority to grant commercially appropriate civil damages and to issue orders seizing and destroying goods as needed to protect consumers and deter future infringing activities.**

Infringement can also be made uneconomical by measures that decrease the market for the infringing product. Public awareness activities can be helpful in this regard, for example, by educating the public about the dangers associated with a counterfeit product and how to distinguish between counterfeit or pirated and authentic goods, or where to purchase the authentic goods. A recent example reportedly involved a very bad quality counterfeit toothpaste that left consumers so dissatisfied that they changed their purchasing habits to avoid again receiving the counterfeit. In carrying out this type of activity, enforcement officials should work closely with the industry involved to avoid inflicting further damage by making consumers afraid to purchase even the legitimate product. **Where the nature of the infringement does not lend itself to this type of activity, e.g., for pirated movies and music, consideration could be given to imposing a fine on consumers for the knowing purchase of the pirated goods.**

Although much consideration is given to the level of penalties that are appropriate in intellectual property cases, attention is also needed to increasing the expectation of punishment for infringement and to ensuring that the costs to the infringer are imposed promptly. A number of studies have been conducted in the field of criminal law to examine the effects of various penalties. These studies show that in many instances, certainty of punishment plays a greater role in deterring future criminal activities than the harshness of the penalty imposed. In essence, human beings are more likely to engage in actions they know to be illegal if they perceive the risk of being caught as slight and if the punishment, if any, is likely to be delayed for a long period of time.

These are factors that can be controlled. The perception of the risk of being caught and punished for infringing activities can be increased both by increasing the number of enforcement actions – that is, by increasing the real risk that an infringer will be apprehended – and by publicizing enforcement activities, that is, by increasing awareness of the enforcement actions that take place.

Other measures could also be employed. For example, enforcement officials could target specific sectors or types of goods for enforcement, or could concentrate their efforts on specific geographical areas, and then shift to other areas as infringers move their bases of operations. Cleaning up infringement in one area will undoubtedly cause infringers to move to other areas but will likely cost the infringers some business as consumers may be unwilling to travel significant distances.

Prompt action is also essential. **Enforcement officials need the ability to take *in rem* action, that is, to take action against the infringing goods themselves.** Promptly removing these goods from the market could have a significant effect on deterrence by increasing the certainty of loss of the goods and thereby increasing the cost of engaging in commercial-scale infringement.

Compensating Consumers and Rightholders

Consumers and rightholders – typically intellectual property owners – should have the right to seek compensation for their losses through the courts. Money damages should be available and should be set at levels appropriate to commercial losses.

Replacing Infringing Goods with Legal Goods

Some infringers should be put out of business: those who manufacture or sell harmful goods, and those who intentionally sell goods they know to be infringing. However, some infringers could be persuaded to shift their business activities to be entirely legal. This is a highly desirable goal and one that is important to consumers, who may find no legitimate goods available in their local areas. Economic losses due to effective enforcement can help motivate infringers to become honest businesspersons. The objective should be included in a comprehensive enforcement strategy.

Given the extent of Mozambique's informal sector and the way many infringing goods are openly sold, it appears likely that many individuals who sell in booths or on the street are likely not fully informed as to the illegal nature of their sales. **An objective of enforcement against these individuals may therefore not be so much to put them out of business as to make these individuals aware of their legal responsibilities and to encourage them to shift their business activities from infringing to non-infringing goods.** In many cases, manufacturers and importers should also be encouraged to replace illegal goods with legal goods. Importers must be advised to insist on non-infringing goods. **Manufacturers should be encouraged to establish their own brands rather than copying a brand of another party.**

Once counterfeit or pirated goods are removed from the market, the previously infringing business can replace them with non-infringing goods. Counterfeit goods can be replaced with goods that bear a legitimate label of an established brand, the importer's or manufacturer's own label, or no label at all. For works subject to copyright, the seller should replace his or her inventory with authorized works, either by purchasing the works from an authorized source or by obtaining a license from the rightholder.

In some countries, as intellectual property laws were strengthened and new rights were created, domestic manufacturers have been able to negotiate business arrangements with the international companies that previously complained about the activities of those domestic enterprises. This was the experience with Jordan's pharmaceutical industry, for example, when Jordan adopted patent protection for pharmaceutical products. While such events are not the common experience, there is no reason that a business cannot gain an advantage by shifting to legitimate goods instead of pirated or counterfeit goods, a move that may incur initial costs but will be to its long-term benefit.

Enforcement Responsibilities

The responsibility for enforcement is spread among a number of institutions. For works subject to copyright, enforcement is carried out by the Ministry of Education and Culture, Customs, and the courts. For industrial property, enforcement is carried out by the Inspector General for the MIC, Customs, and the courts. Criminal enforcement is the responsibility of the police, but MIC inspectors accompany and assist the police in cases involving criminal enforcement. An Illegal Trade Department includes the Ministry of Justice, Ministry of Interior, MIC (as the lead agency), each of which has its own rules.

Criminal enforcement actions are monitored by private attorneys, and private parties, e.g., rightholders, can intervene in these cases to ask for damages. When enforcement involves the seizure of goods, this is generally carried in conjunction with the Customs authorities, even in the domestic market.

Enforcement agencies are organized into two task forces:

1. The Inspector General of MIC leads a task force for public and private sector enforcement related to industrial property, counterfeiting, food, and non-food items. The Task Force includes MIC officials, CTA, and Customs officials.
2. The General Inspection Agency of the Ministry of Education and Culture leads a task force that is mandated to defend the interests of specific industries related to intellectual property.

If greater authority is granted to enforcement officials to seize infringing goods, some thought should be given to creating an administrative agency to deal with the seizures, with the possibility of an appeal to the courts if the owner is not satisfied as to the decision. (The possibility of an appeal to the courts is a TRIPS requirement.) Given the extent of piracy and counterfeiting in the Mozambican market, a concerted effort to eradicate these activities would likely result in a substantial number of cases. An administrative process should be quicker and less expensive than a judicial process, and the possibility of administratively resolving a significant portion of these cases would help to avoid overburdening the courts with intellectual property cases.

Inspector General, MIC

The Inspector General of MIC is responsible to guarantee the functioning of the market in the area of transformative industries and trade. All transformative industries must register with the MIC, and periodic monitoring is required to ensure that these industries comply with the law. Inspections are carried out in coordination with other agencies, including the Ministries of Health, Labor, Environment, and Education and Culture. Inspections are conducted on a variety of topics, e.g., to ensure food safety, as well as intellectual property.

MIC inspectors are responsible for civil enforcement. In cases involving minor criminal offenses subject to the payment of fines, the inspection agency files documents with the courts.

Legal Authority

The inspection agency operates under a series of regulations and laws. These include regulations on inspections, industrial licensing, and commercial licensing, as well as specialized regulations such as

those on tobacco, water, hygiene, production transport and storage of food products, iodizing salt, and the Industrial Property Code.

Although regulations are in place, these must be reviewed from time to time since the market evolves. Among the omissions are rules governing out-of-date products and an absence of guarantees. There is presently no legislation that requires sellers to have warranties, even of the most basic nature. **Requiring a warranty would significantly aid consumers and would also strengthen the ability to enforce industrial property laws.**

Coordination

MIC's inspection agency has direct coordination with the IPI. It has no legislative connection with the INLD but does cooperate because of similar interests.

The inspection agency becomes involved when there is a danger related to a mark. The agency would also conduct an investigation when there is a dispute, for example, trade in Levi's jeans. When there is a complaint, the agency would consult the IPI, which has the registry of marks and assists in a technical capacity. The same general process is used for well-known marks.

The inspection agency is also involved with regard to the importation of counterfeit products. If a case is presented that involves an accusation of importing counterfeit goods, the inspection agency works with Customs. This is useful because Customs is able to obtain intelligence on counterfeiting and has the authority to apprehend the goods before they leave Customs and enter the local market. Enforcement responsibilities are divided, with the MIC having responsibility for the domestic market and Customs having responsibility for the area where goods are unloaded. The two organizations cooperate.

There is good coordination between the public and private sectors. In a number of cases, this cooperation has succeeded in preventing the entry of false goods into Mozambique's market. Some manufacturers have particularly good control over their goods in the market. Although the inspection agency is often effective in removing counterfeit goods from the market, it feels its successes are small in comparison with the magnitude of the problem, particularly for clothing, shoes, and domestic electronics. It has better control over foods.

Human Resources and Planning

The Inspector General of MIC currently has 8 inspectors in Maputo and 3-4 in each province, for a total of 32 throughout Mozambique. About half of these inspectors are university trained, with the rest having a secondary school education. In 2007-2008, 6 university-trained inspectors left the agency. This is an appropriate level of training for inspectors, and a good mix, although **it would be useful to create incentives to help retain university-trained personnel.**

This is far too few inspectors. A complement of 32 inspectors cannot begin to address the large number of infringing activities that are carried out in Mozambique, a country of more than 20 million people, a largely informal economy, and a land area of nearly 800,000 square kilometers, as shown by Table 4. Even in Maputo, a team of 8 inspectors is far from adequate. A brief tour of Maputo – population more than a million, with another million-plus individuals in Maputo province – revealed a proliferation of informal businesses, many of them selling counterfeit goods.

Inspectors should have the authority to seize goods and to issue warnings and citations. Inspections should be carried out on the basis of complaints and on the agency's own initiative in

accordance a strategic plan that includes random inspections and that targets counterfeiting by geographic area or types of merchandise that is being counterfeited.

Inspectors should ideally work in teams of 2-4. Assigning more than one inspector to a team helps to ensure their safety when goods are seized or a citation issued.

Table 4: Mozambique's Population and Land Area, by Province

Name	A-L (km2)	Cp 2007-09-16
Cabo Delgado	82,625	1,632,809
Gaza	75,709	1,219,013
Inhambane	68,615	1,267,035
Manica	61,661	1,418,927
Maputo	26,058	1,099,102
Maputo Cidade	300	1,259,713
Nampula	81,606	4,076,642
Niassa	129,056	1,178,117
Sofala	68,018	1,654,163
Tete	100,724	1,832,339
Zambézia {Zambezia}	105,008	3,892,854
Mozambique	799,380	20,530,714
Source: CityPopulation, http://www.citypopulation.de/Mocambique.html , accessed May 21, 2009		

For an ordinary inspection action, inspectors will need time to plan the inspection, obtain approval from the director, make arrangements for transportation, actually conduct the inspection, secure the goods if any have been seized, prepare their notes, and possibly prepare documents for court. In some cases, time will also be required to coordinate with other organizations. Realistically, some types of inspections will be relatively time-consuming, while it may be possible to carry out several smaller inspections in the same area on a single day.

Assuming an average of two inspections per day per team for 50 weeks of the year, four teams of two inspectors (the total of 8 in Maputo), the inspections agency could carry out 400 inspections in a year. While this number sounds large, it is barely sufficient to pay a weekly visit to 40 street corners in the whole of Maputo.

Outside Maputo, the number of inspectors in each province is even lower. While other cities and provinces have smaller populations than Maputo, the land area to be covered is often quite large – sometimes nearly five times the land area of Maputo province. Where inspectors must cover a substantial area or population, larger numbers of inspectors are needed, and resources must reflect travel needs.

The MIC needs to employ three to four times as many inspectors, as well as a small number of administrative employees to assist with records management, scheduling, and communications. Once stronger enforcement and other programs succeed in reducing the prevalence of counterfeit goods in the local market, the number of inspectors can be permitted to decrease through attrition and reassignment.

All inspectors and other employees should have access to training, on intellectual property, on the identification of counterfeit goods, and on legal issues related to evidence and procedures.

Private sector involvement should be encouraged, particularly with regard to the identification of counterfeit goods.

Resources

Counterfeit goods and pirated works are both anecdotally reported and easily observed to be available in the local market, primarily through the informal sales, i.e., street vendors. Pirated works include DVDs and counterfeit goods include a broad range of consumer items from shoes and clothing to toothpaste.

Given the prevalence of counterfeits and pirated works in Mozambique, additional resources are needed. At a minimum, the inspections agency should have ready access to transportation, to enable it to conduct enforcement actions quickly. If inspectors are permitted to conduct seizures, a secure location will be needed to store seized goods and maintain a chain of evidence for judicial enforcement. The inspection agency should have specifically allocated resources so that it is able to formulate a budget and develop a strategic plan for carrying out its mission.

Customs

Customs authorities are responsible for interdicting the flow of illegal goods into and out of Mozambique. The Intelligence Department conducts investigations in the local market to identify the most common counterfeit goods. This information is used to develop a new operational plan, which must have authorization from the Director of Customs before it can be implemented. The Investigations and Information Department has primary responsibility for preventing the importation of infringing goods.

Customs also assists with enforcement of intellectual property rights by participating in investigations in the domestic market. Infringing products are identified both in response to complaints by the rightholders and by Customs officials on their own initiative. Most physical inspections are conducted either on the basis of a risk profile or a complaint. Customs also inspects declarations of outgoing shipments but has not identified any outgoing shipments of counterfeit goods, possibly indicating that Mozambique is not an exporter of counterfeit goods.

Inspections of Shipments

All shipments are subject to inspection based on their documents, risk profile, and the results of scanning. Greater scrutiny is given when documents do not appear to be in order. The Customs authorities use a computer data base to guide decisions on whether to conduct a physical examination of a shipment. As Customs becomes aware of information about counterfeit goods, that information is input into the computer system. Certain types of shipments also have a higher risk of being counterfeit and trigger a physical inspection.

The most common counterfeit imports include clothing, shoes, cigarettes, watches, computers, specialty items, detergent, and software. Most counterfeits arrive from China. However, most legitimate goods also arrive from China and South Africa. Customs finds it difficult to prove software piracy.

If counterfeit goods are identified, Customs officials stop the container and contact IPI to identify the trademark owner. The trademark owner or the owner's representative is then contacted to request samples to analyze, as Customs authorities need a basis for comparison. It is sometimes a problem

to locate the trademark owner. If this causes a substantial delay, fines may be incurred for holding the goods in the terminal. Customs maintains records of counterfeits on its computer system.

Once potentially counterfeit goods are identified and the owner is contacted, it is up to the trademark owner to show that the goods are counterfeit. In many cases, this can be accomplished locally, but for some types of goods, this is not possible. For example, for counterfeit computers, Customs must send the allegedly infringing item to South Africa to be tested.

Essentially the same procedure is followed for pirated music. It can be difficult to identify pirated music because of their small size and because CDs are often packed as singles. Several years ago, Customs officials apprehended a large number of pirated music packed in a small suitcase. With one or two suitcases of CDs, a pirate could inundate the market.

Cooperation with Other Agencies

Customs has jurisdiction over the intellectual property cases in the domestic market as well as for goods being imported or exported. Police are included in raids for security only. On trademark counterfeit cases, Customs works with the IPI, although this is more difficult for customs officials in the provinces. For music, Customs works with the National Institute of Books and Records. For items related to health, Customs also works with the Ministry of Health General Inspection Directorate.

Last year, Customs participated in a joint initiative with the Ministry of Education and Culture, the police, the Ministry of Commerce, and the IPI. However, the joint operation was postponed and still has not been launched.

Procedures

Intellectual property inspections follow a general customs inspection procedure. There is no separate set of procedures for intellectual property cases.

Complaints must identify the name of the company, the trademark alleged to be infringed, and evidence to support the complaint. Customs takes this information to the IPI to determine whether there is a trademark. Then, when the goods arrive, Customs will hold the goods, take a sample, and secure an affidavit regarding the findings.

There is no provision for a complainant to post a security to ensure that the claim is not frivolous or to compensate the importer if the complaint proves to be unfounded. **This possibility will need to be provided to be consistent with the TRIPS Agreement.**

If goods are seized, the case must be taken to the courts. Counterfeit food and cigarettes are always destroyed. Other counterfeit products must be destroyed as well unless the trademark owner gives permission for some other use. However, this permission is virtually never granted.

The time to resolve an intellectual property case typically takes one-two weeks in Customs but can take anywhere from 3 months to a period of years, depending on what occurs in the courts.

It would be helpful to have more specific procedures for intellectual property cases.

Human Resources

Customs officials have university training. Some officials who are responsible for intellectual property issues have had training on intellectual property and counterfeiting but need additional training. More training is also needed because customs officials who have previously been trained will be rotated into different positions every three years as part of a Customs-wide policy to prevent corruption. To maintain a corps of individuals with the proper training, intellectual property training should be offered on an ongoing basis.

Seizures

Table 5 shows intellectual property seizures effected by the Customs authorities over the past several years.

Table 5. Seizures by Customs Authorities on Intellectual Property Grounds, 2002-2008

Case	Date Seized	Place Seized	Goods		Observations
			Amount	Item	
1	3/11/2002	ESTABELECIMENTO COMERCIAL MAPUTO	2791 UNID.	CD'S	Contrafeitas
2	3/27/2002	TIAR- MAPUTO	3122 UNID.	CD'S E DVD'S	Falsificação de marcas
3	3/27/2002	TIAR- MAPUTO	3544 UNID.	CD'S	Falsificação de marcas
4	7/31/2002	TIAR- MAPUTO	850 UNID.	CD'S	Falsificação de marcas
			20 UNID.	DVD'S	
5	10/1/2003	TIMAR - MAPUTO	5717 UNID.	SAPATILHAS DE MARCA ADIDAS E PUMA	Falsificação de marcas
6	10/1/2003	TIMAR - MAPUTO	229 UNID.	CAMISETES DE MARCA NIKE E KAPPA	Falsificação de marcas
			20 UNID.	CALÇÕES ADIDAS	
7	11/17/2004	ESTABELECIMENTO COMERCIAL MAPUTO	148 UNID.	DVD'S	Falsificação de marcas
			1659 UNID.	VCD'S	
8	7/12/2004	TIMAR - MAPUTO	26,1654 TONS	DETERGENTE EM PO DE MARCA "AMOR"	Falsificação de marcas
			3000 UNID.	CANETAS DE MARCA BIC	
			6650 UNID.	SACOS PLASTICOS	
9	10/18/2004	ESTABELECIMENTO COMERCIAL MAPUTO	1050 UNID.	DVD'S E VCD'S	Falsificação de marcas

Case	Date	Place Seized	Goods		Observations
10	11/29/2004	ESTABELECIMENTO COMERCIAL MAPUTO	350 UNID.	DVD'S	Falsificação de marcas
			232 UNID.	VCD'S	
11	11/29/2004	ESTABELECIMENTO COMERCIAL MAPUTO	523 UNID.	DVD'S	Falsificação de marcas
			207 UNID.	VCD'S	
12	6/22/2005	ESTABELECIMENTO COMERCIAL MAPUTO	88 CAIXAS	FÓSFOROS DE MARCA ZEBRA	Falsificação de marcas
	2/9/2005	TIAR- MAPUTO	10000 UNID.	DVD'S	Falsificação de marcas
14	5/9/2007	TIMAR - MAPUTO	2312 PARES	SAPATILHAS DE MARCA ADIDAS, PUMA, LEVIS, NIKE E ALL STAR	Falsificação de marcas
15	10/17/2007	TIMAR - MAPUTO	134 PARES	SAPATILHAS DE MARAC NIKE, PUMA, LACOSTE	Falsificação de marcas
16	6/12/2007	TIMAR - MAPUTO	196 UNID.	DISCOS VCD PORNOGRÁFICOS	Falsificação e importação proibida por lei.
			100 UNID.	CASSETES PORNOGRÁFICOS	
17	18/02/08	ESTABECIMENTO COMERCIAL MAPUTO	600 UNID.	DISCOS DVD'S	Falsificação e importação proibida por lei.
			200 UNID.	MASTER PARA DVD'S	
18	11/2/2008	RESIDÊNCIA MAPUTO	800 UNID, 24 UNID EM CXS	DISCOS DVD'S	Falsificação e importação proibida por lei.
			100 UNID.	DISCOS VCD'S	
			01 UNID	MAQUINA REPRODUTORA (COPIAR) COM 10 WRITERS DE MARCA PROLINE	
19	7/22/2008	ESTABECIMENTO COMERCIAL NAMPULA	589 CXS	SARDINHAS DE MARCA "LACK STAR"	Falsificação de marca "Luck Star"
			76 CXS	ATUM	

Source: Director for Audit, Investigation and Intelligence, General directorate of Customs

Copyright Enforcement

Copyright enforcement in the internal market is impeded by the lack of implementing regulations. As discussed above, it is difficult to interdict pirated goods at the border because they are difficult to detect.

Confederação das Associações Económicas (CTA)

The CTA is a private sector organization composed of private sector business associations representing different industry sectors. CTA actively pursues improvements in intellectual property protection and has created a task force that focuses on intellectual property enforcement. **This private sector involvement is a positive development and should be continued. The CTA could also be a positive force for improvement by**

Tribunals and Appeals

Customs cases are heard by a special Customs Tribunal. Intellectual property disputes are appealed to the courts.

Compartmentalization of Authority

One problem consistently identified with enforcement is the compartmentalization of authority. The involvement of multiple agencies, each with its own priorities in addition to intellectual property enforcement, requires more coordination than would be required if the enforcement action were carried out by a single organization. Even with good coordination, the fact that multiple organizations are involved slows action to the schedule of the organization least ready to proceed.

Responsibility for enforcement should be reorganized to eliminate the need for interagency consultation and agreement in most cases. This would increase the efficiency of enforcement activities and would give managers better control over the flow of information.

This is not to suggest placing responsibility for all types of enforcement in a single organization. Specialization can be useful. For example, the criteria for identifying counterfeit goods are different from those for identifying pirated copies, and customs rules are different from those that apply in civil cases or criminal cases. However, it is important that, for any given type of intellectual property, there be an organization with authority to carry out an enforcement action without the necessity of obtaining prior agreement and consultation from one or more other organizations.

Storage of Seized Goods

Another issue broadly identified as a problem is security for seized goods. Goods that have been seized must be maintained in a secure location until final disposition by the appropriate judicial body. This is necessary both to preserve the value of those goods as evidence and also to preserve their value in the event that the goods are found to be non-infringing. Unfortunately, there are reports of seized goods making their way into the local market. **This issue could be addressed in large measure by providing appropriate resources for storage and security of the seized goods, followed by prompt, witnessed destruction of the goods when legal procedures have been completed.**

Courts and Judicial Education

Priority Recommendations

- Undertake a brief assessment of the Administrative Court to identify ways to improve efficiency. Based on information from assessment, improve capacity and procedures in the Administrative Court.
- Organize courses on intellectual property for judges, prosecutors, and court experts, through the Judicial Training Institute.
- Organize courses on remedies for judges, prosecutors, and court experts, through the Judicial Training Institute
- Develop bench books and provide reference materials to assist judges in preparing their opinions.
- Create a data base of legal cases, beginning with appellate cases.
- Make these cases available for online searching via keyword or preferably full-text search.

Administrative Court

The Administrative Court hears appeals arising from the IPI or other Government agencies.

The team was not able to arrange a visit to the Administrative Court. However, other sources report that industrial property cases appealed to the Administrative Court take an unacceptably long time to be resolved, i.e., on the order of years. The reasons for these delays are thought to relate to a large caseload. This is clearly an unacceptable situation, as delays in deciding appeals increase the time required to obtain a patent or register a mark or design. **It would be useful to undertake a brief assessment of the Administrative Court to identify ways to improve efficiency.**

A second problem is that there is reportedly no convenient means for stakeholders to learn the status of a case. Reportedly, when a status inquiry is made, a case is pulled from the queue to provide the information and the case is then returned to the end of the queue, thus increasing the time before the cases is decided. This is also an unacceptable situation since attorneys are ethically obligated to follow the course of cases they have filed. **Moreover, this is a problem that could and should be addressed by including status information in an automated system, permitting most status checks to be made via computer rather than requiring that court staff actually inspect a file.**

Intellectual Property Disputes

Depending on where a case originates, an intellectual property dispute may be heard by the Customs Court or by an ordinary court. In some centers, arbitration is available as an option. Judges assistants typically sit in panels and jointly make decisions on the facts, at which point the judge makes the relevant legal decisions. Some sections of the courts are designated to deal only with commercial issues, with the ultimate aim of having a commercial court. A clear-cut criminal case involving only a fine typically takes three days to be decided, while several months may be required for a case involving a serious crime. There are few intellectual property cases in the courts, but these may be increasing. Courts have the authority to order the payment of damages, destruction of goods, and injunctive relief.

There are about 300 judges and somewhat fewer prosecutors. Of 128 districts, about 120 have courts. In addition, each of Mozambique's 10 provinces has a provincial court, plus one for Maputo,

for a total of 11. There is also a Supreme Court and there are plans to create an intermediate appellate court.

Decisions are written and reasoned. There is a center for reference and documents. Laws are kept in bound books, and there is a service, Pandora's box, that reportedly has put all laws online and continually updates this site. Provincial courts and the capital have computer systems. The district courts do not yet have computers. One reason that these courts do not yet have computer systems is that some centers do not have reliable access to energy sources.

Judges are educated first in the faculties of law and then receive training at the Judicial Training Center. There was general agreement of the need to provide specialized training on intellectual property to judges who deal with intellectual property cases.

Judicial Training Center

The Judicial Training Center offers training programs for judges and for others who are involved in the judicial process, such as lawyers, prosecutors, court clerks, and judges' assistants. There is also a program for paralegals who go into the country to inform people about rights to property. The Center is working to train prosecutors now.

The Center offers programs on a variety of topics and could offer training on any legal subject. No courses have yet been offered on intellectual property, but there is interest in such a course, provided that funding is available for the activity. Where possible, the Center prefers to offer courses that are built around case studies. Training also includes lectures and films. The Center has a simulation room where a mock proceeding can be conducted. It has also just been offered videoconferencing equipment and is exploring how it might best use that. Training programs at the Judicial Training Center also feature handout materials.

The Center has professional trainers who present basic courses. It has a staff of 56 but sometimes brings in expertise from abroad, particularly for topics where it does not have the expertise available. **It would be useful to work with the Judicial Training Center to develop and offer intellectual property programs targeted for judges in Mozambique.**

Intellectual Property Education

Priority Recommendations

- **Expand existing programs.**
- **Provide intellectual property training for faculty members.**
- **Offer intellectual property courses in the Faculties of Science and Engineering.**
- **Identify or develop agreed Portuguese language text(s) and curriculum materials.**

Faculties of Law

Intellectual property courses are offered in the Faculties of Law of two universities. In Eduardo Mondlane University, a special post-graduate intellectual property course is being offered in conjunction with the University of Lisbon. Topics in the course include rights of authors, rights of society to information, rights of competition and intellectual property, intellectual property and regional economic integration, and industrial property rights. The course is offered for a period of five weeks, carried out between June and November 2009.

There is significant interest in the intellectual property course. The present course includes about 25 candidates. Because of classroom size, enrollment is typically limited to 30 individuals. If there is sufficient interest, the course is repeated after one or two years. Priority is given to the enrollment of faculty members, as a training-of-trainers approach. The University has about 700 undergraduate students and about 100 master's level students. **Some consideration should be given to offering multiple sections of the course to meet demand.**

Curriculum

Plans are under way to add intellectual property to the regular curriculum at Eduardo Mondlane University. This is expected to be in place by February 2010. The present course is part of a master's degree program that is being offered through the University of Lisbon. Intellectual property has also been taught as part of a master's level program on international trade law.

The Eduardo Mondlane University has experts who can help to devise the curriculum. Some of these experts have a background in common law, some in civil code law. The University also has access to experts in economics, representatives of government agencies, and practicing attorneys in law firms. There are no faculty members with expertise in patents or plant variety protection. For patents, this problem could and should be addressed by making greater use of adjunct or visiting faculty members with expertise in patent practice.

Training Materials

Most master's level law students can read in English, and some lectures are offered in English. There are few legal texts on intellectual property that are available in Portuguese. This is an omission that should be remedied so that intellectual property courses can be expanded to include undergraduate students. **It is desirable to provide intellectual property materials for the libraries in the Faculties of Law. In addition, universities should take advantage of distance learning that is available through the WIPO Academy.**

Other Faculties

It would be useful to offer intellectual property courses in other faculties. In particular, it would be helpful to introduce intellectual property concepts into the Faculties of Science and Engineering. Those courses should include an overview of intellectual property topics, responsibilities with regard to intellectual property, and the uses of intellectual property in developing businesses. Plans are under way to introduce intellectual property into the Faculty of Engineering.

In addition, since the students in these faculties have technical qualifications, these courses should include training on the use of patent documents as a technical resource and on the preparation of original patent applications. These skills would be useful to promote the transfer of technology and to improve Mozambican capacity to benefit from its investment in research.

Sometimes intellectual property is taught in connection with business law or industrial law. These programs should be encouraged.

For training materials, see above under *Faculty of Law*.

Elementary Schools

Some interest was expressed in providing training for school children on intellectual property. **An excellent educational program was developed by professional educators under the sponsorship of the US Patent and Trademark Office. This program, called Project Xcel, created a curriculum to encourage inventive thinking among school children.** Curricula were developed for elementary school, middle school, and secondary school students. These can be obtained online at http://www.uspto.gov/web/offices/ac/ahrpa/opa/kids/icreatm_guide_es.pdf, http://www.uspto.gov/web/offices/ac/ahrpa/opa/kids/icreatm_guide_ms.pdf, and http://www.uspto.gov/web/offices/ac/ahrpa/opa/kids/icreatm_guide_hs.pdf. Although these materials have a decidedly U.S. perspective, they include a number of useful concepts and approaches that could easily be adapted for use elsewhere.

Public Awareness

Priority Recommendations

- Develop and conduct a public awareness campaign on intellectual property, to educate Mozambican industries, artisans, SMEs on benefits of intellectual property and how it can be used to promote business development and profitability
- Conduct public awareness training for the news media
- Actively involve the news media in public awareness and training programs

Planning for Greater Public Awareness

There is a significant need for greater public awareness on all forms of intellectual property. **Each organization that is responsible for implementing the intellectual property system – IPI (which is already conducting outreach), Ministry of Culture, Customs, CTA, Office of the Inspector General, a plant variety protection office when one is designated – should give public awareness activities a prominent role in its plans.** To ensure that public awareness is adequately represented in an organization's work, organizations may find it useful to develop a public awareness plan that

identifies the organization's stakeholders and target audience, the areas in which greater awareness is needed, and the types of activities that will be undertaken to meet those needs. **Moreover, these public awareness activities need to be targeted to reach their intended audience.** Thus, a public awareness program aimed at reducing the sale of counterfeit goods should be structured to reach street vendors and consumers, while a program aimed at increasing patent filing might target industry associations, research institutions, and universities.

All activities undertaken by the organization should also include a public awareness component. Media professionals should be invited to public awareness events and provided with information that will aid in reporting the event. Participation by the press and broadcast media will therefore have the advantage of multiplying the effect of the public awareness event. Planning for public awareness events should include press briefings and opportunities for interviews. Informational brochures should be prepared to describe technical issues in plain terms. Annual reports should be shared with the news media, and a brief press release should be prepared describe noteworthy events. Major enforcement actions should also be reported as news items.

Working with the News Media

A public awareness strategy that has proven effective elsewhere has been to offer programs on intellectual property for journalists and the broadcast media who report on economic issues. This would be an appropriate subject for cooperation with the IPI and other organizations responsible for implementation of the intellectual property laws.

A successful training program should provide media professionals with the information they need to report on intellectual property issues. The program should provide technical information on copyright along with information on Government efforts to strengthen copyright, trademark, and other forms of intellectual property, and on the potential and actual economic benefits of intellectual property and losses due to piracy or counterfeiting. Most importantly, these programs provide a forum for local interests to explain their dependence on the intellectual property system and their need for greater enforcement, and they provide journalists with contacts and the ability to follow up to develop further stories or programs. In Egypt, a similar program increased media coverage of intellectual property issues and improved the reporting. The program proved to be highly popular with a core group of media professionals. This approach formed the basis for longer-term cooperation with the media and eventually, the relationship was transformed into an NGO in order to ensure that the arrangement would continue indefinitely. To make this type of program successful, it is essential to include an effective media professional in the activity.

Communications Materials

Carrying out an effective public awareness program requires the availability of appropriate informational materials suitable for a variety of audiences. The IPI has developed some communications materials on industrial property and has conducted a series of highly successful workshops, it would be useful to broaden this effort to create a series of pamphlets, flyers, and other materials on a broader range of intellectual property topics that could be distributed at training or public awareness events. In particular, it would be useful to have materials on the topics not addressed by IPI, such as plant variety protection and the rights of authors. It would also be useful to find funding to permit the IPI to repeat its outreach activities and to conduct them on an ongoing basis, since the only reason that the IPI outreach efforts have diminished is lack of resources,

It would also be useful to take advantage of the internet as a means to provide information. Even though internet access is not as widely available in Mozambique as could be desired, there are still a

significant number of individuals with access. A website would provide a means to disseminate information on the benefits of copyright, on what is permitted and what is not permitted without obtaining permission from the copyright holder, and to publicize successful enforcement activities so as to deter others from engaging in piracy.

Annex A Membership in Selected International Agreements on Intellectual Property

Paris Convention

Berne Convention

WIPO Copyright Treaty

Rome Convention

WIPO Performances and Phonograms Treaty

Madrid Agreement (Marks)

Madrid Protocol

UPOV

Paris Convention

(Total Contracting Parties: 173)

CONTRACTING PARTY	TREATY	STATUS	ENTRY INTO FORCE
Albania	Paris Convention	In Force	October 4, 1995
Algeria	Paris Convention	In Force	March 1, 1966
Andorra	Paris Convention	In Force	June 2, 2004
Angola	Paris Convention	In Force	December 27, 2007
Antigua and Barbuda	Paris Convention	In Force	March 17, 2000
Argentina	Paris Convention	In Force	February 10, 1967
Armenia	Paris Convention	In Force	December 25, 1991
Australia	Paris Convention	In Force	October 10, 1925
Austria	Paris Convention	In Force	January 1, 1909
Azerbaijan	Paris Convention	In Force	December 25, 1995
Bahamas	Paris Convention	In Force	July 10, 1973
Bahrain	Paris Convention	In Force	October 29, 1997
Bangladesh	Paris Convention	In Force	March 3, 1991
Barbados	Paris Convention	In Force	March 12, 1985
Belarus	Paris Convention	In Force	December 25, 1991
Belgium	Paris Convention	In Force	July 7, 1884
Belize	Paris Convention	In Force	June 17, 2000
Benin	Paris Convention	In Force	January 10, 1967
Bhutan	Paris Convention	In Force	August 4, 2000
Bolivia	Paris Convention	In Force	November 4, 1993
Bosnia and Herzegovina	Paris Convention	In Force	March 1, 1992
Botswana	Paris Convention	In Force	April 15, 1998
Brazil	Paris Convention	In Force	July 7, 1884
Bulgaria	Paris Convention	In Force	June 13, 1921
Burkina Faso	Paris Convention	In Force	November 19, 1963
Burundi	Paris Convention	In Force	September 3, 1977
Cambodia	Paris Convention	In Force	September 22, 1998
Cameroon	Paris Convention	In Force	May 10, 1964
Canada	Paris Convention	In Force	June 12, 1925
Central African Republic	Paris Convention	In Force	November 19, 1963
Chad	Paris Convention	In Force	November 19, 1963
Chile	Paris Convention	In Force	June 14, 1991
China	Paris Convention	In Force	March 19, 1985
Colombia	Paris Convention	In Force	September 3, 1996
Comoros	Paris Convention	In Force	April 3, 2005
Congo	Paris Convention	In Force	September 2, 1963
Costa Rica	Paris Convention	In Force	October 31, 1995
Côte d'Ivoire	Paris Convention	In Force	October 23, 1963
Croatia	Paris Convention	In Force	October 8, 1991
Cuba	Paris Convention	In Force	November 17, 1904
Cyprus	Paris Convention	In Force	January 17, 1966
Czech Republic	Paris Convention	In Force	January 1, 1993
Democratic People's Republic of Korea	Paris Convention	In Force	June 10, 1980
Democratic Republic of the Congo	Paris Convention	In Force	January 31, 1975
Denmark	Paris Convention	In Force	October 1, 1894
Djibouti	Paris Convention	In Force	May 13, 2002

CONTRACTING PARTY	TREATY	STATUS	ENTRY INTO FORCE
Dominica	Paris Convention	In Force	August 7, 1999
Dominican Republic	Paris Convention	In Force	July 11, 1890
Ecuador	Paris Convention	In Force	June 22, 1999
Egypt	Paris Convention	In Force	July 1, 1951
El Salvador	Paris Convention	In Force	February 19, 1994
Equatorial Guinea	Paris Convention	In Force	June 26, 1997
Estonia	Paris Convention	In Force	August 24, 1994
Finland	Paris Convention	In Force	September 20, 1921
France	Paris Convention	In Force	July 7, 1884
Gabon	Paris Convention	In Force	February 29, 1964
Gambia	Paris Convention	In Force	January 21, 1992
Georgia	Paris Convention	In Force	December 25, 1991
Germany	Paris Convention	In Force	May 1, 1903
Ghana	Paris Convention	In Force	September 28, 1976
Greece	Paris Convention	In Force	October 2, 1924
Grenada	Paris Convention	In Force	September 22, 1998
Guatemala	Paris Convention	In Force	August 18, 1998
Guinea	Paris Convention	In Force	February 5, 1982
Guinea-Bissau	Paris Convention	In Force	June 28, 1988
Guyana	Paris Convention	In Force	October 25, 1994
Haiti	Paris Convention	In Force	July 1, 1958
Holy See	Paris Convention	In Force	September 29, 1960
Honduras	Paris Convention	In Force	February 4, 1994
Hungary	Paris Convention	In Force	January 1, 1909
Iceland	Paris Convention	In Force	May 5, 1962
India	Paris Convention	In Force	December 7, 1998
Indonesia	Paris Convention	In Force	December 24, 1950
Iran (Islamic Republic of)	Paris Convention	In Force	December 16, 1959
Iraq	Paris Convention	In Force	January 24, 1976
Ireland	Paris Convention	In Force	December 4, 1925
Israel	Paris Convention	In Force	March 24, 1950
Italy	Paris Convention	In Force	July 7, 1884
Jamaica	Paris Convention	In Force	December 24, 1999
Japan	Paris Convention	In Force	July 15, 1899
Jordan	Paris Convention	In Force	July 17, 1972
Kazakhstan	Paris Convention	In Force	December 25, 1991
Kenya	Paris Convention	In Force	June 14, 1965
Kyrgyzstan	Paris Convention	In Force	December 25, 1991
Lao People's Democratic Republic	Paris Convention	In Force	October 8, 1998
Latvia	Paris Convention	In Force	September 7, 1993
Lebanon	Paris Convention	In Force	September 1, 1924
Lesotho	Paris Convention	In Force	September 28, 1989
Liberia	Paris Convention	In Force	August 27, 1994
Libyan Arab Jamahiriya	Paris Convention	In Force	September 28, 1976
Liechtenstein	Paris Convention	In Force	July 14, 1933
Lithuania	Paris Convention	In Force	May 22, 1994
Luxembourg	Paris Convention	In Force	June 30, 1922
Madagascar	Paris Convention	In Force	December 21, 1963
Malawi	Paris Convention	In Force	July 6, 1964

CONTRACTING PARTY	TREATY	STATUS	ENTRY INTO FORCE
Malaysia	Paris Convention	In Force	January 1, 1989
Mali	Paris Convention	In Force	March 1, 1983
Malta	Paris Convention	In Force	October 20, 1967
Mauritania	Paris Convention	In Force	April 11, 1965
Mauritius	Paris Convention	In Force	September 24, 1976
Mexico	Paris Convention	In Force	September 7, 1903
Monaco	Paris Convention	In Force	April 29, 1956
Mongolia	Paris Convention	In Force	April 21, 1985
Montenegro	Paris Convention	In Force	June 3, 2006
Morocco	Paris Convention	In Force	July 30, 1917
Mozambique	Paris Convention	In Force	July 9, 1998
Namibia	Paris Convention	In Force	January 1, 2004
Nepal	Paris Convention	In Force	June 22, 2001
Netherlands	Paris Convention	In Force	July 7, 1884
New Zealand	Paris Convention	In Force	July 29, 1931
Nicaragua	Paris Convention	In Force	July 3, 1996
Niger	Paris Convention	In Force	July 5, 1964
Nigeria	Paris Convention	In Force	September 2, 1963
Norway	Paris Convention	In Force	July 1, 1885
Oman	Paris Convention	In Force	July 14, 1999
Pakistan	Paris Convention	In Force	July 22, 2004
Panama	Paris Convention	In Force	October 19, 1996
Papua New Guinea	Paris Convention	In Force	June 15, 1999
Paraguay	Paris Convention	In Force	May 28, 1994
Peru	Paris Convention	In Force	April 11, 1995
Philippines	Paris Convention	In Force	September 27, 1965
Poland	Paris Convention	In Force	November 10, 1919
Portugal	Paris Convention	In Force	July 7, 1884
Qatar	Paris Convention	In Force	July 5, 2000
Republic of Korea	Paris Convention	In Force	May 4, 1980
Republic of Moldova	Paris Convention	In Force	December 25, 1991
Romania	Paris Convention	In Force	October 6, 1920
Russian Federation	Paris Convention	In Force	July 1, 1965
Rwanda	Paris Convention	In Force	March 1, 1984
Saint Kitts and Nevis	Paris Convention	In Force	April 9, 1995
Saint Lucia	Paris Convention	In Force	June 9, 1995
Saint Vincent and the Grenadines	Paris Convention	In Force	August 29, 1995
San Marino	Paris Convention	In Force	March 4, 1960
Sao Tome and Principe	Paris Convention	In Force	May 12, 1998
Saudi Arabia	Paris Convention	In Force	March 11, 2004
Senegal	Paris Convention	In Force	December 21, 1963
Serbia	Paris Convention	In Force	April 27, 1992
Seychelles	Paris Convention	In Force	November 7, 2002
Sierra Leone	Paris Convention	In Force	June 17, 1997
Singapore	Paris Convention	In Force	February 23, 1995
Slovakia	Paris Convention	In Force	January 1, 1993
Slovenia	Paris Convention	In Force	June 25, 1991
South Africa	Paris Convention	In Force	December 1, 1947
Spain	Paris Convention	In Force	July 7, 1884

CONTRACTING PARTY	TREATY	STATUS	ENTRY INTO FORCE
Sri Lanka	Paris Convention	In Force	December 29, 1952
Sudan	Paris Convention	In Force	April 16, 1984
Suriname	Paris Convention	In Force	November 25, 1975
Swaziland	Paris Convention	In Force	May 12, 1991
Sweden	Paris Convention	In Force	July 1, 1885
Switzerland	Paris Convention	In Force	July 7, 1884
Syrian Arab Republic	Paris Convention	In Force	September 1, 1924
Tajikistan	Paris Convention	In Force	December 25, 1991
Thailand	Paris Convention	In Force	August 2, 2008
The former Yugoslav Republic of Macedonia	Paris Convention	In Force	September 8, 1991
Togo	Paris Convention	In Force	September 10, 1967
Tonga	Paris Convention	In Force	June 14, 2001
Trinidad and Tobago	Paris Convention	In Force	August 1, 1964
Tunisia	Paris Convention	In Force	July 7, 1884
Turkey	Paris Convention	In Force	October 10, 1925
Turkmenistan	Paris Convention	In Force	December 25, 1991
Uganda	Paris Convention	In Force	June 14, 1965
Ukraine	Paris Convention	In Force	December 25, 1991
United Arab Emirates	Paris Convention	In Force	September 19, 1996
United Kingdom	Paris Convention	In Force	July 7, 1884
United Republic of Tanzania	Paris Convention	In Force	June 16, 1963
United States of America	Paris Convention	In Force	May 30, 1887
Uruguay	Paris Convention	In Force	March 18, 1967
Uzbekistan	Paris Convention	In Force	December 25, 1991
Venezuela (Bolivarian Republic of)	Paris Convention	In Force	September 12, 1995
Viet Nam	Paris Convention	In Force	March 8, 1949
Yemen	Paris Convention	In Force	February 15, 2007
Zambia	Paris Convention	In Force	April 6, 1965
Zimbabwe	Paris Convention	In Force	April 18, 1980

Berne Convention

(Total Contracting Parties: 164)

CONTRACTING PARTY	TREATY	STATUS	ENTRY INTO FORCE
Albania	Berne Convention	In Force	March 6, 1994
Algeria	Berne Convention	In Force	April 19, 1998
Andorra	Berne Convention	In Force	June 2, 2004
Antigua and Barbuda	Berne Convention	In Force	March 17, 2000
Argentina	Berne Convention	In Force	June 10, 1967
Armenia	Berne Convention	In Force	October 19, 2000
Australia	Berne Convention	In Force	April 14, 1928
Austria	Berne Convention	In Force	October 1, 1920
Azerbaijan	Berne Convention	In Force	June 4, 1999
Bahamas	Berne Convention	In Force	July 10, 1973
Bahrain	Berne Convention	In Force	March 2, 1997
Bangladesh	Berne Convention	In Force	May 4, 1999
Barbados	Berne Convention	In Force	July 30, 1983
Belarus	Berne Convention	In Force	December 12, 1997
Belgium	Berne Convention	In Force	December 5, 1887
Belize	Berne Convention	In Force	June 17, 2000
Benin	Berne Convention	In Force	January 3, 1961
Bhutan	Berne Convention	In Force	November 25, 2004
Bolivia	Berne Convention	In Force	November 4, 1993
Bosnia and Herzegovina	Berne Convention	In Force	March 1, 1992
Botswana	Berne Convention	In Force	April 15, 1998
Brazil	Berne Convention	In Force	February 9, 1922
Brunei Darussalam	Berne Convention	In Force	August 30, 2006
Bulgaria	Berne Convention	In Force	December 5, 1921
Burkina Faso	Berne Convention	In Force	August 19, 1963
Cameroon	Berne Convention	In Force	September 21, 1964
Canada	Berne Convention	In Force	April 10, 1928
Cape Verde	Berne Convention	In Force	July 7, 1997
Central African Republic	Berne Convention	In Force	September 3, 1977
Chad	Berne Convention	In Force	November 25, 1971
Chile	Berne Convention	In Force	June 5, 1970
China	Berne Convention	In Force	October 15, 1992
Colombia	Berne Convention	In Force	March 7, 1988
Comoros	Berne Convention	In Force	April 17, 2005
Congo	Berne Convention	In Force	May 8, 1962
Costa Rica	Berne Convention	In Force	June 10, 1978
Côte d'Ivoire	Berne Convention	In Force	January 1, 1962
Croatia	Berne Convention	In Force	October 8, 1991
Cuba	Berne Convention	In Force	February 20, 1997
Cyprus	Berne Convention	In Force	February 24, 1964
Czech Republic	Berne Convention	In Force	January 1, 1993

CONTRACTING PARTY	TREATY	STATUS	ENTRY INTO FORCE
Democratic People's Republic of Korea	Berne Convention	In Force	April 28, 2003
Democratic Republic of the Congo	Berne Convention	In Force	October 8, 1963
Denmark	Berne Convention	In Force	July 1, 1903
Djibouti	Berne Convention	In Force	May 13, 2002
Dominica	Berne Convention	In Force	August 7, 1999
Dominican Republic	Berne Convention	In Force	December 24, 1997
Ecuador	Berne Convention	In Force	October 9, 1991
Egypt	Berne Convention	In Force	June 7, 1977
El Salvador	Berne Convention	In Force	February 19, 1994
Equatorial Guinea	Berne Convention	In Force	June 26, 1997
Estonia	Berne Convention	In Force	October 26, 1994
Fiji	Berne Convention	In Force	December 1, 1971
Finland	Berne Convention	In Force	April 1, 1928
France	Berne Convention	In Force	December 5, 1887
Gabon	Berne Convention	In Force	March 26, 1962
Gambia	Berne Convention	In Force	March 7, 1993
Georgia	Berne Convention	In Force	May 16, 1995
Germany	Berne Convention	In Force	December 5, 1887
Ghana	Berne Convention	In Force	October 11, 1991
Greece	Berne Convention	In Force	November 9, 1920
Grenada	Berne Convention	In Force	September 22, 1998
Guatemala	Berne Convention	In Force	July 28, 1997
Guinea	Berne Convention	In Force	November 20, 1980
Guinea-Bissau	Berne Convention	In Force	July 22, 1991
Guyana	Berne Convention	In Force	October 25, 1994
Haiti	Berne Convention	In Force	January 11, 1996
Holy See	Berne Convention	In Force	September 12, 1935
Honduras	Berne Convention	In Force	January 25, 1990
Hungary	Berne Convention	In Force	February 14, 1922
Iceland	Berne Convention	In Force	September 7, 1947
India	Berne Convention	In Force	April 1, 1928
Indonesia	Berne Convention	In Force	September 5, 1997
Ireland	Berne Convention	In Force	October 5, 1927
Israel	Berne Convention	In Force	March 24, 1950
Italy	Berne Convention	In Force	December 5, 1887
Jamaica	Berne Convention	In Force	January 1, 1994
Japan	Berne Convention	In Force	July 15, 1899
Jordan	Berne Convention	In Force	July 28, 1999
Kazakhstan	Berne Convention	In Force	April 12, 1999
Kenya	Berne Convention	In Force	June 11, 1993
Kyrgyzstan	Berne Convention	In Force	July 8, 1999
Latvia	Berne Convention	In Force	August 11, 1995
Lebanon	Berne Convention	In Force	September 30, 1947
Lesotho	Berne Convention	In Force	September 28, 1989
Liberia	Berne Convention	In Force	March 8, 1989

CONTRACTING PARTY	TREATY	STATUS	ENTRY INTO FORCE
Libyan Arab Jamahiriya	Berne Convention	In Force	September 28, 1976
Liechtenstein	Berne Convention	In Force	July 30, 1931
Lithuania	Berne Convention	In Force	December 14, 1994
Luxembourg	Berne Convention	In Force	June 20, 1888
Madagascar	Berne Convention	In Force	January 1, 1966
Malawi	Berne Convention	In Force	October 12, 1991
Malaysia	Berne Convention	In Force	October 1, 1990
Mali	Berne Convention	In Force	March 19, 1962
Malta	Berne Convention	In Force	September 21, 1964
Mauritania	Berne Convention	In Force	February 6, 1973
Mauritius	Berne Convention	In Force	May 10, 1989
Mexico	Berne Convention	In Force	June 11, 1967
Micronesia (Federated States of)	Berne Convention	In Force	October 7, 2003
Monaco	Berne Convention	In Force	May 30, 1889
Mongolia	Berne Convention	In Force	March 12, 1998
Montenegro	Berne Convention	In Force	June 3, 2006
Morocco	Berne Convention	In Force	June 16, 1917
Namibia	Berne Convention	In Force	March 21, 1990
Nepal	Berne Convention	In Force	January 11, 2006
Netherlands	Berne Convention	In Force	November 1, 1912
New Zealand	Berne Convention	In Force	April 24, 1928
Nicaragua	Berne Convention	In Force	August 23, 2000
Niger	Berne Convention	In Force	May 2, 1962
Nigeria	Berne Convention	In Force	September 14, 1993
Norway	Berne Convention	In Force	April 13, 1896
Oman	Berne Convention	In Force	July 14, 1999
Pakistan	Berne Convention	In Force	July 5, 1948
Panama	Berne Convention	In Force	June 8, 1996
Paraguay	Berne Convention	In Force	January 2, 1992
Peru	Berne Convention	In Force	August 20, 1988
Philippines	Berne Convention	In Force	August 1, 1951
Poland	Berne Convention	In Force	January 28, 1920
Portugal	Berne Convention	In Force	March 29, 1911
Qatar	Berne Convention	In Force	July 5, 2000
Republic of Korea	Berne Convention	In Force	August 21, 1996
Republic of Moldova	Berne Convention	In Force	November 2, 1995
Romania	Berne Convention	In Force	January 1, 1927
Russian Federation	Berne Convention	In Force	March 13, 1995
Rwanda	Berne Convention	In Force	March 1, 1984
Saint Kitts and Nevis	Berne Convention	In Force	April 9, 1995
Saint Lucia	Berne Convention	In Force	August 24, 1993
Saint Vincent and the Grenadines	Berne Convention	In Force	August 29, 1995
Samoa	Berne Convention	In Force	July 21, 2006
Saudi Arabia	Berne Convention	In Force	March 11, 2004
Senegal	Berne Convention	In Force	August 25, 1962

CONTRACTING PARTY	TREATY	STATUS	ENTRY INTO FORCE
Serbia	Berne Convention	In Force	April 27, 1992
Singapore	Berne Convention	In Force	December 21, 1998
Slovakia	Berne Convention	In Force	January 1, 1993
Slovenia	Berne Convention	In Force	June 25, 1991
South Africa	Berne Convention	In Force	October 3, 1928
Spain	Berne Convention	In Force	December 5, 1887
Sri Lanka	Berne Convention	In Force	July 20, 1959
Sudan	Berne Convention	In Force	December 28, 2000
Suriname	Berne Convention	In Force	February 23, 1977
Swaziland	Berne Convention	In Force	December 14, 1998
Sweden	Berne Convention	In Force	August 1, 1904
Switzerland	Berne Convention	In Force	December 5, 1887
Syrian Arab Republic	Berne Convention	In Force	June 11, 2004
Tajikistan	Berne Convention	In Force	March 9, 2000
Thailand	Berne Convention	In Force	July 17, 1931
The former Yugoslav Republic of Macedonia	Berne Convention	In Force	September 8, 1991
Togo	Berne Convention	In Force	April 30, 1975
Tonga	Berne Convention	In Force	June 14, 2001
Trinidad and Tobago	Berne Convention	In Force	August 16, 1988
Tunisia	Berne Convention	In Force	December 5, 1887
Turkey	Berne Convention	In Force	January 1, 1952
Ukraine	Berne Convention	In Force	October 25, 1995
United Arab Emirates	Berne Convention	In Force	July 14, 2004
United Kingdom	Berne Convention	In Force	December 5, 1887
United Republic of Tanzania	Berne Convention	In Force	July 25, 1994
United States of America	Berne Convention	In Force	March 1, 1989
Uruguay	Berne Convention	In Force	July 10, 1967
Uzbekistan	Berne Convention	In Force	April 19, 2005
Venezuela (Bolivarian Republic of)	Berne Convention	In Force	December 30, 1982
Viet Nam	Berne Convention	In Force	October 26, 2004
Yemen	Berne Convention	In Force	July 14, 2008
Zambia	Berne Convention	In Force	January 2, 1992

WCT

(Total Contracting Parties: 69)

CONTRACTING PARTY	TREATY	STATUS	ENTRY INTO FORCE
Albania	WCT	In Force	August 6, 2005
Argentina	WCT	In Force	March 6, 2002
Armenia	WCT	In Force	March 6, 2005
Australia	WCT	In Force	July 26, 2007
Austria	WCT	Signature	
Azerbaijan	WCT	In Force	April 11, 2006
Bahrain	WCT	In Force	December 15, 2005
Belarus	WCT	In Force	March 6, 2002
Belgium	WCT	In Force	August 30, 2006
Benin	WCT	In Force	April 16, 2006
Bolivia	WCT	Signature	
Botswana	WCT	In Force	January 27, 2005
Bulgaria	WCT	In Force	March 6, 2002
Burkina Faso	WCT	In Force	March 6, 2002
Canada	WCT	Signature	
Chile	WCT	In Force	March 6, 2002
China	WCT	In Force	June 9, 2007
Colombia	WCT	In Force	March 6, 2002
Costa Rica	WCT	In Force	March 6, 2002
Croatia	WCT	In Force	March 6, 2002
Cyprus	WCT	In Force	November 4, 2003
Czech Republic	WCT	In Force	March 6, 2002
Denmark	WCT	Signature	
Dominican Republic	WCT	In Force	January 10, 2006
Ecuador	WCT	In Force	March 6, 2002
El Salvador	WCT	In Force	March 6, 2002
Estonia	WCT	Signature	
European Community	WCT	Signature	
Finland	WCT	Signature	
France	WCT	Signature	
Gabon	WCT	In Force	March 6, 2002
Georgia	WCT	In Force	March 6, 2002
Germany	WCT	Signature	
Ghana	WCT	In Force	November 18, 2006
Greece	WCT	Signature	
Guatemala	WCT	In Force	February 4, 2003
Guinea	WCT	In Force	May 25, 2002
Honduras	WCT	In Force	May 20, 2002
Hungary	WCT	In Force	March 6, 2002
Indonesia	WCT	In Force	March 6, 2002
Ireland	WCT	Signature	
Israel	WCT	Signature	
Italy	WCT	Signature	
Jamaica	WCT	In Force	June 12, 2002

CONTRACTING PARTY	TREATY	STATUS	ENTRY INTO FORCE
Japan	WCT	In Force	March 6, 2002
Jordan	WCT	In Force	April 27, 2004
Kazakhstan	WCT	In Force	November 12, 2004
Kenya	WCT	Signature	
Kyrgyzstan	WCT	In Force	March 6, 2002
Latvia	WCT	In Force	March 6, 2002
Liechtenstein	WCT	In Force	April 30, 2007
Lithuania	WCT	In Force	March 6, 2002
Luxembourg	WCT	Signature	
Mali	WCT	In Force	April 24, 2002
Mexico	WCT	In Force	March 6, 2002
Monaco	WCT	Signature	
Mongolia	WCT	In Force	October 25, 2002
Montenegro	WCT	In Force	June 3, 2006
Namibia	WCT	Signature	
Netherlands	WCT	Signature	
Nicaragua	WCT	In Force	March 6, 2003
Nigeria	WCT	Signature	
Oman	WCT	In Force	September 20, 2005
Panama	WCT	In Force	March 6, 2002
Paraguay	WCT	In Force	March 6, 2002
Peru	WCT	In Force	March 6, 2002
Philippines	WCT	In Force	October 4, 2002
Poland	WCT	In Force	March 23, 2004
Portugal	WCT	Signature	
Qatar	WCT	In Force	October 28, 2005
Republic of Korea	WCT	In Force	June 24, 2004
Republic of Moldova	WCT	In Force	March 6, 2002
Romania	WCT	In Force	March 6, 2002
Russian Federation	WCT	In Force	February 5, 2009
Saint Lucia	WCT	In Force	March 6, 2002
Senegal	WCT	In Force	May 18, 2002
Serbia	WCT	In Force	June 13, 2003
Singapore	WCT	In Force	April 17, 2005
Slovakia	WCT	In Force	March 6, 2002
Slovenia	WCT	In Force	March 6, 2002
South Africa	WCT	Signature	
Spain	WCT	Signature	
Sweden	WCT	Signature	
Switzerland	WCT	In Force	July 1, 2008
Tajikistan	WCT	In Force	April 5, 2009
The former Yugoslav Republic of Macedonia	WCT	In Force	February 4, 2004
Togo	WCT	In Force	May 21, 2003
Trinidad and Tobago	WCT	In Force	November 28, 2008
Turkey	WCT	In Force	November 28, 2008
Ukraine	WCT	In Force	March 6, 2002
United Arab Emirates	WCT	In Force	July 14, 2004
United Kingdom	WCT	Signature	

CONTRACTING PARTY	TREATY	STATUS	ENTRY INTO FORCE
United States of America	WCT	In Force	March 6, 2002
Uruguay	WCT	Signature	
Venezuela (Bolivarian Republic of)	WCT	Signature	

Rome Convention

(Total Contracting Parties: 88)

CONTRACTING PARTY	TREATY	STATUS	ENTRY INTO FORCE
Albania	Rome Convention	In Force	September 1, 2000
Algeria	Rome Convention	In Force	April 22, 2007
Andorra	Rome Convention	In Force	May 25, 2004
Argentina	Rome Convention	In Force	March 2, 1992
Armenia	Rome Convention	In Force	January 31, 2003
Australia	Rome Convention	In Force	September 30, 1992
Austria	Rome Convention	In Force	June 9, 1973
Azerbaijan	Rome Convention	In Force	October 5, 2005
Bahrain	Rome Convention	In Force	January 18, 2006
Barbados	Rome Convention	In Force	September 18, 1983
Belarus	Rome Convention	In Force	May 27, 2003
Belgium	Rome Convention	In Force	October 2, 1999
Bolivia	Rome Convention	In Force	November 24, 1993
Brazil	Rome Convention	In Force	September 29, 1965
Bulgaria	Rome Convention	In Force	August 31, 1995
Burkina Faso	Rome Convention	In Force	January 14, 1988
Cambodia	Rome Convention	Signature	
Canada	Rome Convention	In Force	June 4, 1998
Cape Verde	Rome Convention	In Force	July 3, 1997
Chile	Rome Convention	In Force	September 5, 1974
Colombia	Rome Convention	In Force	September 17, 1976
Congo	Rome Convention	In Force	May 18, 1964
Costa Rica	Rome Convention	In Force	September 9, 1971
Croatia	Rome Convention	In Force	April 20, 2000
Czech Republic	Rome Convention	In Force	January 1, 1993
Denmark	Rome Convention	In Force	September 23, 1965
Dominica	Rome Convention	In Force	November 9, 1999
Dominican Republic	Rome Convention	In Force	January 27, 1987
Ecuador	Rome Convention	In Force	May 18, 1964
El Salvador	Rome Convention	In Force	June 29, 1979
Estonia	Rome Convention	In Force	April 28, 2000
Fiji	Rome Convention	In Force	April 11, 1972
Finland	Rome Convention	In Force	October 21, 1983
France	Rome Convention	In Force	July 3, 1987
Georgia	Rome Convention	In Force	August 14, 2004
Germany	Rome Convention	In Force	October 21, 1966
Greece	Rome Convention	In Force	January 6, 1993
Guatemala	Rome Convention	In Force	January 14, 1977
Holy See	Rome Convention	Signature	
Honduras	Rome Convention	In Force	February 16, 1990
Hungary	Rome Convention	In Force	February 10, 1995
Iceland	Rome Convention	In Force	June 15, 1994
India	Rome Convention	Signature	
Ireland	Rome Convention	In Force	September 19, 1979
Israel	Rome Convention	In Force	December 30, 2002

CONTRACTING PARTY	TREATY	STATUS	ENTRY INTO FORCE
Italy	Rome Convention	In Force	April 8, 1975
Jamaica	Rome Convention	In Force	January 27, 1994
Japan	Rome Convention	In Force	October 26, 1989
Kyrgyzstan	Rome Convention	In Force	August 13, 2003
Latvia	Rome Convention	In Force	August 20, 1999
Lebanon	Rome Convention	In Force	August 12, 1997
Lesotho	Rome Convention	In Force	January 26, 1990
Liechtenstein	Rome Convention	In Force	October 12, 1999
Lithuania	Rome Convention	In Force	July 22, 1999
Luxembourg	Rome Convention	In Force	February 25, 1976
Mexico	Rome Convention	In Force	May 18, 1964
Monaco	Rome Convention	In Force	December 6, 1985
Montenegro	Rome Convention	In Force	June 3, 2006
Netherlands	Rome Convention	In Force	October 7, 1993
Nicaragua	Rome Convention	In Force	August 10, 2000
Niger	Rome Convention	In Force	May 18, 1964
Nigeria	Rome Convention	In Force	October 29, 1993
Norway	Rome Convention	In Force	July 10, 1978
Panama	Rome Convention	In Force	September 2, 1983
Paraguay	Rome Convention	In Force	February 26, 1970
Peru	Rome Convention	In Force	August 7, 1985
Philippines	Rome Convention	In Force	September 25, 1984
Poland	Rome Convention	In Force	June 13, 1997
Portugal	Rome Convention	In Force	July 17, 2002
Republic of Korea	Rome Convention	In Force	March 18, 2009
Republic of Moldova	Rome Convention	In Force	December 5, 1995
Romania	Rome Convention	In Force	October 22, 1998
Russian Federation	Rome Convention	In Force	May 26, 2003
Saint Lucia	Rome Convention	In Force	August 17, 1996
Serbia	Rome Convention	In Force	June 10, 2003
Slovakia	Rome Convention	In Force	January 1, 1993
Slovenia	Rome Convention	In Force	October 9, 1996
Spain	Rome Convention	In Force	November 14, 1991
Sweden	Rome Convention	In Force	May 18, 1964
Switzerland	Rome Convention	In Force	September 24, 1993
Syrian Arab Republic	Rome Convention	In Force	May 13, 2006
Tajikistan	Rome Convention	In Force	May 19, 2008
The former Yugoslav Republic of Macedonia	Rome Convention	In Force	March 2, 1998
Togo	Rome Convention	In Force	June 10, 2003
Turkey	Rome Convention	In Force	April 8, 2004
Ukraine	Rome Convention	In Force	June 12, 2002
United Arab Emirates	Rome Convention	In Force	January 14, 2005
United Kingdom	Rome Convention	In Force	May 18, 1964
Uruguay	Rome Convention	In Force	July 4, 1977
Venezuela (Bolivarian Republic of)	Rome Convention	In Force	January 30, 1996
Viet Nam	Rome Convention	In Force	March 1, 2007

WPPT

(Total Contracting Parties: 68)

CONTRACTING PARTY	TREATY	STATUS	ENTRY INTO FORCE
Albania	WPPT	In Force	May 20, 2002
Argentina	WPPT	In Force	May 20, 2002
Armenia	WPPT	In Force	March 6, 2005
Australia	WPPT	In Force	July 26, 2007
Austria	WPPT	Signature	
Azerbaijan	WPPT	In Force	April 11, 2006
Bahrain	WPPT	In Force	December 15, 2005
Belarus	WPPT	In Force	May 20, 2002
Belgium	WPPT	In Force	August 30, 2006
Benin	WPPT	In Force	April 16, 2006
Bolivia	WPPT	Signature	
Botswana	WPPT	In Force	January 27, 2005
Bulgaria	WPPT	In Force	May 20, 2002
Burkina Faso	WPPT	In Force	May 20, 2002
Canada	WPPT	Signature	
Chile	WPPT	In Force	May 20, 2002
China	WPPT	In Force	June 9, 2007
Colombia	WPPT	In Force	May 20, 2002
Costa Rica	WPPT	In Force	May 20, 2002
Croatia	WPPT	In Force	May 20, 2002
Cyprus	WPPT	In Force	December 2, 2005
Czech Republic	WPPT	In Force	May 20, 2002
Denmark	WPPT	Signature	
Dominican Republic	WPPT	In Force	January 10, 2006
Ecuador	WPPT	In Force	May 20, 2002
El Salvador	WPPT	In Force	May 20, 2002
Estonia	WPPT	Signature	
European Community	WPPT	Signature	
Finland	WPPT	Signature	
France	WPPT	Signature	
Gabon	WPPT	In Force	May 20, 2002
Georgia	WPPT	In Force	May 20, 2002
Germany	WPPT	Signature	
Ghana	WPPT	Signature	
Greece	WPPT	Signature	
Guatemala	WPPT	In Force	January 8, 2003
Guinea	WPPT	In Force	May 25, 2002
Honduras	WPPT	In Force	May 20, 2002
Hungary	WPPT	In Force	May 20, 2002
Indonesia	WPPT	In Force	February 15, 2005
Ireland	WPPT	Signature	
Israel	WPPT	Signature	

CONTRACTING PARTY	TREATY	STATUS	ENTRY INTO FORCE
Italy	WPPT	Signature	
Jamaica	WPPT	In Force	June 12, 2002
Japan	WPPT	In Force	October 9, 2002
Jordan	WPPT	In Force	May 24, 2004
Kazakhstan	WPPT	In Force	November 12, 2004
Kenya	WPPT	Signature	
Kyrgyzstan	WPPT	In Force	August 15, 2002
Latvia	WPPT	In Force	May 20, 2002
Liechtenstein	WPPT	In Force	April 30, 2007
Lithuania	WPPT	In Force	May 20, 2002
Luxembourg	WPPT	Signature	
Mali	WPPT	In Force	May 20, 2002
Mexico	WPPT	In Force	May 20, 2002
Monaco	WPPT	Signature	
Mongolia	WPPT	In Force	October 25, 2002
Montenegro	WPPT	In Force	June 3, 2006
Namibia	WPPT	Signature	
Netherlands	WPPT	Signature	
Nicaragua	WPPT	In Force	March 6, 2003
Nigeria	WPPT	Signature	
Oman	WPPT	In Force	September 20, 2005
Panama	WPPT	In Force	May 20, 2002
Paraguay	WPPT	In Force	May 20, 2002
Peru	WPPT	In Force	July 18, 2002
Philippines	WPPT	In Force	October 4, 2002
Poland	WPPT	In Force	October 21, 2003
Portugal	WPPT	Signature	
Qatar	WPPT	In Force	October 28, 2005
Republic of Korea	WPPT	In Force	March 18, 2009
Republic of Moldova	WPPT	In Force	May 20, 2002
Romania	WPPT	In Force	May 20, 2002
Russian Federation	WPPT	In Force	February 5, 2009
Saint Lucia	WPPT	In Force	May 20, 2002
Senegal	WPPT	In Force	May 20, 2002
Serbia	WPPT	In Force	June 13, 2003
Singapore	WPPT	In Force	April 17, 2005
Slovakia	WPPT	In Force	May 20, 2002
Slovenia	WPPT	In Force	May 20, 2002
South Africa	WPPT	Signature	
Spain	WPPT	Signature	
Sweden	WPPT	Signature	
Switzerland	WPPT	In Force	July 1, 2008
The former Yugoslav Republic of Macedonia	WPPT	In Force	March 20, 2005
Togo	WPPT	In Force	May 21, 2003
Trinidad and Tobago	WPPT	In Force	November 28, 2008

CONTRACTING PARTY	TREATY	STATUS	ENTRY INTO FORCE
Turkey	WPPT	In Force	November 28, 2008
Ukraine	WPPT	In Force	May 20, 2002
United Arab Emirates	WPPT	In Force	June 9, 2005
United Kingdom	WPPT	Signature	
United States of America	WPPT	In Force	May 20, 2002
Uruguay	WPPT	In Force	August 28, 2008
Venezuela (Bolivarian Republic of)	WPPT	Signature	

Countries in red are members of the WPPT but not members of the Rome Convention.

Madrid Agreement (Marks)

(Total Contracting Parties: 56)

CONTRACTING PARTY	TREATY	STATUS	ENTRY INTO FORCE
Albania	Madrid Agreement (Marks)	In Force	October 4, 1995
Algeria	Madrid Agreement (Marks)	In Force	July 5, 1972
Armenia	Madrid Agreement (Marks)	In Force	December 25, 1991
Austria	Madrid Agreement (Marks)	In Force	January 1, 1909
Azerbaijan	Madrid Agreement (Marks)	In Force	December 25, 1995
Belarus	Madrid Agreement (Marks)	In Force	December 25, 1991
Belgium	Madrid Agreement (Marks)	In Force	July 15, 1892
Bhutan	Madrid Agreement (Marks)	In Force	August 4, 2000
Bosnia and Herzegovina	Madrid Agreement (Marks)	In Force	March 1, 1992
Bulgaria	Madrid Agreement (Marks)	In Force	August 1, 1985
China	Madrid Agreement (Marks)	In Force	October 4, 1989
Croatia	Madrid Agreement (Marks)	In Force	October 8, 1991
Cuba	Madrid Agreement (Marks)	In Force	December 6, 1989
Cyprus	Madrid Agreement (Marks)	In Force	November 4, 2003
Czech Republic	Madrid Agreement (Marks)	In Force	January 1, 1993
Democratic People's Republic of Korea	Madrid Agreement (Marks)	In Force	June 10, 1980
Egypt	Madrid Agreement (Marks)	In Force	July 1, 1952
France	Madrid Agreement (Marks)	In Force	July 15, 1892
Germany	Madrid Agreement (Marks)	In Force	December 1, 1922
Hungary	Madrid Agreement (Marks)	In Force	January 1, 1909
Iran (Islamic Republic of)	Madrid Agreement (Marks)	In Force	December 25, 2003
Italy	Madrid Agreement (Marks)	In Force	October 15, 1894
Kazakhstan	Madrid Agreement (Marks)	In Force	December 25, 1991
Kenya	Madrid Agreement (Marks)	In Force	June 26, 1998
Kyrgyzstan	Madrid Agreement (Marks)	In Force	December 25, 1991
Latvia	Madrid Agreement (Marks)	In Force	January 1, 1995
Lesotho	Madrid Agreement (Marks)	In Force	February 12, 1999
Liberia	Madrid Agreement (Marks)	In Force	December 25, 1995
Liechtenstein	Madrid Agreement (Marks)	In Force	July 14, 1933
Luxembourg	Madrid Agreement (Marks)	In Force	September 1, 1924
Monaco	Madrid Agreement (Marks)	In Force	April 29, 1956
Mongolia	Madrid Agreement (Marks)	In Force	April 21, 1985
Montenegro	Madrid Agreement (Marks)	In Force	June 3, 2006
Morocco	Madrid Agreement (Marks)	In Force	July 30, 1917
Mozambique	Madrid Agreement (Marks)	In Force	October 7, 1998
Namibia	Madrid Agreement (Marks)	In Force	June 30, 2004
Netherlands	Madrid Agreement (Marks)	In Force	March 1, 1893
Poland	Madrid Agreement (Marks)	In Force	March 18, 1991
Portugal	Madrid Agreement (Marks)	In Force	October 31, 1893
Republic of Moldova	Madrid Agreement (Marks)	In Force	December 25, 1991
Romania	Madrid Agreement (Marks)	In Force	October 6, 1920

CONTRACTING PARTY	TREATY	STATUS	ENTRY INTO FORCE
Russian Federation	Madrid Agreement (Marks)	In Force	July 1, 1976
San Marino	Madrid Agreement (Marks)	In Force	September 25, 1960
Serbia	Madrid Agreement (Marks)	In Force	April 27, 1992
Sierra Leone	Madrid Agreement (Marks)	In Force	June 17, 1997
Slovakia	Madrid Agreement (Marks)	In Force	January 1, 1993
Slovenia	Madrid Agreement (Marks)	In Force	June 25, 1991
Spain	Madrid Agreement (Marks)	In Force	July 15, 1892
Sudan	Madrid Agreement (Marks)	In Force	May 16, 1984
Swaziland	Madrid Agreement (Marks)	In Force	December 14, 1998
Switzerland	Madrid Agreement (Marks)	In Force	July 15, 1892
Syrian Arab Republic	Madrid Agreement (Marks)	In Force	August 5, 2004
Tajikistan	Madrid Agreement (Marks)	In Force	December 25, 1991
The former Yugoslav Republic of Macedonia	Madrid Agreement (Marks)	In Force	September 8, 1991
Ukraine	Madrid Agreement (Marks)	In Force	December 25, 1991
Viet Nam	Madrid Agreement (Marks)	In Force	March 8, 1949

Madrid Protocol

(Total Contracting Parties: 78)

CONTRACTING PARTY	TREATY	STATUS	ENTRY INTO FORCE
Albania	Madrid Protocol	In Force	July 30, 2003
Antigua and Barbuda	Madrid Protocol	In Force	March 17, 2000
Armenia	Madrid Protocol	In Force	October 19, 2000
Australia	Madrid Protocol	In Force	July 11, 2001
Austria	Madrid Protocol	In Force	April 13, 1999
Azerbaijan	Madrid Protocol	In Force	April 15, 2007
Bahrain	Madrid Protocol	In Force	December 15, 2005
Belarus	Madrid Protocol	In Force	January 18, 2002
Belgium	Madrid Protocol	In Force	April 1, 1998
Bhutan	Madrid Protocol	In Force	August 4, 2000
Bosnia and Herzegovina	Madrid Protocol	In Force	January 27, 2009
Botswana	Madrid Protocol	In Force	December 5, 2006
Bulgaria	Madrid Protocol	In Force	October 2, 2001
China	Madrid Protocol	In Force	December 1, 1995
Croatia	Madrid Protocol	In Force	January 23, 2004
Cuba	Madrid Protocol	In Force	December 26, 1995
Cyprus	Madrid Protocol	In Force	November 4, 2003
Czech Republic	Madrid Protocol	In Force	September 25, 1996
Democratic People's Republic of Korea	Madrid Protocol	In Force	October 3, 1996
Denmark	Madrid Protocol	In Force	February 13, 1996
Egypt	Madrid Protocol	Signature	
Estonia	Madrid Protocol	In Force	November 18, 1998
European Community	Madrid Protocol	In Force	October 1, 2004
Finland	Madrid Protocol	In Force	April 1, 1996
France	Madrid Protocol	In Force	November 7, 1997
Georgia	Madrid Protocol	In Force	August 20, 1998
Germany	Madrid Protocol	In Force	March 20, 1996
Ghana	Madrid Protocol	In Force	September 16, 2008
Greece	Madrid Protocol	In Force	August 10, 2000
Hungary	Madrid Protocol	In Force	October 3, 1997
Iceland	Madrid Protocol	In Force	April 15, 1997
Iran (Islamic Republic of)	Madrid Protocol	In Force	December 25, 2003
Ireland	Madrid Protocol	In Force	October 19, 2001
Italy	Madrid Protocol	In Force	April 17, 2000
Japan	Madrid Protocol	In Force	March 14, 2000
Kenya	Madrid Protocol	In Force	June 26, 1998
Kyrgyzstan	Madrid Protocol	In Force	June 17, 2004
Latvia	Madrid Protocol	In Force	January 5, 2000
Lesotho	Madrid Protocol	In Force	February 12, 1999
Liechtenstein	Madrid Protocol	In Force	March 17, 1998
Lithuania	Madrid Protocol	In Force	November 15, 1997
Luxembourg	Madrid Protocol	In Force	April 1, 1998

CONTRACTING PARTY	TREATY	STATUS	ENTRY INTO FORCE
Madagascar	Madrid Protocol	In Force	April 28, 2008
Monaco	Madrid Protocol	In Force	September 27, 1996
Mongolia	Madrid Protocol	In Force	June 16, 2001
Montenegro	Madrid Protocol	In Force	June 3, 2006
Morocco	Madrid Protocol	In Force	October 8, 1999
Mozambique	Madrid Protocol	In Force	October 7, 1998
Namibia	Madrid Protocol	In Force	June 30, 2004
Netherlands	Madrid Protocol	In Force	April 1, 1998
Norway	Madrid Protocol	In Force	March 29, 1996
Oman	Madrid Protocol	In Force	October 16, 2007
Poland	Madrid Protocol	In Force	March 4, 1997
Portugal	Madrid Protocol	In Force	March 20, 1997
Republic of Korea	Madrid Protocol	In Force	April 10, 2003
Republic of Moldova	Madrid Protocol	In Force	December 1, 1997
Romania	Madrid Protocol	In Force	July 28, 1998
Russian Federation	Madrid Protocol	In Force	June 10, 1997
San Marino	Madrid Protocol	In Force	September 12, 2007
Sao Tome and Principe	Madrid Protocol	In Force	December 8, 2008
Senegal	Madrid Protocol	Signature	
Serbia	Madrid Protocol	In Force	February 17, 1998
Sierra Leone	Madrid Protocol	In Force	December 28, 1999
Singapore	Madrid Protocol	In Force	October 31, 2000
Slovakia	Madrid Protocol	In Force	September 13, 1997
Slovenia	Madrid Protocol	In Force	March 12, 1998
Spain	Madrid Protocol	In Force	December 1, 1995
Swaziland	Madrid Protocol	In Force	December 14, 1998
Sweden	Madrid Protocol	In Force	December 1, 1995
Switzerland	Madrid Protocol	In Force	May 1, 1997
Syrian Arab Republic	Madrid Protocol	In Force	August 5, 2004
The former Yugoslav Republic of Macedonia	Madrid Protocol	In Force	August 30, 2002
Turkey	Madrid Protocol	In Force	January 1, 1999
Turkmenistan	Madrid Protocol	In Force	September 28, 1999
Ukraine	Madrid Protocol	In Force	December 29, 2000
United Kingdom	Madrid Protocol	In Force	December 1, 1995
United States of America	Madrid Protocol	In Force	November 2, 2003
Uzbekistan	Madrid Protocol	In Force	December 27, 2006
Viet Nam	Madrid Protocol	In Force	July 11, 2006
Zambia	Madrid Protocol	In Force	November 15, 2001

UPOV

(Total Contracting Parties: 67)

STATE/ORGANIZATION	DATE ON WHICH PARTY BECAME MEMBER	LATEST ACT TO WHICH STATE/ORGANIZATION IS PARTY	DATE STATE/ORGANIZATION BECAME PARTY TO THAT ACT
Albania	October 15, 2005	1991 Act	October 15, 2005
Argentina	December 25, 1994	1978 Act	December 25, 1994
Australia	March 1, 1989	1991 Act	January 20, 2000
Austria	July 14, 1994	1991 Act	July 1, 2004
Azerbaijan	December 9, 2004	1991 Act	December 9, 2004
Belarus	January 5, 2003	1991 Act	January 5, 2003
Belgium ²	December 5, 1976	1961/1972 Act	December 5, 1976
Bolivia	May 21, 1999	1978 Act	May 21, 1999
Brazil	May 23, 1999	1978 Act	May 23, 1999
Bulgaria	April 24, 1998	1991 Act	April 24, 1998
Canada	March 4, 1991	1978 Act	March 4, 1991
Chile	January 5, 1996	1978 Act	January 5, 1996
China	April 23, 1999	1978 Act ³	April 23, 1999
Colombia	September 13, 1996	1978 Act	September 13, 1996
Costa Rica	January 12, 2009	1991 Act	January 12, 2009
Croatia	September 1, 2001	1991 Act	September 1, 2001
Czech Republic	January 1, 1993	1991 Act	November 24, 2002
Denmark ⁴	October 6, 1968	1991 Act	April 24, 1998
Dominican Republic	June 16, 2007	1991 Act	June 16, 2007
Ecuador	August 8, 1997	1978 Act	August 8, 1997
Estonia	September 24, 2000	1991 Act	September 24, 2000
European Community	July 29, 2005	1991 Act	July 29, 2005
Finland	April 16, 1993	1991 Act	July 20, 2001
France ⁵	October 3, 1971	1978 Act	March 17, 1983
Georgia	November 29, 2008	1991 Act	November 29, 2008
Germany	August 10, 1968	1991 Act	July 25, 1998
Hungary	April 16, 1983	1991 Act	January 1, 2003
Iceland	May 3, 2006	1991 Act	May 3, 2006
Ireland	November 8, 1981	1978 Act	November 8, 1981
Israel	December 12, 1979	1991 Act	April 24, 1998
Italy	July 1, 1977	1978 Act	May 28, 1986
Japan	September 3, 1982	1991 Act	December 24, 1998
Jordan	October 24, 2004	1991 Act	October 24, 2004
Kenya	May 13, 1999	1978 Act	May 13, 1999
Kyrgyzstan	June 26, 2000	1991 Act	June 26, 2000
Latvia	August 30, 2002	1991 Act	August 30, 2002
Lithuania	December 10, 2003	1991 Act	December 10, 2003
Mexico	August 9, 1997	1978 Act	August 9, 1997
Morocco	October 8, 2006	1991 Act	October 8, 2006
Netherlands	August 10, 1968	1991 Act ⁶	April 24, 1998
New Zealand	November 8, 1981	1978 Act	November 8, 1981
Nicaragua	September 6, 2001	1978 Act	September 6, 2001
Norway	September 13, 1993	1978 Act	September 13, 1993

STATE/ORGANIZATION	DATE ON WHICH PARTY BECAME MEMBER	LATEST ACT TO WHICH STATE/ORGANIZATION IS PARTY	DATE STATE/ORGANIZATION BECAME PARTY TO THAT ACT
Panama	May 23, 1999	1978 Act	May 23, 1999
Paraguay	February 8, 1997	1978 Act	February 8, 1997
Poland	November 11, 1989	1991 Act	August 15, 2003
Portugal	October 14, 1995	1978 Act	October 14, 1995
Republic of Korea	January 7, 2002	1991 Act	January 7, 2002
Republic of Moldova	October 28, 1998	1991 Act	October 28, 1998
Romania	March 16, 2001	1991 Act	March 16, 2001
Russian Federation	April 24, 1998	1991 Act	April 24, 1998
Singapore	July 30, 2004	1991 Act	July 30, 2004
Slovakia	January 1, 1993	1978 Act	January 1, 1993
Slovenia	July 29, 1999	1991 Act	July 29, 1999
South Africa	November 6, 1977	1978 Act.	November 8, 1981
Spain	May 18, 1980	1991 Act	July 18, 2007
Sweden	December 17, 1971	1991 Act	April 24, 1998
Switzerland	July 10, 1977	1991 Act	September 1, 2008
Trinidad and Tobago	January 30, 1998	1978 Act	January 30, 1998
Tunisia	August 31, 2003	1991 Act	August 31, 2003
Turkey	November 18, 2007	1991 Act	November 18, 2007
Ukraine	November 3, 1995	1991 Act	January 19, 2007
United Kingdom	August 10, 1968	1991 Act	January 3, 1999
United States of America	November 8, 1981	1991 Act ⁷	February 22, 1999
Uruguay	November 13, 1994	1978 Act	November 13, 1994
Uzbekistan	November 14, 2004	1991 Act	November 14, 2004
Viet Nam	December 24, 2006	1991 Act	December 24, 2006

1 "1961/1972 Act" means the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as amended by the Additional Act of November 10, 1972; "1978 Act" means the Act of October 23, 1978, of the Convention; "1991 Act" means the Act of March 19, 1991, of the Convention.

2 With a notification under Article 34(2) of the 1978 Act.

3 With a declaration that the 1978 Act is not applicable to the Hong Kong Special Administrative Region.

4 With a declaration that the Convention of 1961, the Additional Act of 1972, the 1978 Act and the 1991 Act are not applicable to Greenland and the Faroe Islands.

5 With a declaration that the 1978 Act applies to the territory of the French Republic, including the Overseas Departments and Territories.

6 Ratification for the Kingdom in Europe.

7 With a reservation pursuant to Article 35(2) of the 1991 Act.

Annex B Individuals Interviewed during this Assessment

Ministry of Science and Technology

Dr. Carlos Santana, Legal Advisor to the Minister
Ministry of Science and Technology

Mr. Vasculino, Adjunt Director, Dept of Innovations, Ministry of
Science and Technology
Av. Patrice Lumumba
82 315 6060 (Solange - Secretary)

Industrial Property Institute

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21 354 900

Mr. Acacio Foia
Head of Legal Department
Instituto da Propriedade Industrial
Ministerio da Industria e Comercio
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Mr. Emidio Rafael, Legal Department, IPI
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Conservatory for Registration of Legal Entities

Conservador Arlindo Alberto Magaia
Conservatory for Registration of Legal Entities
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Ministry of Education and Culture

Mr. Tiago Langa, Copyright Office
Direccao de de Livro e Disco
Av. Karl Marx and Ho Chi Min
82 84 84 748

Enforcement Agencies

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Mr. Sesinando Mambo, Customs

Mr. Alfredo Chissano, Executive Director
SOMAS

Legal and Judicial Training

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(Leonardo - Secretary)
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Dr. Achirafu Abubacar Abdula, Director, Judge Training Center
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Centro de Formacao Juridica e Judiciaria
82 758 2322 (Aida - Secretary)

Stakeholders

Mr. Carlos Simbine, Associação Industrial de Mocambique
Hotel Rovuma, 3rd Floor
Consular de Tilândia
82 300 1920

Mr. Kekobad Patel, Confederação das Associações Económicas (CTA)
82 300 6090

Mr. Henk Son, businessman, President of AmCham, and Vice President of CTA

Ms. Helena Nel
Legal Consultant
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Donor Organizations

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Mr. John McMahon, USAID

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Annex C Intellectual Property Definitions

Intellectual property is a field of law that deals with property rights in intangible things. Intellectual property is generally divided into two main branches: **industrial property** and **copyright**. Industrial property comprises inventions, marks, and the repression of unfair competition. Copyright relates to works of authorship.

An **invention** is a new development in any field of endeavor. An invention is typically a new device, process, composition of matter, or an improvement on any of these. A **patent** is a government grant of exclusive rights in the invention for a limited period of time, in exchange for which the inventor must disclose the invention to the public. To be patentable, an invention must be new, useful (or industrially applicable), and not be an obvious improvement over previously known inventions (have an inventive step).

A grant of **exclusive rights** allows an intellectual property owner to prevent others from exercising those rights, such as the right to use or sell, but the owner's ability to exercise those rights may be subject to other restrictions, such as regulatory requirements or rights of other intellectual property owners.

An **industrial design** is any composition of lines or colors, or any three-dimensional form that gives a special appearance to and can serve as a pattern for a product of industry or handicraft. An industrial design is generally protected if it is new or original and not dictated solely by technical or functional features.

A **mark** is any sign or combination of signs capable of distinguishing the goods or services of one undertaking (i.e., person or business) from those of another. The terms "mark" and "trademark" include service marks. A **collective mark** is used by members of a collective association to show membership in the organization, or that goods or services were produced or provided by members of the association. A **certification mark** is used to identify an undertaking that certifies that another party, or that party's goods or services, have met certain standards as to their characteristics or quality, method of production, geographical origin, or characteristics of those who produce them. A mark cannot be protected if it is confusingly similar to a mark owned by another party with earlier rights in the mark.

A related form of protection is conferred by **geographical indications** or **appellations of origin**, which identify a good as originating in the territory of a particular country, or a region or locality in that territory where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.

Plant variety protection (also referred to as plant breeders' rights) gives the developer of a new variety of plant the exclusive right to produce, offer for sale, or market the propagating material of the variety. Plant varieties are generally protected if they are distinct, uniform, stable, have an appropriate denomination (name), and are commercially novel.

Integrated circuit layout-designs (or topographies) used in semiconductor chips are protected either under copyright or a *sui generis* law against copying the mask used in the production of the semiconductor chips.

Intangible property such as business goodwill, trade secrets, and know-how are protected under the laws prohibiting unfair competition. **Unfair competition** includes any act contrary to honest commercial practices. Acts of unfair competition include but are not limited to breach of contract, misappropriation of trade secrets, and false or misleading representations as to the origin or quality of goods or services. The laws against unfair competition are sometimes included in **commercial (companies) law** and are sometimes included in **consumer protection law**. **Restrictive business practices (monopolies)** related to licensing may also be acts of unfair competition.

Copyright refers to protection for works of authorship, including computer programs. Copyright protects any original work of authorship against copying: reproducing copies, preparing derivative works, distributing copies, selling copies, or performing or displaying the work publicly. The related area of **neighboring rights** protects performers, producers of phonograms (sound recordings) and broadcasting organizations.

Annex C Definições de Propriedade Intelectual

A **propriedade intelectual** é uma área da lei que trata dos direitos de propriedade sobre imaterial coisas. A propriedade intelectual é geralmente dividida em dois ramos principais: a **propriedade industrial** e o **direito de autor**. A propriedade industrial compreende invenções, marcas, e à repressão da concorrência desleal. A direito autoral tem que ver com trabalhos de autoria.

Uma **invenção** é um novo desenvolvimento em qualquer área de actividade. Uma invenção é tipicamente um novo dispositivo, processo, composição da matéria, ou uma melhoria em relação a qualquer um destes. Uma **patente** é uma concessão do governo de direitos exclusivos sobre a invenção por um período limitado de tempo, em troca do que o inventor deve divulgar a invenção para o público. Para ter uma patente, uma invenção deve ser novo, útil (ou industrialmente aplicável), e não ser uma melhoria óbvia relacionado com anteriormente conhecido invenções (tem que ter um passo inventivo).

A concessão de **direitos exclusivos** permite que um proprietário de propriedade intelectual possa impedir ao outros o exercício desses direitos, tais como o direito de usar ou vender, mas a capacidade do proprietário para exercer esses direitos podem ser objecto de outras restrições, tais como requisitos regulamentares ou direitos de propriedade intelectual de outros proprietários.

Um **desenho industrial** é uma composição de linhas ou cores, ou de qualquer forma tridimensional que dá um aspecto de especial e pode servir como um padrão para um produto da indústria ou artesanato. Um desenho industrial é geralmente protegido se é novo ou original e não ditadas exclusivamente por características técnicas ou funcionais.

Uma **marca** é qualquer sinal ou combinação de sinais capaz de distinguir os produtos ou serviços de uma empresa (ou seja, a pessoa ou empresa) dos de outra. Os termos "marca" e "marca registrada" incluem marcas de serviço. Uma **marca colectiva** é utilizada por membros de uma associação colectiva para mostrar filiação com a organização, ou que os bens ou serviços foram produzidas ou fornecidas por membros da associação. Uma **marca de certificação** é utilizado para identificar uma actividade que certifica que um outro partido, ou os bens o serviços de tal partido, têm cumprido certas normas quanto à sua qualidade ou características, o método de produção, origem geográfica, ou as características de aquelas pessoas que os produzem. Uma marca não pode ser protegido se for semelhante a uma outra marca pertencente a outra parte com direitos anteriores na marca.

Uma forma de protecção relacionado é conferida por **indicações geográficas** ou **denominações de origem**, que identificam que um bem originou do território de um determinado país, ou de uma região ou localidade desse território, quando uma determinada qualidade, reputação ou outra característica do produto é essencialmente atribuível à sua origem geográfica.

Protecção das variedades vegetais (também designado como direitos de criadores de plantas) dá o promotor de uma nova variedade de planta o direito exclusivo de produzir, pôr a vender, ou disseminar o material de propagação da variedade. Variedades vegetais são geralmente protegidos se forem distintas, uniformes, estáveis, têm uma denominação apropriada (nome), e são comercialmente novos.

Esquemas de circuitos integrados de configuração (ou topografias) utilizadas em chips semicondutores estão protegidas com direito de autor ou um direito *sui generis* contra a cópia da máscara usada na produção de chips semicondutores.

Bens imateriais, como a boa vontade das empresas, segredos comerciais e conhecimento prático são protegidos nos termos da legislação que proíbe a concorrência desleal. A **concorrência desleal** inclui qualquer acto contrário às práticas comerciais leais. Actos de concorrência desleal incluem mas não estão limitados a quebra de contrato, apropriação indevida de segredos comerciais, e falsa ou enganosa representações quanto à origem ou a qualidade dos bens ou serviços. As leis contra a concorrência desleal, são por vezes incluídas em **leis (empresariais) comerciais** e são por vezes incluídas na **lei de protecção dos consumidores**. **Práticas comerciais restritivas (monopólios)** relacionadas ao licenciamento também podem ser actos de concorrência desleal.

O **direito de autor** se refere à protecção das obras de autoria, incluindo os programas de computador. O direito de autor protege qualquer obra original de autoria contra cópia: reproduzindo cópias, preparando trabalhos derivados, distribuindo cópias, vendendo cópias, ou exibindo publicamente o trabalho. A área conexas da **vizinha direitos** protege intérpretes ou executantes, produtores de fonogramas (registos sonoros) e organizações de radiodifusão e emissão.

Annex D Summary of Recommendations

Priority Recommendations	Other Recommendations
<p>Legal Framework</p> <p>As soon as possible, enact the following:</p> <ul style="list-style-type: none"> • Plant Variety Protection Law, consistent with the International Convention for the Protection of New Varieties of Plants (UPOV), • Regulations to implement protection of geographical indications, • Complete copyright regulations, and • Consider amending the law to allow for a grace period for filing patent and industrial design applications • Stronger enforcement provisions, in particular, to ensure the availability of injunctions. • Address potential conflicts between MIC license to operate an establishment and provide entertainment with need to obtain copyright license. 	<ul style="list-style-type: none"> • Immediately adopt and publish a new, UPOV-consistent plant variety protection law • Designate an organization to be responsible for implementation of the plant variety protection law. • Consider amending the Industrial Property Code to provide for a limited grace period for patents, industrial designs, and utility models.
<p>Participation in the International Framework for Intellectual Property Protection</p> <p>As soon as possible, join and implement:</p> <ul style="list-style-type: none"> • Berne Convention • UPOV • Hague Convention on industrial designs • Rome Convention • WIPO Copyright Treaty, and • WIPO Performances and Phonograms Treaty. <p>Consider joining</p> <ul style="list-style-type: none"> • Vienna Agreement (Classification). • Trademark Law Treaty • Patent Law Treaty 	<ul style="list-style-type: none"> • Expand participation in WIPO meetings • Involve individuals with experience in intellectual property in WIPO activities. • Consider input from the intellectual property community in discussions involving the TRIPS Agreement.
<p>Industrial Property</p> <ul style="list-style-type: none"> • Complete procedures to protect geographical indications; aggressively pursue efforts to identify and protect Mozambican geographical indications. • Develop procedures to protect well-known marks. 	<p>IPI:</p> <p>Near-term recommendations</p> <ul style="list-style-type: none"> • Adhere to EU rules for purposes of trade with the EU but apply TRIPS rules for domestic and other markets

Priority Recommendations	Other Recommendations
<ul style="list-style-type: none"> • Establish a grace period for filing patent, utility model, and industrial design applications. • Complete the patent procedures manual. • Establish courses on intellectual property in Faculties of Science and Technology. • Expand IPI staff by two attorneys and one patent expert • Expand successful outreach activities to Mozambican scientists, engineers, and inventors to protect inventions and designs, and to Mozambican industries to protect trademarks. • Join Hague Convention to facilitate international protection of industrial designs. • Build local capacity to prepare original patent application at international standards. • Join Trademark Law Treaty (TLT) and ease filing requirements for marks consistent with TLT standards. • Increase IPI participation in international intellectual property activities (WIPO) • Complete data bases of company names and integrate these data bases nationally. • Develop and implement procedures to prevent confusion between commercial registrations or company names and registered or well-known marks and amend the Regulations of the IPI and Conservatory for Registration of Legal Entities to incorporate these procedures. • Initiate outreach program to encourage informal businesses to register. 	<ul style="list-style-type: none"> • Modify filing requirements to meet Trademark Law Treaty and Patent Law Treaty criteria. • Institute examination of industrial designs. • Develop a small legal library • Provide computers with up-to-date software • Provide internet access to facilitate legal research. • Amend regulations to specify that the filing of an application does not, by itself, destroy novelty, and that the invention will not be considered to be disclosed or part of the public domain as a result of filing until the application is published, laid open, or patented. • Institute a quality management system. • Aid in the establishment of inventors associations. • Expand the information placed on the IPI website. • Strengthen IPI operations by developing a strategic plan. <p>Mid- to Long-term:</p> <ul style="list-style-type: none"> • Add patents and trademark and industrial design registration information to the website to permit online searching. It would be preferable to begin digitizing documents now while the numbers are small. • Provide IPI attorneys with laptops to facilitate additional work. • Expand IPI automated systems to provide for electronic filing. • Devise security arrangements, preferably including a system in which payment is separated from the application process. • Develop a system to ensure that Mozambique does not accord rights to inventions that do not meet the legal requirements for protection. Consider phasing in a limited patent examination for domestic inventions. It is not recommended that IPI institute technical examination of patent applications.

Priority Recommendations	Other Recommendations
	<p>As funding improves:</p> <ul style="list-style-type: none"> • Designate resources to permit attendance at one more meeting or training event per year. • Permit IPI staff to participate in at least one foreign event annually. • Extend the IPI's activities into the provinces if possible. <p>Conservatory for Registration of Legal Entities:</p> <ul style="list-style-type: none"> • Develop system to prevent the duplication of company names. <p>Conservatory for Registration of Legal Entities and IPI:</p> <ul style="list-style-type: none"> • Develop a system to prevent conflicts between commercial registrations and trademarks, and incorporate this system in regulations. <p>Courts:</p> <ul style="list-style-type: none"> • Create a data base of legal cases, beginning with appellate cases. • Make these cases available for online searching via keyword or preferably full-text search.
<p>Copyright</p> <ul style="list-style-type: none"> • Complete accession to the Berne Convention. • Recruit and employ a team of 4-6 attorneys to help the NIBR develop regulations. • Initiate dialogue with the private sector on needed elements in copyright regulations. • Complete and publish copyright regulations. • Issue decrees requiring Government agencies to use only authentic (i.e., licensed) software and to refrain from 	<p>NIBR:</p> <p>Of all of NIBR's activities, by far the highest priority should be given to completion of regulations, Berne accession, and an effective anti-piracy campaign.</p> <p>Near-term recommendations:</p> <ul style="list-style-type: none"> • Continue training officials engaged in combating piracy. • Increase NIBR participation in WIPO • Request WIPO assistance in the form of expert missions to develop regulations and identify measures to reduce piracy.

Priority Recommendations	Other Recommendations
<p>making or purchasing illegal copies of any works subject to copyright.</p> <ul style="list-style-type: none"> • Amend legal framework to create a single focal point with authority for domestic enforcement. • Develop and implement phased plan to reduce piracy of various types of works. • Continue public awareness activities on rights under copyright and neighboring rights, cooperating with IPI, the private sector, and other organizations where possible. Explore possibilities for donor assistance. • Institute measures to foster development of private sector organizations to protect and exploit copyright and neighboring rights on behalf of authors that are not currently represented. • Promote measures to capture the benefit of Mozambican folklore and assist artisans. • Consider joining the Rome Convention, the WIPO Copyright Treaty, and the WIPO Performances and Phonograms Treaty 	<ul style="list-style-type: none"> • Employ an initial team of 1-2 economists to help with quantifying Mozambique's losses due to piracy. • Develop strategy to prevent piracy. Request information on successful approaches used in other countries. If funding is available, observational study tours would be useful, along with expert missions, to study useful models in countries where they are identified. Adopt regulations to prevent the use of photocopiers to copy books without permission. • Limit data base construction efforts. Make participate voluntary and create system for making information available to enforcement authorities. If plans proceed to develop a data base and website, employ an IT specialist. • Actively seek out training opportunities, including distance learning programs offered through WIPO. • Seek assistance from WIPO and from other intellectual property offices to develop an IP curriculum and identify suitable teaching materials. Conduct internet search and send letters to identify successful programs that have had the benefit of professional curriculum design, or effective training materials, that could be adapted for use in Mozambique. • Provide training for present staff and new employees. For employees who have not previously had university-level courses on intellectual property, offer a comprehensive course on intellectual property, with emphasis on copyright and neighboring rights. <p>Mid- and Long-term recommendations:</p> <ul style="list-style-type: none"> • Consolidate the Copyright and International Cooperation Divisions so that the combined organization has at least two employees now, and after a first round of hiring, has 4-6 attorneys and 1-2 economists, in addition to the present staff.

Priority Recommendations	Other Recommendations
	<ul style="list-style-type: none"> • Develop a strategic plan and training plan. • Merge the Administrative section into the combined structure to form a leaner and more efficient organization. • As staff numbers increase, separate the policy- and law-making functions from the training function and from the enforcement function. Staff the enforcement activity with attorneys with litigation experience and knowledge of copyright law and practice. <p>National Film Institute (INC):</p> <p>The NIBR should proceed now with regulations on copyright of cinematic works, without waiting for completion of regulations for other types of works.</p> <ul style="list-style-type: none"> • Seek assistance to obtain an economic analysis of the local market. • Strengthen training for inspectors and others engaged in enforcement. • Engage at least one attorney, and preferably two, to assist with drafting regulations and maintaining them up to date. Obtain technical assistance in preparing plans to address piracy and promote investment in copyright-based industries. • Increase participation in international meetings on copyright. <p>ARPAC – Social and Cultural Research Institute:</p> <ul style="list-style-type: none"> • Explore the issues surrounding the protection of folklore to determine how best to use the existing intellectual property system to protect domestic interests in folklore. <p>SOMAS:</p> <ul style="list-style-type: none"> • Review procedures and operations to ensure a fair balance between overhead and disbursements: increase income, and reduce the proportion of income retained to overhead.

Priority Recommendations	Other Recommendations
	<ul style="list-style-type: none"> • Expand the number of agreements with foreign collective societies. • Increase coordination with users • Seek increased cooperation with government organizations on outreach activities.
<p>Plant varieties</p> <ul style="list-style-type: none"> • Enact a plant variety law that is consistent with the International Convention for the Protection of New Varieties of Plants (UPOV). • Draft and publish plant variety protection regulations. • Take the necessary steps to join UPOV. • Establish measures within research institutes to protect and capture the benefits of research and wild varieties. • Develop a training and public awareness program on plant variety protection. 	<p>Mozambique needs a legal framework that will provide protection for newly developed plant varieties. The legal framework should include, at a minimum, a statute, regulations, delegation of legal authority to an implementing agency. It should also preferably include publicly available procedures manuals and other guidance on the agency's interpretation of its legal responsibilities, for use by applicants and implementing agencies.</p> <p>Once a law is enacted that is consistent with UPOV, Mozambique should also join UPOV.</p> <p>In developing a plant variety law,</p> <ul style="list-style-type: none"> • Phase in the application of the law to all varieties, as opposed to attempting to protect all varieties initially. • Adopt a provision taking advantage of the ability to apply a longer grace period for existing varieties, as provided in UPOV Article 6(2). • Preserve existing rights of third parties and take the optional exception under UPOV Article 15(2) to permit farmers to use the products of their harvest of a protected variety, on their own holdings, to propagate the variety <p>Plant Variety Protection Office (new):</p> <ul style="list-style-type: none"> • Establish Plant Variety Protection Office and provide appropriate facilities, operating procedures, and staff who can examine applications for compliance with legal requirements. • In appropriate cases, accept growth trial information from other plant variety protection offices.

Priority Recommendations	Other Recommendations
	<ul style="list-style-type: none"> • Provide training for new staff. • Once the office is operational, conduct public awareness activities that focus not only on new plant variety law but on the broader field of intellectual property. Outreach activities should help equip breeders and researchers to use the intellectual property system to promote agricultural exports, including the ability to use the trademark system and geographical indications to establish a market and add value to their products. <p>ARI:</p> <ul style="list-style-type: none"> • Build capacity within the ARI to identify new varieties and prepare the necessary forms to secure protection. Assign personnel and provide training to all personnel, particularly those who would be responsible for operating the program. • Initial funding will be needed to pay fees – especially where it is desired to protect varieties abroad – but regulations could create a system that, once established, would be self-sustaining by reinvesting a portion of proceeds from sales or licensing to pay for the cost of the operation.
<p>Enforcement</p> <ul style="list-style-type: none"> • Reorganize enforcement responsibilities to increase efficiency and effectiveness and to deter future infringement, and increase the number of enforcement officials. • Revise regulations to provide more specific and more effective remedies for piracy and counterfeiting. • Develop and implement a plan to increase the number and success of enforcement activities. • Increase security for impounded goods. • Introduce legislation requiring minimum warranties for goods sold or imported into Mozambique. • Provide training for all enforcement 	<p>The removal of infringing items from the market is a primary objective of intellectual property enforcement.</p> <ul style="list-style-type: none"> • Ensure the availability of injunctions to prevent future infringing activities. • Structure enforcement to remove infringing items as early as possible, e.g., at the border before distribution in the local market. • Provide penalties and other costs that are large enough to be deterrent, i.e., proportionate to the harm involved, including the economic harm. Where appropriate, treat each instance of infringement as a separate offense. • Even where fines and other criminal penalties are limited, courts should

Priority Recommendations	Other Recommendations
<p>officials and for judges, prosecutors, and court experts.</p> <ul style="list-style-type: none"> • Educate the public on the cost/harms of counterfeiting and piracy. 	<p>exercise their authority to grant commercially appropriate civil damages and to issue orders seizing and destroying goods as needed to protect consumers and deter future infringing activities.</p> <ul style="list-style-type: none"> • Conduct public awareness events to decrease the market for infringing products, encourage manufacturers to develop their own brands, and encourage infringers to shift their business opportunities to non-infringing activities. • Conduct targeted enforcement activities. • Take action against the infringing goods themselves. • Ensure that consumers and rightholders can seek compensation for losses, at commercially appropriate levels. • Consider creating an administrative agency to deal with the seizures, with the possibility of an appeal to the courts if the owner is not satisfied as to the decision. (The possibility of an appeal to the courts is a TRIPS requirement.) • Conduct periodic review of regulations. • Consider providing for a warranty for consumer goods. • Increase the number of inspectors by a factor of four and provide incentives to help retain university-trained personnel. • Ensure that inspectors have the authority to seize goods and to issue warnings and citations. • Conduct inspections on the basis of complaints and on the agency's own initiative in accordance a strategic plan that includes random inspections and that targets counterfeiting by geographic area or types of merchandise that is being counterfeited. • Assign inspectors in teams of 2-4. • Provide training for all inspectors and other enforcement employees on intellectual property, the identification of counterfeit goods, and on legal issues related to evidence and procedures. Encourage private sector involvement, particularly on identifying counterfeit goods.

Priority Recommendations	Other Recommendations
	<ul style="list-style-type: none"> • Provide additional resources including transportation, a secure location to store seized goods and maintain a chain of evidence for judicial enforcement. The inspection agency should have specifically allocated resources so that it is able to formulate a budget and develop a strategic plan for carrying out its mission. • Provide for a complainant to post a security to ensure that the claim is not frivolous or to compensate the importer if the complaint proves to be unfounded. This possibility will need to be provided to be consistent with the TRIPS Agreement. • Develop more specific procedures for intellectual property cases. • Reorganize responsibility for enforcement to eliminate the need for interagency consultation and agreement in most cases. • Provide procedures and appropriate security and storage for seized goods and prompt, witnessed destruction of the goods when legal procedures have been completed, to prevent seized goods from making their way into the local market.
<p>Intellectual Property Education</p> <ul style="list-style-type: none"> • Expand existing programs • Provide intellectual property training for faculty members • Offer intellectual property courses in the Faculties of Science and Engineering • Identify or develop agreed Portuguese language text(s) and curriculum materials 	<p>Universities</p> <ul style="list-style-type: none"> • Provide intellectual property materials for the libraries in the Faculties of Law. • Take advantage of distance learning that is available through the WIPO Academy.
<p>Courts</p> <ul style="list-style-type: none"> • Undertake a brief assessment of the Administrative Court to identify ways to improve efficiency. Based on information from assessment, improve capacity and procedures in the Administrative Court. 	<p>Administrative Court</p> <ul style="list-style-type: none"> • Improve the ability of the Administrative Court to respond to status inquiries. Place status information in an automated system, permitting most status checks to be made via computer rather than requiring that court staff actually inspect a file.

Priority Recommendations	Other Recommendations
<ul style="list-style-type: none"> • Organize courses on intellectual property for judges, prosecutors, and court experts, through the Judicial Training Institute. • Organize courses on remedies for judges, prosecutors, and court experts, through the Judicial Training Institute • Develop bench books and provide reference materials to assist judges in preparing their opinions. • Create a data base of legal cases, beginning with appellate cases. • Make these cases available for online searching via keyword or preferably full-text search. 	<ul style="list-style-type: none"> • Develop procedures that will not place files that have been the subject of an inquiry at the end of the court docket.
<p>Public Awareness</p> <ul style="list-style-type: none"> • Develop and conduct a public awareness campaign on intellectual property, to educate Mozambican industries, artisans, SMEs on benefits of intellectual property and how it can be used to promote business development and profitability • Conduct public awareness training for the news media • Actively involve the news media in public awareness and training programs 	<p>All organizations with IP responsibilities (IPI, Ministry of Culture, Customs, CTA, Office of the Inspector General, a plant variety protection office when one is designated)</p> <ul style="list-style-type: none"> • Each organization should give public awareness activities a prominent role in its plans. • Develop a public awareness plan targeted to reach its intended audience. • Include a public awareness component in all activities. • Invite media professionals to public awareness events. • Provide media professionals with information that will aid in reporting the event.