PRIORITY NEEDS FOR TECHNICAL AND FINANCIAL COOPERATION

Communication from Sierra Leone

According to paragraph 2 of the Decision of 29 November 2005 on the Extension of the Transition Period under Article 66.1 for Least-Developed Country Members, "all the least-developed country Members will provide to the Council for TRIPS, preferably by 1 January 2008, as much information as possible on their individual priority needs for technical and financial cooperation in order to assist them taking steps necessary to implement the TRIPS Agreement".

The present document reproduces the information which has been received from the Delegation of Sierra Leone by means of a communication dated 28 September 2007.

I. INTRODUCTION

1. The TRIPS Council Decision of 29 November 2005 extended the transition period for least-developed countries (LDCs) to implement the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) until 1 July 2013. At the same time, LDCs are not obliged, with respect to pharmaceutical products, to implement or apply Sections 5 and 7 of Part II of the TRIPS Agreement or to enforce rights provided for under these Sections until 1 January 2016. In both cases, LDCs have reserved the right to seek further extensions of these transition periods.

2. Paragraph 2 of the 29 November Decision has mandated LDC Members, including Sierra Leone, to provide as much information as possible to the Council, preferably by 1 January 2008, on their individual priority needs for technical and financial co-operation in order to assist them in taking steps necessary for implementing the Agreement.

3. The implementation of the TRIPS Agreement poses major challenges for Sierra Leone. A very low technological base, institutional weakness as well as pressing needs for human, social, and economic development make this challenge even harder. When implementing the TRIPS Agreement it is important to recall that intellectual property rights (IPRs) should be a tool for development and an integral part of sustainable policies on science, technology, culture and innovation, in line with the emerging conclusions of the WIPO Development Agenda process and the report of the UK Commission on Intellectual Property Rights of 2002 for example.¹ Moreover, as an LDC, Sierra Leone needs ample time to establish its own national intellectual property (IP) policy, legal and administrative framework in line with its socio-economic interests.

¹ See http://www.iprcommission.org/text/documents/final_report.htm
4. In advancing the TRIPS Agreement implementation process, Sierra Leone would like to reiterate that as an LDC, it enjoys maximum policy flexibility in building a sound and viable technological base and safeguarding public health and nutrition under the TRIPS Agreement. In this respect it re-emphasises the importance of the commitment made by developed country Members to provide technical and financial assistance on mutually agreed terms under Article 67 of the TRIPS Agreement, as well as incentives for transfer of technology under Article 66.2.

5. The Republic of Sierra Leone takes at earnest its international obligations and the need to implement the TRIPS Agreement, at an appropriate time, with due consideration to the minimum standards of protection and enforcement and taking into account, among others, the objectives and principles of the Agreement. For that purpose the present statement and its annexes seek to reflect priority needs and a plan of action for technical and financial assistance seen as a pre-requisite to implement the TRIPS Agreement obligations by Sierra Leone. Notwithstanding its commitments and due to the complexity of the task involved, Sierra Leone retains the right to request further extensions of the implementation period in the future if required to accommodate socio-economic, administrative or financial constraints.

II. BUILDING A SCIENTIFIC, TECHNOLOGICAL AND CREATIVE BASE

6. An underlying assumption in Sierra Leone's presentation is, as acknowledged in the TRIPS Agreement Preamble, the need for maximum flexibility in the domestic implementation of laws and regulations in order to enable [LDCs] to create a sound and viable technological base.

7. Like other LDCs, Sierra Leone has a very weak scientific and technological base. It also has limitations in all levels of its education system. Many of these weaknesses and limitations are due to its post conflict situation and low level of development. The Sierra Leone Science & Technology Council has produced a national science and technology policy but it is, whilst promising, at an embryonic stage. The most promising sectors are in academia and agriculture research. In the creative sector, the music industry has much potential but several steps must be taken by public and private actors to realize this.

8. Addressing the development of a scientific and technological base through technical and financial assistance and the development of adequate incentives and targeted public support will be key to realizing benefits that could be derived from implementation of the TRIPS Agreement. In Sierra Leone, there is a need to examine and study these wider issues in more detail and to design appropriate interventions to reinforce existing national policies and programmes, as well as encouraging better-targeted incentives for transfer of technology by developed countries. In this last respect, Sierra Leone plans to make a future submission to the TRIPS Council regarding its specific needs for technology transfer to guide developed countries in the implementation of Article 66.2 of the TRIPS Agreement.

III. THE PROCESS FOR ASSESSING THE NEEDS

9. It is important to indicate that an assessment of technical and financial needs for implementation of the TRIPS Agreement is not currently covered by the Sierra Leone's Diagnostic Trade and Integration Study under the "Integrated Framework". Thus, a special needs assessment process was required, complementing the Diagnostic Trade Integrated Study (DTIS), and closely coordinated with Sierra Leone's overall development strategy as well as its policies and programmes for

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2 The integrated framework is a multi agency and multi donor programme aimed at coordinating technical assistance for LDCs to assist them in enhancing their trade opportunities and integrate them into the regional and global economies.
private sector development and regulation including the education, agriculture, health, environment, culture and science and technology sectors.

10. In order to assess technical assistance needs, several consultations to determine priority needs were held in July 2007 with a wide variety of national stakeholders and with the technical support of independent international experts (under the ICTSD-Saana Consulting joint project), closely co-ordinated with the ongoing small scale Protecting IPRs Project that begun in 2005 with support from the UK Department for International Development (DFID). The needs assessment exercise of IPRs technical assistance and capacity-building requirements was based on the diagnostic toolkit for Assessing Technical Assistance Needs for Implementing the TRIPS Agreement in LDCs template that may be of use to other LDCs wishing to undertake such an assessment.3

IV. SETTING PRIORITIES AND A PLAN OF ACTION AT THE NATIONAL LEVEL

11. This introductory statement is supplemented with two annexes. Annex A highlights the most pressing financial and technical elements necessary to implement the TRIPS Agreement based on feedback and inputs provided in multi-stakeholder consultations and in interviews carried out at the national level. The needs assessment includes the IP policy and legal framework, IPRs administration, enforcement and regulation of IPRs, and promoting innovation, technology transfer and using IP for development.

12. Annex B provides an outline planning matrix for a national IPR capacity building programme meeting Sierra Leone's needs. Within the framework of this future outlook of necessary administrative and legal reform, Sierra Leone requests consultations with appropriate agencies from developed country Members, in co-ordination with international institutions and interested NGOs working on IPRs and development, for the detailed design and implementation of a development-oriented, long-term, comprehensive and sustainable programme of technical and financial cooperation and capacity-building to meet its needs. This should be consistent with the principles of aid effectiveness set out in the 2005 Paris Declaration4 and highlighted by the WTO Task Force on Aid for Trade in its 2006 report. Suggested partners for the consultations include, for instance, WIPO, UNCTAD, WHO, Cop of the CBD, UNESCO, FAO, and/or other interested international organizations including bilateral donor agencies, IP offices, and civil society organizations such as ICTSD.

13. We take this opportunity to thank the different providers, international institutions and bilateral donors for the support they have already given to Sierra Leone. We look forward to partnering with them in a new phase of building the capacity of the national IPR system, as a key part of our wider efforts to promote development by strengthening the country’s creative industries and its scientific and technological base.

ANNEX A

PRIORITY NEEDS FOR TECHNICAL AND FINANCIAL CO-OPERATION FOR TAKING STEPS NECESSARY TO IMPLEMENT THE TRIPS AGREEMENT

1.  IP policy and legal framework

(a)  Strengthening IP policy/legal development and co-ordination capacity in the Ministry of Trade & Industry (MTI)

A clear priority is to build on recent gains and establish a small IP policy unit within the Policy, Planning and Research Division of the MTI. The unit would be responsible for providing advice to Government on all aspects of IP and industrial policy, including actively facilitating and co-ordinating policy inputs from other stakeholders with regards to linkages with public health, education, agriculture, competition, science and technology, environment, communications and culture sectors. Financial assistance is required for an initial five-year period to enable the MTI to recruit two full-time IP Policy Analysts in the Unit, as well as logistical support to resource their duties, functions and consultative work with other stakeholders from the sectors identified above (e.g. laptop computers, books, travel and communications expenses).

(b)  Supporting IP legislative development and policy coherence

The development of national IP policy and a legislative framework on IPRs should be done in a coherent manner with other related policies in areas including science and technology, health, competition, agriculture, and environment. This is not an easy process. There is a need to understand linkages and best options for implementation in light of different levels of development and national priorities. In the short-term, the need for professional legislative drafting support in priority areas of updating patent, industrial design, trademark and copyright legislation is being met under current bilateral assistance. The development of national legislation on TRIPS flexibilities, such as those needed to address access to medicines, requires special attention in the legislative reform process.

Over the longer-term, specialized technical co-operation will continue to be needed to support future legislative and regulatory frameworks in new and related areas to IPR protection for Sierra Leone, including, potentially, geographical indications, plant variety protection, integrated circuit topographies, competition policy, protection of traditional knowledge, ABS regulation and taking full account of the flexibilities in the TRIPS Agreement as well as other multilateral agreements.

(c)  Enabling Sierra Leone's regular and effective participation in meetings of the WTO Council for TRIPS and at WIPO

Facilitating Sierra Leone's participation in negotiations for the WTO and WIPO is highly recommended. This is the case not only for IP deliberations but also, among others, for Aid for Trade and agriculture. To facilitate increased engagement in negotiations, support for the establishment of a small permanent mission in Geneva is highly advisable. Whilst the establishment of a small permanent mission for Sierra Leone in Geneva (including a capacity to handle IP issues) would be the ideal solution, for the foreseeable future more effective participation should be supported in the form of funds for travel and subsistence expenses for capital-based delegates.

(d)  Developing a multi-disciplinary IP policy research and analysis capacity in the University of Sierra Leone

The topics to be covered would potentially include all forms of IPRs (industrial property and copyright as well as entirely new areas for Sierra Leone such as geographical indications, plant
variety protection, integrated circuit topographies, competition policy, traditional knowledge, access to genetic resources & benefit sharing under the Convention on Biodiversity (CBD), and copyright in the digital environment). The focus would be on investigating the socio-economic impacts, international experiences in other countries, and the optimum legal and regulatory frameworks for their use, administration and enforcement in all areas of the economy in Sierra Leone.

2. IPR administration

(a) Modernizing the organizational status of IPR administration in Sierra Leone

There is a broad consensus amongst stakeholders that the existing legacy organizational model of the Office of the Administrator and Registrar General (OARG) for IPR administration is out-dated. The preferred option, suggested by stakeholders consulted during the needs assessment exercise and supported by international best-practice, is the eventual establishment of a small but well-run Sierra Leone Intellectual Property Office, which would operate as a self-financing, autonomous government agency accountable to Parliament through the MTI. This service-oriented multitask IP office should be established to administer the policies and legislative framework, i.e. raise awareness and provide information on IPR matters, allow registration of trademarks and patents. In the short-term, there is a need for technical co-operation to investigate the feasibility and identify the most appropriate legal, financial and operational structure for the establishment of such an organization in Sierra Leone. Potentially, this assistance could be provided within the scope of the ongoing DFID-funded Protecting IPRs Project during 2007-2008.

(b) Human resource capacity-building in terms of additional manpower and new types of skills

If and when the new Sierra Leone Intellectual Property Office is established, a modest number of additional permanent staff positions will be required to support the delivery of its services through the proposed autonomous and self-financing business model. The total required staff complement will be determined by the feasibility study, but for the period 2008 to 2013 this could be expected to be in the order of 7 professional staff and 6 administrative/clerical staff. Additional formal and on-the-job training will be required, on an on-going basis and for the foreseeable future, for staff in: IPR administration; patent information services and IP management; strategy development and business planning; financial management and accounting; human resources management; information technology skills; and communications. Tailored study visits to other IP offices, particularly in developing countries, would also be essential.

(c) Automation of registries for trademarks, industrial designs and patents

Since Sierra Leone is a member of the Patent Co-operation Treaty, the Madrid Trademarks system and the African Regional Intellectual Property Organization (ARIPO), where all documentation and operations are electronic, there is an urgent need to computerize all industrial property workflows and registries in Sierra Leone. Without such up to date and accurate electronic registries, the efficient establishment, identification and management of IP rights by both owners and the public will be undermined. These automated registries should eventually be made available online and linked to the development of a Patent Information Service (PIS). In the short-term, technical and financial support to design and implement necessary electronic processes, workflows and registries, including the conversion of existing paper registries to electronic form and training of staff, are required.

(d) Establishment of an Industrial Property Appeals Tribunal

In order to ensure the efficiency and effectiveness of industrial property administration, there are plans to establish an independent industrial property tribunal or the creation of a specialized IPR
division of the High Court with a mandate to resolve disputes relating to the application of patents and regulations on patents, industrial designs and trademarks. Technical and financial assistance will be required to establish the most appropriate form and structure for the tribunal and to make available necessary training in industrial property legislation, administration and dispute resolution.

3. Enforcement and regulation of IPRs

(a) Improving business and consumer education and awareness about IPRs

There is a major, long-term need for technical and financial assistance to design, implement and evaluate public education and awareness raising campaigns across Sierra Leone. Campaigns should be professionally designed, use well-defined key positive messages, and target different audience segments appropriately (e.g. consumers, businesses and traders, artists and musicians, radio and television broadcasters, university students and researchers, and legal and business service professionals). A variety of media should be used and where possible, programmes should be run as public-private partnerships. An initial pilot could be run with the national music industry.

(b) Training of enforcement agencies in IPR concepts and national legislation

A significant need exists for training and training of trainers on IP concepts and enforcement matters for the police, Customs Service, public prosecutor's office and the commercial division of the High Court. Such training should initially target a core group of senior officers in the Criminal Investigation Department (CID) of the Sierra Leone Police Force and the Customs Service in the National Revenue Authority. The training programmes should be designed by experienced professionals and be carefully sequenced with the development of new IP legislation and public education campaigns on IPRs in Sierra Leone.

(c) Provision of access to networked, computerized national IP registries for the Sierra Leone Customs Service

Financial assistance and technical co-operation are required over the medium-term to provide access to a networked, computerized database on IPRs that are in force in the country for use by the Sierra Leone Customs Service in co-operation with the national IP administration agency. Additionally, access to World Customs Organisation (WCO) databases that are used to identify counterfeit trademarks should also be provided to the Customs authorities. Technical co-operation from the WCO and INTERPOL would be required to establish the latter system and train staff in its use. An initial pilot should be run at the Customs Service HQ at Freetown Port. This should be synchronized with the general training of enforcement agencies as well as the development of IP legislation.

(d) Enhancing co-operation with foreign enforcement agencies on counterfeiting and piracy

Financial and technical assistance is required to enable the coordination of customs border measures between Sierra Leone and its neighbouring countries. Given the long and porous land borders of the country, effective enforcement against the entry of counterfeit goods into the country would benefit from greater coordination and cooperation between the customs and police authorities on both sides of the borders.
4. Innovation, technology transfer and using IP for development

(a) Development of domestic innovative and creative base

In order for Sierra Leone to establish its own innovative and creative base, it is crucial to increase access to and make use of technologies already available to Sierra Leone. An assessment is necessary to identify the technologies, human resources and supporting infrastructure necessary to support certain sectors, such as mining, agriculture, and music. For instance, Sierra Leone has potential to develop a flourishing music industry but the newly established Music Industry Task Force requires support to implement its national action plan. The country has also some research capacity in agriculture and seed production that could be expanded and consolidated jointly with engagement by universities and the private sector. To support the creation of a sound and viable technological base in Sierra Leone, a scoping study should be undertaken to examine how domestic creativity, innovation and transfer of technology can best be stimulated through reinforcement of domestic policies, incentives, private sector associations, and capacity building programmes, including the IPR system, and through more targeted measures taken by the developed countries in line with their obligations under Article 66.2 of the TRIPS Agreement.

(b) Improving business education and awareness about IP management for Small and Medium-sized Enterprises (SMEs)

There is a major, long-term need for technical and financial assistance to design, implement and evaluate education and awareness raising campaigns in IP management for SMEs and using IP for development across Sierra Leone. Campaigns should be professionally designed, use well-defined key positive messages, and target different audience segments appropriately (e.g. manufactures, business service providers, artists and musicians, radio and television broadcasters, university researchers, and legal and business service professionals). Where possible, campaigns should be run as public-private partnerships, involving participation from IP policy, administration and enforcement agencies in the public sector, together with private sector organizations and associations.

(c) Development of a Patent Information Service to support innovation and technology transfer

Technical co-operation and financial assistance are required to design and implement an automated and on-line Patent Information Service (PIS) in Sierra Leone. The importance of published patent documents as a source of technical information of potential great value, particularly to SMEs, is widely recognised. The PIS should include the facility for advanced searching of up-to-date global patent databases to identify technologies and technological information of importance for innovation and technology transfer to support industrial development in key sectors in Sierra Leone (e.g. mining, fishing, forestry, agriculture). The PIS should be operated as a collaborative service provided by the IP administration agency and the University of Sierra Leone.

(d) Development of a multi-disciplinary IP policy teaching capacity in the University of Sierra Leone

The topics to be covered would focus initially on the main forms of IPRs in Sierra Leone (patents, trademarks, and copyright) but could over time be expanded to cover entirely new areas for Sierra Leone such as plant variety protection, traditional knowledge, geographical indications, competition, access to genetic resources & benefit sharing under the CBD, and copyright in the digital environment. The focus would be on supporting graduate, undergraduate and doctoral teaching and supervision capacity at the University of Sierra Leone on legal and economic concepts, protection systems, regulatory frameworks, benefits and costs for IPR protection for business and consumers.
5. **Suggested next steps & timetable**

It is proposed that the optimum means for addressing the needs identified herein would be the development and implementation of a medium-term national IP capacity-building programme for Sierra Leone, beginning with an initial 5-year phase from July 2008 to July 2013. In all probability, further phases of the programme would be required.
### ANNEX B - OUTLINE PROGRAMME PLANNING MATRIX

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<th>STRATEGIC GOALS &amp; OBJECTIVES</th>
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<th>LEAD NATIONAL AGENCIES</th>
<th>PROVISIONAL TARGET TIMETABLE</th>
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<tbody>
<tr>
<td>Project 1: Updating IP Policy &amp; Legal Framework</td>
<td>A. Strengthening IP policy and legal development and co-ordination capacity in Ministry of Trade &amp; Industry</td>
<td>• Establishment of a small IP Policy unit in the Ministry of Trade &amp; Industry with two full-time Policy Analysts and logistics for the period 2008 to 2013</td>
<td>Ministry of Trade &amp; Industry</td>
<td>• All activities under Project 1 to commence by June 2008 and to be completed by July 2013</td>
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<td>B. Support for IP legislative reform and policy coherence</td>
<td>• Provision of legislative drafting expertise on priority IP areas assistance as required for the period 2008 to 2013</td>
<td>Office of Administrator &amp; Registrar General</td>
<td>• Additional phase of technical and financial assistance may be required from July 2013 to July 2017</td>
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<td>C. Enabling Sierra Leone's regular and effective participation in meetings of the WTO Council for TRIPS and at WIPO</td>
<td>• Provision of legislative drafting expertise on the second level of priority from 2013 to 2017</td>
<td>Ministry of Tourism &amp; Culture</td>
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<td>D. Development of a multi-disciplinary IP policy research and analysis capacity in the University of Sierra Leone.</td>
<td>• Lump sum accountable grant for travel and per diem expenses for 2 capital based-delegates from Government of Sierra Leone for the period 2008 to 2013</td>
<td>Office of the Attorney General</td>
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<td>• Establishment of at least two Chairs at the University as well as multi-year funding for research programmes, policy seminars, participation in international networks, publications and website</td>
<td>University of Sierra Leone</td>
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<tr>
<td>Project 2: Modernising IP administration infrastructure</td>
<td>A. Modernizing the organizational structure for IPR administration</td>
<td>• Establishment of a semi-autonomous, self-financing national IP office covering all IP matters</td>
<td>Ministry of Trade &amp; Industry</td>
<td>Feasibility study for new national IP office commenced in October 2007 and completed by Early 2008</td>
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<td>B. Automation of existing paper-based registries for trademarks, industrial designs and patents</td>
<td>• Design and implementation of fully computerised IPR administration process and registry archives</td>
<td>Office of Administrator &amp; Registrar General</td>
<td>Establishment of new national IP office by April 2009</td>
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<td>C. Human resource capacity-building in terms of additional manpower and skills development</td>
<td>• Staff recruitment and design and implementation of training programmes</td>
<td>Ministry of Tourism &amp; Culture</td>
<td>Implementation of automation commenced in April 2009 and completed by April 2010</td>
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<td>D. Expand administrative mechanisms to take on and resolve disputes between national IP office and applicants on IPR administration issues (as opposed to infringement issues which would be dealt with by the courts and enforcement agencies)</td>
<td>• Financial and technical assistance for establishment of the national IP Appeals Tribunal, including training and logistics</td>
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<td>Staff recruitment and training on priority skills commenced in April 2009 and completed by July 2013</td>
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<td>Additional training programmes may be required from July 2013 onwards.</td>
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<td>Project 3: Strengthening IP enforcement and regulation regime</td>
<td>A. Improving business and consumer education and awareness about IPRs</td>
<td>• Design, implementation and monitoring of medium-term public education and awareness raising campaigns on IPRs targeting different audience segments and using range of media</td>
<td>Ministry of Trade &amp; Industry</td>
<td>• All activities under Project 3 to commence by June 2008 and to be completed by July 2013</td>
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<td>B. Human resource capacity-building of enforcement agencies in IPR concepts and national legislation</td>
<td>• Design and implementation of medium-term training programmes for enforcement agencies, including classroom-based, on-the-job, training-for-trainers and study tours</td>
<td>Office of Administrator &amp; Registrar General</td>
<td>• Additional phase of technical and financial assistance may be required after July 2013</td>
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<td>C. Development of networked, computerised database on counterfeit products for the Sierra Leone Customs Service</td>
<td>• Access to networked, computerized database on IPRs for use by the Sierra Leone Customs Service in co-operation with the national IP administration agency and customs services in neighbouring countries</td>
<td>Criminal Investigation Department, Sierra Leone Police Force</td>
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<td>D. Enhancing co-operation with foreign enforcement agencies on combating counterfeiting and piracy (TRIPS Agreement Art. 69)</td>
<td>• Access to WCO databases that are used to identify counterfeit trademarks for the Sierra Leone Customs Service. Technical co-operation from the WCO and INTERPOL would be required to establish the system and training staff</td>
<td>Customs Department, National Revenue Authority</td>
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<td>• Ministry of Tourism &amp; Culture</td>
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<td>• Commercial Division, High Court of Sierra Leone</td>
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<td>• Pharmacy Board, Ministry of Health &amp; Sanitation</td>
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<td>• Private sector associations (e.g. Music Industry Task Force)</td>
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| Project 4: Using IP for development, promoting innovation, creativity, and technology transfer | A. Focus on establishing innovative and creative base. Focus on comparative advantage  
B. Improving business education and awareness about IP management for SMEs  
C. Development of a Patent Information Service to support innovation and technology transfer  
D. Development of a multi-disciplinary IP policy teaching capacity in the University of Sierra Leone | • Scoping study to examine domestic measures (tax incentives etc) to promote innovation and opportunities for technology licensing and contract-based research; develop local incentives for FDI; design support programmes in priority R&D sectors  
• Training of staff managing the PIS, university researchers and legal practitioners (as potential patent agents) in patent database searching and reading patent information documentation  
• Design and implementation of an online, fully searchable PIS at the University of Sierra Leone based on global patent databases  
• Establishment of at least two Chairs at the University as well as multi-year funding for teaching and curriculum development | • Ministry of Trade & Industry  
• Office of Administrator & Registrar General  
• University of Sierra Leone  
• Private sector associations | • All activities under Project 4 to commence by June 2008 and to be completed by July 2013  
• Additional phase of technical and financial assistance may be required after July 2013 |