PRIORITY NEEDS FOR TECHNICAL AND FINANCIAL COOPERATION

Communication from Uganda

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 Uganda by means of a communication dated 3 October 2007.

I. INTRODUCTION

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.

Paragraph 2 of the 29 November Decision has invited LDC Members, including Uganda, 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 TRIPS Agreement. The 29 November Decision did not cover the regional dimension of intellectual property, and as such did not examine regional frameworks and organizations such as the African Regional Intellectual Property Organization (ARIPO), of which Uganda, like several other African LDCs, is a member. Given the important role played by regional intellectual property organizations in supporting patent administration in particular in Uganda, we are of the view that the TRIPS Council should extend the needs assessment process to cover regional frameworks and organizations of significance to LDCs such as ARIPO.

As the WIPO Annual Assemblies have recently re-emphasised in approving the organization's new Development Agenda, intellectual property rights (IPRs) should be a tool for development and an integrated part of national policies and programmes on education, science and technology; industrialization; agriculture and the environment; the protection of culture and the encouragement of innovation. In taking the steps necessary to advance the implementation of the TRIPS Agreement, Uganda emphasises the importance of the special and differential treatment it enjoys as an LDC, especially in terms of its explicit entitlement to maximum policy flexibility in building a sound and viable technological base and safeguarding public health and nutrition under the TRIPS Agreement.
Uganda is fully aware of its international obligations and the need to implement the TRIPS Agreement, although 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 communication and its annexes seek to reflect priority needs and set out a plan of action for technical and financial assistance seen as a pre-requisite to implement the TRIPS Agreement by Uganda. These are the prime priorities but there are other recommendations for measures that could be undertaken which are incorporated in a 2007 study titled "Technical and Financial Cooperation Needs for Implementation of the WTO TRIPS Agreement in Uganda". Notwithstanding its commitments and due to the complexity of the task involved, Uganda 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. POLICY AND LEGISLATIVE REFORM

It is crucial for Uganda to establish mechanisms to elaborate a cross-cutting national IP policy framework. In that sense the creation of a "National IP Policy Forum" within the existing Inter Institutional Trade Committee (IITC) will be essential in generating a comprehensive, coherent and inclusive national IP policy and consultation process. The reform of existing legal frameworks will have to consider carefully a balanced implementation of obligations, flexibilities, safeguards and exceptions, especially in the fields of health and education. More specifically, Uganda's implementation of the TRIPS Agreement will be guided by the Doha Declaration on the TRIPS Agreement and Public Health, the 30 August 2003 WTO Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health, and subsequent TRIPS amendments.

Uganda realises that IP is a cross-cutting issue where complementary policies on, for instance, health, agriculture, environment and competition are equally important in the context of implementing the TRIPS Agreement. The implementation needs to be undertaken comprehensively and coherently with other international arrangements such as the Convention on Biological Diversity, the FAO treaty on Plant Genetic Resources, relevant WIPO conventions and WHO treaties and resolutions as well as regional trade and IP arrangements (e.g. EAC, COMESA, ARIPO, etc) that will be key components in a comprehensive policy reform process.

It is important to also adapt domestic policies to align with rapidly changing technological trends in the global economy. At this stage of Uganda's path to development, it is necessary for the country to seek and receive support from the international community on the use and management IPRs in combination with well designed government support measures that address domestic development needs such as the promotion and establishment of a domestic creative and innovative industry and the development of its technological base.

III. BUILDING A SCIENTIFIC, TECHNOLOGICAL AND CREATIVE BASE

In Uganda, efforts are underway, supported by our development partners, to begin to establish a modern national scientific and technological infrastructure which meets the needs and aspirations of our people, our enterprises and our industries. Uganda has recently developed a national science, technology and innovation policy, drafted a national industrial policy and has a small network of research institutions operating mainly in the public sector. However, much more can be done to strengthen our embryonic scientific and research institutions and implement appropriate interventions to reinforce existing national polices, incentives and programmes aimed at both the public and the private sector. Much more can also be done to encourage better-targeted incentives for transfer of technology by developed countries. In this last respect, Uganda plans to cooperate with other LDCs to make further contributions to the TRIPS Council regarding its specific needs for technology
transfer in order to guide developed countries in the implementation of Article 66.2 of the TRIPS Agreement.

IV. THE PROCESS FOR ASSESSING THE NEEDS

Several consultations to determine priority needs have been co-ordinated by the Government of Uganda during 2007 with a variety of national stakeholders and with the technical support of independent international experts. A pilot project jointly undertaken by ICTSD and Saana Consulting titled "Assessing the Needs for Financial and Technical Cooperation of LDCs in Implementing the TRIPS Agreement" has been instrumental in assisting Uganda to identify its various technical and financial assistance needs.¹

The needs assessment process has identified the prime obstacles faced by Uganda in using the IP system to promote innovation and facilitate the transfer and dissemination of technology with a view to enhancing competitiveness and integration in the global economy. In this sense it adds an additional dimension to the scope of the Uganda Diagnostic Trade Integration Study carried out under the Integrated Framework.

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

This introductory statement is supplemented with two annexes. Annex A highlights the prime priorities in terms of financial and technical elements for taking the steps 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, stimulating technology transfer and using IP for advancing development. Annex B provides an outline planning matrix for a long-term, national IPR capacity building programme meeting Uganda's needs.

Within the framework of this future outlook of necessary administrative and legal reform, and mindful of the commitment made by developed countries under Article 67 of the TRIPS Agreement and the principles set out in the 2005 Paris Declaration on aid effectiveness, Uganda requests early consultations with appropriate agencies from developed country members, in co-ordination with international institutions and interested NGOs working on IPRs and development, to take forward the detailed design and implementation of such a programme. Uganda requests that partners for the consultations include WIPO, UNCTAD, WHO, Cop of the CBD, UNESCO, FAO, the World Bank and/or other interested international and regional Organizations, as well as bilateral donor agencies such as DFID, IP offices, and civil society organizations such as ICTSD.

Uganda is committed to ensuring that the new national IP capacity building programme be well-linked with other related initiatives supported by its development partners, especially those involved with updating the legal framework, agricultural and creative industries and the development and the strengthening of the national scientific and technology base, including the Integrated Framework, and relevant components of the ongoing Millennium Science Initiative and the Private Sector Competitiveness Programme II.

¹ The project sponsored a field mission by two independent experts and national workshop in Uganda in July 2007. The field mission utilized the "Diagnostic Toolkit for Assessing Technical Assistance Needs for Implementing the TRIPS Agreement in LDCs" developed under the project in May 2007. For more information see the project website at http://www.ipronline.org/ictsd/LDCneeds.htm
ANNEX A

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

**IP policy framework**

- **Support for coordination of IP policy development.** The National Trade Policy requires that laws to protect IP be enacted. Whilst many of the aspects of the basic elements of the IPR legal framework are in place in Uganda, and new legal drafts and regulations are being prepared by the Uganda Law Reform Commission supported by external assistance, what is missing is an overarching national IP policy framework developed and supported by all interested stakeholders, and covering the policy linkages between IP and public health (including implementation of the WTO Doha Declaration on the TRIPS Agreement and Public Health in Uganda); agriculture and the environment including plant variety protection; education, science and technology; enterprise development and regulation; and protecting Uganda’s rich cultural heritage and traditional knowledge. Financial and technical assistance is required to design and implement a comprehensive, coherent and inclusive national IP policy development and consultation process. This should include support for a “National IP Policy Forum” as the appropriate institutional mechanism to bring together the range of stakeholders from government, the private sector and civil society. Support should also be provided to transform the existing WIPO-Uganda Registration Services Bureau (URSB) National IP Strategy, initiated in 2005. The "National IP Policy Forum" would aim to produce a draft national IP policy framework within its first year of operation to guide future legislative development; it would then work to update and elaborate aspects of national IP policy from then onwards.

- **Training for policymakers on IPR concepts, international IPR conventions and best practices from other countries.** Technical assistance is required to undertake an initial “intensive phase” of human resource development for government officials, the private sector and civil society participating in the proposed "National IP Policy Forum" and policy development process. Theoretical and practical training on basic IPR concepts, the international framework for IPR protection (TRIPS Agreement and other principal international IP conventions including obligations, flexibilities, safeguards and exceptions applicable to Uganda), key challenges (benefits, costs and risks) for developing countries implementing stronger IP protection and best practices from other countries is required, tailored to the needs of policymakers (rather than IP office administrators for example). Educating government officials and other relevant stakeholders in basic concepts of intellectual property rights is essential to raise awareness and understanding of IPRs in general, its value and how it can be used in the interest of furthering Uganda’s local and regional development. The training should also cover emerging IP issues on the international, regional and national agendas (for instance the EPA negotiations between the EU and Eastern and Southern Africa), and include financial assistance for logistics, background research and overseas study tours.

- **Development of a multi-disciplinary IP policy teaching, research and analysis capacity in the academic community.** Subject matter to be covered would include the full range of intellectual property issues, including new and evolving areas such as ensuring improved access to medicines, technology transfer concepts, protection of traditional knowledge, exploitation of geographical indications, protection of integrated circuit topographies, utility model protection, access to genetic resources and benefit sharing under the CBD, and the evolution of copyright and potentially new forms of rights in the digital environment. The focus would be on supporting graduate, undergraduate and doctoral teaching and supervision.
capacity and on investigating the socio-economic impacts, international experiences in other countries, and identification of the optimum legal and regulatory frameworks for their administration in Uganda as well as in a regional context (e.g. EAC, COMESA, ARIPO, etc).

**Innovation, technology transfer and using IP for development**

- **Improving business education and awareness about IP for small and medium enterprises (SMEs).** There is a long-term need for technical and financial assistance for education and awareness raising campaigns in basic IP concepts, using IP for development, and the management of IP, for SMEs across Uganda but targeting the creative industries (copyright and related rights), agricultural (plant varieties, trademarks, geographical indications) and commercial and manufacturing sector in particular (trademarks and patents). Activities should be professionally designed and target different segments of the SME and its support community appropriately (e.g. creators of IP, business service providers, government research facilities, university researchers, and legal and financial service professionals). There is also a need for assistance to develop curricula to cover IP, from a broad perspective, in the tertiary educational sector and in the faculties of law, engineering, science, economics and agriculture at Makerere and other universities and vocational institutions. Finally, there is a specific need for technical and financial assistance to improve the quality and availability of local business consultancy and support Organizations to offer improved services on IP management by SMEs in Uganda, again targeting the sectors described above. In the context of establishing and strengthening a domestic creative and innovative base it is important to attract technology and to absorb and adjust it for local needs. It is important to build upon knowledge available within the public domain.

- **Development of a Patent Information Service to support innovation and technology transfer.** Technical co-operation and financial assistance are needed to design and implement a computerized and on-line Patent Information Service (PIS) in Uganda. 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 (e.g. manufacturing, mining, fishing, forestry, agriculture). The PIS should be operated by the URSB (as the Ugandan node in the global patent information network) in cooperation with the National Council for Science and Technology, the Uganda Industrial Research Institute, the Uganda Investment Authority and select academic institutions in Uganda. Support for training of PIS operators and users would be required. Support is also needed to assess the feasibility of staffing the URSB with a limited number of technical specialists (patent examiners) in key fields to serve as an 'intelligent interface' between the global patent system and Ugandan researchers and SMEs.

**IPR administration**

- **Developing an optimal business model for intellectual property administration in Uganda by benchmarking against international best practice.** Whilst the URSB has been established it is not yet fully functional as envisaged under its enabling Act. There is an urgent need for technical co-operation to identify the most appropriate and feasible legal and operational structure as envisioned by the URSB Act and based on lessons learned from the international best practice, including other African countries. Currently Uganda has no patent examiners and patent applications are examined by ARIPO. Moreover it is important to establish a link between training institutions and the IP office. Users of IP demanded increased service levels in terms of patent filing and trademark registration. The use of databases would facilitate process as it allows for transparency and access to available information. This investigation would also examine the issue of whether or not patent
administration in Uganda should include substantive technical examination and, if so, how such examination could best be carried out. Should the investigation conclude that a financially autonomous IP office is a viable model, medium-term financial assistance would be required from 2008 for an initial period of at least 5 years or until the office is in a position to achieve financial self-sustainability.

- **Enhanced human resources at URSB.** If and when an financially autonomous URSB is operationalized (see above), a modest number of additional permanent staff positions will be required to support the delivery of improved levels of services to IP rights holders and other users through an alternative, self-sustaining business model. Formal and on-the-job training will be required for staff in IPR administration, patent information services, strategic and business planning, financial management and accrual accounting, human resources management, information technology skills, and communications, on an on-going basis.

- **Computerization of registries for trademarks, industrial designs, and patents.** Since the country is a member of the Patent Co-operation Treaty (PCT) system and ARIPO, where documentation and operations are computerized, there is an urgent need to also computerize workflows and registries in Uganda. Users of IP demand increased service levels in terms of patent filing and trademark registration and use computerized databases would facilitate greater efficiency, transparency and access to available information. In the short term, technical (including training of staff) and financial support to design and implement necessary electronic processes, workflows and registries, including the conversion of existing paper registries for patents, trademarks and industrial designs to electronic form, is required. These needs will continue over the medium term, as new and amended legislation, regulations and administrative procedures are implemented.

**Enforcement and regulation of IPRs**

- **Improving consumer education and public awareness about IPRs.** There is a medium-term need for technical and financial assistance to support public education and awareness raising campaigns throughout Uganda on IPRs, including obligations, flexibilities, safeguards and exceptions. Campaigns should be professionally designed and use well-defined messages to target different audiences appropriately, e.g. consumers, businesses and traders, artists and musicians, radio and television broadcasters, the academic community, manufacturers, researchers and legal and business service professionals. Such campaigns should include participation from private sector and rights holder organizations, such as the Uganda Manufacturers Association, Uganda Performing Rights Society, and the Uganda Music Publishers Association as well as consumer associations.

- **Training and qualification of private and public sector attorneys and agents.** There is an urgent need to train and qualify private and public sector practitioners to effectively represent the interests of applicants and owners of IPRs and other interested parties before the URSB and the courts. Specifically, there is an immediate need for technical and financial support to develop and deliver training programs for attorneys as well as engineers and scientists in matters relating to patent drafting, application, prosecution and litigation. Such training could be delivered through a professional development or continuing education program at the Law Development Centre, for example. In the longer term, the government may choose to establish standards that must be met by private sector IP practitioners in order to qualify to represent applicants before the URSB.

- **Training of enforcement agencies and rights holder organizations in IPR concepts, national legislation and enforcement strategies.** There is a need for technical cooperation and financial support for the "training of trainers" in IP concepts, national legislation and
regulations and enforcement matters for the full range of enforcement authorities and such other organizations that play important roles in contributing to effective enforcement of IPRs, including: the police, the National Revenue Authority's Customs and Excise Department (CED), the National Bureau of Standards and potentially the military. Specialized training is needed for the office of the public prosecutor and members of the commercial division of the High Court. In addition, support is needed for "training of trainers" on IPR enforcement strategies of other interested organizations (governmental and private sector) including, for example, Ministry of Health’s Directorate General of Medical Services (authority for regulatory compliance of pharmaceuticals), the Uganda Performing Rights Society, the Uganda Manufacturers Association and the Uganda Music Publishers Association.

- ** Provision of access to networked, computerised national intellectual property registries for the Uganda Customs and Excise Department and the Uganda National Bureau of Standards.** Medium term financial assistance and technical co-operation are required to provide access to networked, computerised databases on IPRs that are in force in Uganda, for use by enforcement authorities in co-operation with the URSB. Additionally, on-line communications with and access to World Customs Organization (WCO) databases to improve 'risk profiling' and to identify counterfeit trademarks and fake goods should also be provided to the Customs authority and, if feasible, to the Ministry of Health in the case of fraudulent pharmaceutical products.

- **Enhancing co-operation with foreign enforcement agencies on combating counterfeiting and piracy.** Financial and technical assistance is required to enable coordination of customs border measures between Uganda and its neighbouring countries. A study should be undertaken to determine the feasibility of establishing a network mechanism between neighbouring countries for greater coordination and cooperation between the IP offices, customs and police authorities. For example, it may be advantageous to facilitate access by neighbouring countries enforcement authorities to each other's electronic intellectual property registries, initially among EAC partner countries.

**Suggested next steps & timetable**

It is proposed that the optimum means for addressing the needs identified in this report would be the development and implementation of a medium term national IP capacity building programme for Uganda, beginning with an initial 5 year phase from July 2008 to July 2013. In all probability, further phases of the programme would be required. The programme should be well-linked with other related initiatives, especially those involved with updating the legal framework, agricultural and creative industries development and the strengthening of the national scientific and technology base, including the Integrated Framework for Trade Related Technical Assistance to LDCs, and relevant components of the ongoing World Bank-funded Millennium Science Initiative (financed with a US $30m loan) and the World Bank-funded Private Sector Competitiveness Programme II (financed with a US $70m loan).
## ANNEX B

### OUTLINE PROGRAMME PLANNING MATRIX

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<tr>
<th>STRATEGIC GOALS &amp; OBJECTIVES</th>
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<th>PROPOSED MAIN ACTIVITIES TO ADDRESS NEEDS</th>
<th>LEAD NATIONAL AGENCIES</th>
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B. Training for policymakers on IPR concepts, TRIPS and international IPR conventions (including obligations, flexibilities, safeguards and exceptions applicable to Uganda) and best practices from other countries.  
C. Development of a multi-disciplinary IP policy teaching, research and analysis capacity in the academic community.  
D. Development of IP management policies and procedures for national universities and research institutes | Establishing of a "National IP Policy Forum", properly equipped to bring together the appropriate range of governmental and non-governmental stakeholder in the policy development process.  
Intensive training activity to develop sufficient national IP policymaking capacity based on solid understanding of IP issues, international IP conventions, and how they impact on Uganda's national development objectives.  
Transformation of the WIPO-URSB National IP Strategy Project initiated in 2005 into a locally led policy development process targeted to national needs.  
Development of IP policy research, analysis and teaching capacity in at least Makerere University and the Law Development Centre. | Ministry of Tourism, Trade & Industry  
Ministry of Justice & Constitutional Affairs  
Ministry of Health  
Ministry of Agriculture  
Uganda Registration Services Bureau  
Uganda National Science & Technology Council  
Makerere University  
Law Development Centre  
National Agriculture Research Organization  
Uganda Industrial Research Institute  
Civil Society & Private Sector representatives | All activities under Project 1 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 |
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<th>STRATEGIC GOALS &amp; OBJECTIVES</th>
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<th>LEAD NATIONAL AGENCIES</th>
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| Project 2: Using IP for development, promoting innovation, creativity, and technology transfer | A. Improving business education and awareness about IP for SMEs targeting the creative industries (copyright and related rights), agricultural (plant varieties, trademarks, geographical indications) and manufacturing sector in particular (patents and trademarks).  
B. Development of a patent information service (PIS) to support innovation and technology transfer.  
C. Identification of the potential economic value of national creative & cultural industries | • Training of SMEs, staff managing the PIS, university and private sector researchers and legal practitioners (as potential patent agents) in patent database searching and reading patent documentation  
• Design and implementation of an online, fully searchable patent information service at the URSB, and possibly other sites, based on global patent databases  
• Study to assess feasibility of adding limited technical search and examination resources to the URSB to support patenting and dissemination of patented technical information.  
• Survey of economic value of national creative & cultural industries and potential domestic and export market development opportunities and constraints | • Ministry of Tourism, Trade and Industry  
• Uganda Registration Services Bureau  
• Uganda National Council for Science and Technology  
• Uganda Industrial Research Institute  
• Makerere University  
• Ministry of Gender and Social Development  
• Private sector associations representing SMEs | • 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 |
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<th>STRATEGIC GOALS &amp; OBJECTIVES</th>
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| **Project 3: Modernizing IP administration infrastructure** | A. Developing an optimal business model for intellectual property administration in Uganda by benchmarking against international best practice.  
B. Enhanced human resources at URSB.  
C. Computerization of registries for trademarks, industrial designs, copyright and patents. | • Develop an optimal business model for intellectual property administration in Uganda by benchmarking against international best practice.  
• Staff recruitment, design and implementation of competency-based training programmes, including patent search and substantive examination (if warranted)  
• Design and implementation of fully computerized processes, workflows and registries for trademarks, industrial designs, copyright and patents. | • Uganda Registration Services Bureau  
• Uganda National Science & Technology Council  
• Uganda Industrial Research Institute | • IP resource and management audit to define optimal business model for administration of intellectual property to commence in January 2008 to be completed by March 2008.  
• Establishment of new national IP office initiated by September 2008  
• Implementation of automation started in September 2008 and completed by September 2010  
• Staff recruitment and training on priority skills commenced in September 2008 and completed by September 2010  
• Additional training programmes may be required from July 2013 onwards |
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<th>PROVISIONAL TARGET TIMETABLE</th>
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<tr>
<td>Project 4: Strengthening IP enforcement and regulation regime</td>
<td>A. Improving consumer education and public awareness about IPRs.</td>
<td>• Design, implementation and monitoring of public education and awareness raising campaigns on IPRs targeting a broad range of audiences.</td>
<td>Uganda Registration Services Bureau</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. Training and qualification of private and public sector attorneys and agents.</td>
<td>• Training programs for attorneys, engineers and scientists in matters relating to patent prosecution and litigation.</td>
<td>Customs and Excise Department of Uganda Revenue Authority</td>
<td>• Additional phase of technical and financial assistance may be required after July 2013</td>
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<td>C. Training of enforcement agencies and rights holder organizations in IPR concepts, national legislation and IPR enforcement strategies.</td>
<td>• Training for enforcement agencies and rights holder organizations, including classroom-based, on-the-job, study tours, and training for trainers</td>
<td>Uganda Police</td>
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<td>D. Provision of access to networked, computerised national intellectual property registries for the Uganda Customs and Excise Department and the Uganda National Bureau of Standards.</td>
<td>• Training for the judiciary in intellectual property and case management, including classroom-based, colloquia and study tours.</td>
<td>Uganda National Bureau of Standards</td>
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<td>E. Enhancing co-operation with foreign enforcement agencies on counterfeiting and piracy.</td>
<td>• Computerization of Ugandan IP registries and network access to regional (e.g. EAC) and international databases, such as World Customs Organization and Interpol</td>
<td>Commercial Division, High Court of Uganda</td>
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<td>Private sector associations (e.g. Uganda Manufacturers Association, Uganda Performing Rights Society, etc.)</td>
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<td>National Drug Authority</td>
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