



# NATIONAL INTELLECTUAL PROPERTY POLICY AND STRATEGY 2019-2024

October 2019



The Government of the Republic of Namibia  
Ministry Of Industrialization,  
Trade And SME Development



**BUSINESS AND INTELLECTUAL  
PROPERTY AUTHORITY**  
*Protecting Entrepreneurship and Innovation*

# Acknowledgement


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The Government of the Republic of Namibia would like to express its thanks and gratitude to the World Intellectual Property Organization (WIPO) for supporting the Intellectual Property (IP) needs assessment (IP audit) and the development of this National Intellectual Property Policy and Strategy (NIPPS); Consultants and the members of the IP task force for the tireless effort and valuable contribution towards the Policy framework.

The Government would like to thank the Business and Intellectual Property Authority (BIPA) and staff members, for their contribution, their involvement in the coordination of the programs leading to the drafting of the NIPPS and ensuring that the Policy reflects a true national consensus.

The Government is extremely grateful to all the stakeholders for having availed time and willingness to share information and views on all the aspects of IP. Without the generous support and cooperation of all Namibians, the drafting of the NIPPS would not have been successfully completed.

Thank you.



*Steve Katjivanjo (Amb)*

*Executive Director*

*Ministry of Industrialization, Trade and SME Development*

# TABLE OF CONTENTS

ACKNOWLEDGEMENT	2
FOREWORD	4
ABBREVIATIONS	5
GLOSSARY OF CONCEPTS, TERMS AND EXPRESSIONS	6
EXECUTIVE SUMMARY	8
<b>PART A</b>	<b>10</b>
1. INTRODUCTION	11
2. BACKGROUND	13
3. RATIONALE	18
4. ALIGNMENT	19
5. POLICY GUIDING PRINCIPLES	20
<b>PART B</b>	<b>21</b>
6. POLICY DIRECTION	22
6.1 Vision	22
6.2 Mission	22
6.3 Goals	22
7. POLICY OBJECTIVES AND STRATEGIES	23
<b>PART C</b>	<b>32</b>
8. IMPLEMENTATION FRAMEWORK	33
8.1 Institutional Arrangement	33
8.2 Legal and regulatory Arrangements	33
8.3 Resource Mobilization	34
8.4 Monitoring and Evaluation Framework and Reporting	35
8.5 Advocacy and Dissemination (Communication Strategy)	36
<b>PART D</b>	<b>37</b>
9. CONCLUSION	38
Annex-I Five Years Action Plan for Implementation of NIPPS	38
Annex II - Bibliography	49

# Foreword

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Intellectual Property (IP) serves as an effective policy tool in unlocking local creative, inventive and innovative potential, stimulating the transfer and use of technologies and creative works, encouraging fair competition thereby promoting the creation of wealth and fostering national social, cultural and economic development. In order for IP to play this role effectively, there is need to put in place a policy framework.

The Government of the Republic of Namibia is cognizant of the fact that the absence of a National Intellectual Property Policy and Strategy (NIPPS) in Namibia has fundamentally deprived the country of a convenient framework that would support developmental goals and objectives of the country.

The drafting of this Policy and Strategy, therefore, is a timely development that must be braced by all Namibians in both the public and private sectors in order for the country to ensure effective use of IP as a tool for development and improvement of the welfare of Namibians.

This NIPPS is designed to ensure IP is fully integrated into the national and sectoral development policies and strategies; support and promote the generation, protection and commercialization of IP assets, stimulate transfer of technology, ensure adequate enforcement of intellectual Property right, increase IP awareness, strengthen the creative industry and promote use of intellectual property in areas where Namibia has comparative and competitive advantages.

Effective implementation of the NIPPS will enable the use of IP in meaningfully supporting VISION 2030 and meeting the goals of national and sectoral development Policies, Strategies and Plans.



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*Hon. Tjekero Tweya, MP*

*Minister*

*Ministry of Industrialization,*

*Trade and Small and Medium Enterprises Development.*

# ABBREVIATIONS

- ABS** - Access and Benefit Sharing
- ARDI** - Access to Research for Development and Innovation
- ARIPO** - African Regional Intellectual Property Organization
- ASPI** - Access to Scientific Publication and Information
- BIPA** - Business and Intellectual Property Authority
- CMOs** - Collective Management Society
- GDP** - Gross Domestic Product
- GRs** - Genetic Resources
- HLIs** - Higher learning institutions
- HPP** - Harambee Prosperity Plan
- IP** - Intellectual Property
- IPAs** - Intellectual Property Assets
- IPRs** - Intellectual Property Rights
- IPS** - Intellectual Property System
- MAWF** - Ministry of Agriculture Water and Forestry
- MET** - Ministry of Environment and Tourism
- MHETI** - Ministry of Higher Education, Training and Innovation
- MICT** - Ministry of Information Communication Technologies
- MIRC** - Ministry of International Relations and Cooperation
- MITSMED** - Ministry of Industrialization, Trade and Small and Medium Enterprises Development
- MOU** - Memorandum of Understanding
- NASCAM** - Namibian Society of Composers and Authors
- NCRST** - National Commission on Research, Science & Technology
- NIPPS** - National intellectual Property Policy and Strategy
- NCCI** - Namibian Chamber of Commerce and Industry
- NUST** - Namibia University of Science and Technology
- R&D** - Research and Development
- SMEs** - Small and medium sized enterprises
- TCEs** - Traditional Cultural Expressions
- TISCs** - Technology and Innovation Support Centers
- TK** - Traditional Knowledge
- TTO** - Technology Transfer Office
- UNAM** - University of Namibia
- WCO** - World Customs Organization
- WIPO** - World Intellectual Property Organization





## GLOSSARY OF CONCEPTS, TERMS AND EXPRESSIONS

In this NIPPS, unless the context otherwise requires:

1. **“Creative industries”**, which are also referred to as copyright based or cultural industries, relate to those industries that combine the creation, production and commercialization of contents, which are typically protected by copyright and related rights and take the form of goods or services such as visual arts, dance, performing arts, crafts, music, film and video, and literature.
2. **“Expressions of Folklore or Traditional Cultural Expressions”**- are any forms, whether tangible or intangible, in which traditional culture and knowledge are expressed, appear or are manifested, and comprise the following forms of expressions or combinations thereof:
  - (a) Verbal expressions, such as but not limited to stories, epics, legends, poetry, riddles and other narratives; words, signs, names, and symbols;
  - (b) Musical expressions, such as but not limited to songs and instrumental music;
  - (c) Expressions by movement, such as, but not limited to dances, plays, rituals and other performances; whether or not reduced to a material form; and
  - (d) Tangible expressions, such as productions of art, in particular, drawings, designs, paintings (including body-painting), carvings, sculptures, pottery, terracotta, mosaic, woodwork, metal ware, jewelry, basketry, needlework, textiles, glassware, carpets, costumes; handicrafts; musical instruments; and architectural forms.
3. **“International legal Instruments” means agreements**, conventions, treaties and protocols concluded amongst states at regional or international level.
4. **“Intellectual Property”**- refers to creations of the intellect which has moral and/or commercial value. IP includes inventions, literary and artistic works and symbols, names and images used in trade.
5. **“Intellectual Property Rights”**- refers to enforceable rights over creations of the mind, which gives the creator exclusive rights to exploit and benefit from their creation, and prevent others from making unauthorized use of their property for a limited period, in exchange of the disclosure of the creative work.

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6. **“Stakeholders”** include intellectual property right holders, researchers, authors, artists, inventors, academic and research institutions, traditional knowledge holders, local communities, industry and business establishments and policy makers.
7. **“Technological information”** means solutions to technological problems contained in patent documents or scientific and technological information that may be accessed using WIPO, ARDI and ASPI programs.
8. **“Traditional knowledge”**-means any knowledge originating from a local or traditional community that is the result of intellectual activity and insight in a traditional context, including know-how, skills, innovations, practices and learning, where the knowledge is embodied in the traditional lifestyle of a community, or contained in the codified knowledge systems passed on from one generation to another. The term shall not be limited to a specific technical field, and may include agricultural, environmental or medical knowledge, and knowledge associated with genetic resources.

# Executive SUMMARY

The Intellectual Property (IP) Policy establishes the framework conducive for innovation and competitiveness through IP generation, protection and commercialization. It defines the parameters of the use of IP as a strategic catalyst to accelerate transformational growth at home. The Policy sets Namibia's vision for IP, identifies objectives and key strategies and establishes an institutional framework to serve as the coordinating body in IP related policy and strategic matters.

Creativity and innovation is common to all men, unlike natural resources which are found in certain countries and regions. Therefore, as faithful stewards, we have an obligation to ensure that all intellectual properties rights are recognized, protected and valued.

Given the cross-cutting nature and scope of, the Policy responds to the linkages between IP and other areas in particular, industrialization, trade, investment, innovation, science, technology, agriculture, education traditional knowledge and genetic resources. It addresses the relationship of IP to communication polices, universities & research and development institutions & SMEs.

The Policy provides a framework which maintains a balance between protection of IP rights and safeguarding against market abuse; promote and reward innovation whilst ensuring access to affordable quality medicine; create incentives for industrial innovation whilst leaving room for ongoing progress in research and development; effective and balanced enforcement strategies through education, empowerment and coordination; protect all IP rights and safeguard public interest; uphold and promote the value of knowledge and technology transfer, without undermining protection and attracts investors while promoting local innovation.

Part A of the Policy provides the introductory scene which covers introduction, background, rationale, alignment and guiding principles. It provides the setting and context of the Policy within the existing national frameworks.

In the words of his Excellency, the President: *"The war against poverty and the quest for economic emancipation must be a multifaceted war which we will fight on many fronts, using a myriad of methods at our disposal."*

The development of Intellectual Property Policy & Strategy is yet another intentional initiative towards the prosperity of the Namibian house. The Policy creates a framework conducive to unlock the potential of IP as a tool towards poverty eradication. The Policy sets the framework to ensure effective use of IP for transformational growth at home.



PART B covers the policy direction. This section provides vision, mission, goals and objectives of the Policy. It defines the ideal role of IP as a development tool in Namibia, identifies the mechanisms through which the vision can be realized and provides the key milestones necessary to achieve the vision. The section also identifies fourteen objectives, accompanied by various strategies for each objective, to be implemented during the lifespan of the Policy. These are critical programs and activities necessary for the effective implementation of the Policy.

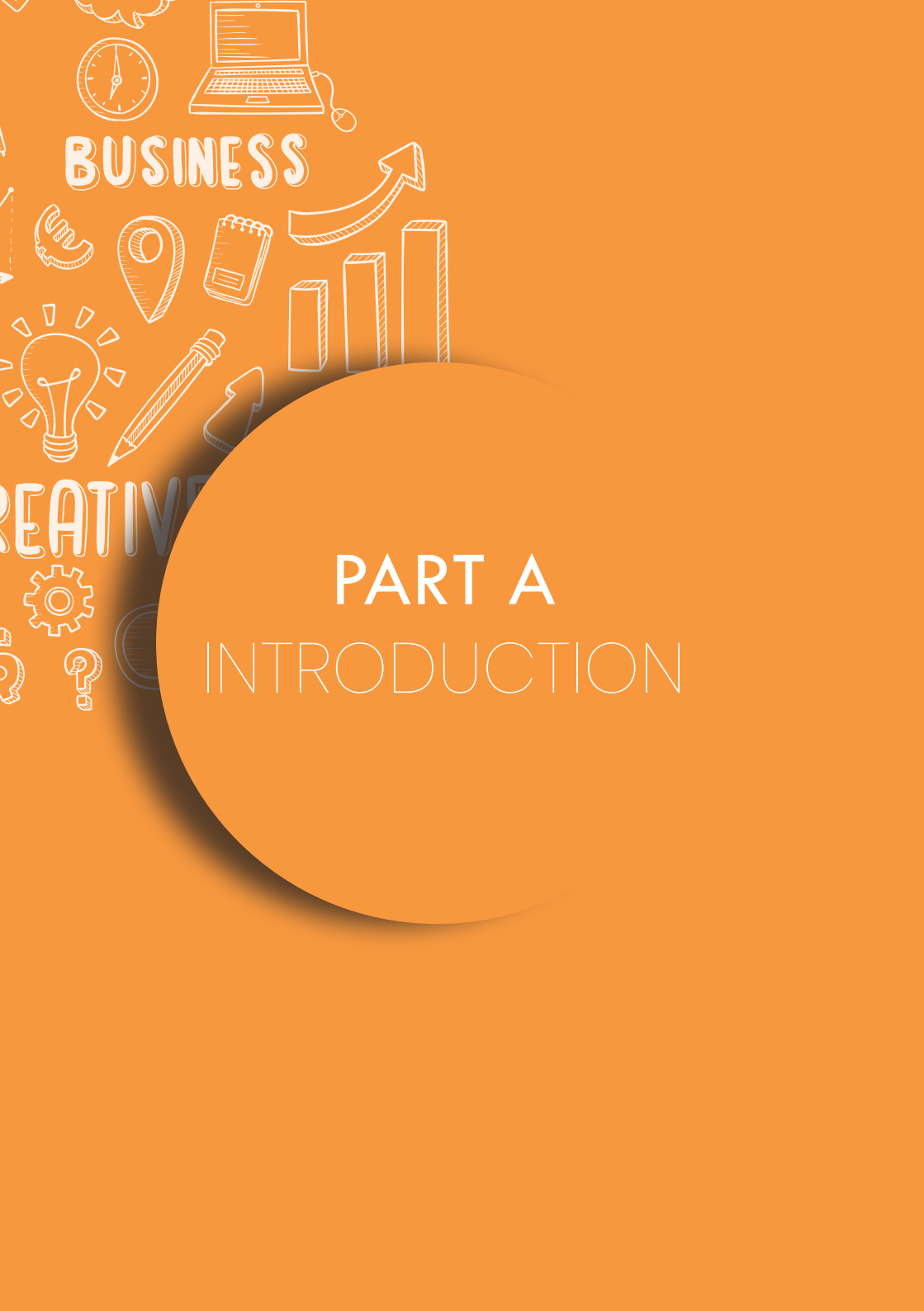
Dynamic and comprehensive intellectual property regime requires a responsive and effective legal and institutional framework, with adequate resources, an effective monitoring and evaluation and a communication strategy.

Therefore, Part C provides for institutional, legal and regulatory arrangements; resources mobilization and monitoring and evaluation framework and reporting

The Policy mandates the Business and Intellectual Property Authority to coordinate all intellectual property related matters to ensure policy coherence and implementation of the policy.

Part D provides the conclusion.





BUSINESS

CREATIVE

PART A  
INTRODUCTION

# 1. INTRODUCTION

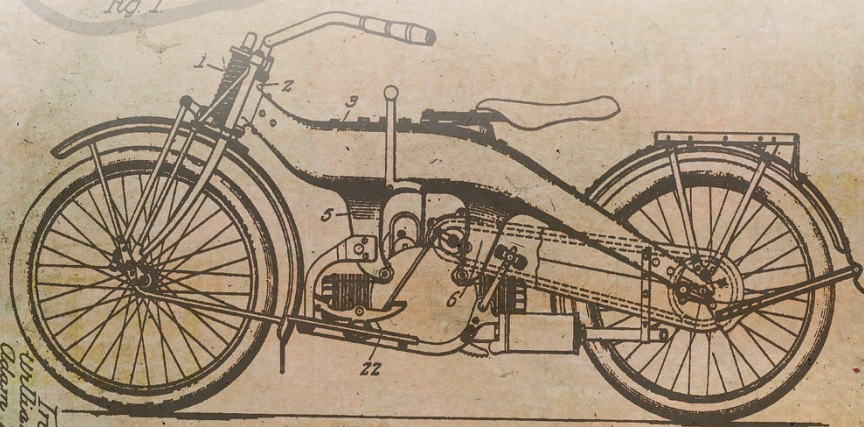
- 1.1 Namibia has a clear development vision, elaborate national and sectoral development policies, strategies and plans aiming at enhancing socio-economic development, reducing poverty and improving the living standard of its people. The National Development Vision envisages a prosperous and industrialized Namibia, developed by her human resources, enjoying peace, harmony and political stability by 2030. In order to realize the national development vision, a number of policies, strategies and plans have been developed and are being implemented. The objectives and strategies of each of the above policy instruments can be effectively supported with intellectual property.
- 1.2 Intellectual Property (IP) serves as an effective policy tool in unlocking local creative, inventive and innovative potential, stimulating the transfer and use of technologies and creative works, encouraging fair competition thereby promoting the creation of wealth and fostering national social, cultural and economic development.
- 1.3 The Government of the Republic of Namibia recognizes that effective use of intellectual property, as a tool for development requires clear policy guidance. This Policy is intended to provide a framework that will facilitate the integration of intellectual property into national and sectoral development policies and strategies, ensure the setting up of development oriented IP systems and foster the use of IP as a tool for development and facilitate the monitoring and evaluation of the impact of the IP system in all these sectors.
- 1.4 The National IP Policy and Strategy (NIPPS), was informed by the following considerations:
- (a) Development goals articulated in national and sectoral development policies and strategies as well as commitments to comply with intellectual Property treaties to which Namibia is party;
  - (b) Addressing gaps and issues identified in the needs assessment study carried out with the support of the World Intellectual Property Organization in 2016; and
  - (c) Lessons learned from experiences and IP policies of a number of countries including Australia, China, Ethiopia, Ghana, India, Japan, Kenya, Mauritius, Moldova, Mozambique, Rwanda, Seychelles, Tanzania, Zambia and Zimbabwe.

1.5 The NIPPS is prepared to meet the needs for using the intellectual property system as a tool for meeting development policy goals, encouraging the generation, protection and exploitation of intellectual property assets; providing guidance in the strengthening of the intellectual property legal and institutional framework; linking the national IP system with the international IP system and maximizing from opportunities offered by its membership to regional and international IP treaties and organizations that administer such treaties.

1.6 The following methodologies were used in drafting the NIPPS:

- (a) Review of relevant literature, development policies, strategies, plans and legislation and commitments of Namibia under IP treaties to which it is a party;
- (b) Identification of gaps and issues identified in the WIPO needs assessment carried out in 2016;
- (c) Reviewing and identifying lessons from experiences of other countries;
- (d) Enriching the draft with WIPO inputs, members of the IP task force and stakeholders; and
- (e) Preparing the draft with the template prepared by the National Planning Commission.

1.7 The draft NIPPS was presented, further enriched and validated at a key stakeholders forum, which was organized by WIPO in cooperation with the government of Namibia on February 15 and 16, 2017.





## 2. BACKGROUND

2.1 Namibia has a clear development vision, elaborate national and sectoral development policies, strategies and plans aiming at enhancing socio-economic development, reducing poverty and improving the living standard of its people. Vision 2030 envisages a prosperous and industrialized Namibia, developed by her human resources, enjoying peace, harmony and political stability by 2030. In order to realize the grand development vision, a number of development policies, strategies and plans have been developed and are being implemented. The objectives and strategies of each of the above policy instruments can be effectively supported with intellectual property. However, little is made to integrate IP in addressing policy issues and ensure meaningful use of intellectual property as a tool in meeting policy development objectives. This is partly due to lack of a national IP policy that would enable use of IP to meet development goals and objectives, ensure policy coherence and provide guidance on:

- (a) The integration of IP into national and sectoral development policies;
- (b) The generation and exploitation of IP assets, and the provision of support and promotion of local creative, inventive and innovative activities as well as the transfer of technology;
- (c) Prevention of the loss of valuable assets and absence of benefit sharing such as those relating to the misappropriation of traditional or indigenous knowledge and biological resources;
- (d) The revision of existing and drafting of new IP laws in compliance with the requirements of international and regional IP agreements to which the country is a party while exploiting flexibilities in meeting national needs and protecting public interest;
- (e) Maximizing benefits from membership to regional and International IP agreements and trading arrangements; and
- (f) Negotiations at bilateral, regional and international levels involving intellectual property issues or matters that may affect the generation, protection and commercialization of IP assets as well as transfer of technology.

2.2 Intellectual property is cross sectoral in nature. IP issues relate to health, agriculture, environment, trade, industry, culture, education, science and technology. Effective use of IP as a tool for development requires greater coordination amongst the key government and private bodies in the development and implementation of policies, strategies and laws. However, there is little coordination amongst the relevant stakeholders.

2.3 There are research and academic institutions that are involved in the generation and use of intellectual property assets. However, these institutions do not have institutional IP policy and management units that may guide and support the generation, protection and exploitation of IP assets as well as provide awards and recognition. As a result, valuable research results that could have been patented and exploited were lost due to earlier disclosure. Moreover, the few inventions that are patented and owned by the University of Namibia and researchers could not be exploited due to lack of a clear policy direction. Issuance of an institutional IP policy may not suffice to address the aforementioned problems and encourage the generation and exploitation of IP assets. There is need to establish an institution that will implement or facilitate the implementation of the policy.

2.4 Namibia has general and specific laws that may help or deal with the protection of intellectual property assets. However, review of the existing legal framework reveals that it is inadequate and have a number of shortcomings. These include:

- (a) Absence of laws that deal with the protection of intellectual property assets such as traditional knowledge and expressions of folklore, undisclosed information; and absence of national position on the protection of geographical indications, and new plant varieties;
- (b) The Copyright and Neighbouring Rights Protection Act, 1994 (Act No. 6 of 1994), which is outdated with numerous shortcomings as it does not provide an enabling legal framework for the development of creative industries in particular in the digital environment and address challenges such as those resulting from the development and widespread use of digital technology and meet the needs of stakeholders such as protection of traditional cultural expressions and archive materials; and does not provide for adequate limitations and exceptions to ensure access to information for educational and development purposes and access to information for people who are visually impaired;

- (c) The Copyrights and Neighbouring Rights Protection Act, 1994 also fails to protect folkloric work, moral rights and neighbouring rights. It is thus not suited to Namibia's social and economic conditions and aspirations;
- (d) The repealing of the Trademarks in South West Africa Act, 1973 (Act No. 48 of 1973), by the Industrial Property Act, 2012;
- (e) The amendment of the Merchandise Act, 1941 (Act No. 17 of 194) to comply with the TRIPS Chapter Three on enforcement;

2.5 Namibia is a state party to a number of international and regional intellectual property and trade agreements, which may support the use of intellectual property as a tool for development and enhance competitiveness of local businesses and access to information for development of all persons and safeguard public interest.

2.6 Namibia has delayed in depositing instruments of acceptance, ratification or accession to relevant international treaties and lack of coordinated compliance mechanism with some of the existing IP laws with the requirements of international IP treaties to which the country is a party.

2.7 Namibia may also need to join other international Intellectual Property Agreements to which it is signatory or not yet signatory to complement the changes that will be made in existing legislation addressing challenges and limitations or new laws that may be enacted to meet the needs of stakeholders. Moreover, there is need to sensitize stakeholders and promote the use of the international IP system as well as maximize from opportunities offered.

2.8 There are IP institutions that are involved in the administration of IP laws; namely:

- (a) Business and Intellectual Property Authority (BIPA) established by the Business and Intellectual Property Authority Act, 2016 (Act No. 8 of 2016) to streamline the fragmented IP administration;
- (b) Collective Management Organizations that are involved in managing copyright and related rights on behalf of their members, collecting and distributing royalties; and
- (c) IP practitioners that handle IP matters including filing of applications and maintaining IP titles.

- 2.9 However, the IP institutions have weaknesses and challenges that should be addressed. These include inadequate capacity, limitation of mandate and lack of a system to determine eligibility and ensure involvement of professionals that will be engaged in handling IP matters. The IP system is scarcely used by nationals and residents of Namibia. This is due to a number of factors including inadequate intellectual property generation, protection and commercialization capacity; and lack or inadequate awareness of intellectual property.
- 2.10 There are laws and institutions dealing with enforcement of intellectual property rights. However, piracy, copying and imitating remains prevalent. This is due to a number of factors including:
- (a) Inadequate legal remedies;
  - (b) Inadequate knowledge and awareness of IP and the impact of IP infringement by magistrates and judges;
  - (c) Delay in disposition of court cases, and
  - (d) Inadequate capacity of enforcement agencies.
- 2.11 Efforts have been made by MITSMED, MICT, BIPA and CMOs to raise awareness on intellectual property through workshops and events. However, the impact of such endeavors has been insignificant as they were not target oriented, limited to few promotional tools such as workshops and thus lacked continuity. Stakeholders pointed out that the level of awareness of IP amongst right holders or potential users such as businesspersons, researchers, and academic staff of the Universities, politicians, and the general public is limited.
- 2.12 Namibia has talented people and ethnic groups with diverse cultural resources that could provide a solid basis for the development and strengthening of the creative industry. However, the creative industry is weak due to a number of factors including:
- (a) Inadequate recognition of the significance of the creative industry and lack of support of the sector by the government due to the absence of a study that demonstrates the contribution and potential contribution of the creative industry to social, cultural and economic development;
  - (b) Inaccessibility of finance to exploit creative works and support the creative industry;
  - (c) Lack of incentives to strengthen the emerging industry;
  - (d) Weak associations of right holders, creators and entrepreneurs;
  - (e) Outdated laws that do not protect traditional cultural expressions such as folklore, which have been exploited with no return and recognition to local communities; and
  - (f) New technological developments that made reproduction and distribution of copyrightable works easy, cheap and fast as well as monitoring infringement and enforcement difficult.



2.13 There are a number of areas where Namibia has comparative advantage and the potential to boost trade and enhance economic growth using IP. However, little effort is made to use IP in further strengthening this position and maximizing advantages to be gained in this field.

2.14 The NIPPS aims at providing guidance that will enable the government to address the aforementioned gaps and ensure effective use of IP as a tool for enhancing social, economic, cultural and technological development as well as improvement of the living standards of Namibians.

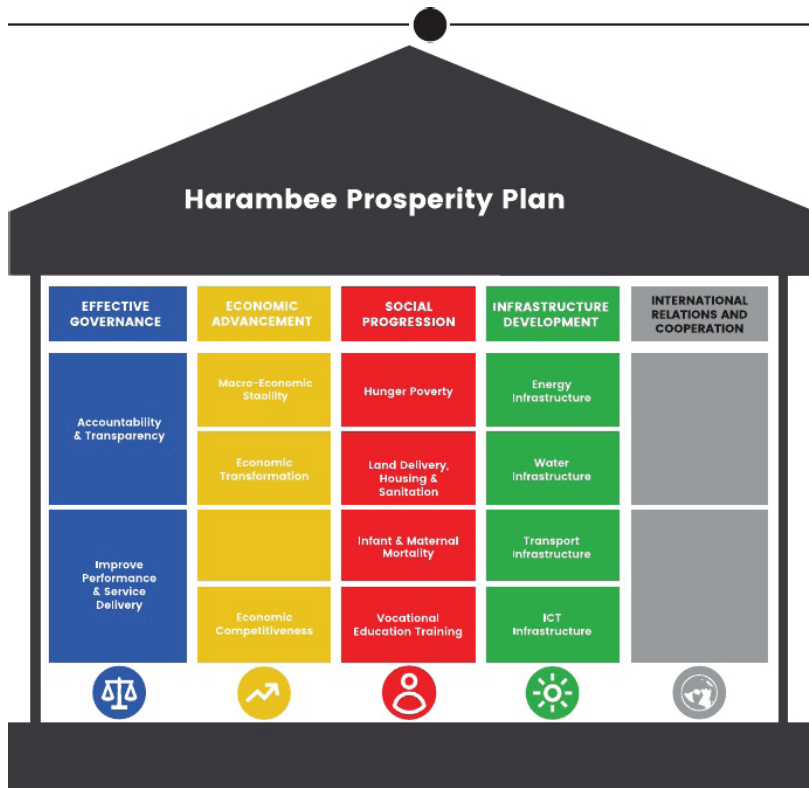


### 3. RATIONALE

- 3.1 Namibia has clear development policies; strategies and plans, which can be effectively supported by intellectual property. However, little effort is made to use the IP system. The major reason contributing to this is the absence of a national IP policy and strategy that will guide and promote the utilization of the IP system in a way that will support development objectives. In addition, there are a number of challenges that may impede effective use of the IP system in meeting development goals.
- 3.2 The major issues and challenges identified based on the Intellectual Property Needs Assessment Study carried out in 2016 are the following:
- (a) Inadequate integration of intellectual property into national and Sectoral development policies;
  - (b) Inadequate institutional mechanisms to ensure policy coherence and coordination;
  - (c) Lack of or inadequate Institutional IP policy and management framework;
  - (d) Inadequate intellectual property and related legal framework;
  - (e) Inadequate linkage of the National IP system with the international IP system;
  - (f) Inadequate intellectual property administrative frame work & weak Institutional capacity;
  - (g) Inadequate generation of IP assets;
  - (h) Inadequate protection of IP assets;
  - (i) Inadequate commercialization of IP Assets and Technology transfer;
  - (j) Insufficient awareness of IP;
  - (k) Inadequate enforcement of IPRs;
  - (l) Lack of guidance on promotion of the creative Industry;
  - (m) Absence of laws and mechanisms for protection of traditional knowledge and traditional cultural expressions or facilitating implementation of the ARIPO Swakopmund Protocol on the protection of traditional knowledge and expressions of folklore; address concerns related to misappropriation and sharing of benefits and provide adequate limitation and exceptions with the aim of promoting access to copyrighted works for educational purposes and people who are visually impaired;
  - (n) Inadequate use of IP in areas where Namibia has comparative advantage.
- 3.3 This policy is needed to provide guidance to address the aforementioned issues by defining policy goals; objectives and strategies; setting institutional arrangements; defining monitoring and evaluation framework and providing a five year implementation plan.

## 4. ALIGNMENT

- 4.1 This Policy is aligned to the Constitution of the Republic of Namibia, Vision 2030, the country's National Development Plans, the Harambee Prosperity Plan and to the Regional and International Treaties and Conventions ratified by Namibia.
- 4.2 Since the HPP is designed to augment the existing long-term development plans such as Vision 2030 and the National Development Plans, it suffices to stress that the NIPPS strives to place intellectual property at the center of the achievement of the country's development goals.
- 4.3 Most importantly, it is noted that Pillars 2 and 4 of the HPP dealing respectively, on Economic Advancement and Infrastructure Development are important avenues where the use of intellectual property would serve as an important catalyst for the achievement of the objectives of the HPP and thereby facilitating the Government's objectives of eradicating poverty, unemployment and inequality.



## 5. POLICY GUIDING PRINCIPLES

- (a) The Policy shall provide a framework for effective utilization of IP as an instrument for meeting national and sectoral development policies goals and enhancing socio economic development.
- (b) The NIPPS recognizes that all protection measures aimed at various aspects of IP will be effective and broad enough to cover IPRs aspects that may not perfectly fit in the conventional IP arena such as TK.
- (c) The NIPPS guides that existing IP laws are revised and new laws are enacted taking into account the goals and objectives of national development plans and sectoral development policies, the need for a balance between the interest of the right holders and the general public as well as exploiting flexibilities available in international IP instruments to which the country is a party.
- (d) The NIPPS appreciates the importance of linking the national IP system to the regional and international IP systems, the need to accede to existing and new regional and international IP instruments taking into account the best interest of the country.
- (e) The NIPPS recognizes that IP measures should complement and support government policies such as those dealing with empowerment of the youth and women, meeting the needs of persons with disabilities, addressing environmental concerns and promotion of green technologies





**PART B**  
POLICY  
DIRECTION

## 6. POLICY DIRECTION

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### 6.1 Vision

An IP system that is utilized effectively to contribute towards the realization of vision 2030.

### 6.2 Mission

To create a balanced and effective intellectual property system which values and protects all creativity and innovation by:

- Fostering an enabling environment for generation, commercialization and utilization of creative, cultural, and inventive assets;
- Promoting competitiveness, fair trade and technology transfer;
- Strengthening IP education and enforcement;
- Safeguarding public interest; and
- Promoting access to education and information for all persons.

### 6.3 Goals

The main policy goals are to:

- (a) Facilitate the integration of IP into national development plans and sectoral policies to ensure its contribution to the realization of national and sectoral development goals;
- (b) Foster the use of intellectual property as a tool for socio-economic development, strengthen & maximize the potential areas where the country has comparative and competitive advantage;
- (c) Stimulate and foster the generation, protection, management and commercialization of IP assets in Namibia;
- (d) Facilitate transfer and acquisition of foreign technology;
- (e) Provide for the development and strengthening of balanced and accessible IP infrastructure including but not limited to IP protection, administration and balanced enforcement legal and institutional framework;
- (f) Provide for effective and adequate exceptions, limitations and flexibilities for purposes of safeguarding public interests, promotion of access to medicine, education and information for all Namibians;
- (g) Build and strengthen capacity including human resources needed for effective protection, management and enforcement of intellectual property and the use of intellectual property as a tool for development;
- (h) Promote greater awareness of intellectual property among potential users, government entities, the private sector and the general public and improve the use of IP in meeting technological, social, cultural and economic needs; and
- (i) Strengthen linkages between the national, regional and international IP systems and maximize benefits from the opportunities offered.

## 7. POLICY OBJECTIVES AND STRATEGIES

Critical issues and challenges that need to be addressed by the policy have been used as a framework for setting the policy objectives and outlining strategies. The intended objectives that will be achieved and the strategies that will be implemented in addressing the issues are dealt with below under the heading of each of the critical issues.

**7.1 Objective** - To integrate IP into national development plans and sectoral development policies to ensure meaningful contribution of the IP system to support development goals by 2024.

### 7.1.1 Strategies:

- (a) Identify issues and areas that involve and may be supported by IP in order to integrate them during the formulation or revision of national development plans and sectoral policies;
- (b) Sensitization of policy makers on the significance of integrating IP during the formulation of development plans and policies as well as using IP as a tool for enhancing development;
- (c) Build capacity on policy analysis, formulation, monitoring and evaluation;
- (d) Establish monitoring and evaluation mechanisms to evaluate the contribution of IP to the realization of development goals of the policy instruments.

**7.2 Objective** - To Set up and strengthen an effective mechanism to ensure policy coherence and coordination amongst relevant public and private sector bodies by 2024

### 7.2.1 Strategies:

- (a) Establish a coordination committee which promote and strengthen linkages between BIPA, other IP institutions and relevant public and private bodies.

**7.3 Objective** - To ensure that institutions involved in the generation of IP assets have a policy and institutional framework to support their generation, protection, management and exploitation by 2024.

### 7.3.1 Strategies:

- (a) Enact law on the ownership and exploitation of research results generated using

public resources including those made in collaboration with foreign institutions and using resources of development partners.

- (b) Ensure the adoption and implementation of institutional IP policies in public higher learning institutions and research and development organizations that will direct and support the generation of IP assets; and deal with issues such as disclosure and ownership of research results.
- (c) Encourage the establishment of IP management units to implement institutional IP policies.
- (d) Build and strengthen the capacity of IP management units.

**7.4 Objective** - To have adequate, effective, dynamic and comprehensive IP and related laws to encourage local creativity, invention and innovation, stimulate transfer of technology, enhance fair competition, maintain balance between the interests of right owners and the public interest by 2024.

#### **7.4.1 Strategies:**

- (a) Review and amend existing IP and related laws to support and complement national and sectoral development policies; accommodate new developments and changes and meet the requirements of relevant international IP laws taking into account the need to balance the interests of the public and IP right holders using flexibilities available to developing countries and learning from relevant international best practices.
- (b) Provide for effective and adequate exceptions, limitations and flexibilities for purposes of safeguarding public interests, promotion of access to medicine, education and information for all Namibians;
- (c) Enact new laws for protection of traditional knowledge and expressions of folklore and undisclosed information in order to meet the needs of stakeholders. in line with best practices; and develop Namibia's position on protection of geographical indications and plant varieties.
- (d) Ensure the participation of the key stakeholders in the development of new and the revision of existing IP laws.
- (e) Promote awareness of the IP laws among key stakeholders, potential users and the general public.
- (f) Review the impact of IP laws and their contribution to socio-economic development of the country during the planning process.
- (g) Ensure the dynamism of IP laws to accommodate new needs and address new challenges.

**7.5 Objective-** To be a party to relevant regional and international IP agreements to complement the objectives of the national IP system and promote cooperation in the field of IP by 2024.

**7.5.1 Strategies:**

- (a) Undertake studies on relevant regional and international IP instruments and accept, ratify and accede to those, which support the socio-economic development objectives of Namibia.
- (b) Take active part in IP regional and international fora with a view to cater for and promote national interest.
- (c) Encourage Namibians who protected their IP assets locally to use the regional and international IP system that facilitate protection of their assets outside of the country.
- (d) Establish, maintain and strengthen cooperation with national, regional and international IP offices.
- (e) Exploit opportunities offered by regional and international organizations that administer IP instruments to which the country is a party in order to meet the capacity building needs and support local creativity, inventive and innovative activities.

**7.6 Objective -** To strengthen an IP administrative institutional framework to render development and quality oriented IP services and cater for the interests of rights holders by 2024.

**7.6.1 Strategies:**

- (a) Strengthen BIPA as a development and quality service-oriented IP office to support the generation, promotion, protection and commercialization of IP assets in the country, and also initiate and implement programs aimed at using IP as a tool for development.
- (b) Ensure financial sustainability of BIPA to enable it to develop and implement a career structure that attract and retain professionals needed to enhance and provide development oriented and quality IP services.
- (c) Broaden the mandate of Collective Management Organizations (CMOs) in managing copyright and neighboring rights on behalf of their members.
- (d) Mandate a relevant existing institution to manage the protection and exploitation of traditional cultural expressions and use of resources to meet needs of local communities and promote culture.
- (e) Design and implement capacity building programs aimed at strengthening the capacity of IP institutions in terms of human resource and facilities.



- (f) Build the capacity of IP practitioners using training opportunities available in and outside Namibia.
- (g) Develop and implement a system of registration and certification of professionals that will be engaged in handling IP matters.

**7.7 Objective** - To encourage and support the generation of IP assets by 2024.

### 7.7.1 Strategies

- (a) Promote and support market and need oriented research in public higher learning and R&D organizations.
- (b) Promote and support the generation and management of IP assets by SMEs.
- (c) Facilitate access to and promote wider use of technological information contained in patent documents by researchers in higher learning institutions, R&D organizations, business establishments and potential users.
- (d) Encourage the establishment and strengthen technology and innovation support service rendering structures in public and private sectors.
- (e) Establish the Technology and Innovation Support Centres in Namibia; and promote the use of the resources and support programs offered by international organizations such as WIPO's state of the art search service, Patent Scope, Access to Research for Development and Innovation (ARDI) and Access to Scientific Publication and Information (ASPI) facilities in supporting local R&D, inventive and innovative efforts.
- (f) Build capacity for the creation of IP assets both in terms of human resource and research infrastructure and provide incentives aiming at stimulating local creative, inventive and innovative activities.
- (g) Encourage and promote linkages among institutions that generate intellectual property assets.
- (h) Support the establishment and strengthening of art and science clubs in primary and secondary schools to nurture a scientific and innovative culture and encourage activities that will harness the creative and inventive potential of children and the youth.
- (i) Increase government support for research and development and encourage the private sector to support funding of R&D activities.
- (ii) Set up a system to ensure revenue generated by public higher learning institutions and R&D organizations from the commercialization of intellectual property assets is used for creative, inventive and innovative activities.

- (k) Support and guide business establishments in improving the quality of their goods and services and creating their own brands.
- (l) Develop a mechanism that will support and encourage generation of IP assets by persons with disabilities, youth and women.
- (m) Provide incentives and privileges on investments made on or support the generation of intellectual property assets

**7.8 Objective** - To ensure effective and adequate protection of intellectual property assets by 2024.

**7.8.1 Strategies:**

- (a) Enact new laws, review and amend existing intellectual property and related laws to address limitations on the Intellectual Property legal framework.
- (b) Support and facilitate the adoption of institutional IP policy and establishment of IP management units (technology transfer offices) in public higher learning institutions and research and development organizations to facilitate protection of IP assets.
- (c) Encourage and support the protection of intellectual property assets of Namibians in foreign countries in order to prevent misappropriation of any income accrued as a result of their use thereof and curb exploitation.
- (d) Strengthen innovation fund to assist local inventors and creators in protecting their intellectual property assets.
- (e) Promote use and protection of brands in enhancing the competitiveness of local businesses and industry in and outside Namibia
- (f) Establish and regularly update a national IP database on the status of protection of IP assets in BIPA and make it accessible to potential users.
- (g) Develop a mechanism to support and encourage participation of persons with disabilities, youth and women in the promotion and protection of IP assets.

**7.9 Objective** - To Promote and support the commercialization of IP assets and enhance the use of intellectual property in strengthening competitive position of local industry and business and ensure effective use of intellectual Property in facilitating the transfer and use of technology by 2024.

**7.9.1 Strategies:**

- (a) Support the development of IP valuation capacity.
- (b) Facilitate the establishment and strengthening of Technology and Innovation

- Support Centers (TISCs) and business incubators in public higher learning and R&D institutions to facilitate prototype and product development and support the commercialization of research results.
- (c) Encourage and foster linkages between institutions that generate IP assets and the productive sector to ensure exploitation of creative, inventive and innovative works.
  - (d) Encourage and support the exploitation of Namibia's IP assets in foreign countries to increase trade revenue.
  - (e) Promote awareness and use of the Innovation Fund to assist local inventors and creators in exploiting their IP assets.
  - (f) Promote the IP system of Namibia and encourage increased use of the system by foreign technology holders using various tools including programs aiming at attracting foreign investment.
  - (g) Promote and encourage Namibian Investors to use the IP system in acquiring and exploiting IP assets.
  - (h) Facilitate access to and promote the importance and use of technological and information sources such as patent documents available in BIPA and other sources as a means to acquire, adapt and exploit technologies that form part of the public domain.
  - (i) Ensure that the Central Procurement Board of Namibia accommodates the need for promoting the use of local innovations, goods and services.
  - (j) Encourage the establishment of unions for creators and strengthen existing unions to support the creative industry with a view to adding value and exploiting creative works.
  - (k) Develop a mechanism to support persons with disabilities, youth and women in commercialization of IP assets.

**7.10 Objective** - To improve and strengthen intellectual property awareness by 2024.

**7.10.1 Strategies:**

- (a) Strengthen the capacity of BIPA to enable the office to effectively discharge its responsibilities related to the creation and enhancement of intellectual property awareness.
- (b) Design and implement target oriented, coordinated and continuous IP awareness programs.
- (c) Integrate and strengthen IP in the curriculum of primary, secondary, higher education institutions and vocational education establishments.

- (d) Organize IP colloquia for parliamentarians and top government officials.
- (e) Popularize IP using different tools such as print, story books, electronic and online media, workshops, seminars, conferences, promotional materials in national and official languages and events such as the celebration of African intellectual property Day and technology transfer and World Intellectual Property days.
- (f) Train journalists and encourage the use of print, online and electronic media in sensitizing the general public on the importance of intellectual property.
- (g) Organize awareness campaigns for the civil society and the consumers.
- (h) Identify and promote accomplishments in this field to show case the benefits of IP.
- (i) Produce and disseminate intellectual property promotional materials in official and local languages.

**7.11 Objective** - To improve and strengthen balanced IPR enforcement strategies by 2024.

#### **7.11.1 Strategies:**

- (a) Develop and Implement Intellectual Property Value Promotion Strategic Plan.
- (b) Review and strengthen IPR enforcement laws in in order to create a balanced and credible intellectual property system.
- (c) Encourage the use of alternative dispute resolution mechanisms and arbitration in settling IP disputes.
- (d) Create a critical group of experts involved in the enforcement of IPRs.
- (e) Establish and strengthen linkages and coordination among enforcement agencies.
- (f) Strengthen the capacity of CMOs to support enforcement of copyright & related rights.
- (g) Design and implement intellectual property awareness programmes for members of the judiciary, public prosecutors, attorneys, members of the police force and customs officials on IPRs enforcement and the general public on the adverse impact of infringement of intellectual property rights.
- (h) Publish and disseminate reports on judicial decisions against infringement of IPRs in simplified language.
- (i) Establish cooperation between relevant government enforcement bodies and foreign IP right enforcement government institutions, regional and international organizations, and private sector bodies to facilitate information exchange and access to databases.
- (j) Support and strengthen a mechanism that would enable enforcement officers to identify and differentiate infringing products from genuine ones including access to the World Customs Organization (WCO) Interface Public Members

Tool, International IP Crime Investigators College (IIPCIC- Interpol) and IPRs holders' organizations.

**7.12 Objective:** - To strengthen the Creative industries to harness Namibia's diverse cultural resources by 2024.

**7.12.1 Strategies:**

- (a) Undertake a study to show case the current and potential contribution of the creative industry to social, cultural and economic development.
- (b) Enact the new copyright law
- (c) Develop and implement policies and laws that may provide incentives to and support the creative industry.
- (d) Support CMOs in building their capacity to address the technological challenges in managing copyright and related rights.
- (e) Promote skills development and innovation within the creative industries.
- (f) Ensure the preservation of Namibian cultural heritage that may provide a solid basis for the development of the creative industry.

**7.13 Objective** - To provide adequate protection and promote the use of traditional knowledge and traditional cultural expressions (TCEs); and ensure equitable sharing of benefits arising from the use of traditional knowledge, TCEs and TK associated with the use of genetic resources by 2024.

**7.13.1 Strategies:**

- (a) Develop and enact a law aimed at facilitating the implementation of the Swakopmund Protocol on the protection of traditional knowledge and traditional cultural expressions.
- (b) Expedite the process of enacting the ABS Bill.
- (c) Participate actively in international fora where efforts and negotiations are made to develop international instruments addressing needs and concerns related to TK, TCEs and genetic resources.
- (d) Use IP laws where appropriate to protect traditional knowledge and expressions of folklore and address concerns related to traditional knowledge and TCE's.
- (e) Support and strengthen the use of the national database on traditional knowledge.
- (f) Strengthen the ongoing initiative to educate traditional knowledge holders on their rights and legal instruments to address their needs and concerns



- (g) Develop guideline and model agreements on the transfer and use of expressions of folklore, traditional knowledge and associated genetic resources and promote their use.

**7.14 Objective** -To promote and increase the use of IP in areas where Namibia has existing or potential comparative and competitive advantage to access and compete favorably in international markets to realize the goals of the sector growth strategies by 2024.

**7.14.1 Strategies:**

- (a) Initiate and undertake detailed studies on the priority areas of comparative advantage and where IP can be used in strengthening competitiveness and enhance trade revenue.
- (b) Design and implement IP and branding strategies to capture intangible values associated with some of Namibia's export products such as minerals, food and beverages.



## 8. IMPLEMENTATION FRAMEWORK

### 8.1 Institutional Arrangement

The Namibian IP Policy and Strategy implementation will require the involvement and participation of a number of public and private bodies. Each of these bodies is expected to take measures envisaged in the policy and implementation plan. The key institution that will oversee the implementation and coordinate relevant public and private bodies will be the Business and Intellectual Property Authority (BIPA).

#### 8.1.2 The BIPA shall:

- (a) Ensure policy coherence between the national IP policy and national and sectoral development policies and integration of IP;
- (b) Develop national position on issues related to intellectual property at bilateral and multilateral forums;
- (c) Facilitate coordination, consultation and communication amongst relevant government and private bodies that may be engaged in or contribute in the implementation of the national IP policy & strategy;
- (d) Oversee the implementation of the national IP policy & strategy;
- (e) Monitor and evaluate the impact of the IP policy & strategy;
- (f) Prepare and present a revised IP policy & strategy for approval by the government within three months before the expiry of the initial term of this policy; and
- (g) Issue its own rules and procedures including modalities of working with traditional authorities.

#### 8.1.3 The BIPA may:

- (a) Invite any person to attend and participate in the deliberations of the Policy implementation and/or review but such person has no right to vote;
- (b) Establish technical committees and use advice and services of professional experts in discharging its responsibilities.

### 8.2 Legal and regulatory Arrangements

The main laws that will be used to administer, protect and enforce intellectual property rights are:

- (a) Business and Intellectual Property Act, 2016 (Act No.8 of 2016);
- (b) Industrial Property Act, 2012 (Act No.1 of 2012);
- (c) Merchandise Act, 1941 (Act No. 17 of 1941)
- (d) Copyright and Neighboring Rights Protection Act, 1994 No. (Act 6 of 1994);
- (e) Competition Act, 2003 (Act No. 2 of 2003);
- (f) Competition Regulations of 2003; and
- (g) Customs and Excise Act, 1998 (Act No. 20 of 1998).

### 8.2.1 There is need to:

- (a) Enact laws dealing with the protection of intellectual property assets such as traditional knowledge and expressions of folklore;
- (b) Enact a law regulating access to genetic resources and protection of associated traditional knowledge to complement the industrial property Act;
- (c) Amend the Copyright and Neighboring Rights Act, 1994, to provide an enabling legal framework for the development of creative industries in particular in the digital environment and address challenges such as those resulting from the development and widespread use of digital technology, meet the needs of stakeholders such as protection of traditional cultural expressions and archive materials; and
- (d) Revise the Customs and Excise Act, 1998 to comply with the requirements of the TRIPS Agreement.

**8.2.2** In addition to the above, there is need to promote the use of existing regional and international IP treaties to which Namibia is a party to as well as considering acceding to some of the relevant agreements to complement the existing IP legal framework and facilitate protection of Namibian IP assets outside of the country.

### 8.3 Resource Mobilization

The successful implementation of the NIPPS will require financial resources and technical support. These resources will be mobilized based on a clearly defined resource mobilization strategy and plan from:

- (a) The Government (our Ministry);
- (b) Development Cooperation Partners;
- (c) Regional and International Intellectual Property Organizations;
- (d) Beneficiaries of the IP system; and
- (e) Other sources.

#### **8.4 Monitoring and Evaluation Framework and Reporting**

The implementation and impact of the national IP policy and strategy will be monitored and assessed to determine whether or not the policy objectives are met and the various strategies set to address identified policy issues are effectively implemented in light of results achieved based on the performance indicators set in the five years action plan (Annex I).

**8.4.1** The BIPA will be responsible for monitoring and evaluating or undertaking the assessment of the implementation and impact of this policy. These will require a sustainable and coherent results-based monitoring and evaluation framework. Evaluation and monitoring mechanisms of such a framework will include:

- (a) Capacity building of institutions in implementing the plan;
- (b) Setting up or strengthening units entrusted with inspection, monitoring and evaluation of performances within the relevant public bodies;
- (c) Nurturing the culture of monitoring and evaluation of performance within the responsible public and private bodies;
- (d) Review of performance feedback from responsible bodies;
- (e) Stakeholders surveys and feedback;
- (f) Assessment undertaken on a biennial basis involving representatives of bodies that are responsible to implement planned activities within the time specified by the five years action plan.
- (g) Independent evaluation reports- implementation of the plan may be evaluated and reviewed by independent experts every two years
- (h) Impact assessment- Independent experts will assess impact of implementation of NIPPS and its contributions to socio-economic development before six months of the end of the planning period.

**8.4.2** Like any policy, the national IP policy and strategy should be dynamic in order to manage with new developments and meet new needs. BIPA will be responsible to initiate review of the policy and secure approval of a revised IP policy and strategy by the government within three months before the termination of the period of this NIPPS.

**8.4.3** The findings of policy monitoring and evaluation activities, the results of independent impact assessments, the policy studies that will be carried out by IP offices following up on new national and international developments in the field and new needs of stakeholders will serve as a basis for the refinement and revision of the national IP Policy.

## **8.5 Advocacy and Dissemination (Communication Strategy)**

- 8.5.1** Effective implementation of the National IP Policy & Strategy and achievement of its objectives require knowledge and understanding of the policy by different stakeholders.
- 8.5.2** BIPA in cooperation with relevant public and private bodies should sensitize key stakeholders, including potential users, academic and research institutions, IP right holders, officials of the government, members of the business community and the general public using print, electronic and online media about the policy following its approval.
- 8.5.3** The popularization of the policy should form part of intellectual property outreach programs of BIPA and this process must be carried out in a continuous manner.





# PART D

## CONCLUSION

## 9. CONCLUSION

- 9.1** The NIPPS recognizes the clear development vision, elaborate national and sectoral development policies, strategies and plans of Namibia, which aimed at enhancing the socio-economic development of the country and the concerted efforts of the Government aimed at reducing poverty and improving the living standard of our people.
- 9.2** The policy is prepared taking into account the development goals and aspirations articulated by Vision 2030, the Harambee Prosperity Plan, national and sectoral development policies and strategies and commitments under regional and international IP treaties to which Namibia is a party and the needs of stakeholders.
- 9.3** Stakeholders were consulted and participated in the process of the development of the NIPPS. Furthermore, input from WIPO, members of the national IP task force and stakeholders had helped in further enriching the draft. The draft NIPPS was presented and validated at a multi stakeholders' forum which was held from 15 - 16 February 2017. The involvement of stakeholders during the needs assessment study and in the process of formulation and validation of the draft NIPPS helped not only to ensure ownership but also increase the knowledge of the policy, which will facilitate implementation of the policy as soon as the government approves it.
- 9.4** Effective implementation of the NIPPS will support achievement of Government's development policies and strategies; and meet the needs of institutions that generate and use intellectual property assets as well as traditional knowledge holders and local communities by ensuring effective use of IP.

### Annex-I Five Years Action Plan for Implementation of NIPPS

This 2019 - 2024 action plan defines the goals and strategies to be implemented in order to attain set policy goals by different responsible bodies in the short, medium and long term/during the period of the plan. Short term refers to a period of one year, Medium term includes activities that should be implemented within three years and long term refers to activities that may extend until the end of the planning period beginning from the approval of the Namibian IP Policy & Strategy.

The policy objectives and strategies that will be implemented, the responsible body or bodies, timeline for implementation of the strategies and the performance indicators are outlined in the table below:

**Objective 1. To integrate IP into national development plans and sectoral development policies to ensure meaningful contribution of the IP system to support development goals by 2024**

Strategies	Time Line	Responsible bodies	Key Performance Indicators
Identify issues and areas that involve and may be supported by IP in order to integrate them during the formulation or revision of national development plans and sectoral policies	During the period of the plan	Relevant Ministries	-Number of IP issues addressed in each Policy, Strategy and Plan
Sensitization of policy makers on the significance of integrating IP during the formulation of development plans and policies as well as using IP as a tool for enhancing development	Short term	BIPA	-Number of meetings addressing IP issues held with Policy makers at different levels -Number of participants
Build capacity on policy analysis, formulation, monitoring and evaluation.	Short term	BIPA	- At least two persons trained in policy analysis, formulation, evaluation & monitoring capacity
Establish a monitoring mechanism to evaluate contribution of IP in supporting policy goals	Short term	BIPA	- A monitoring & evaluation unit within BIPA -Number of BIPA meetings and minutes on the IP Policy

**Objective 2. To set up & strengthen an effective mechanism to ensure policy coherence and coordination amongst relevant public and private sector bodies by 2024.**

Promote and strengthen linkages between BIPA, other IP institutions, relevant public and private bodies.	During the planned period	BIPA	- Number of MOUs entered into between BIPA and public and private institutions
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**Objective 3. To ensure that institutions involved in the generation of IP assets have a policy and institutional framework to support their generation, protection, management and exploitation by 2024.**

Enact law on the ownership and exploitation of research results generated using public resources including those made in collaboration with foreign institutions and using resources of development partners.	Short term	MHETI	- Law enacted
Ensure the adoption and implementation of institutional IP policies in public higher learning institutions and research and development organizations that will direct and support the generation of IP assets; and deal with issues such as disclosure and ownership of research results	Medium term	BIPA MHETI Public HLLs & R&D institutions	- At least 10 institutions adopted institutional IP policies
Encourage the establishment of IP management units to implement institutional IP policies.	Medium term	BIPA MHETI Public HLLs & R&D institutions	- At least 10 IP management units established

Build and strengthen the capacity of IP management units.	During the planning period	BIPA MHETI Public HLLs & R&D institutions	-At least 20 staff trained License guidelines and operational manuals put in place
<b>Objective 4. To have adequate, effective, dynamic and comprehensive IP and related laws to encourage local creativity, invention and innovation, stimulate transfer of technology, enhance fair competition, maintain balance between right owners and the public by 2024.</b>			
Review and amend existing IP and related laws to support and complement national and sectoral development policies; accommodate new developments and changes and meet the requirements of relevant international IP laws taking into account the need to balance the interests of the public and IP right holders using flexibilities available to developing countries and learning from relevant international best practices.	Medium term	BIPA MITSMED MOF	- New Copyright and Neighboring Rights Act - Customs law revised
Provide for effective and adequate exceptions, limitations and flexibilities for purposes of safeguarding public interests, promotion of access to medicine, education and information for all Namibians;	Medium term	BIPA MITSMED Relevant Stakeholders and Public Interest Groups	- Flexibilities, limitations and exceptions incorporated into domestic law for academic institutions, libraries, archives, museums, public interest and persons with disabilities
Enact new laws for protection of traditional knowledge (TK), and Expressions of Folklore and undisclosed information; protect other IP rights in line with international agreements to which Namibia is a party and in order to meet the needs of stakeholders.	Medium term	BIPA MITSMED Ministry Of Agriculture; Ministry Of Environment; Ministry Of Education, Arts & Culture; Traditional Authorities	- New laws governing TK & TCEs;and undisclosed information; - Namibia's position on Geographical Indications; and Plant Varieties Protection
Ensure the participation of key stakeholders in the development of new and revision of existing IP laws	Medium term	BIPA MITSMED	- Number of different stakeholders involved
Promote awareness of the IP laws among key stakeholders, potential users and the general public	During the plan period	BIPA CMOs	- Number of awareness meetings - Number of potential IP owners participating in IP awareness seminars and workshops
Review the impact of IP laws and their contribution to socio-economic development of the country	Once during the plan period	BIPA	-A study report to determine the percentage contribution of IP to employment creation, trade revenue & GDP

Ensure the dynamism of IP laws to accommodate new needs and address new challenges	During the planning period	BIPA	- Number of revised laws & new IP laws enacted
<b>Objective 5 - To join relevant regional and international IP agreements to complement the objectives of the national IP system and promote cooperation in the field of IP by 2024</b>			
Undertake studies on relevant regional and international IP instruments and accept, ratify and accede to those, which support the socio-economic development objectives of Namibia	Medium term	BIPA Ministry Of International Relations & Cooperation; Ministry Of Justice; Attorney General Office	- Number of Studies on advantages of membership of relevant IP treaties - Number of IP treaties accepted or ratified or acceded to
Take active part in IP regional and international fora with a view to cater for and promote national interest	During the plan period	BIPA & relevant key stakeholders	- At least two (2) National Position papers - Number of initiatives implemented based on the recommendations in the reports of participation
Encourage Namibians who protected their IP assets locally to use the regional and international IP system that facilitate protection of their assets outside of the country	During the plan period	BIPA	- Number of IP Assets promoted, protected and exploited using international IP system in foreign countries
Establish, maintain and strengthen cooperation with national, regional and international IP offices	During the plan period	BIPA	- Number of cooperation agreements entered - Number of benefits derived from cooperation agreements
Exploit opportunities offered by regional and international organizations that administer IP treaties to which the country belong to meet the needs of capacity building and support local creativity, inventive and innovative activities	During the plan period	BIPA Users of the IP System	- Number of trained human resource; infrastructure set up and improved - Number of beneficiaries of ARDI and ASPI offered by WIPO
<b>Objective 6 - To strengthen the IP administrative institutional framework to render development and quality oriented IP services and cater for the interests of rights holders by 2024.</b>			
Strengthen BIPA as a development and service oriented IP office to support the generation, promotion, protection and commercialization of IP assets in the country, and also initiate and implement programs aiming at using IP as a tool for development	Short term	MITSMED BIPA	- Decrease in the time required for processing IP applications by 75% - Number of potential beneficiaries & users of IP system supported - Number of projects initiated & number of projects implemented using IP as a tool for development

Ensure financial sustainability of BIPA to enable it to develop and implement a career structure that attract and retain professionals needed to enhance and provide development oriented and quality IP services	Short term	BIPA	<ul style="list-style-type: none"> <li>- Number of BIPA financial sustainability reports adopted</li> <li>- Number of income generation activities projects implemented</li> </ul>
Broaden the mandate of Collective Management Organizations (CMOs) in managing copyright and neighboring rights on behalf of their members.	Short term	MITSMED	<ul style="list-style-type: none"> <li>- Number of revised CMOs constitution approved</li> </ul>
Mandate a relevant existing institution to manage protection and exploitation of traditional cultural expressions and use of the resources to meet needs of local communities and promote culture	Medium term	Government of Namibia	<ul style="list-style-type: none"> <li>- Relevant government body mandated to manage protection &amp; exploitation of TCEs</li> </ul>
Design and implement capacity building programs aimed at strengthening the capacity of IP institutions in terms of human resource and facilities	During the plan period	BIPA	<ul style="list-style-type: none"> <li>- Capacity building program put in place</li> <li>- Number of human resources trained at different levels</li> <li>- Number of systems &amp; infrastructure improved</li> </ul>
Build the capacity of IP practitioners using training opportunities available in and outside Namibia	During the plan period	BIPA	<ul style="list-style-type: none"> <li>- Number of trained IP practitioners</li> <li>- Percentage of Increase in the quality of IP applications &amp; decrease in rejected applications</li> </ul>
Develop and implement a system of registration and certification of professionals that will be engaged in handling IP matters	Short term	BIPA	<ul style="list-style-type: none"> <li>- System of registration &amp; certification of practitioners in place</li> <li>- Number of IP practitioners registered and certified</li> </ul>
<b>Objective 7- To encourage and support generation of IP assets by 2024</b>			
Promote and support market and need oriented research in public higher learning and R&D organizations	During the plan period	MHETI	<ul style="list-style-type: none"> <li>Number of market research conducted that meet demand and are marketed or marketable</li> </ul>
Promote and support generation and management of IP assets by SMEs	During the plan period	MITSMED BIPA	<ul style="list-style-type: none"> <li>-Number of promotion activities and magnitude of support given to SMEs</li> </ul>
Facilitate access to and promote wider use of technological information contained in patent documents by researchers in higher learning institutions, R&D organizations, business establishments and potential users	During the plan period	BIPA HLLs & R&D Organizations	<ul style="list-style-type: none"> <li>- Accessible patent data base established within BIPA</li> <li>- Number of times patent documents used</li> </ul>
Encourage establishment and strengthen technology and innovation support service rendering structures in public and private sectors	Medium term	BIPA Public High Education R&D institutions NCCI	<ul style="list-style-type: none"> <li>- Number of TISCs established and strengthened.</li> </ul>

Promote the use of the resources and support programs offered by international organizations such as WIPO's state of the art search service, Patent Scope, Access to Research for Development and Innovation (ARDI) and Access to Scientific Publication and Information (ASPI) facilities in supporting local R&D, inventive and innovative effort.	During the plan period	BIPA  Institutions that generate IP assets	- Number of beneficiaries - Number of IP assets generated using the resources and support programs
Build capacity for the creation of IP assets both in terms of human resource and research infrastructure and provide incentives aiming at stimulating local creative, inventive and innovative activities	During the plan period	MHETI MITSMED	- Number of researchers, scientists & engineers trained - Incentive system put in place -Number of incentives granted to creators, inventors and innovators
Encourage and promote linkages among institutions that generate intellectual property assets	During the plan period	-Relevant Ministries that oversee institutions that generate IP assets BIPA	- Number of MOUs signed and institutions that work together
Support the establishment and strengthening of art and science clubs in primary and secondary schools to nurture scientific and innovative culture; and encourage activities that will harness creative and inventive potential of children and the youth	During the plan period	Ministry of Education, Arts and Culture	-Number of art and science clubs established in schools  -Number of learners that benefited from the clubs
Increase government support for research and development and encourage the private sector to support funding of R&D activities	During the plan period	MHETI NCRST Private Sector	- Percentage of Government and Private sector funding support for R&D
Set up a system to ensure revenue generated by public higher learning institutions and R&D organizations from the commercialization of intellectual property assets is used for creative, inventive and innovative activities	Short term	MHETI	- Percentage of amount of revenue generated and used in the generation and commercialization of IP assets
Support and guide business establishments in improving the quality of their goods and services and creating their own brands	During the plan period	BIPA	- Number of business establishments that use brands
Develop a mechanism that will support and encourage generation of IP assets by persons with disabilities, youth and women	Medium Term	BIPA	- Support mechanism established - Number of persons with disabilities, youth and women benefiting from the support
Provide incentives and privileges on investments made on or support the generation of intellectual property assets	Short term	Ministry of Finance	- Number of incentive and privileges granted



**Objective 8- To ensure effective and adequate protection of intellectual property assets by 2024**

Enact new laws, review and amend existing intellectual property and related laws to address limitations of the Intellectual Property legal framework	During the plan period (long term)	-BIPA MITSMED	-Copyright and Neighboring Rights Act amended -Industrial Property Act, 2012 enter into force - Customs and Excise Act amended - Research Science and Technology Act reviewed - New Laws governing TK & TCEs and undisclosed information - Namibia's position on Geographical Indications; and Plant Varieties Protection
Support and facilitate adoption of institutional IP policy and establishment of IP management units (technology transfer offices) in public higher learning institutions and research and development organizations to facilitate protection of IP assets	Medium term	-BIPA -Public R&D and HLLs	- At least Ten Institutional IP policies adopted - At least Ten IP management units established
Encourage and support the protection of intellectual property assets of Namibians in foreign countries to prevent misappropriation and facilitate exploitation	During the plan period	BIPA MIRC	- Number of IP Assets protected and exploited using international IP system in foreign countries
Strengthen NCRST innovation fund to assist local inventors and creators in protecting their intellectual property assets	Short term	NCRST MITSMED	- Availability of support to inventors and creators in protecting their IP assets - Number of inventors and creators that benefited from the support
Promote use and protection of brands in enhancing the competitiveness of local businesses and industry in and outside Namibia	During the plan period	BIPA Local businesses and industry	- Number of brands used and protected in and outside of Namibia by local business and industry
Establish and regularly update a national IP database on the status of protection of IP assets in BIPA and make it accessible to potential users	During the plan period	BIPA	-Accessible national IP data base established
Develop a mechanism to support and encourage participation of persons with disabilities, youth and women in promotion and protection of IP assets	Mid term	BIPA	- Establishment of support mechanism within BIPA - Number of persons with disabilities, youth and women that benefited from support in promotion and protection of IP assets.

**Objective 9 - To Promote and support the commercialization of IP assets and enhance the use of intellectual property in strengthening competitive position of local industry and business and ensure effective use of intellectual Property in facilitating the transfer and use of technology by 2024**

Support the development IP valuation Capacity	Medium term	BIPA	-Number of IP valutors trained - Number of valued IP assets
Facilitate the establishment and strengthening of infrastructure such as technology innovation support centers (TISCs) and business incubators in public higher learning and R&D institutions to facilitate prototype and product development and support the commercialization of research results	During the plan period	BIPA Higher learning and R&D Institutions	-Number of Infrastructure such as technology innovation support centers (TISCs) and business incubators established - Number of products developed for commercialization
Encourage and foster linkages between institutions that generate IP assets and the productive sector to ensure exploitation of creative, inventive and innovative works	During the plan period	BIPA NCRST	- Number of MOUs creating linkages and cooperation entered into. - Number of IP assets generated and exploited
Encourage and support the exploitation of Namibia's IP assets in foreign countries to increase trade revenue	During the plan period	BIPA MIRC	- Number of IP assets exploited in foreign countries and the amount of trade revenue generated
Promote awareness and use of the NCRST innovation fund to assist local inventors and creators in exploiting their IP assets	Short term	NCRST BIPA	- Number of forums organized to promote awareness of the fund - Number of IP assets of local inventors and creators commercialized and amount of trade revenue generated
Promote the IP system of Namibia and encourage increased use of the system by foreign technology holders using various tools including programs aiming at attracting foreign investment	During the plan period	BIPA MIRC	- Number of local investors and foreign technology holders that use the IP system in transferring technology - Number of technology transferred because of the IPS
Promote and encourage Namibian Investors use the IP system in acquiring and exploiting IP assets	During the plan period	BIPA	Number of Namibian Investors that use the IP system
Facilitate access to and promote importance and use of technological and information sources such as patent documents available in BIPA and other sources as a means to acquire, adapt and exploit technologies that form part of the public domain.	Medium Term	BIPA MHETI	-Number of centers including TISCs established -Number of services rendered by the centers
Ensure that the Central Procurement Board of Namibia accommodates the need for promoting the use of local innovations, goods and services	Short term	Ministry of Finance BIPA	-Number of local innovations, goods and services used in the procurement system of Namibia

Encourage the establishment of union of creators and strengthen existing unions to support the creative industry with a view to adding value and exploiting creative works	Medium Term	BIPA CMOs	- Union of creators established - Number of creative industries benefiting from the support of the union
Develop a mechanism to support persons with disabilities, youth and women in commercialization of IP assets	Mid term	BIPA	-Establishment of support mechanism within BIPA -Number of persons with disabilities, youth and women that benefited from support in commercialization of IP assets.
<b>Objective 10 - To improve and strengthen intellectual property awareness by 2024</b>			
Strengthen the capacity of BIPA to enable the office effectively discharge its responsibilities related to the creation and enhancement of intellectual property awareness	During the plan period	MITSMED	- BIPA Annual reports - Number of experts at BIPA trained - Number of IP registered
Design and implement target oriented, coordinated and continuous IP awareness programs	Short term		- Clear IP outreach program put in place - Fifteen percent (15 %) of BIPA resources allocated to implement IP awareness program - Increased number of IP users
Integrate and strengthen IP in the curriculum of primary, secondary, higher education institutions and vocational education establishments	Medium term	Ministry of Education HLIs BIPA	- Number of educational establishments that have IP in the curriculum and offer IP education - Number and type of support given in strengthening IP education at Higher Education and Vocational Training Institutions.
Organize IP colloquia for parliamentarians and top government officials	Short term	BIPA	- Number of parliamentarians and top government officials that took part in colloquium
Popularize IP using different tools such as print, story books, electronic and online media, workshops, seminars, conferences, promotional materials in national and official languages and events such as celebration of African intellectual property and technology transfer and World Intellectual Property days	Long term	BIPA CMOs	-Number of target groups benefiting from IP popularization activities -Number of IP information in the print and electronic media - Number of IP activities at trade and science fairs
Train journalists and encourage the use of print, online and electronic media in sensitizing the general public on the importance of intellectual property	Long term	BIPA	- Number of journalists trained in IP - Number of IP promotional activities made by journalists using different media tools
Organize awareness campaigns for the civil society and consumers	Mid term	BIPA	- Number of campaigns organized targeting Civil society and consumers

Identify and promote success stories to show case the benefits of IP	During the plan period	BIPA CMOs	- Number of success stories identified & promoted
Produce and disseminate intellectual property promotional materials in official and national languages	Medium term	BIPA	- Availability and accessibility of promotional materials in at least nine (9) languages
<b>Objective 11 - To improve and strengthen balanced enforcement of IPR by 2024</b>			
Develop and implement Intellectual Property Promotion Strategic Plan	Short term	BIPA MITSMED WIPO	IP Value Promotion Strategic Plan
Review and strengthen IPR enforcement laws in a balanced and credible intellectual property system.	Medium term	BIPA MITSMED MOF	- The Copyright and Neighboring Rights Act, Industrial Property Act, the Merchandise Act and Customs and Excise Act are revised to ensure that they provide a balanced and credible intellectual property system.
Encourage the use of alternative dispute resolution mechanisms and arbitration in settling IP disputes	During the plan period	BIPA	- Percentage of IP cases disposed of using ADR mechanisms
Create a critical mass of experts involved in the enforcement of IPRs	During the plan period	BIPA Universities	-Number of IP trained professionals in enforcement agencies
Establish and strengthen linkages and coordination among enforcement agencies.	Medium term	BIPA	- Number of MOUs creating linkages and coordination amongst law enforcement agencies entered into and strengthened
Strengthen the capacity of CMOs to support enforcement of copyright & related rights	Medium term	BIPA CMOs	- Number of capacity building programs supporting CMOs enforcement capacity
Design and implement intellectual property awareness program for judges, public prosecutors, attorneys, members of the police force and customs officials on IPRs enforcement and the general public on the adverse impact of infringement of intellectual property rights	During the plan period	BIPA CMOs	-Number of judges, public prosecutors, attorneys, police and customs officers participated in IP awareness programs - Percentage in reduction of the number of IPR infringement cases per year
Publish and disseminate reports on judicial decisions against infringement of IPRs in simplified language	During the plan period	BIPA	- Number of published and disseminated IP court cases
Establish cooperation between relevant government enforcement bodies and foreign IP right enforcement government institutions, regional and international organizations, and private sector bodies to facilitate information exchange and access to databases	During the plan period	BIPA Courts  Police Customs	- Number of cooperation agreements and information exchange between relevant public, international and private organizations and IPRs enforcement bodies

Support and strengthen a mechanism that would enable enforcement officers to identify and differentiate infringing products from genuine ones including access to the World Customs Organization (WCO) Interface Public Members Tool, International IP Crime Investigators College (IIPCIC- Interpol) and IPRs holders	Medium term	BIPA Police Customs	- Number of identified infringing goods and enforcement action taken
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**Objective 12 - To strengthen the Creative industries to harness Namibia's diverse cultural resources by 2024**

Develop and Enact a new copyright law	Medium term	BIPA MITSMED	- New Copyright and Related Rights Act
Undertake a study to show case the current and potential contribution of the creative industry to social, cultural and economic development	Medium term	BIPA	- Study showing socio-economic contribution of creative industry is undertaken
Develop and implement policies and laws that may provide incentives to and support the creative industry	During the plan period	Government of Namibia BIPA	- Number of policies and laws that provide incentives - Number of incentives granted
Support CMOs in building their capacity to address the technological challenges in managing copyright and related rights	Medium term	BIPA	-Number of CMO's supported -Number of technological challenges that have impact on the protection & exploitation of copyright and related rights addressed by CMO's
Promote skills development and innovation within the creative industries	Medium term	BIPA CMOs HLIs	- Number of training programs conducted and personnel trained to improve skills and innovation
Ensure the preservation of Namibian cultural heritage that may provide a solid basis for the development of the creative industry	During the plan period	BIPA Min of Education, Arts and Culture	- Number of cultural heritage documented and made accessible

**Objective 13 - To provide adequate protection and promote the use of traditional knowledge and traditional cultural expressions (TCEs); and ensure equitable sharing of benefits arising from the use of traditional knowledge, TCEs and TK associated to the use of genetic resources by 2024**

Develop and enact a law aimed at facilitating the implementation of the Swakopmund Protocol on the protection of traditional knowledge and traditional cultural expressions	Short term	BIPA MITSMED	Law protecting TK and TCE designed to implement the Swakopmund Protocol enacted
Expedite the process of enacting the ABS Bill	Short term	Ministry of environment BIPA	- ABS bill enacted

Participate actively in international fora where efforts and negotiations are made to develop international instruments addressing needs and concerns related to TK, TCEs and genetic resources	During the plan period	BIPA	- Number of for a in which Namibia participated - Number of countries that support Namibia's position in addressing concerns and meeting needs related to TK, TCEs and genetic resources -Number of regional and international instruments adopted reflecting the needs of Namibia and TK holders
Support and strengthen the use of the national database on traditional knowledge.	During the plan period	BIPA	- National TK data base established and made accessible
Strengthen the ongoing initiative to educate traditional knowledge holders on their rights and legal instruments to address their needs and concerns	During the plan period	BIPA Ministry of Tourism and Environment	- Number of TK holders trained
Develop guideline and model agreements on the transfer and use of expressions of folklore, traditional knowledge and associated genetic resources and promote their use of these resources	Medium term	BIPA Competent Authority	- Guidelines and model agreements in place
<b>Objective 14. To promote and increase the use of IP in areas where Namibia has existing or potential comparative and competitive advantage to access and compete favorably in international markets to realize the goals of the sector growth strategies by 2024</b>			
Initiate and undertake detailed studies on the priority areas of comparative advantage and where IP can be used in strengthening competitiveness and enhance trade revenue	Medium term	BIPA	- Study conducted and made available
Design and implement IP and branding strategies to capture intangible values associated with some of Namibia's export products such as minerals, food and beverages	During the plan period	BIPA	-Branding strategy developed -At least two (2) products identified, branded and marketed

## ANNEX II - BIBLIOGRAPHY

Getachew Mengistie, Lead International Consultant, Naana Halm, International Consultant and TK specialist, and R.A.Kaakunga, National Consultant, Intellectual Property Audit Report of Namibia, April 20,2016

### Government Development Policies, strategies and plans

- Fifth National Development Plan (NDP5), 2017/18 to 2021/22
- Harambee Prosperity Plan 2016
- National policy on Research, Science and Technology, 1999
- Industry Policy, 2011

- National Agricultural Policy, 1995
- Health Policy Framework, 2010-2020
- Sector Policy on Inclusive Education, 2013
- Vocational Education Training Policy, 2005
- Text book policy, 2008
- Minerals Policy of Namibia
- Overarching Information Communication Technology Policy for the Republic of Namibia, 2009
- Tourism Policy, 2008
- Draft National Art culture and Heritage Policy
- Draft framework policy on innovation
- Draft National Research Policy

### **Intellectual Property and Relevant Laws**

- Business and intellectual Property Authority Act, No.8 of 2016
- Constitution of the Republic of Namibia as amended in 1998, 2010 and 2014
- Industrial Property Act, No.1 of 2012
- Copyright and Neighbouring Rights Protection Act, No. 6 of 1994
- Merchandise Act, 1941 (Act No. 17 of 194)
- Competition Act, No. 2 of 2003
- Competition Regulation of 2003
- Customs and Excise Act, No. 20 of 1998

### **Regional and International Intellectual Property Agreements to which Namibia is Party**

- Berne Convention for the Protection of Literary and Artistic Works ( March 21, 1990)
- Paris Convention of the Protection of Industrial Property (January 1, 2004)
- Patent Cooperation Treaty (January 1, 2004)
- Madrid Agreement Concerning the International Registration of Marks (June 30, 2004)
- Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (June 30, 2004)
- Hague Agreement concerning International registration of Industrial Designs (June 30, 2004)
- Convention Establishing WIPO (December 23, 1991)
- Agreement Establishing WTO (January 1,1995)
- The Agreement on Trade-Related Aspects of Intellectual Property (TRIPS) (January 1,1995)
- Harare Protocol on Patents and Industrial Designs within the Framework of the African Regional Industrial Property Organization (28 March 2003)
- Banjul Protocol on Marks within the Framework of the African Regional Industrial Property Organization (28 March 2003)
- Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization ( October 12, 2014)
- Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore (February 2015)
- Southern African Customs Union (SACU) Agreement (October 21, 2002)
- Treaty Establishing the Southern Africa Development Community (August 17, 1992)
- Convention on Biological Diversity (August 1997)
- Cartagena Protocol on Bio-safety (May 11, 2005).







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PROPERTY AUTHORITY  
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**Windhoek Head Office**

PZN Building, 3 Ruhr Street,  
Northern Industrial Area  
P O Box 185  
Windhoek  
Namibia  
Tel: 061-299 4400

**Katutura Office**

Erf No 2780, Shire street  
Wanaheda Extension 2  
Tel: 061-299 4435

**Swakopmund Office**

Erf No 498, Tobias Hainyeko Street  
Swakopmund  
Tel: 064-464 178



BIPA Namibia



[www.bipa.na](http://www.bipa.na)