

**Council for Trade-Related Aspects
of Intellectual Property Rights**

PRIORITY NEEDS FOR TECHNICAL AND FINANCIAL COOPERATION

Communication from Sierra Leone

The present document reproduces the information which has been received from the Delegation of Sierra Leone by means of a communication dated 28 September 2008.

I. BACKGROUND

A. THE TRIPS COUNCIL DECISION OF 29 NOVEMBER 2005

1. On 29 November 2005 the TRIPS Council extended the original TRIPS Article 66.1 transition period¹ for implementation of the TRIPS Agreement by LDCs, from 1 January 2006 to 1 July 2013.

2. That decision called for LDCs to provide the WTO TRIPS Council, preferably before 1 January 2008, as much information as possible on their individual priority needs for technical and financial assistance for implementing the TRIPS Agreement.

3. Under TRIPS Article 67, developed country WTO Members have an obligation to provide technical and financial assistance to Sierra Leone and other developing countries for implementing the TRIPS Agreement.

B. THE 2007 ASSESSMENT OF NEEDS FOR TECHNICAL & FINANCIAL ASSISTANCE FOR IMPLEMENTATION OF THE TRIPS AGREEMENT IN SIERRA LEONE

4. Sierra Leone took the initiative to respond to the TRIPS Council Decision of 29 November 2005, making use of a diagnostic toolkit and consultancy support from a pilot project undertaken by ICTSD and Saana Consulting in 2007, with funding from the UK Department For International Development (DFID). The pilot project completed a comprehensive needs assessment and stakeholder consultation exercise in Sierra Leone in mid 2007.²

¹ The transition period applies to all TRIPS obligations with the exception of Articles 3, 4 and 5. The transition period does not affect a previous extension given to LDCs not to apply obligations under sections 5 and 7 of Part II of the TRIPS Agreement (patents and protection of undisclosed information) until the year 2016, which was granted by the Doha Declaration on the TRIPS Agreement and Public Health of 2001.

² A full technical and institutional appraisal is provided in the "*Technical & Financial Cooperation for Implementation of the WTO TRIPS Agreement in Sierra Leone: Final Report of Needs Assessment Diagnostic*", ICTSD-Saana Consulting, October 2007. Available online at: <http://www.iprsonline.org/ictsd/LDCneeds.htm>

5. The report of the needs assessment and consultation exercise identified the problems, challenges and key issues related to implementation of the TRIPS Agreement as well as the long-term requirements for technical assistance and capacity building on the implementation of the objectives, principles, rights and obligations of the TRIPS Agreement for Sierra Leone in four major areas:

- (a) IP policy, legal and regulatory framework;
- (b) Promoting innovation, technology transfer, creativity and using IP for development;
- (c) IPR administration infrastructure; and
- (d) Enforcement and regulation regime for IPRs.

C. FORMAL SUBMISSION TO THE TRIPS COUNCIL BY SIERRA LEONE, SEPTEMBER 2007 & FOLLOW-UP EXERCISE

6. Based on this needs assessment, in September 2007, and in compliance with the 29 November 2005 Decision of the TRIPS Council, Sierra Leone made a formal submission of its needs for technical and financial assistance to the TRIPS Council.³

7. With encouragement from TRIPS Council Members and WTO Secretariat, and drawing on the experience of Uganda, in September 2008 Sierra Leone took the initiative to follow up the needs assessment by identifying the priority needs and translating these into a modest, initial two-year technical assistance project to enable the country to start taking forward the implementation of the TRIPS Agreement.⁴

8. The project preparatory process was coordinated by the Ministry of Trade & Industry, which leads on all WTO matters in Sierra Leone, but with the active collaboration and involvement of the key national stakeholders, including the Office of the Administrator and Registrar General, Ministry of Tourism and Culture; Ministry of Education, Science & Technology; Ministry of Agriculture Forestry & Food Security; Ministry of Health & Sanitation; the Pharmacy Board of Sierra Leone; National Revenue Authority (Customs); Sierra Leone Police (Criminal Investigation Division); as well as the University of Sierra Leone and business sector associations such as the Sierra Leone Business Forum, Chamber of Commerce and the Sierra Leone Indigenous Business Association.

II. SIERRA LEONE'S REQUEST FOR A NATIONAL TECHNICAL ASSISTANCE PROJECT

A. CONTEXT

9. Despite the considerable challenges and severe constraints identified, there is a strong commitment from the Government of Sierra Leone for improving the overall trade and investment climate in the country. A new Poverty Reduction Strategy Paper (PRSP), focused on growth and private sector development, is being completed, and Sierra Leone came top of the World Bank's Doing Business indicators for 2008 in the West Africa region.

10. At the same time, however, it must be recognized that the pace of design and implementation of reforms is limited by the shallow levels of professional capacity within the key Ministries responsible for leading the trade and growth agenda.

³ See WTO document IP/C/W/499, 3 October 2007.

⁴ This was done with the help of two independent experts from Saana Consulting and with financial assistance from DFID.

B. GOALS AND OBJECTIVES

11. The overall goal of Sierra Leone's proposed national technical assistance project is to further integrate Sierra Leone into the global economy and world trading system by increasing the contribution of intellectual property towards the achievement of sustainable economic growth and reducing poverty.

12. The specific purpose of the project is to upgrade the national system for intellectual property generation, protection, administration and enforcement in Sierra Leone in line with TRIPS and applicable regional and international IP agreements.

C. EXPECTED RESULTS

13. The main expected results from the proposed project can be summarised as follows:

- (a) Improved legal context harmonized with objectives, principles, rights, obligations and flexibilities set out in the WTO TRIPS Agreement, as well as other applicable international and regional standards.
- (b) Strengthened administration services for industrial property rights and copyright available for enterprises, creators and inventors.
- (c) Increased awareness, understanding and use of industrial property and copyright in Sierra Leone.
- (d) Increased capacities for effective and efficient enforcement and regulation of intellectual property rights amongst the National Revenue Authority, police, public prosecutors and judiciary.

D. PROJECT COMPONENTS AND ACTIVITY CLUSTERS

14. To achieve the expected results and objectives, this initial project will support a number of activities under four main, inter-linked activity clusters, focused on industrial property (particularly trademarks) and copyright, where a basic regime already exists and where the IP infringement situation in the country is most problematic:

- (a) Cluster 1 - Updating the Policy, Legal & Regulatory Framework
- (b) Cluster 2 – Increasing Awareness and Improving Education
- (c) Cluster 3 – Strengthening Administration
- (d) Cluster 4 – Capacity Building for Enforcement

E. PROJECT IMPLEMENTATION & MANAGEMENT ARRANGEMENTS

15. Upgrading the national system for protection, administration, and enforcement of intellectual property rights in Sierra Leone in line with the TRIPS Agreement will be a long-term undertaking. The process should be addressed in a patient and sustainable manner, minimizing risks and transaction costs.

16. Assistance for upgrading the national intellectual property system should also keep in step with the absorptive capacity of the Government of Sierra Leone and the much greater challenges for

sustaining rapid, inclusive growth which face the country, given its extremely low levels of human, social and economic development.

17. Project implementation will be supported and coordinated by a small management and coordination team, recruited through a single contract with a suitable Service Provider. The project management team will be based in office space provided by the Ministry of Trade & Industry, who will designate a senior official to have responsibility for the project.

18. The project management team will work in close cooperation with Development Partners and national stakeholders, particularly the Office of the Administrator & Registrar General, Ministry of Tourism and Culture, Ministry of Agriculture, Forestry & Food Security and enforcement and regulatory authorities. The Service Provider will be responsible for successful specification, management and coordination of all programme activities, financial management, procurement, work-planning and reporting.

19. At this stage, the total cost of the project is provisionally estimated at USD \$1.48m over 2 years. It is proposed that the project will be supported by technical and financial assistance from Development Partners using two main modalities:

- i. Technical assistance contributions may be provided as in-kind contributions by development partners to support specific project activities (e.g. study tours for Sierra Leone's IP administration officials).

and/or

- ii. Financial assistance to fund the cost of engaging an overall Service Provider to manage the implementation of the project on behalf of the Government of Sierra Leone, and reporting to the Ministry of Trade and Industry and the Project Steering Committee.

20. Development Partners, including potentially multilateral organisations such as WIPO and WTO Members, will be requested to provide experts for specific project activities (e.g. training of customs officials in anti-counterfeiting operations). The Service Provider will use financial support from Development Partners to procure consultancy services from international and national experts and academics in the fields of IP policy, legislative drafting, administration, education and training, and enforcement.

F. GOVERNANCE, MONITORING, REVIEW AND EVALUATION

21. The national project steering committee, comprising representatives from all concerned government agencies, the private sector, civil society and Development Partners will oversee and validate the overall direction of the project.

22. The project steering committee will review and endorse annual project workplans and oversee project monitoring and evaluation reports, prepared by the Service Provider on a quarterly basis against the expected results in each activity cluster.

23. It is proposed that an external review of the project and detailed design and costing of a Phase II project will be undertaken over a two-week period in Sierra Leone during month 18 of Phase I.

G. IMPLEMENTATION TIMEFRAME

24. The total implementation timeframe of the project will be 24 months, commencing full scale implementation by June 2009 or earlier if possible, with completion by June 2011.

25. Dependent on the outcome of the external review and detailed design, it is envisaged that the Phase II project could be implemented over a 3 year period, commencing June 2011.

III. NEXT STEPS

26. The Government of Sierra Leone requests immediate consultations with developed country WTO Members, on the operationalising of Article 67 of the TRIPS Agreement, as well as WIPO, WCO and UNCTAD and the Enhanced Integrated Framework Secretariat, with a view to securing technical and financial assistance for implementation of the proposed IP4SL project.

27. A draft project document has been prepared by the Government of Sierra Leone for the above mentioned proposed national technical assistance project on intellectual property rights and the TRIPS Agreement. The draft project document can be made available to WTO developed country Members and interested international organizations as a basis for taking forward the requested consultations.
