



Republic of Zambia

Ministry of Commerce Trade and Industry



**REVISED NATIONAL
INTELLECTUAL
PROPERTY
POLICY**

2020



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**REVISED NATIONAL INTELLECTUAL
PROPERTY POLICY**

JUNE, 2020

CONTENTS

FOREWORD	iii
ACKNOWLEDGEMENT	iv
WORKING DEFINITIONS	v
ACRONYMS	viii
CHAPTER 1: INTRODUCTION	1
CHAPTER 2: SITUATION ANALYSIS	2
2.1 Overview of Intellectual Property Rights	2
2.2 The Global Context	2
2.3 The National Context	3
CHAPTER 3: VISION	7
CHAPTER 4: RATIONALE	7
CHAPTER 5: GUIDING PRINCIPLES	7
CHAPTER 6: POLICY OBJECTIVES	7
CHAPTER 7: MEASURES	8
CHAPTER 8: IMPLEMENTATION FRAMEWORK	10
8.1 Institutional Arrangement	10
8.2 Legal Framework	13
8.3 Resource Mobilization and Financing	14
8.4 Monitoring and Evaluation	14

FOREWORD



Zambia aspires to become a prosperous middle-income country by 2030 as spelt out in its vision 2030. In order to achieve this aspiration, various policy measures have to be undertaken to sustain the country's economic growth.

The Government of the Republic of Zambia recognises that Intellectual Property is critical for achieving competitiveness and sustained economic growth and national development. The Government also acknowledges that in the knowledge-based global economy, Intellectual Property has become a valuable tool for enhancing creativity, innovation and competitiveness. To be competitive, Zambia will need to create institutional and legal frameworks conducive to the creation of intellectual property assets and its commercialization. Managing and harnessing IP strategically is the gateway to enhance the country's long-term competitiveness in the knowledge economy.

The Revised National Intellectual Property Policy has been formulated to facilitate the creation of an environment which stimulates and fosters the generation,

protection, enforcement, management and exploitation of IP. The policy has also been revised in order to promote and instill an IP culture among the business community as well as the general public. Most importantly, this policy has made provision for new aspects of IP which were not covered in the previous Policy which was developed in 2020 by the Government.

The Revised Policy provides a framework within which various government agencies and key stakeholders will collaborate in promoting innovation and creativity at all levels of Zambian society in order to accelerate socio-economic development.

I wish to call upon all stakeholders to support and play their part and ensure that this policy is effectively implemented for the benefit of every Zambian.

A handwritten signature in black ink, appearing to read 'C. B. Yaluma', written over a horizontal line.

Hon. Christopher B. Yaluma, MP.

MINISTER OF COMMERCE, TRADE AND INDUSTRY

ACKNOWLEDGEMENT



The Revised National Intellectual Property Policy (NIPP) was developed after extensive consultations with various stakeholders in the private sector, civil society, academia and Government. The Ministry of Commerce, Trade and Industry would like to thank all the stakeholders who participated in the consultative meetings as well as those who provided comments when the policy was at the draft stage.

The Ministry also extends its gratitude to the World Intellectual Property Organisation (WIPO) for the technical and financial support rendered towards the review process and the drafting of the Policy.

The Ministry will continue to engage with all the stakeholders to ensure a successful implementation of the policy and we look forward to the sustainability of a creative and innovative environment to ensure socio-economic growth.

A handwritten signature in black ink, appearing to read 'Mushuma Mulenga', written in a cursive style.

Mushuma Mulenga

PERMANENT SECRETARY
**MINISTRY OF COMMERCE, TRADE AND
INDUSTRY**

WORKING DEFINITIONS

- Border Measures:** means legal procedures aimed at preventing infringing copies or lawful copies in violation of the right of importation from being brought into the country.
- Commercialisation:** means the process of turning an invention or creation into a commercially viable product, service or process.
- Copyright:** means a legal term describing rights given to creators for their literary and artistic works.
- Domestication of Treaties:** means enactment of an enabling statute to operationalise the treaty within a state.
- Expressions of Folklore:** means any form, whether tangible or intangible, in which traditional culture and knowledge is expressed, appears or manifests.
- Geographical Indications (GI):** means an IP right pertaining to a sign which identifies a good as originating in the region or locality in a country where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.
- Genetic Resources:** means any genetic material of a biological resource containing genetic information having actual or potential value for humanity and includes derivatives, fauna and flora of terrestrial, aquatic and any other origin which may be used by the holder to obtain specific practical outputs in any field of human activity.
- Industrial Design:** means the ornamental or aesthetic aspect of an article; the visual design of objects that make an article attractive and appealing.
- Industrial Property:** means patents, trademarks, industrial designs, trade secrets, geographical indications and other components of intellectual property other than copyright and related rights.
- Integrated Circuit:** means a product, in its final form or an intermediate form, in which the elements, at least one of which is an active element, and some or all of the interconnections are integrally formed in and on a piece of material and which is intended to perform an electronic function.
- Intellectual Property:** means creations of the human mind such as copyright and industrial property.

- IP-intensive industries:** means industries that have high intensity of intellectual activities, protect and utilize them as IPRs in value creation.
- Know how:** means any confidential or non-confidential information and includes expertise or knowledge of how to perform a useful function in a proven and efficient way.
- Lay Out-Design:** refers to a functional design which consists of the pattern, shape or configuration of the three-dimensional disposition of the electrical, electromagnetic or optical elements and circuitry of an integrated circuit, and “integrated circuit” and “topography” shall be construed accordingly.
- Licensing:** means the granting of permission to use intellectual property rights, such as trademarks, patents, or technology, under defined conditions.
- Literary and Artistic Works:** means 'works' which include every production in the literary, scientific and artistic domain.
- Moral Rights:** means rights of copyright holders to control the use of a creative work. They include the right to be credited as the author of a work and the right to control some modifications to and destruction of a work.
- Patent:** means an exclusive right granted by the state to an inventor or other person deriving their rights from the invention for a fixed period of time in exchange for the regulated public disclosure of all details of the invention.
- Plant Breeders Rights:** means an exclusive right granted to plant breeders as an incentive for investing in breeding new plant varieties.
- Plant Variety:** means a plant grouping within a single tax on the lowest known rank which is identified by the expression of the characteristics resulting from a given genotype or combination of genotypes distinguished from any other plant grouping by the expression of at least one of the said characteristics and considered as a unit with regard to its suitability for being propagated unchanged.
- Prior Informed Consent:** means the prior acceptance by a traditional community, individual or group to use their traditional knowledge, genetic resource or expression of folklore.
- Public Domain:** means information, knowledge and technology that is not protected by IP and can be copied and freely distributed by anyone without payment or permission.

- Technology Transfer:** means the transfer of new technology from the originator to a secondary user, especially from developed to less developed countries in an attempt to boost their economies.
- Trade Mark:** means a mark, sign or symbol used or proposed to be used in relation to goods for the purpose of indicating, or so as to indicate, a connection in the course of trade between the goods and some person having the right either as proprietor or as licensee to use the mark.
- Trade Secrets:** refers to confidential, scientific, technical, business, commercial and financial information, or data used in research, business, commerce or industry not publicly known.
- TRIPS:** means the Agreement on Trade Related Aspects of Intellectual Property Rights.
- Utility Models:** means a petty patent or an invention which does not meet all the requirements for patentability in order to obtain patent protection.

ACRONYMS

ARIPO	African Regional Intellectual Property Organization
ABS	Access and Benefit Sharing
CMO	Collective Management Organization
CCPC	Competition and Consumer Protection Commission
CEEC	Citizens Economic Empowerment Commission
EU	European Union
FDI	Foreign Direct Investment
GI	Geographical Indication
GII	Global Innovation Index
GCR	Global Competitiveness Report
GR	Genetic Resources
GRZ	Government of the Republic of Zambia
ICT	Information and Communications Technologies
IP	Intellectual Property
IPRs	Intellectual Property Rights
JETS	Junior Engineers, Technicians and Scientists
KIPO	Korean Intellectual Property Office
MOJ	Ministry of Justice
MOF	Ministry of Finance
MIBS	Ministry of Information and Broadcasting
MOTA	Ministry of Tourism and Arts
MOHE	Ministry of Higher Education
MCTI	Ministry of Commerce, Trade and Industry
MIBS	Ministry of Information and Broadcasting Services
MOGE	Ministry of General Education
NIPP	National Intellectual Property Policy
NSTC	National Science and Technology Council
NTBC	National Technology Business Centre
PACRA	Patents and Companies Registration Agency
PCT	Patent Cooperation Treaty
PVP	Plant Variety Protection
PIC	Prior Informed Consent
7NDP	Seventh National Development Plan
ST	Science and Technology
SCCI	Seed Certification and Control Institute
TCEs	Traditional Cultural Expressions
TK	Traditional Knowledge
TISCs	Technology and Innovation Support Centers
TTOs	Technology Transfer Offices
TRIPS	Trade Related Aspects of Intellectual Property Rights
WIPO	World Intellectual Property Organization
ZABS	Zambia Bureau of Standards
ZDA	Zambia Development Agency
ZRA	Zambia Revenue Authority

CHAPTER 1: INTRODUCTION

Zambia aspires to become a prosperous middle-income country by 2030 as spelt out in its Vision 2030. In order to attain this prosperity as a middle-income country, various policy interventions must be undertaken to accelerate the country's socio-economic development. The integration and implementation of an effective Intellectual Property (IP) system is one such important policy interventions.

Intellectual Property promotes innovation and creativity and it is an important tool for wealth creation, social and cultural development. In view of the foregoing, the Government of the Republic of Zambia, in 2010, developed and adopted the National Intellectual Property Policy (NIPP). The main purpose of the Policy was to make intellectual property a practical development tool for Zambia as a means of achieving an innovative, creative and knowledge-driven society.

In 2016, Government initiated a review of the NIPP with the objective of assessing whether the policy remained relevant in meeting its set objectives. The review of the NIPP was based on the World Intellectual Property Organisation (WIPO) IP system cluster approach, which has the following seven components:

- (a) administration and management of Industrial Property Rights;
- (b) generation of IP by universities, research organizations, business, Industry, SMEs and individuals;
- (c) commercialization of IP and technology transfer by universities, research organizations, business, industry, SMEs and individuals;
- (d) copyright and copyright industries;

(e) plant variety rights and seed industries; and

(f) enforcement of IP rights.

The review revealed that the NIPP did not adequately cover some of the above components of the IP system. Specifically, the NIPP did not adequately cover issues of administration and management of intellectual property rights, generation of intellectual property assets, commercialization and technology transfer as well as enforcement of intellectual property rights. Consequently, the country's uptake in terms of IP generation, protection and enforcement has remained poor.

In light of the above, the NIPP has been revised in order to facilitate the creation of an environment that stimulates and fosters the generation, protection, enforcement, management and increased exploitation of Intellectual Property Rights (IPRs). Further, the NIPP is also expected to promote and instill an IP culture among the business community and the general public.

The policy therefore, identifies specific objectives and sets out the measures which will be implemented with the aim to create a community that values IP as a valuable economic asset and respects the right of owners. In addition, it identifies priorities and sets out thematic areas in addressing the set objectives.

In this regard, chapter one outlines the evolution of National Intellectual Property Policy. Chapter two has the situation analysis which describes the current situation on Intellectual Property. Chapter three unfolds the vision, rationale and the guiding principles of the NIPP policy and chapter four deals with general policy objectives and measures while chapter five addresses the implementation framework.

CHAPTER 2: SITUATION ANALYSIS

2.1 OVERVIEW OF INTELLECTUAL PROPERTY RIGHTS

Intellectual property refers to creations of the human mind. These include:

- a) inventions;
- b) literary and artistic works;
- c) designs; and
- d) symbols, names and images used in commerce.

Intellectual Property Rights on the other hand are the rights given to persons over the creations of their minds. IPRs give exclusive rights to creators for a certain period of time. This enables creators of IP to recover the investments they make in generating innovations by bringing them to the market.

Intellectual property rights systems, comprising their legal and institutional framework make it possible for innovators to sell, license or give away the rights to their innovations to others, who may be better placed to exploit them. In other words, intellectual property rights are a key prerequisite for intellectual assets to emerge in markets.

However, a balance has to be struck between the need to give exclusive rights to innovators so that they can recover their investments, and the need to make new knowledge available for use by the wider public.

IPRs consist mainly of two branches these being Industrial Property and Copyright. The Industrial Property branch comprises patents, utility models and industrial designs as well as trademarks and geographical indications. Industrial property are protected essentially to recognise and stimulate technological innovation and to provide the legal framework for the creation of new technologies and products. This branch also

includes plant variety rights critical for the development of agriculture and horticulture.

The Copyright branch protects literary, musical, artistic, photographic and audio-visual works; films; and computer programs. Copyright also includes related rights (also known as neighbouring rights). Related rights include the rights of performing artists, producers of phonograms (sound recordings) and broadcasting organizations. The main purpose of copyright and related rights protection is to encourage and reward creative works.

Although the protection of Traditional Knowledge, Genetic Resources and Expressions of Folklore is not yet fully developed at the international level, under the Zambian legal system, this is fully integrated under the intellectual property regime in recognition of the creative value of these resources.

2.2 THE GLOBAL CONTEXT

In today's globally competitive environment, IP is becoming increasingly important in the context of economic growth. IP is seen as an important public policy tool for socio-economic growth, for developing national technological capacity, and for generating export opportunities through enhancement of enterprise competitiveness. IP has also been recognised as an important tool in facilitating technology transfer as well as in attracting foreign direct investment.

Most industrialised countries have therefore been able to build up their economic and industrial base through, inter alia, the extensive and intensive use of the intellectual property system. Similarly, many developing countries, particularly in South East Asia, have developed their manufacturing base and improved their export performance by making effective use

of the intellectual property system as an instrument in their economic growth and development strategies.

For example, the rapid economic growth of the Republic of South Korea has been associated with, among other things, the use of the IP system. A study on the Impact of the Intellectual Property System on Economic Growth conducted by WIPO has shown that a policy to strengthen IP protection in Korea has had positive influence on technology transfer, R&D and GDP. In the early 1960s, South Korea was one of the poorest countries in East Asia with a per capita GDP of approximately \$160 far less than that of Zambia which stood at about \$234. Today Korea has achieved the status of a developed nation with a GDP per capita of \$34,549 as of 2016.

According to a 2019 report by the Korea Institute of Intellectual Property (KIIP) on the economic contribution of IP-Intensive Industries, the IP-intensive industries accounts for 43.1% of Korea's total GDP and employ about 29.1% of the entire Korean workforce. In Europe and the US IP-intensive industries account for 27.8% and 18.2% of employment, respectively.

This aspect of wealth creation spurred by intellectual property is not peculiar to industrialized countries, Developing countries such as India, Nigeria, South Africa, etc., have similarly taken advantage of the IP system to create wealth for the well-being of their economies and people.

Further, the Development Agenda adopted by WIPO in 2007 has also now placed emphasis on the need to promote creativity and innovation in developing countries and to consider intellectual property policies that serve this end.

2.3 THE NATIONAL CONTEXT

2.3.1 Global Rankings

According to the Global Innovation Index (GII) Zambia's level of innovativeness is low. In 2016, the country was ranked 125th out of 128 countries. In terms of protection of intellectual property rights Zambia was ranked 64th position out of 138 countries by the 2016-2017 Global Competitiveness Report (GCR) published by the World Economic Forum.

2.3.2 Policy Framework

A National Intellectual Property Policy (NIPP) was first prepared and adopted by Government in 2010. The Government has implemented this policy since 2010, with the coordination and guidance of the Ministry of Commerce Trade and Industry.

2.3.3 The State of IP System in Zambia

The current situation of the IP system in Zambia, based on the WIPO IP system cluster approach, is as follows:

2.3.4 Legal Framework for the Protection of Intellectual Property Rights in Zambia

Intellectual Property Rights have been protected in Zambia way before the country attained independence in 1964. The country continued to rely on pre-independence IP laws which did not reflect the changes in the socio-economic realities. Through the 2010 NIPP, the Government undertook to review existing legislation and develop new laws in order to address national aspirations, capture emerging issues and also meet international IP obligations.

A number of new laws governing Industrial Property were therefore enacted in 2016. These include the Patents Act No. 40 of 2016; the Industrial Designs Act No. 22 of 2016 and the Layout Designs of Integrated Circuits Act No. 6 of 2016. In addition, the Protection of Traditional Knowledge, Genetic Resources and Expressions of Folklore Act No. 16 of 2016 was also passed.

The law governing Copyright, the Copyright and Performance Rights Act Cap 407 of 1994, was amended in 2010 in order to enhance enforcement provisions. The Copyright and Performance Rights (Amendment) Act, 2010, introduced among other things, the hologram which is affixed on all authentic audio and video products in Zambia. The amendments also expanded the list of offences for copyright infringement. However, the substantive law on copyright in Zambia remain outdated and requires to be repealed and replaced with one that answers to the modern and dynamic society.

In terms of protection of plant varieties Zambia developed and enacted a Plant Breeders Rights Act No. 18 of 2007. By 2015, about 134 new plant varieties had been registered. This Act needs further revision to cater for, among others, different seeds to benefit local farmers; to incorporate flexibilities of the Trade Related Aspects Intellectual Property Rights (TRIPS), and to provide a mechanism for the reward and incentives to breeders of new plant varieties and promoting collaboration between farmers, R&D institutions and industry.

Legislation covering trade secrets, technology transfer and commercialization of IP assets by universities and R&D institutions are lacking. In addition, though the basic legal framework for protecting several intellectual property exists in Zambia, subsidiary legislation is required to operationalise the principle legislation passed in 2016.

Finally, Zambia is a member of several international organizations that uphold specific intellectual property standards, including the World Trade Organization (WTO), the African Regional Intellectual Property Organization (ARIPO) and the World Intellectual Property Organization (WIPO). Arising from its membership to these organisations, Zambia is also party to

several international and regional treaties and protocols on intellectual property.

2.3.5 Institutional Framework for the Administration of Intellectual Property Rights in Zambia

Intellectual Property administration in Zambia is primarily vested in the Patents and Companies Registration Agency, a semi-autonomous executive agency of the Ministry of Commerce, Trade and Industry. Patents and Companies Registration Agency administers both industrial property and copyright and related rights. The copyright portfolio was under the Ministry of Information and Broadcasting Services until 2016 when it was transferred to PACRA with the aim of harmonizing operations, improving on efficiency of service delivery, reducing cost and enhancing mobilization of resources for the provision of IP services in Zambia.

2.3.6 The Patents and Companies Registration Agency

The Patents and Companies Registration Agency is a semi-autonomous entity that has a Board of Directors, appointed by the Minister for Commerce, Trade and Industry. The Board is in charge of the strategic direction and overall governance (performance, staffing, financial and legal issues) of the Agency. The Agency has statutory authority to charge for its services, recruit, train and retain staff according to its requirements. In terms of the level of autonomy, Zambia is currently ahead of many countries in Africa where IP offices are still small units/departments within government ministries.

Specialist human resources and information management systems are required to establish and effectively operate institutions charged with the administration of national IP systems. PACRA's current capacity in terms of staffing levels in the IP department

and the level of automation is inadequate. In addition, whilst PACRA has decentralized across all the provinces, IP services are only available at the headquarters in Lusaka. Further, the agency has no capacity to conduct substantive examination of patent applications. Although the Agency charges for its services, monies accrue to the Treasury and the Agency is provided with a grant. The grant, however is inadequate to sustain the operations of the Agency.

In view of the new IP laws, the functions of PACRA have increased. Therefore, there is need to strengthen the institutional, financial and human resource capacity of the Agency in order to effectively and efficiently deliver IP services to its users. There is also need to continue investing in ICT infrastructure, restructure operations and build capacity in the administration of new forms of intellectual property rights.

2.3.7 Plant Variety Protection

Plant Variety Protection (PVP), though a form of IP, is administered by the Seed Certification and Control Institute (SCCI) in the Ministry of Agriculture. This makes it a challenge due to absence of expertise in IP. As a result, there is lack of awareness of the value and importance of new plant variety in agriculture and horticulture which creates a barrier to the generation of IP in this sector.

2.3.8 Innovation, Creativity and Generation of IP Assets

At the national level, the generation of IP mainly takes place through small, medium and big industries, academic institutions and individuals. In Zambia, the level of innovation, creativity and generation of IP Assets by universities, R&D institutions, SMEs and Industries is very low. According to PACRA statistics, only 66 patent applications were filed by local applicants between 2010 and 2016. During the same period, 136 patent applications were filed by

foreign applicants.

In the area of trademark protection, statistics show that more trademark applications were filed by foreign applicants than Zambian applicants. Out of 12, 245 trademark applications filed during the period 2010 to 2016, 3, 831 were filed by Zambian entities representing 31 percent of the total applications received by PACRA during that period.

The above situation is attributed to low level of IP awareness, inadequate IP training and education, lack of institutional IP policies as well as uncoordinated system of funding for R&D institutions. In addition, low level of funding to R&D, lack of policy and fiscal incentives, as well as limited use of technology and IP information for innovation and research activities. The lack of an IP culture among the business community and the general public is also a contributing factor.

2.3.9 Technology Transfer and Commercialization of IP Assets

The level of technology transfer and commercialization of IP assets in Zambia remains very low. The review established that support structures to promote commercialization of IP rights - such as technology transfer offices, university start-up companies, technology incubators, prototype development facilities as well as science and industrial parks, are weak or lacking. Lack of institutional IP policy to guide on issues of ownership, benefit sharing, university-industry linkages and the lack of technology transfer policies to guide transfer of new technologies from outside into the country has compounded the situation. Further, there is limited use of intellectual property in the public domain.

2.3.10 Enforcement of IP Rights

Enforcement of IP rights is the weakest

aspect of IP systems in most developing countries and Zambia is not an exception. The following are the main challenges cited in connection with the enforcement of IPRs in Zambia:

- a) Lack of specialised IP skills:- Generally, there is lack of specialised skills within customs, police and the judiciary. Specifically, there is currently no special IP court and both IP enforcement officials and the courts do not have adequate knowledge on IP;
- b) IP enforcement provisions are found in various IP statutes:- The IP Enforcement provisions are currently found in various IP legislations and the Penal Code. In particular, the main provisions are contained in the Merchandise Marks Act and the Copyright and Performance Rights (Amendment) Act, 2010;
- c) Different Enforcement Agencies:- IP enforcement is undertaken by various organizations, in most cases in an uncoordinated manner;
- d) Lack of Border measures:- Border measure provisions to detect and deal with counterfeit and pirated goods are inadequate;
- e) Lack of training for IP Enforcement officials:- There is currently no institutionalised training on IP for enforcement and judicial officials;
- f) Low public awareness:- Enforcement is made even more difficult due to low public awareness by consumers and the public on IP in general, and also on economic and health issues

related to pirated and counterfeited goods.

In view of the above challenges, Zambia remains a significant market for counterfeit and pirated products, particularly for counterfeit medicines, alcoholic beverages and electronics. Therefore, there is need to address these challenges to strengthen IP enforcement.

2.3.11 Awareness on Various Aspects of Intellectual Property

In Zambia there is generally a low awareness and understanding of IP among key stakeholder groups, including the business sector, the scientific community and public officials, as well as the public (consumers) at large. As a result the number of IP applications from universities, research institutions, SMEs and industries, have remained low despite a lot of research and innovation activities taking place in these sectors. This is evidenced by the low level applications received by PACRA from local applicants as highlighted in paragraph 2.3.8.

2.3.12 IP Training and Education

Currently, IP Education and Training in Zambia is still inadequate. Apart from workshops, technical meetings, seminars/symposium which are facilitated by PACRA in collaboration with cooperating partners such as WIPO or ARIPO, there are no specific training programs on IP targeting researchers, business people and government officials in Zambia. Therefore, it is desirable that specific measures are taken to address the issue of IP Education and Training.

CHAPTER 3: VISION

A country in which Intellectual Property is effectively utilized as a tool for achieving socio-economic, industrial, technological and cultural development.

CHAPTER 4: RATIONALE

Intellectual Property is a useful tool in encouraging innovation and creativity necessary to advance the development of Zambia. Therefore, the National Intellectual Property Policy will take into consideration the aspects of the intellectual property system which were not adequately covered in the previous Policy. The revised Policy also provides an enabling legal and institutional framework in line with international best practice to support the economic growth and development of the country.

CHAPTER 5: GUIDING PRINCIPLES

The NIPP is aligned, guided and motivated by the Vision 2030, the Seventh National Development Plan (2017-2022) and several sector based policies including those on Science and Technology; Agriculture; Biotechnology; Industry and Trade, and Education. Effective and coordinated implementation of the policy will therefore be critical in fostering the contribution of IP in accelerating socio-economic and technological development.

The Policy will be guided by the following principles:

- (a) Responsiveness-** The NIPP is responsive to the socio-economic development aspirations of the country.
- (b) Effective Protection Systems** -The policy will provide an effective protection system covering all Intellectual Property aspects and supported by an effective

administration system.

(c) Access and Benefit Sharing (ABS) -

The policy recognises the importance of Access and Benefit Sharing (ABS) mechanisms when dealing with certain IP resources such as Traditional Knowledge, Genetic Resources and Expression of Folklore while taking into account the interest of the community.

(d) Prior Informed Consent -

The policy recognises the need for Prior Informed Consent (PIC) from local communities when dealing with traditional knowledge, genetic resources and expressions of folklore. Disclosure and Protection - Intellectual Property Rights holders are obliged, in return for protection of their rights, to publicly disclose information on their works in order to enrich the total body of technical knowledge in the world.

(e) Technology Transfer and Commercialization of IP Assets -

The policy recognises the importance of technology transfer and commercialization of IP rights.

(f) International Obligations -

The policy promotes the domestication of international obligations on IP that are in the interests of the nation.

CHAPTER 6: POLICY OBJECTIVES

The overall objective of the National Intellectual Property Policy is to facilitate the creation of an environment that stimulates and fosters the generation, protection, enforcement, management and increased exploitation of Intellectual Property Rights (IPRs).

The Vision of the Policy will be realized through the following specific objectives:-

- (a) promote innovation, research and development, creativity and the generation of intellectual property assets;
- (b) promote and facilitate the exploitation and commercialisation of intellectual property assets and technology transfer;
- (c) ensuring intellectual property rights are respected and effectively enforced;
- (d) educating and enabling the Business community and the general public to understand, manage and protect their intellectual property;
- (e) promote strategic use of IP system for the protection of Traditional Knowledge, Genetic Resources and Expressions of Folklore; and
- (f) promote IP awareness for the public at large.

CHAPTER 7: MEASURES

Specific Objective 1: *Promote innovation, Research and Development, creativity and the generation of intellectual property assets*

Measures

To achieve this policy objective, Government will implement the following measures:

- (a) orient national research laboratories, universities, and other research institutions towards emphasis on protection and commercialization research output rather than publication only;
- (b) establish and implement mechanisms for monitoring IP protection and commercialization in universities and R&D institutions

- (c) Promote IPR registration for minor and incremental innovations through the Junior Engineers, Technicians and Scientists (JETS)
- (d) provide incentives and awards to youths and SMEs in order to encourage innovation and creativity; and
- (e) enhance and streamline funding for R&D and Innovation.

Specific Objective 2: *Promote and facilitate the exploitation and commercialisation of intellectual property assets and technology transfer*

Measures

To achieve this policy objective, Government will implement the following measures:-

- (a) strengthen the national agency responsible for technology transfer and commercialization of IP assets;
- (b) improving the institutions, regulations and practices to foster an efficient and effective IP management system;
- (c) develop technology licensing training program;
- (d) develop mechanism to promote commercialization of IP assets in public and private sectors.
- (e) promote product enhancement using IP; and
- (f) promote valuation of IP rights as intangible assets.

Specific Objective 3: *Ensuring intellectual property rights are respected and effectively enforced*

Measures

To achieve this policy objective, Government will implement the following measures:-

- (a) develop training programs for enforcement officers and judiciary personnel;
- (b) promote coordination, cooperative, and collaborative Agreements among Agencies;
- (c) harmonise enforcement provisions contained in various legislation;
- (d) strengthen border measures in order to prevent entry of counterfeit and pirated products.; and
- (e) establish specialized IP Court /tribunal.

Specific Objective 4: *Educating and enabling the Business community and the general public to understand, manage and protect their intellectual property*

Measures

To achieve this policy objective, Government will implement the following measures:

- (a) Strengthen IP teaching in public and private sectors ;
- (b) mainstream IP into educational curriculum ; and
- (c) promote the use of the IP system by SMEs in order to allow them to fully exploit their existing IP assets and improve their capacity to create, develop and manage IP assets;

Specific Objective 5: *Promote strategic use of IP system for the protection of Traditional Knowledge, Genetic Resources and Expressions of Folklore*

Measures

To achieve this policy objective, Government will implement the following measures:

- (a) promote the preservation, development of traditional knowledge, genetic resources and expressions of folklore;
- (b) Raise awareness among traditional leaders and local communities on the value and benefits that can be derived from the exploitation of traditional Knowledge, genetic resources and expressions of folklore;
- (c) promote fair and equitable distribution of the benefits derived from the exploitation of traditional knowledge, genetic resources and expressions of folklore; and
- (d) promote the use and commercialisation of traditional knowledge, genetic resources and expressions of folklore for the benefit of traditional communities and the country at large.

Specific Objective 6: *Create awareness of the use and benefits of the IP system*

Measures

To achieve this policy objective, Government will implement the following measures:

- a) develop an outreach strategy targeting specific groups;
- b) promote IP awareness across all sections of society
- c) develop new information products and services ;
- d) Provide IP users with access to the necessary tools and information to increase their understanding of IP; and

- e) undertake studies on contribution of IP content in different industries on the economy, employment, exports and technology transfer.

CHAPTER 8: IMPLEMENTATION FRAMEWORK

The Government of Zambia is committed to the full implementation of the National Intellectual Property Policy. Since IP cuts across various disciplines including law, culture, health, commerce, education and agriculture, this Policy calls for a multi-sectorial approach in its implementation in order to foster collaborative efforts and to achieve the overall objective of the Policy.

8.1 INSTITUTIONAL ARRANGEMENT

The key institutions and their responsibilities in the implementation of this Policy are as outlined below.

8.1.1 Ministry of Commerce, Trade and Industry (MCTI) – MCTI will be responsible for:

- (a) coordinating the implementation of the Policy in collaboration with relevant line Ministries and all key players;
- (b) review of the Policy implementation;
- (c) mobilising resources for the implementation of the Policy; and
- (d) identification of international and regional IP treaties for accession/ratification.

8.1.2 Patents and Companies Registration Agency (PACRA) – PACRA shall be responsible for:

- (a) administer intellectual property law statutes
- (b) operationalisation of the defined aspects of the Policy, its

implementation and promotion;

- (c) developing Intellectual Property awareness programs in collaboration with key players;
- (d) promoting IP, innovation and creativity;
- (e) coordinate enforcement of IPRs in order to prevent IPRs infringement.

8.1.3 Ministry of Justice (MOJ) – MOJ shall be responsible for:

- (a) legislative drafting ; and
- (b) facilitating law revision in order to keep up with global developments, progress in science and technology and socio-economic need,
- (c) Provide guidance on ratification of international treaties signed by Zambia

8.1.4 Ministry of Finance (MOF) – MOF shall be responsible for:

- (a) providing funds for infrastructure, research and other services including funding of the operations of the national IP office;
- (b) providing financial resources to line ministries and relevant government agencies for the effective implementation of the programs identified in the Policy; and
- (c) putting in place an appropriate tax regime that fosters and promotes creativity and technology transfer.

8.1.5 Ministry of Agriculture – The Ministry of Agriculture shall be responsible for:

- (a) Putting in place measures to protect the IPRs related to this sector including the development and protection of geographical indications and plant variety rights;

- (b) coordinating with the Ministry of Commerce, Trade and Industry and PACRA on training, sharing of expertise and adopting of best practices on Intellectual Property;
- (c) dissemination of information on plant breeding innovations;
- (d) conduct and promote research in agriculture; and
- (e) promoting innovation in traditional breeding and agricultural production.

8.1.6 Ministry of Information and Broadcasting (MIBS) – MIBS shall be responsible for facilitating the dissemination of information to the general public on the importance of IP for socio-economic and cultural development.

8.1.7 Ministry of Tourism and Arts (MTA) – MTA shall be responsible for:

- (a) promoting the growth of creative and performing arts industry in Zambia;
- (b) facilitating the development of the Arts and preservation of culture;
- (c) promoting Intellectual Property among artists;
- (d) facilitating networking among artists and sharing of information on emerging issues on IP; and
- (e) marketing of cultural products domestically and in global markets.

8.1.8 Ministry of General Education (MOGE) – MOGE shall be responsible for:

- (a) facilitating the integration of IP in the revised Curriculum; and
- (b) promoting the development of an IP culture among trainers and learners.

8.1.9 Ministry of Higher Education (MOHE) – MOHE shall be responsible for:

- (a) promoting research and development;
- (b) promoting the protection and commercialisation of research results; and
- (c) introducing and promoting IP education in the formal education system in institutions of higher learning.

8.1.10 Ministry of Chiefs and Traditional Affairs (MOCTA) – MOCTA shall be responsible for:

- (a) preserving national heritage;
- (b) safeguard national heritage such as traditional knowledge and traditional cultural expressions against misappropriation; and
- (c) creating awareness among traditional leaders and local communities on the intrinsic monetary value of traditional knowledge and traditional cultural expressions.

8.1.11 Ministry of Home Affairs – MHA shall be responsible for:

- (a) enforcing the implementation of IP laws;
- (b) training of IP enforcement officers;
- (c) investigating and prosecuting of IP rights infringements; and
- (d) provide IP education in police training academies.

8.1.12 Ministry of Health – MOH shall be responsible for:

- (a) using TRIPS flexibilities in order to ensure access to essential medicines;
- (b) raising awareness on the importance

of IP for the sustainability and improvement of public health systems; and

- (c) promoting innovations in the development of traditional medicines.

8.1.13 National Technology Business Centre (NTBC) - NTBC shall be responsible for:

- (a) facilitating local technology transfer;
- (b) facilitating commercialisation of local innovations;
- (c) providing business development services (start-up creations)
- (d) monitoring the use and uptake of local technologies by industry; and
- (e) facilitating linkages between the industry and local inventors /innovators.

8.1.14 National Science and Technology Council (NSTC) - NSTC shall be responsible for:

- (a) promoting the development of indigenous technological capacity;
- (b) promoting the use of science and technology in industry;
- (c) mobilising financial resources for research and development; and
- (d) coordinating research in science and technology.

8.1.15 Zambia Bureau of Standards (ZABS) – ZABS shall be responsible for:

- (a) facilitating the detection of counterfeits through preparation of standards relating to products; and
- (b) testing and certification of industrial products.

8.1.16 The Zambia Compulsory Standards Agency (ZCSA) – ZCSA shall be responsible for facilitating the detection of counterfeits through the verification of the quality and compulsory standards of the products entering the Zambian Market.

8.1.17 The Zambia Metrology Agency:- ZMA shall be responsible for facilitating the detection of counterfeits through the provision of metrology services.

8.1.18 Competition and Consumer Protection Commission (CCPC):- CCPC shall be responsible for:

- (a) protecting consumer against the use and consumption counterfeited and pirated products; and
- (b) conducting public awareness on the dangers of counterfeit products on health and safety.

8.1.19 Zambia Development Agency (ZDA) – ZDA shall be responsible for:

- (a) enhancing the competitiveness of SMEs through the use of the IP system;
- (b) promoting the use of the IP system by enterprises; and
- (c) promoting and facilitating international technology transfer and Foreign Direct Investment through protection of IPRs.

8.1.20 Citizens Economic Empowerment Commission (CEEC) – CEEC shall be responsible for

- (a) supporting and facilitating the commercialisation of innovative and creative ideas of local entrepreneurs;
- (b) encouraging the protection of innovation and creative ideas by local entrepreneurs through the use of the IP system; and

- (c) promoting and facilitating the establishments of industrial yards.

8.1.21 Zambia Revenue Authority (ZRA):—

ZRA shall be responsible for enforcing border measures to prevent entry of counterfeit and pirated goods into the channel of commerce.

8.1.22 Academia and Research institutions:— shall be responsible for:

- (a) generation, protection and commercialisation of intellectual property assets;
- (b) forstering linkages with industries;
- (c) developing appropriate technologies using patent information in public domain; and
- (d) developing and implementation of institutional IP policies.

8.1.23 Collective Management Organisations – shall be responsible for the management of copyright on behalf of the rights holders and the distribution of royalties.

8.1.24 IP Professional Service Providers – shall be responsible for:

- (a) providing information and support on IP and mechanisms for protection, including its registration;
- (b) offering assistance with the management and exploitation of IP;
- (c) helping develop strategies for research centers;
- (d) working with SMEs on IP protection strategies; and
- (e) providing guidance on IP valuation;

8.1.25 Cooperating Partners – shall be responsible for the provision of financial and technical support.

8.1.26 Media- shall be responsible for advocacy and information in provision on IP.

8.2 LEGAL FRAMEWORK

The existing legal framework supporting the IP system in Zambia comprises the following pieces of legislation:

- (a) Trade Marks Act, Cap 401 of the Laws of Zambia;
- (b) Patents Act No. 40 of 2016;
- (c) Industrial Designs Act No. 22 of 2016;
- (d) Layout-Designs of Integrated Circuits Act No. 6 of 2016;
- (e) The Copyright and Performance Rights Cap 406 of the Laws of Zambia;
- (f) The Plant Breeders Rights Act No. 18 of 2007; and
- (g) The Merchandise Marks Act, Cap 405 of the laws of Zambia.

However, for the effective implementation of this Policy the following laws will need to be amended or repealed:

- (a) Trade Marks Act, Cap 401 of the laws of Zambia;
- (b) The Copyright and Performance Rights Cap 406 of the Laws of Zambia;
- (c) The Plant Breeders Rights Act No. 18 of 2007; and
- (d) The Merchandise Marks Act, Cap 405 of the Laws of Zambia.

Further, new pieces of legislation will need to be developed to support the implementation of the following measures:

- (a) re-orient national research laboratories, universities, and other research institutions towards

emphasis on protection and commercialization research output rather than publication only;

- (b) encourage creation of IPRs in public funded academic and R & D institutions by tying it to research funding and making it one of the Key Performance Indicators for career progression;
- (c) provide incentives and awards in order to encourage innovation and creativity among youths and businesses;
- (d) encourage branding and use of geographical indications;
- (e) harmonise enforcement provisions contained in various legislation;
- (f) establish specialized IP Court;
- (g) strengthen border measures in order to prevent entry of counterfeit and pirated products; and
- (h) establish an IP Academy to provide specialised IP training.

In order to effectively manage and administer Intellectual Property in Zambia, there is need to establish a stand-alone national IP agency whose mandate will exclusively be on IP protection, awareness, training and advising Government on IP matters.

8.3 RESOURCE MOBILIZATION AND FINANCING

For the NIPP to be successfully

implemented, there will be need for adequate funding. The Government is committed to fund the implementation of the Policy and will secure technical and financial support from Cooperating partners and international organisations to complement its efforts. All line ministries and implementing agencies are expected to annually budget for the implementation of the activities identified by this policy and its implementation plan.

8.4 MONITORING AND EVALUATION

This policy will be accompanied by a comprehensive implementation plan that will detail programmes and deliverables, the implementing Agencies and the timelines for each programme/activity under each policy measure.

MCTI will serve as the principal ministry responsible for the evaluation of the policy, while monitoring will be undertaken and reported by each implementing institution. The focus of the monitoring and evaluation efforts will be in three key areas, namely:-

- (a) technical performance to assess quality, effectiveness, and relevance of interventions in achieving set policy objectives;
- (b) time performance to ensure that programmes and projects are implemented on schedule; and
- (c) cost performance to review the relationship between projected costs of interventions, actual expenditure and the resultant output.







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