



REPUBLIC OF GHANA

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# NATIONAL INTELLECTUAL PROPERTY POLICY AND STRATEGY

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The development process saw the formation and inauguration of the National Intellectual Property Policy Committee (NIPPC), the NIPPC held working sessions, stakeholder meetings with participants from Government Ministries, Research Institutions, private sector and trade associations. The Government of Ghana wishes to express its sincerest appreciation for the contributions of all participants.

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Dawarnoba Baeka  
Chief Director  
Ministry of Trade and Industry



## FOREWORD

Intellectual Property Rights are now internationally recognized as important tools for the development of economies. It covers all aspects of human activity. Governments the world over, contend with challenges as they strive to build vibrant economies which will enable their citizens achieve the best standards of life. It has been proven that an efficient and well established intellectual property protection system is a catalyst for economic growth especially in the private sector of economies.

Ghana's decision to develop and implement an Intellectual Property Policy is in line with international best practice but more importantly an indication of her determination not only to achieve a vibrant economy but also to ensure advancements in the fields of innovation, technology and science.

The National Intellectual Property Policy and Strategy identifies the various aspects of IP and provides strategies for the implementation of a functional and effective Intellectual Property Protection System to be used as a tool for rapid national development.

It is expected that the implementation of the National Intellectual Property Policy and Strategy will ensure the exploitation of intellectual property rights for the accelerated development and growth of industry, science, technology and the creative arts in Ghana.

**Hon. Marietta Brew Appiah-Opong**  
**Minister of Justice and Attorney General**



## TABLE OF ABBREVIATION

AGI	Association of Ghana Industries
ARIPO	African Regional Intellectual Property Organization
ATAG	Aid to Artisans Ghana
CO	Copyright Office
CRIG	Cocoa Research Institute of Ghana
CSRPM	Centre for Scientific Research into Plant Medicine
CSIR	Council for Scientific and Industrial Research
FDA	Food and Drugs Authority
GAPI	Ghana Association of Phonographic Industry
GASS	Ghana Academy of Arts and Sciences
GRs	Genetic Resources
GI	Geographical Indication
GIPC	Ghana Investment Promotion Centre
GPS	Ghana Police Service
GSA	Ghana Standards Authority
GRATIS	GRATIS Foundation
ICT	Information and Communications Technology
IP	Intellectual Property
IPAS	Industrial Property Automation System
IPRs	Intellectual Property Rights
KNUST	Kwame Nkrumah University of Science and Technology
MESTI	Ministry of Environment, Science, Technology and Innovation
MOCTA	Ministry of Chieftaincy and Traditional Affairs
MOE	Ministry of Education
MOFA	Ministry of Food and Agriculture
MOF	Ministry of Finance
MoI	Ministry of Information
MOJAG	Ministry of Justice and Attorney General's Department
MOTI	Ministry of Trade and Industry
MTCCA	Ministry of Tourism, Culture and Creative Arts
MUSIGA	Musicians Union of Ghana
NBSSI	National Board for Small Scale Industries
NDPC	National Development Planning Commission
NIPPC	National Intellectual Property Policy Committee
NIPPS	National Intellectual Property Policy and Strategy
PCT	Patent Cooperation Treaty



<b>PSDS</b>	Private Sector Development Strategy
<b>PVP</b>	Plant Varieties Protection
<b>R&amp;D</b>	Research and Development
<b>RGD</b>	Registrar General's Department
<b>SECO</b>	Swiss State Secretariat for Economic Affairs
<b>STI</b>	Science, Technology and Innovation
<b>SMEs</b>	Small and Medium Scale Enterprises
<b>SMMEs</b>	Small, Micro and Medium Enterprises
<b>TK</b>	Traditional Knowledge
<b>TISC</b>	Technology Innovation Support Centres
<b>TRIPS</b>	Trade Related Aspects of Intellectual Property Rights
<b>TSSP</b>	Trade Sector Support Program
<b>TTO</b>	Technology Transfer Office
<b>UCC</b>	University of Cape Coast
<b>UG</b>	University of Ghana
<b>UPOV</b>	International Union for the Protection of New Varieties of Plants
<b>WCT</b>	The WIPO Copyright Treaty
<b>WIPO</b>	World Intellectual Property Organization
<b>WTO</b>	World Trade Organization



## EXECUTIVE SUMMARY

### Introduction

The National Intellectual Property Policy and Strategy (NIPPS) has been prepared to strengthen the management of the intellectual property system in Ghana and also to encourage innovation and creativity within the system. NIPPS is driven by Ghana's trade policy prescriptions, which aims to bring Ghana's IPRs system in line with its international commitments under the WTO on TRIPS and international best practices. NIPPS has also been informed by existing national development policies including the Shared Growth Development Agenda, the National Cultural Policy, the National Drug Policy, the Private Sector Development Strategy, the Industrial Policy and the Science and Technology and Innovation Policy among others.

### Situational Analysis of Intellectual Property (IP) System in Ghana (SWOT Analysis)

The development of the National IP Policy and Strategy started with the situation analysis of the IP system in Ghana. The situation analysis was based on a Report "*comprehensive background paper on the current state of the IP regime in Ghana*" prepared and completed in April 2011 by the Ministry of Trade and Industry and the Ministry of Justice and Attorney General's Department; data collected during consultative workshops for the National Intellectual Property Policy Committee (NIPPC) in December, 2010 and in May, 2011.

### THE STRENGTHS OF THE IPSYSTEM IN GHANA

**Current legislations on intellectual property rights:** Between 2000 and 2006, Ghana updated its intellectual property legislation to; provide for recognition of new IP rights; review existing IP rights to bring them into compliance with Trade Related Aspects of Intellectual Property (TRIPs) and enhance enforcement. This covered the following:

- a. **Patents Act, 2003 (Act 657);** provides protection of invention (a product or process) in the form of Patent or Utility Model.
- b. **Trademarks Act, 2004 (Act 664);** provides a system of registration of trademarks.
- c. **Industrial Designs Act, 2003 (Act 660);** provides registration of industrial designs.
- d. **Copyright Act, 2005 (Act 690);** provides for protection of artistic work, musical work, sound recording, audio-visual, choreographic work, derivative works and computer software or programs.
- e. **Geographical Indications Act, 2003 (Act 659);** provides for a system of registration, although protection under the Act is available regardless of registration..
- f. **Layout-Designs (Topographies) of Integrated Circuits Act, 2004 (Act 667);** provides for a registration system for layout-designs of integrated circuits.
- g. **Protection against Unfair Competition Act, 2000 (Act 589);** provides for protection against unfair competition and trade secrets.

**International obligations on IP rights:** Ghana has complied with most of the key international Agreements, Treaties and Protocols related to intellectual property rights. They include - The Paris Convention for the Protection of Industrial Property; The Berne Convention for the Protection of Literary and Artistic Works; The Convention establishing the World Intellectual Property Organization (WIPO); The Patent Cooperation Treaty (PCT); The WIPO Copyright Treaty (WCT); Hague Agreement on the International Deposit of Industrial Designs; Madrid System on International Registration of Marks and The Lusaka Agreement.

***Institutional framework for the administration and management of IP rights:*** There are two institutions that are involved in the administration of IP in Ghana:

- a. The Industrial Property Office - Under the Ministry of Justice and Attorney General's Department, Registrar General's Department. Has responsibility for registering trademarks, patents, industrial designs, geographical indications and the layout-designs (topographies) of integrated circuits.
- b. The Copyright Office - Under the Ministry of Justice and Attorney General's Department. Has responsibility for the administration of copyright and related rights.

***Institutional and legal framework for Enforcement of IP rights:*** Ghana has legislative and institutional framework for the enforcement of IP rights. The following institutions supports enforcement of IP rights:

- a. **The Copyright Office** - An enforcement unit has been set up in the Copyright Office manned by policemen seconded to the office to handle anti-piracy exercises.
- b. **Ghana Revenue Authority (GRA)** - Through the commissioner of customs, GRA plays a critical role in the enforcement of IP rights in Ghana. Custom agents may stop shipments at the borders, conduct raids, seize counterfeit or pirated materials and arrest persons in possession of infringing goods.
- c. **Ghana Police Service (GPS)** - supports the copyright office to enforce IP rights. GPS also has powers of prosecution under the Criminal Code.
- d. **The Food and Drugs Authority (FDA)** - is mandated to advise the Minister of Health on measures for the protection of the health of consumers. FDA participates in anti-counterfeiting measures including investigation, testing, raids and arrests.
- e. **The Ghana Standards Authority (GSA)** - is mandated to ensure that products in the Ghanaian market meet set standards. The GSA has officers at the major entry points and ports and is often called upon to test products suspected to be counterfeited.
- f. **The Ghana Investment Promotion Centre (GIPC)** - amongst its functions include registration and keeping records of all technology-transfer agreements relating to investments under the Investment Promotion Centre Act.

#### **WEAKNESSES OF THE IP SYSTEM IN GHANA**

***Inadequate legal framework for the protection of intellectual property rights:*** During the period 2003-2006, Ghana amended and updated six intellectual property laws on Patents, Trademarks, Industrial Designs, Geographical Indications, Layout (Topographies) of Integrated Circuits and Protection against Unfair Competition in order to comply with her obligations under the TRIPS Agreement, the TRIPS flexibilities were not fully incorporated. Below are some issues to be considered in further amendment to the IP laws:

***Lack of IP laws in new and emerging areas:*** Ghana currently has no law on traditional knowledge and genetic resources. Secondly, a draft Bill on plant breeders' rights (plant varieties protection) was first prepared in 2002 but is yet to be passed by Parliament. To accede to UPOV, Ghana will be required to complete the development of the law for plant breeders' rights (plant variety protection). Ghana, being a member of ARIPO, and a signatory to the Swakopmund Protocol on traditional knowledge and genetic resources will be required to develop or update its laws and policies before she can ratify the protocol. The same is with the case of the Singapore Treaty on Trademarks.



**Inadequate institutional framework for the administration and management of intellectual property rights:** A review of the Registrar General's Department and the Copyright Office identified the following challenges:

- a. **Staffing:** The staffing level is inadequate both in terms of numbers and skills, which has negatively affected the ability of the two offices to deliver on their mandates effectively.
- b. **Automation of IP registration processes:** Information and Communications Technology (ICT) systems have become a critical requirement for efficient IP administration and management. Whereas in December 2006 WIPO installed the Industrial Property Automation System (IPAS) for the trademark registry, a manual system is still used in the administration of the other industrial property rights. Similarly, in 2010 WIPO facilitated the automation of the registration process of the Copyright Office, the office is however yet to be fully automated.
- c. **Strong IP Association:** There are weak Associations of IP professionals, inventors and creators to provide the necessary linkages between a national IP system and stakeholders, which is critical.
- d. **IP Professionals:** There is no system of registration of IP professionals in Ghana, although the Registrar General's Department maintains a list of trademark agents.
- e. **Autonomous National Intellectual Property Office:** An important policy issue to be addressed is the continued separation of the Industrial Property Unit of the Registrar General's Department and the Copyright Office. International best practice in IP administration appears to favour an integrated IP office handling all aspects of industrial property and copyright matters.

Low level of creativity and innovation by business enterprises, universities and research institutions

The situation analysis showed that the level of creativity and innovation in Ghana is currently low. This situation is attributed to the following challenges:

- a. The Industry and SMEs sub-sector in Ghana: very low level of awareness of IP; high cost of applying for and maintaining IP assets as well as commercialization of IP rights; weak IP enforcement mechanisms; and weak legal, institutional and policy framework for the management of IP rights by industry. Furthermore, majority of business enterprises do not have written policies for the creation, acquisition, protection and commercialization of IP.
- b. Most universities and R & D institutions do not have written IP policies. Secondly, the percentage of budgetary allocation to the creation, acquisition, protection, promotion and commercialization is often quite minimal. Finally, the level of IP awareness in universities and research institutions is surprisingly very low.

#### **Inadequate policy and institutional framework for commercialization of intellectual property rights and technology transfer**

There is inadequate policy and institutional framework for technology transfer and commercialization of intellectual property rights.

#### **Weak institutional and legal framework for Enforcement of IP rights**

Enforcement of IP Rights has been identified as the weakest part of the IP system in Ghana. Laws governing enforcement are found in various IP laws. There are also several agencies involved in IP enforcement and the coordination of their activities is a challenge. The border measures are not effective enough. Enforcement personnel are not adequately conversant with IP rules and there are no special programs for consumer and public education to strengthen enforcement. Situational analysis indicates that the weak IP enforcement regime in Ghana is a de-motivating factor for industries to create and commercialize IP rights and for universities to protect their inventions

## **OPPORTUNITIES**

A review of existing national development policies provides justifications and opportunities for the development of the National Intellectual Property Policy and Strategy (NIPPS). These policy documents have clearly recognized the role of intellectual property rights in the development of the various sub sectors of the economy of Ghana, and highlighted which aspects or elements of the IP systems need to be developed or strengthened. These documents include

- a. Ghana Shared Growth and Development Agenda (GSGDA) 2010-2013
- b. National Cultural Policy
- c. Ghana National Drug Policy
- d. The National Trade Policy
- e. Private Sector Development Strategy (PSDS II) 2010-2015
- f. Ghana Industrial Policy
- g. Science, Technology and Innovation Policy

## **KEY STRATEGIC ISSUES**

Based on the review of the strengths, weaknesses and challenges in the IP system in Ghana as well as the opportunities provided by various national development policies, the following nine strategic issues have been identified:

1. Weak legal framework for the protection of intellectual property rights
2. Weak institutional framework for the administration and management of intellectual property rights
3. Low level of creativity and innovation
4. Low level of IP generation and commercialization
5. Weak enforcement of intellectual property rights
6. Lack of IP professionals
7. Low level of public awareness on issues of intellectual property rights
8. Weak Intellectual Property Service industry
9. Lack of research on IP related issues

## **STRATEGIC DIRECTION**

The strategic direction of NIPPS is expressed through its vision, mission and long term goal. The vision is for Ghana to be amongst the leading countries in the utilization of IP as a tool for rapid national development. The mission is to contribute towards enhancing the competitiveness of Ghana by improving and increasing the use of intellectual property systems. NIPPS long term goal is to exploit intellectual property rights for accelerated growth in technological and industrial development in Ghana.



## **POLICY OBJECTIVES**

NIPPS has identified the following nine (9) strategic policy objectives which will be followed in the next five years;

1. To strengthen the legal framework for protection of intellectual property rights.
2. To strengthen the institutional framework for the administration and management of IP rights.
3. To promote creativity and innovation to enhance IP generating activities in Ghana.
4. To promote and facilitate commercial exploitation of IP rights and technology transfer.
5. To strengthen legal and institutional framework for enforcement of IP rights.
6. To develop adequate human resource capacity in the administration, protection, commercialization and enforcement of IP rights.
7. To create public awareness on IP issues for the general public and identifiable groups.
8. To develop and promote Intellectual Property Services industry in Ghana.
9. To promote research on IP related issues.

For each of these strategic objectives, policy prescriptions have been formulated. To achieve the policy prescriptions, a total of thirty four (34) projects, have been identified to be implemented.

## **IMPLEMENTATION FRAMEWORK**

The implementation of the National Intellectual Property Policy and Strategy will require several collaborators and hence the need for a framework for effective coordination and monitoring of the implementation process. An implementation framework consisting of the following entities have been designed: Inter-Ministerial Coordinating Group, Steering Committee, Project Management Unit and the Inter-Agency Coordination Group (Implementing Agencies).

- a. **Inter-Ministerial Coordinating Group** - This will be the highest body in the coordination process and will have ministerial oversight responsibilities. It will be made up of the Ministry of Justice and Attorney General's Department and Ministry of Trade and Industry (who will be the co-chair), and other relevant ministries. This group will give the needed political support to the implementation of the National IP Policy and Strategy and will engage Cabinet on all issues related to the said policy and strategy. The group will also be responsible for resource mobilization and allocation.
- b. **Steering Committee** - This committee will report to the Inter-Ministerial Coordinating Group. The committee will be made up of members who currently form the National IP Policy Committee and a representative from the project management unit. This committee will have direct responsibility for overseeing the implementation of NIPPS.
- c. **Project Management Unit** - This unit will serve as a secretariat and will carry out active coordination of all activities being implemented under NIPPS. The unit will be led by a project coordinator and who will also be a member of the Steering Committee.
- d. **Inter-Agency Coordination Group** - All implementing agencies will have a focal person or persons. These persons will form the Inter Agency Coordination Group. Each agency will develop work plans for approval and monitor their implementation of the projects.
- e. **The Implementing Agencies** will consist of ministries, government agencies, universities, research institutions and other analogous institutions and trade associations which will be implementing the projects under the National IP policy and strategy. The Inter-Agency Coordination Group will report to the project management unit.

### **Monitoring and Evaluation**

A monitoring and evaluation framework for the policy and strategy will be designed and applied for the monitoring and evaluation of NIPPS.

### **Resource Mobilization**

The successful implementation of this policy and strategy will require the utilization of a mix of resources in terms of financial and technical assistance and support. Resources will be sourced from the Government of Ghana, international institutions, bilateral donor agencies and other sources such as non-governmental organizations or quasi national government sources.



## 1.0 INTRODUCTION

The conclusion of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) under the World Trade Organization (WTO) in the 90's defined a new trend in international policies toward protecting Intellectual Property Rights (IPRs). First, the emergence of new technologies demands the continuous adaptation of IPRs' instruments. Secondly, the process of economic globalization has enabled intellectual property to cross international boundaries more easily.

Globalization and technological advancement are changing the landscape of the world economy. Trade in high value added and knowledge intensive goods and services has become central to many economies including emerging economies such as China and India. Knowledge based industries are becoming the drivers of economies - driven by innovative ideas which could be improved products, new brands and or creative expressions. As a result, intellectual property rights, the means by which these knowledge based assets are owned, have become a cornerstone of economic activity.

Recognizing the opportunities and challenges the current trend in IPRs present, Ghana in its trade policy has strategies to bring Ghana's IPRs system in line with international commitments under WTO Agreement on TRIPS and best practices. Ghana has prepared this National IP Policy and Strategy (NIPPS) to strengthen the management of IPRs in order to encourage innovation, promote the transfer of technology and know-how, enhance productivity and facilitate trade and industrial competitiveness.

This process of developing the NIPPS was started in July 2010, with the establishment of the National Intellectual Property Policy Committee (NIPPC) by the Government of Ghana. The mandate of NIPPC was to develop the national IP policy and strategy. It had a wide membership, representing over twenty (20) organizations. To come up with the IP policy and strategy, NIPPC received useful inputs from a comprehensive background paper - *the state of intellectual property rights administration, utilization, promotion and enforcement in Ghana* - which was prepared by a local consultant, commissioned under the Swiss-Ghana Intellectual Property (SGIP) project. The SGIP was a technical assistance initiative of the Government of Ghana under the Trade Sector Support Program (TSSP) funded by the Government of the Swiss Confederation through the Swiss State Secretariat for Economic Affairs (SECO).

The preparation of NIPPS also received support from the World Intellectual Property Organization (WIPO), following a request to WIPO by the Registrar General's Department for assistance in formulating a National IP Policy and Strategy. WIPO assigned an international IP expert to guide the NIPPC in preparing the draft national IP policy and strategy.

The intellectual property system is a basic tool for developing and utilizing knowledge-based resources. Ghana has set herself to improve its IP system to take advantage of this potential. The IP policy and strategy has taken into consideration the full cycle of intellectual property which is the creation, utilization, protection, administration, and enforcement of intellectual property.

This policy document is structured in six chapters. Chapter one provides a brief overview of the context under which NIPPS has been developed. Chapter two deals with the situational analysis of the IP regime in Ghana. After a brief presentation of the strategic direction in chapter three, detailed policy objectives and strategies are presented in chapter four. Chapter five gives the action plans and describes each of the thirty four (34) projects envisaged to be undertaken during the plan period to realize the policy objectives. Chapter six deals with implementation framework and looks at the issues of institutional arrangement and coordination, resource mobilizations and monitoring and evaluation.



## 2.0 SITUATIONAL (SWOT) ANALYSIS OF INTELLECTUAL PROPERTY (IP) SYSTEM IN GHANA

### 2.1. Introduction

The development of the National IP Policy and Strategy started with the assessment of the current IP situation in Ghana. The situation analysis was based on a Report "comprehensive background paper on the current state of the IP regime in Ghana" prepared in April 2011 by the Ministry of Trade and Industry and the Ministry of Justice and Attorney General's Department through the support of the Government of the Swiss Confederation (the Swiss State Secretariat for Economic Affairs - SECO), under the Swiss-Ghana Intellectual Property (SGIP) project. This was complemented by data collected during a consultative workshop for the National Intellectual Property Policy Committee (NIPPC) which took place in December, 2010 as well as a report prepared by the NIPPC during a two day working session in May, 14-15, 2011. The situation analysis is presented in this section under the following four headings:

1. The strengths of the IP system of Ghana
2. The weaknesses, threats and challenges currently experienced
3. The opportunities – linking the IP strategy with the national development agenda
4. The key strategic issues arising from the situation analysis

### 2.2 The strengths of the IP system in Ghana

#### 2.2.1. Current legislations on intellectual property rights

Between 2000 and 2006, Ghana updated its intellectual property legislation to; provide for recognition of new IP rights by reviewing existing IP rights to bring them into compliance with Trade Related Aspects of Intellectual Property (TRIPs) and enhance enforcement, as briefly described here below:

a. **Patents Act, 2003 (Act 657)** provides protection of an invention (a product or process) if it is new, involves an inventive step and is industrially applicable. Protection for smaller inventions is provided for under the Act by means of Utility Model Certificates. An invention qualifies for a utility model certificate if it is new and industrially applicable. The Act provides for a term of protection of 20 years for patents and seven years for utility models. The Patent Act 2003 replaced the Patent Law (1992). The new Act redefined the scope of protection and what is considered patentable subject matter and was intended to bring Ghana in compliance with the Agreement on Trade Related Aspects of Intellectual Property administered by the World Trade Organization (WTO).

b. **Trademarks Act, 2004 (Act 664)** provides for a system of registration of trademarks and a term of protection of 10 years renewable for consecutive ten-year periods.

c. **Industrial Designs Act, 2003 (Act 660)** provides registration of industrial designs. The Act provides a term of protection of five years renewable for two consecutive periods of five years each. The protection of textiles and textile designs, a chief concern for the Ghanaian people, is covered under this law.

- d. **Copyright Act, 2005 (Act 690)** provides for protection of artistic work, musical work, sound recording, audio-visual, choreographic work, derivative works and computer software or Programs. The Act provides for both economic and moral rights of authors. The duration of copyright is the life of the author plus 70 years. The Copyright Act (2005) replaced the Copyright Law of 1985. The purpose of the new law was to bring Ghanaian Copyright law into conformity with the Ghanaian Constitution, to help strengthen protection of copyrights and related rights in Ghana and to bring Ghana into compliance with international obligations. It also extended the terms of protection from 50 to 70 years.
- e. **Geographical Indications Act, 2003 (Act 659)** provides for a system of registration, although protection under the Act is available regardless of registration. Nevertheless, registration creates the presumption that the indication is a GI under the Act, and interested parties are encouraged to register.
- f. **Layout-Designs (Topographies) of Integrated Circuits Act, 2004 (Act 667)** provides for a registration system and a ten-year period of protection for layout-designs of integrated circuits.
- g. **Protection against Unfair Competition Act, 2000 (Act 589)** provides for protection against unfair competition and trade secrets.

### ***2.2.2. Ghana's international obligations on IP rights***

Currently Ghana has complied with the following key international Agreements, Treaties and Protocols related to intellectual property rights:



- a. **The Paris Convention for the Protection of Industrial Property:** This is the first international treaty on intellectual property and was signed on 20 March 1883 and came into force on 7 July 1884. The Paris Convention came into force in Ghana on 28 September 1976.
- b. **The Berne Convention for the Protection of Literary and Artistic Works.** The Berne Convention, which was adopted on 9 September 1886, requires signatories to recognize the copyright of works of authors from other signatory states in the same way as it recognizes the copyright of its own nationals. The Convention also requires member states to provide strong minimum standards for copyright law. Under the Berne Convention, copyright protection must be automatic. Ghana acceded to the Berne Convention on 11 July 1991.
- c. **The Convention establishing the World Intellectual Property Organization (WIPO).** The WIPO Convention was signed on 14 July 1967 and entered into force on 26 April 1970. Ghana acceded to the WIPO Convention on 12 March 1976 and it came into force on 12 June 1976.
- d. **The Patent Cooperation Treaty (PCT).** The PCT was adopted in June 1970 and came into force on 24 January 1978. The PCT system became operational on 1 June 1978. The Treaty provides a unified procedure for filing patent applications to protect inventions in each of its contracting states. Ghana acceded to the PCT on 26 November 1996 and it came into force three months later.
- e. **The WIPO Copyright Treaty (WCT).** The WCT was adopted in 1996 and came into force on 6 March 2002. The WCT is a special agreement under the Berne Convention which provides additional protections for computer programs and databases. This expansion was deemed necessary due to advances in information technology. The WCT came into force in Ghana on 18 November 2006.
- f. **Hague Agreement on the International Deposit of Industrial Designs.** The Hague Agreement was adopted on 6 November 1925 and came into force on 1 June 1928. This WIPO administered Agreement provides a mechanism for registering an industrial design in several countries by means of a single application, filed in one language, with one set of fees. Ghana acceded to the Hague Agreement on 16 June 2008.
- g. **Madrid System on International Registration of Marks.** The Madrid Protocol was adopted on 27 June 1989 and came into force on 1 December 1995. The Madrid system (comprising the Madrid Agreement and the Madrid Protocol) provides a framework for facilitating the registration of trademarks in multiple jurisdictions around the world. Registration through the Madrid system does not create an 'international' registration. Instead it creates a bundle of national rights, which are able to be administered centrally. The Madrid system is administered by WIPO. The Madrid Protocol entered into force in Ghana on 16 September 2008.
- h. **The Lusaka Agreement.** The Lusaka Agreement was adopted on 9 December 1976 and came into force on 15 February 1978. The Agreement established the African Regional Intellectual Property Organization (ARIPO). The Lusaka Agreement came into force in Ghana on 15 February 1978.

### **2.2.3. Institutional framework for the administration and management of IP rights in Ghana**

The administration of IP in Ghana is the responsibility of the Registrar General's Department and the Copyright Office, which are under the Ministry of Justice and Attorney General's Department. A unit in the Registrar General's Department handles the industrial property aspects of IP whereas the Copyright Office handles copyright issues. In addition, there are other institutions that support the two offices in the administration of IP. These include the Crops Services Directorate of the Ministry of Food and Agriculture, the Ghana Revenue Authority (Customs Division), the Food and Drugs Authority, the Ghana Police Service, the Ghana Standards Authority (GSA) and the Ghana Investment Promotion Centre. These are briefly discussed below:

a. **The Industrial Property Office** - The Registrar General's Department (RGD) was established as a department within the Ministry of Justice by the Civil Service Regulations 1961 (L.I 139). The department's mandate, among others, is to administer a number of laws relating to the registration of businesses, marriages, industrial property rights and administration of estates. The Industrial Property Office (IPO) is a unit under the Registrar General's Department and has responsibility for registering trademarks, patents, industrial designs, geographical indications and the layout-designs (topographies) of integrated circuits.

b. **The Copyright Office** - was first established under the Copyright Law, 1985 (PNDCL 110). The provisions on the Copyright Office (CO) were re-enacted under the Copyright Act, 2005 (Act 690). The Copyright Office, which is a separate office under the Ministry of Justice and Attorney General Department, has responsibility for the administration of copyright and related rights. The Copyright Act mandates the Office, among others, to implement copyright and related laws, investigate and redress cases of infringement of copyright and settle disputes of copyright. The Office has established anti-piracy committees and conducts ad hoc raids with the co-operation of the Ghana Police Service and Customs Division of the Ghana Revenue Authority. With the passing of the Copyright Act 2005, Act 690 there is now a Monitoring Team tasked to handle enforcement issues. An enforcement unit has been set up in the Copyright Office manned by policemen seconded to the office to handle Anti-piracy exercises.



c. **The Crops Services Directorate** under the Ministry of Food and Agriculture - has the responsibility for variety releases.

d. **Ghana Revenue Authority (Customs Division)** - plays a critical role in the enforcement of IP rights in Ghana. The commissioner of customs has a role to play in issues relating to counterfeiting and piracy at the borders and ports. This is because customs is mandated to protect public health and security by enforcing import and export prohibitions and restrictions. Custom agents may stop shipments at the borders, conduct raids, seize counterfeit or pirated materials and arrest persons in possession of infringing goods.

e. **Ghana Police Service (GPS)** - while not having a direct mandate for enforcement of IP rights, does so in collaboration with the Copyright Office. The Ghana Police Service also has powers of prosecution under the Criminal Code.

f. **The Food and Drugs Authority (FDA)** - operates under the Ministry of Health under the Food and Drugs Act (1992) and is mandated to advise the Minister of Health on measures for the protection of the health of consumers, and in co-operation with the Ghana Standards Authority, ensure adequate and effective standards for food and drugs in relation to safety, quality and efficacy. FDA participates in anti-counterfeiting measures including investigation, testing, raids and arrests.

g. **The Ghana Standards Authority (GSA)** - is mandated to ensure that products released into the Ghanaian market meet the standards set by government. It has no mandate to fight counterfeiting and piracy and only indirectly gets involved when it is requested to test a product to ascertain whether it meets the required standard. The GSA has representatives at the major entry points and ports and is often called upon by IPR owners to test products suspected to be counterfeited. The GSA keeps a database of products and goods tested and approved.

h. **The Ghana Investment Promotion Centre (GIPC)** - The Ghana Investment Promotion Centre (GIPC) is a government agency, re-established under the Ghana Investment Promotion Centre Act, 1994 (Act 478): To encourage, promote and facilitate investments in all sectors of the economy except mining and petroleum. Amongst its objectives and functions includes registration and keeping records of all technology-transfer agreements relating to investments under this Act. The law stipulates the level of royalty payable and that technology transfer agreement must include a training and capacity building component.

#### **2.2.4. Institutional and legal framework for Enforcement of IP rights**

The enforcement of IP rights in Ghana takes the form of mainly civil remedies obtained through a court action. The High Court Civil Procedure Rules provide that intellectual property cases may be heard in the Commercial Courts to ensure expeditious trials. Under Order 63 (4) of the High Court Civil Procedure Rules 2004 C147, the holder of an IP right may apply to the court for an order to seize and detain goods which are alleged to or actually infringe the property rights of the IPR holder. The Customs Division of the Ghana Revenue Authority may apply for an order to prevent such goods from entering into the channels of trade. Some aspects of counterfeiting and trademark infringement may also attract criminal sanction.

#### **2.3. Weaknesses and Challenges currently facing the IP system in Ghana**

##### **2.3.1. Inadequate legal framework for the protection of intellectual property rights**

###### **Gaps in existing IP laws**

Between 2003 and 2006, Ghana amended and updated six intellectual property laws on Patents, Trademarks, Industrial Designs, Geographical Indications, Layout (Topographies) of Integrated Circuits and Protection against Unfair Competition to comply with her obligations under the TRIPS Agreement. During the said amendment of the IP laws, the TRIPS flexibilities were not fully incorporated. Below are some issues to be considered in further amendment to the IP laws:

- a. Patents:** To fully incorporate the safeguards and TRIPS flexibilities to encourage innovation and creativity. Protect public interest and health including parallel imports, limiting exceptions to exclusive rights (Bolar Exception), compulsory licensing, Government non-commercial use and protection of data
- b. Industrial Designs:** To fully incorporate the TRIPS flexibilities and include a definition of industrial design regarding three dimensional designs as well as special treatment of textiles. Include a new subsection containing special provisions relating to the international registration of designs under the Hague Agreement
- c. Geographical Indications:** To fully incorporate TRIPS flexibilities and include a section to cover handicrafts. Although enacted in 2003, to date no GI has been registered in Ghana
- d. Layout (topographies) and Integrated circuits:** To fully incorporate TRIPS flexibilities.
- e. Protection Against unfair competition:** To review law in line with current developments and best practices.



### **Lack of IP laws in new and emerging areas**

Ghana currently has no law on traditional knowledge and genetic resources. Secondly, a draft Bill on plant breeders' rights (plant varieties protection) was first prepared in 2002 but is yet to be passed by Parliament.

To accede to UPOV and the Arusha Protocol for the Protection of Plant Varieties, Ghana will be required to complete the development of the law for plant breeders' rights (plant variety protection). Ghana, being a member of ARIPO, and a signatory to the Swakopmund Protocol on traditional knowledge and genetic resources and Arusha Protocol on Plant Varieties Protection will ratify the protocols once the relevant laws are developed/updated. The same is with the case of the Singapore Treaty on Trademarks.

### **2.3.2. Weak institutional framework for the administration and management of intellectual property rights**

A review of the Registrar General's Department and the Copyright Office identified the following challenges:

- a. Staffing:** The staffing level is inadequate both in terms of numbers and skills, which has negatively affected the ability of the two offices to deliver on their mandates effectively. The RGD has only ten (10) trademark examiners and two (2) industrial design examiners. There are no examiners for patents, utility model and Geographical Indication (GI). Furthermore, the legal staff of the Registrar General's Department and Copyright Office, being staff of the Ministry of Justice and Attorney General's Department, may, as has happened in the past, be assigned to other departments within the Ministry, even after they have attended Programs to acquire additional skills in IP. Similarly the Copyright Office is also understaffed.
- b. Automation of IP registration processes:** Information and Communications Technology (ICT) systems have become a critical requirement for efficient IP administration and management. These systems facilitate effective and efficient access to a wide variety of information on IP as well as to the on-line patent databases and libraries of WIPO and major patent offices or intellectual property offices. In this as in other areas, there is a significant gap in the capacity of the Registrar General's Department and the Copyright Office. Whereas in December 2006 WIPO installed the Industrial Property Automation System (IPAS) for the trademark registry, a manual system is still used in the administration of the other industrial property rights. With respect to copyright right, in 2010 WIPO facilitated the automation of the registration process of the Copyright Office, the office is however yet to be fully automated.
- c. Strong IP Association:** There are weak Associations of IP professions, inventors and creators to provide the necessary linkages between a national IP system and stakeholders, which is critical.
- d. IP Professionals:** There is no system of registration of IP professionals in Ghana, although the Registrar General's Department maintains a list of Trademark Agents.

e. **Autonomous National Intellectual Property Office:** An important policy issue to be addressed is the continued separation of the Industrial Property Unit of the Registrar General's Department and the Copyright Office. International best practice in IP administration appears to favour an integrated IP office handling all aspects of industrial property and copyright matters. The shortcomings in IP administration would be overcome particularly if integration is accompanied by some level of financial autonomy.

### *2.3.3. Low level of creativity and innovation by business enterprises, universities and research institutions*

Creativity and innovation are key components to the development of Ghana. It is important for enhancing competitiveness of the economy. The need for promoting creativity and innovation in Ghana has been repeatedly mentioned in several policy documents. The situation analysis showed that the level of creativity and innovation in Ghana is currently low. This situation is attributed to the following challenges:

#### **Challenges facing business enterprises in Ghana**

- a. **Lack of awareness:** There is generally very low level of awareness of IP in industry, Small and Medium Scale Enterprises (SMEs), the informal sectors and government institutions and departments that support industry.
- b. **High Costs:** In the formal sector, where awareness of IP tends to be better, the key challenge is the high cost of applying for and maintaining IP assets against the general belief that IP enforcement mechanisms are weak or non-existent. High cost of commercialization, particularly that of patents is among the reasons assigned to low utilization of IP assets.
- c. **Weak IP Portfolio:** Most companies do not identify IP assets among their portfolio and so do not enter them in the assets register. Furthermore, there is a general lack of appreciation for the utilization of IP protection agreements as well as nondisclosure agreements. The existing capacity in legal and technical advice for drafting patent claims and license or franchising agreements appears to be limited. Furthermore, businesses hardly make use of such legal and technical advice where they exist because of factors such as lack of institutional IP policies and lack of capacity on how to leverage on IP assets to make their businesses competitive.
- d. **IP Policies and commercialization:** Majority of business enterprises do not have written policies for the creation, acquisition, protection and commercialization of IP. This is due to inadequate awareness of the benefit of owning and commercializing IP assets as well as the lack of incentives for businesses to undertake research and development activities. It is also viewed that the cost of acquiring IP assets from others may be prohibitive. Generally, businesses are also of the view that the public sector could play a more significant role in promoting the commercialization of IP assets through, for instance, the use of incubators. Similarly, it is felt that private sector institutions including business associations could be brought into the main stream to facilitate the commercialization of IP rights. The seemingly ineffective methods of enforcing IP rights are also considered to be a significant draw back. Companies hardly keep an inventory of their intellectual property assets and do not take any steps to value them. This is due to the belief that there is hardly sufficient expertise in the valuation of IP assets.



e. **Technical support:** Over the years, the IP offices on their own and in collaboration with regional and international organizations have mounted technical support programs for the business sector. It would appear that these interventions have not had sufficient penetration to positively impact the business community.

f. **IP Information:** There is insufficient information on the sources of IP utilized by the business community. Similarly, information on the market sources for IP is scanty. However, anecdotal evidence seems to suggest that there is a greater reliance on foreign sources of IP than local sources.

#### **Challenges facing universities and R&D institutions**

a. **IP Policies:** Most R & D institutions do not have written IP policies. However, some research institutions provide for IP rights in employee contracts as one of the criteria for promotion. In most instances, contracts relating to licensing agreements and agreements with research collaborators make provision for IP rights, but these are not backed by institutional policies.

b. **Budget for IP development:** The percentage of budgetary allocation to the creation, acquisition, protection, promotion and commercialization is often quite minimal. In 2008, Ghana spent 0.3 % of the GDP on research and development. This is much lower than the 1% adopted by the African Union in 2006. There are no special funds for innovation and IP creation, joint projects between academia and industry, protection of IP rights and support for commercialization.

c. **IP Awareness:** The level of IP awareness in universities and research institutions is surprisingly very low. A small group of them, particularly the faculties of law are aware of IP laws and regulations because they have been involved in the process of designing them. Potential generators of IP including faculties of science and technology and engineering have little or no awareness of same.

#### **2.3.4. Inadequate policy and institutional framework for commercialization of intellectual property rights and technology transfer**

Technology transfer and commercialization of intellectual property rights are the means by which the results of research and development as well as creativity and innovations can be transformed into products, services and new businesses. Creativity, inventions and innovations are not of any use if they cannot be used for economic gains of the creators and inventors and if they cannot lead to economic development of the country. Commercialization of IP and technology transfer makes this possible, but requires suitable policy incentives, support infrastructure and special skills, which are currently not adequate. This situation has resulted into low level of commercialization of IP in Ghana.

#### **2.3.5. Weak institutional and legal framework for Enforcement of IP rights**

Enforcement of intellectual property rights is very important. IP rights are only useful if the right owners are able to enforce their rights. This is done through the courts with the collaboration of the law enforcement agencies. Enforcement of intellectual property rights should be swift, affordable and judicious. This would require effective coordination and collaboration of the activities of the agencies involved.

#### **2.3.6. Lack of a system for regulation and certification of IP professionals**

Currently there is no system of registration of IP professionals in Ghana. There are no patent agents in Ghana although some persons with scientific or technological backgrounds mostly working for research institutions have been known to provide some advice on preparation of patent application documents. Some law firms provide representation to companies and individuals seeking to register or maintain their trademarks and designs.

#### **2.4. Opportunities: Linking IP strategy with the national development plans**

A review of existing national development policies provides justifications and opportunities for the development of the National Intellectual Property Policy and Strategy (NIPPS). These policy documents have clearly recognized the role of intellectual property rights in the development of the various sub-sectors of the economy of Ghana, and highlighted which aspects or elements of the IP systems need to be developed or strengthened. In this section, brief descriptions have been given on the following existing policy documents that reflects the importance attached to IP in Ghana.



#### **2.4.1. Ghana Shared Growth and Development Agenda (GSGDA) 2010-2013**

The overarching economic development goal of the Ghana Shared Growth Development Agenda, GSGDA I (2010-2013), which has since been replaced by GSGDA II (2014-2017). GSGDA, was to place the economy on a path of higher economic growth in order to attain a per capita income of at least US\$3,000 by 2020 while also achieving the Millennium Development Goals by 2015. This policy document is anchored on seven (7) thematic areas which are:

1. Ensuring and sustaining macroeconomic stability
2. Enhancing competitiveness of Ghana's private sector
3. Accelerated agricultural modernization and sustainable natural resource management
4. Oil and gas development
5. Infrastructure, energy and human settlements development
6. Human development, productivity and employment
7. Transparent and accountable governance

The GSGDA document identifies key focus areas and policy objectives under each thematic area, some of which have IP implications, as illustrated here below;

##### **Thematic area: Enhancing competitiveness in Ghana's Private Sector**

This thematic area focuses on: private sector development; development of micro, small and medium enterprises; accelerated industrial development; prompting the creative industry for economic development; and development of the tourism industry for jobs creation and revenue generation. Intellectual property is important in the realization of the policy objectives identified under these focus areas.

##### **Thematic area: Accelerated agricultural modernization and natural resource management**

The key focus area under this thematic area is accelerated modernization of agriculture. The policy objectives are; to improve agricultural productivity and to promote selected crop development for food security, export and industry. To achieve the aforementioned objectives will require the improvement in science and technology application, the promotion of seed development and the development of staple and horticulture crop development. These will require several IP components

##### **Thematic area: Infrastructure and human settlements**

There are two key focus areas under this thematic area. These are Science, technology and innovation to support productivity; and information communication and technology development. The policy objective of the former is to promote the application of science, technology and innovation in all sectors of the economy. The policy objectives of the latter are; to promote rapid development and deployment of national ICT infrastructure, strengthen the institutional and regulatory framework for managing ICT sector, and to promote the use of ICT in all sectors of the economy. In all these, intellectual property assets will be required.

##### **Thematic area: Transparent and accountable governance**

The two focus areas under this thematic area are; promotion of national culture for development; and promotion of domestic trade and effective enforcement of standards. In both the focus area, IP rights will be generated or utilized.



#### **2.4.2. National Cultural Policy**

The Ghana National Cultural Policy of 2004 requires the Government of Ghana to promote the Arts by: enhancing the status of artists and artistes; identifying, developing and rewarding creative talents; and making artistic products contribute to wealth creation both for creative individuals and the nation as a whole. The policy mandates the Government to enact and review legislation to: protect all cultural assets; protect the rights of indigenous owners of cultural heritage; and to vest in itself ownership, protection and preservation rights of rare and monumental heritage objects. Significantly the policy document states that the State “shall promote the enactment of legislation to patent and protect plants, knowledge of cure and techniques of traditional medicine of Ghana”.

#### **2.4.3. Ghana National Drug Policy**

The Ghana National Drug Policy of 2004, revised after the first edition of 1999, highlights concerns about the major impact of the TRIPS agreement on Ghanaians access to drugs and public health and has directed that:

- a. legislations and regulations developed maintain a balance between the minimum standard of intellectual property rights protection and the public health good;
- b. in implementing regulations related to IP rights, the Government shall take advantage of all the safeguards within the TRIPS Agreement for the promotion of public health and ensuring access to pharmaceuticals;
- c. Ministry of Health shall actively collaborate with other relevant ministries and agencies in the area of intellectual property rights to develop a consistent legal framework that enhances access to essential drugs;
- d. Parallel importation and use of compulsory licensing are permitted to promote competition and access to drugs to safeguard public health;

#### **2.4.4. The National Trade Policy**

The National Trade Policy of 2006 outlines the following policy prescription with respect to intellectual property rights - Provide effective laws to protect intellectual property rights and a coordination mechanism to ensure effective administration of copyright and industrial property rights, design and implement a Program of awareness and education on IP rights and Promote the use of IP information including those in public domain by industry, agriculture, academia and research institutions. The envisaged key outputs of the National Trade Policy are:

- a. Intellectual property offices fully operational,
- b. Legislation in all areas of the TRIPS Agreement fully operational, updated and completed,
- c. An efficient automated Industrial Property Management System and an Electronic copyright Register in place,
- d. Public awareness creation and understanding of Intellectual Property increased,
- e. Progressive and sustained elimination of counterfeited/pirated goods in the market place,
- f. Judiciary continuously sensitized on Intellectual Property issues.

#### **2.4.5. Private Sector Development Strategy (PSDS II) 2010-2015**

The objective of the PSDS II is to develop a private sector that will create jobs and enhance livelihoods for all Ghanaians. A thriving private sector will help Ghana to progress faster to achieve a middle income status, create greater opportunity for entrepreneurship and secure well paid formal employment. A thriving private sector is also expected to create competitive and efficient markets for goods and services offering greater choice for all including the poor.

#### **2.4.6. Ghana Industrial Policy**

The purpose of the Industrial Policy, 2010 is “to promote increased competitiveness and enhanced industrial production, with increased employment and prosperity for all Ghanaians” through;

- a. expansion of productive employment in the manufacturing sector
- b. expansion of technological capacity in the manufacturing sector,
- c. promotion of agro-based industrial development and
- d. promotion of spatial distribution of industries in order to achieve reduction in poverty and income inequalities.

The policy, which has technology and development as one of its three components, recommends to put in place adequate and appropriate legislations for intellectual property rights and stimulate innovation and technology development in Ghana. The policy prescribes that the Government provide effective rules to protect intellectual property rights and a coordination mechanism to ensure effective administration of such rights, and that the Government promotes awareness of IP and education on Intellectual Property Rights.

#### **2.4.7. Science, Technology and Innovation Policy**

The principal thrust of the National Science, Technology and Innovation Policy of Ghana, 2010, is that it pervades all sectors of the economy. The STI policy strives to integrate science and technology into the national development process since it is the driver to the achievement of sectoral goals, objectives and Programs. The section has briefly outlined STI objective for each of the sectors.

- a. **Agriculture** - to strengthen the development, application and transfer of agro-based technologies for sustainable agriculture, food security, diversification of the economy and industrial growth through value addition.
- b. **Health** - to support activities and programs aimed at improving the quality of health of the citizenry; facilitate the sustainable exploitation of indigenous natural resources and knowledge for addressing health challenges; and to educate, train and retain health professionals.
- c. **Education** - to orient all levels of the country's educational system to the teaching and learning of science and technology in order to produce a critical mass of scientists for national development and accelerate the acculturation of science and technology in society.
- d. **Energy** - to ensure the supply of sustainable, affordable, safe and reliable energy for domestic and industrial use.
- e. **Industry** - to increase the national capacity for industrial production and innovation and promote science and technology to enhance industrial productivity and value-addition.



- f. **Trade** - to promote STI applications in commercial activities to ensure quality, reliability and efficiency in the delivery of goods and services in conformity with appropriate local and international standards.
- g. **Environment** - to promote the use of STI to maintain and enhance quality and sustainability of the environment and to integrate environmental concerns in all development policies.
- h. **Natural Resources** - to promote the application of STI that would facilitate conservation and sustainable utilization and management of natural resources (land, water, minerals, oil, gas, wildlife etc.) in support of national development.
- i. **Information and Communication Technology** - the sector's objective is to promote the use of STI to ensure that modern ICT are available and utilized at all levels of society. Ghana recognizes the devastating effects of counterfeits and piracy on its population and economy. Ghana's own industries, such as traditional textiles, herbal medicines and music production have been severely affected by counterfeiting and piracy. It is estimated that the country experiences upwards of US\$ 200 million a year in lost revenue due to the sale of infringing goods that undermines legitimate commerce.
- j. **Building and Construction** - to develop the STI capacity to support the building and construction sector, including the development of local raw materials and equipment and to encourage their use.

The STI policy recognizes the role of IP in STI and states that government will encourage and promote science and technology development through the protection and use of IP rights. This will be achieved through strengthening the system for the protection of IP rights.

#### **2.5. Key Strategic Issues**

Based on the review of the strengths, weaknesses and challenges in the IP system in Ghana as well as the opportunities provided by various national development policies, the following are the strategic issues that have been identified:

1. Weak legal framework for the protection of intellectual property rights.
2. Weak institutional framework for the administration and management of intellectual property rights.
3. Low level of creativity and innovation.
4. Low level of IP generation and commercialization.
5. Weak enforcement of intellectual property rights.
6. Lack of IP professionals.
7. Low level of public awareness on issues of intellectual property rights.
8. Weak Intellectual Property Service industry.
9. Lack of research on IP related issues.

### 3.0. STRATEGIC DIRECTION

#### 3.1. Introduction

Ghana's broad national vision is to realize a middle-income status of an advanced human society with a better quality of life reflected in all aspects of socioeconomic and environmental conditions. This National Intellectual Property Policy and Strategy hopes to contribute towards the realization of Ghana's development agenda.

#### 3.2. Vision, Mission and Goal

The vision, mission, goal and strategic objectives of NIPPS are outlined below:

**Vision:** To be amongst the leading countries in the utilization of Intellectual Property as a tool for rapid national development

**Mission:** To create the necessary awareness and promote the use of IP by all relevant stakeholders in the most professional manner towards enhancing the competitiveness of Ghana in the use of IP for Development

#### 3.3. Short-term, medium-term and long-term goals

The goals of the NIPPS are indicated below

**Short-term:** Establish a functional and sustainable Intellectual Property System in Ghana

**Medium-term:** Intellectual property to be a catalyst for creativity, innovation and technological development in Ghana

**Long-term:** Exploit intellectual property for accelerated growth in technological and industrial development in Ghana

#### 3.4. Strategic Objectives

NIPPS has identified the following nine (9) strategic objectives to be followed in the next five years;

- a. To strengthen the legal framework for protection of intellectual property rights.
- b. To strengthen the institutional framework for administration and management of intellectual property rights in Ghana.
- c. To promote creativity and innovation to enhance IP generating activities in Ghana.
- d. To promote and facilitate commercial exploitation of intellectual property rights and technology transfer.
- e. To strengthen legal and institutional framework for enforcement of intellectual property rights.
- f. To develop adequate human resource capacity for the administration, protection, commercialization and enforcement of IP rights.
- g. To create public awareness on IP issues for the general public and relevant groups.
- h. To develop and promote Intellectual Property Services industry in Ghana.
- i. To promote research on IP related issues.



## 4.0. POLICY OBJECTIVES AND PRESCRIPTIONS

### 4.1. Strengthen legal framework for protection of intellectual property rights

#### **Issue:**

Legal framework for the protection of intellectual property rights is made up of instruments such as laws, regulations and directives. The IP instruments should have the following three characteristics: balance, coherence and flexibility. Balance refers to the IP characteristic which ensures that incentive to innovate is balanced against ability to follow-on innovations to access knowledge. The coherence character ensures that the instrument is clear and consistent and also ensures trust in the IP system. The flexible character refers to the ability of the instrument to respond to changing economic environment and the needs of right holders and users. To attain the aforementioned character of the IP instruments, the revision of existing IP laws as well as the development of new laws are required to meet minimum standards under the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) and to take into consideration the specific needs of the country and international best practices.

#### **Policy objective:**

To strengthen the legal framework for the protection of intellectual property rights in order to achieve and sustain a high standard of IP protection.

#### **Strategies:**

To achieve the above mentioned policy objective, the following strategies will be pursued:

- a. Review and amend existing national laws on IP to meet TRIPS requirements and emerging trends and best practices.
- b. Develop comprehensive national IP laws for new and emerging areas.
- c. Accede to International Treaties and Agreements, taking into consideration the best interest of Ghana.

### 4.2. Strengthen institutional framework for administration and management of intellectual property rights

#### **Issue:**

The IP situation analysis showed that currently the institutional framework for the administration and management of IP in Ghana is inadequate. The industrial property and the copyright offices are small units, which are understaffed, semi-automated and less resourced. To achieve a high standard in intellectual property protection, it is expected that a high quality level for delivery of service will be put in place. The delivery of such service cannot be done with the current IP infrastructure and it is therefore important that a well-resourced modern National IP office is established.

***Policy Objective:***

To strengthen institutional framework for the administration and management of intellectual property rights.

***Strategies:***

To achieve the above mentioned policy objective, there would be need to:

- a. Establish a National Intellectual Property Office.
- b. Automate the systems and procedures for the administration of the laws.
- c. Consolidate examination process by undertaking both formal and substantive examination in Ghana.

**4.3. Promote creativity and innovation for enhanced IP generating activities in Ghana**

***Issue:***

Creativity and innovation is key to enhancing the competitiveness of Ghana's economy and has been repeatedly mentioned in several policy documents. For example, the STI policy indicates that one of the forward movers of science and technology is the official recognition that innovation has potential to benefit the society. Similarly, the objective of the Private Sector Development Strategy of developing a thriving private sector will require promoting innovative technology. Ghana Industrial Policy, which aims to increase competitiveness and enhanced industrial production, highlights the overall low level of science, technology and innovation in industry as a limiting factor to the sector's competitiveness. Finally the Ghana Cultural Policy requires the Government of Ghana to promote creativity by identifying; developing and rewarding creative talent and making artistic products to contribute to wealth creation both for creative individuals and the nation as a whole. Therefore, taking into consideration the current low level of creativity and innovation in universities, research institutions, SMEs and the creative industry, it is justifiable for Ghana to put in place policies and strategies to promote creativity and innovation.

***Policy Objective:***

To promote creativity and innovation to enhance IP generating activities in Ghana.

***Strategies:***

To achieve the above mentioned policy objective, the following strategies will be pursued:

- a. Creating an enabling environment to encourage or stimulate innovation and creativity in universities, polytechnics, technical and vocational institutions, research organizations, copyright creators, industry and SMEs.
- b. Encouraging activities that will harness artistic, scientific, technological and innovation capabilities of children and the youth.



- c. Promoting the use of intellectual property information for product and technology development by research institutions, universities, polytechnics, technical and vocational institutions and SMEs.
- d. Establishing a national centre for creative industries.
- e. Establishing IP units within relevant ministries to facilitate the growth and promotion of IP.

#### **4.4. Promote commercialization of intellectual property rights and technology transfer**

**Issue:**

Ghana needs to tap into creativity and innovation as a driver of economic development in the country. This can only happen if the current low level of commercialization of IP is addressed. There is need to put in place suitable policy incentives and support infrastructure as well as develop appropriate and special skills to drive commercialization of IPRs and technology transfer in Ghana.

**Policy Objective:**

To promote and facilitate commercial exploitation of intellectual property rights and technology transfer.

**Strategies:**

To achieve the above mentioned policy objective, the following strategies will be pursued:

- a. Promote the development of infrastructure to support commercialization of IPR in research institutions, universities, polytechnics and technical and vocational institutions.
- b. Establish an Industrial and Technological Information Unit at the National IP Office.
- c. Establish Technology Innovation Support Centres (TISC).
- d. Promote the activities of creative industries and SMEs
- e. Promote the transfer of technology and knowledge inside and from outside Ghana for productivity improvement in enterprises, agriculture and other specific sectors of the economy.

#### **4.5. Strengthen legal and institutional framework for the enforcement of intellectual property rights in Ghana**

**Issue:**

The situation analysis showed that there are gaps in the enforcement of intellectual property rights in Ghana. The weaknesses cover the enforcement of laws, institutions, personnel and coordination. There is therefore the need to strengthen these identified areas.

**Policy Objective:**

To strengthen the legal and institutional framework for the enforcement of intellectual property rights in Ghana

**Strategies:**

To achieve the above mentioned policy objective, the following strategies will be pursued:

- a. Strengthen legal framework for enforcement of IP rights.
- b. Strengthen institutional framework for enforcement of IP rights.
- c. Strengthen human resources capacity for enforcement of IP rights.
- d. Establish a mechanism to coordinate activities of IP rights enforcement by the police, customs and other agencies.
- e. Strengthen IP office to prosecute cases directly on behalf of the Attorney General.

#### **4.6 Promote intellectual property services industry in Ghana**

**Issue:**

The intellectual property landscape typically has several players who offer services ranging from drafting of IP applications, valuation, auditing, marketing, licensing, product development, legal advice, etc. These players are essential for the development and functioning of an IP system. There is therefore need to develop these capacities and capabilities.

**Policy Objective:**

To develop and strengthen IP Services Industry.

**Strategies:**

The strategies to be adopted in achieving the above mentioned objective, will seek to:

- a. Facilitate the establishment of IP business centers to offer an array of services in IP.
- b. Formalize the practice of IP professionals, establish trade associations and regulate the certification and practice of IP professionals and IP intermediaries.
- c. Develop commercial intellectual property information services to meet the demands for intellectual property information.
- d. Encourage the establishment of collective management organizations.

#### **4.7. Develop human resource capacity for the administration, protection, commercialization and enforcement of IP rights**

**Issue:**

A functioning IP system requires skilled personnel. There is a huge deficit in human resource required to work the IP system and this will need to be addressed.

**Policy Objective:**

To develop adequate human resource capacity in the administration, protection, commercialization and enforcement of IP rights.

**Strategies:**

To achieve the above mentioned objective, capacity building programs for IP professionals will have to be developed and strengthened to cover the following:

- a. Examiners and IP Attorneys required for the processing of IP registrations in National IP offices.
- b. IP Drafters required to prepare IP applications for inventors (universities, research institutions, industry, SMEs and individuals).
- c. IP Professionals required to support commercialization services such as valuation, auditing, licensing and negotiation.
- d. IP enforcement officers: Judiciary, customs officials and police.
- e. Promote IP Education at all levels of the educational system (formal, non-formal and informal).



#### **4.8. Create public awareness on IP issues for the general public and identifiable groups**

**Issue:**

The situation analysis showed that IP awareness is very low among researchers in universities and research organizations as well as business operators, policy makers, academia etc and even consumers. To realize the benefits of the IP system, creators of IP and potential users of IP rights should be made aware of what the IP system offers. An extensive IP awareness creation and outreach program should be undertaken.

**Policy Objective:**

To create public awareness on IP issues for the general public and specific groups.

**Strategies:**

To achieve the above mentioned policy objective, there would be need to:

- a. Design and implement an intellectual property awareness outreach strategy for the universities, research organizations, SMEs, creators, general public and other relevant groups (government officials, opinion leaders, public and civil servants, business leaders and traditional authorities).
- b. Promote the culture of IPRs in Ghanaians.
- c. Develop a public service platform for basic information on intellectual property.

#### **4.9 Promote Intellectual Property Research**

**Issue:**

The field of intellectual property is complex and a fast growing one. It is imperative that a mechanism is put in place to research on emerging IP issues and their implications on the socio-economic development of the country. The output of the research should inform policy initiatives and country positions on IP issues at local, international and intergovernmental levels.

**Policy Objective:**

To promote research on emerging IP issues to support evidence based policy and decision making process.

**Strategies:**

To achieve the above mentioned policy objective, there would be need to:

- a. Encourage studies on emerging IP related issues for policy formulation and decision making
- b. Facilitate the development of research capacities (including that of inter-sectoral committee members) for effective negotiations on IP treaties, protocols etc.
- c. Set up IP monitoring system to serve as early warning system to prioritize sectors of the economy on emerging IP issues.

## 5.0 PROGRAMS AND PROJECTS

### 5.1 Introduction

To realize the strategic objectives and implement the policy prescription, some 34 Programs/projects have been identified and agreed on. They will be implemented during the five year period (2016-2020). They are categorized according to short term Programs (to be implemented within 1 year), medium term Programs (2-3 years) and long term (4-5 years). The Programs/projects are summarized in the table below:

No	PROGRAMS/PROJECTS	Duration	Remarks
<b>OBJECTIVE 1: Strengthen Legal Framework for the Protection of IP Rights</b>			
1	Amend laws on patents, industrial designs and geographical indications	Short	On-going
2	Complete review and amend laws on layout integrated circuit and unfair competition/trade secrets	Medium	On going
3	Complete the development of new laws on plant variety protection (plant breeders rights), traditional knowledge and genetic resources	Medium	On going
4	Accede to UPOV, Arusha Protocol on Protection of Plant Varieties, Swakopmund Protocol on Traditional Knowledge and Genetic Resources and Singapore Treaty on Trademarks	Medium	On-going
<b>OBJECTIVE 2: Strengthen Legal Framework for the Administration and Management of IP Rights</b>			
5	Establish and operationalise the National Intellectual Property Office	Long	On going
6	Complete the automation of IP registration process	Medium	On-going
7	Establish substantive examination of patent applications	Long	
8	Develop and implement program to increase the number of applications and grants of IP rights to local inventors	Medium	
9	Establish technology innovation support centers	Medium	On going
10	Complete E-Library and digitalization project	Short	On-going
<b>OBJECTIVE 3: Promote Creativity and Innovation</b>			
11	Establish funding for the development of IP by universities, research institutions, industry and SMEs	Medium	
12	Establish a National Center for Creative Industries	Long	



<b>OBJECTIVE 4: Commercial Exploitation of IP Rights and Technology Transfer</b>			
13	Establish Industrial and Technological Information Unit at the National IP office	Long	
14	Promote the establishment of Technology Transfer Offices in Universities and Research Institutions	Medium	On-going
15	Promote the development of IP Policies for Universities and Research Institutions	Medium	On-going
16	Develop technology transfer policy	Medium	
<b>OBJECTIVE 5: Strengthen Legal and Institutional Framework for the Enforcement of IP Rights</b>			
17	Strengthen IP enforcement	Short	
18	Prepare a handbook on IP enforcement rules	Medium	
19	Undertake a study on coordination of the activities of the IP enforcement agencies	Medium	
20	Develop and implement a program to strengthen border measures	Long	
21	Develop and implement a program to strengthen public and consumer education on IP enforcement	Long	
<b>OBJECTIVE 6: Promote Human Resource Development</b>			
22	Develop a comprehensive IP Training and Education Program	Long	
<b>OBJECTIVE 7: Strengthen Public Awareness on IP issues</b>			
23	Develop and implement a comprehensive program for IP awareness creation and outreach	Long	
<b>OBJECTIVE 8: Promote IP Service Industry</b>			
24	Promote collective management organizations	Medium	
25	Promote Associations of IP stakeholders	Medium	
26	Develop and implement a program for regulation and certification of IP professionals	Medium	
27	Undertake a study on the contribution of the copyright industry to the economy	Medium	
<b>OBJECTIVE 9: Promote Research in IP related issues</b>			
28	Undertake a Study on consolidation of various enforcement agencies and assessing the economic impact of IP enforcement in the country	Medium	

29	Undertake a study on contribution of the plant variety protection on the seed industry in the agricultural sector	Medium	
30	Undertake a study on identification of geographical indications	Medium	
31	Undertake a study on the impact of Madrid protocol on the economy	Medium	
32	Undertake a study on the extent of IP awareness in Ghana	Medium	
33	Undertake a study on how best to establish IP units in relevant Government Ministries	Medium	
34	Undertake a study on unprotected research findings in the universities and research institutions.	Medium	

## 5.2 Strengthen legal framework for protection of intellectual property rights

### 5.2.1 *Amend laws on patents, industrial design and geographical indications*

The Government initiated the review of patents, industrial designs and geographical indications laws some seven years ago. This review has been completed and the amendments to the said laws will be completed in the short time. Parallel to this, regulations for implementing these legislations will be developed and completed.

### 5.2.2 *Complete review of laws on layout integrated circuit and unfair competition and trade secrets*

The Government will initiate the review of layout of integrated circuit and trade secret laws to take into consideration the following:

- a. Layout of Integrated Circuits and Topographies: To review law to fully incorporate requirements of Trade Related Aspects of Intellectual Property Rights (TRIPS), Treaty on Intellectual Property in Respect of Integrated Circuits and international best practices.
- b. Unfair Competition and Trade Secrets: To review law in line with current developments and international best practices.



### **5.2.3 Complete the development of new laws on plant variety protection (plant breeders rights), traditional knowledge and genetic resources**

In the medium term period, the Government will complete the development of new laws on plant breeders rights (plant varieties protection), traditional knowledge and genetic resources.

### **5.2.4 Accede to UPO, Arusha, Swakopmund Protocols and Singapore Treaty**

In the medium and long term period, the Government will consider acceding and ratifying the following international protocols and agreements:

- a. **UPOV:** Acceding to UPOV will require the completion of the development of the law for plant varieties protection.
- b. **Arusha Protocol:** Ghana has signed the Arusha Protocol on protection of plant varieties and will ratify the protocol to complete the development of the law for the protection of plant varieties.
- c. **Swakopmund protocol:** Ghana, being a member of ARIPO, and a signatory to the Swakopmund Protocol on traditional knowledge and genetic resources will ratify the protocol once the relevant laws are developed/updated.
- d. **Singapore Treaty:** Ghana will develop and enact relevant legislations in order to ratify the Singapore Treaty on Trademarks.

## **5.3. Institutional framework for administration and management of intellectual property rights**

### **5.3.1 Establish and operationalise the National Intellectual Property Office**

Plans are at an advanced stage to establish a National Intellectual Property Office which will be in charge of industrial property rights, copyright and plant varieties protection. It will be a semi-autonomous institution with its own Board and Director General. A comprehensive implementation program for the establishing and operationalising the National IP Office is already prepared. It has considered the issues of the expanded functions of the office and the required financial, human and physical resources. The implementation of this Program is ongoing and will continue during the short, medium and long term period.

### **5.3.2 Complete the automation of IP registration process**

There is already some automation of the IP registration processes in Ghana. The Registrar General's Department uses Industrial Property Automation System (IPAS) of WIPO for trademarks. An automation system for patents, utility models and designs is yet to be deployed. With the review of IP legislations currently being undertaken accompanying regulations are being revised or developed where they do not exist. This will lead to new workflows and procedures. Similarly the Copyright office registry was automated in August 2011, the copyright office is in the process of data entry. It is yet to be fully automated. Therefore the program of automation of the IP registration process will continue and be completed in the short to medium term.

### **5.3.3 Establish substantive examination of patent applications**

Currently Ghana does only formal examination of patent applications and outsources substantive applications to WIPO and ARIPO. With the establishment of the national IP office, it will be possible to start undertaking substantive examination of patent applications. Therefore during the plan period, the Government will develop and implement a program on substantive examination of patent applications.

### **5.3.4 Filing of patent applications by local inventors**

Ghana has recognized the low level of patent applications and grants of IP rights to local inventors as a problem which must be addressed. A program will be developed to encourage the filing of patent applications from universities, research organizations, SMEs, industries and individual inventors.

### **5.3.5 Technology innovation support centres**

Patent documentation is a powerful tool that can be used to support R&D activities as well as product development by industries including SMEs. The National Trade Policy of 2006 stresses the need to promote the use of IP information including those in public domain by industry, agriculture, academia and research institutions. The Government will work with WIPO to develop and implement a program for the establishment of Technology Innovation Support Centres (TISC) in Ghana in the medium term.

### **5.3.6 E-Library and digitalization**

Plans are in place to deploy e-library systems. An e-library is to be deployed at the industrial property office for use by stakeholders, similarly an e-library will also be deployed for the law faculty of the University of Ghana.

With respect to musical works, currently there is no comprehensive data on Ghanaian musical works in a digital format. The Musicians Union of Ghana (MUSIGA) has initiated a project an e-library and digitalization project. The successful implementation of the project will form the basis for the management of rights of musicians. The data from the library will make it possible to establish a system for tracking, monitoring, and billing to the benefits of all rights holders in the music industry in Ghana. These projects will be completed in the short term.



## **5.4 CREATIVITY AND INNOVATION FOR IP GENERATION ACTIVITIES**

### **5.4.1 *Establish a National Centre for Creative Industries***

To support the promotion of the creative industries, the Government will develop and implement a program for the establishment of a Centre for Creative Industries. The centre will provide a platform for inventors and creators, linking them to funding agencies, local and international markets and sensitize them on IP rights and inform them on new trends in IP. It will also coordinate resources for creators, construct a platform and formulate strategies to develop, guide and strengthen the full exploitation of intellectual property rights for the creative industries.

## **5.5 COMMERCIAL EXPLOITATION OF INTELLECTUAL PROPERTY RIGHTS AND TECHNOLOGY TRANSFER**

### **5.5.1 *Establish Industrial and Technological Information Unit***

An industrial and technological information unit would be established at the National IP Office to provide services to inventors and creators. Specifically, the unit will package IP and other related information for inventors, investors and other stakeholders.

### **5.5.2 *Promote the establishment of Technology Transfer Offices in Universities and Research Institutions***

The presence of a Technology Transfer Office in a university or research institution is a clear indication of an organization that is serious about IP management. The Technology Transfer Office will support IP management by offering services such as IP disclosure, drafting, filing and protection, maintenance and commercialization through licensing, spin off and start-ups. In some cases, TTOs also manage consultancy services and promote collaboration between universities or research institutions and industries. The Government will design and implement a strategy for the establishment of Technology Transfer Offices in public universities and research institutions in the medium to long term.

### **5.5.3 *Establish IP Policies for Universities, Polytechnics, Technical, Vocational Institutions and Research Institutions***

Intellectual Property Policy is an important tool for promotion of the generation, protection and commercialization of intellectual property in universities and research organizations. IP Policy provides the required instrument, structure, framework and incentives. It harmonizes the conflicting interests of various stakeholders involved in the process of generation, protection and commercialization of IP. An IP Policy will provide clarification on issues of ownership of intellectual property rights, benefit sharing, privately funded projects, conflict of interest and commitments as well as public interest, amongst other issues. It is therefore a strong indicator of the commitment of a government on the promotion, generation, protection and commercial exploitation of intellectual property rights. Institutions will be encouraged to develop their institutional IP policies. Government will design and implement a strategy for the promotion of the development of IP policies in public universities, polytechnics, technical, vocational institutions and research institutions in the medium term.

#### **5.5.4 Develop technology transfer policy**

The quest for a high standard in IP protection should be an indicator that the IP system will guarantee strong IP protection. Ghana will leverage on this and consciously use the IP system to acquire leading-edge technology through technology transfer to support productivity improvement in enterprises and agriculture, acquisition of leading-edge technology for specific sectors of the economy and to ensure increased investment in intellectual property related activities. In doing this, Ghana will collaborate with those countries that have benefited through technology transfer. The Government will ensure that technology transfer is accompanied with a clear framework for capacity building. The Government will therefore prepare and implement a technology transfer policy that meets the immediate needs of Ghana but also takes care of the long term vision of Ghana of becoming an innovative and creative country.

#### **5.6 Strengthen legal and institutional framework for enforcement of intellectual property rights**

To strengthen IP enforcements, the Government has considered the following:

- a. To facilitate the enforcement of IPRs the Government will prepare a Handbook in which all the IP enforcement laws will be consolidated for ease of reference by the IP enforcement agencies.
- b. Whereas currently the functions of enforcement are being undertaken by various state organizations and departments including the Copyright office, the Registrar General's Department, the Customs Division of the Ghana Revenue Authority, and the Ghana Police Service. A study will be undertaken to provide more information on how best the activities of these agencies could be coordinated in the future.
- c. The Border measures as well as the special IP courts will be strengthened during the review of the IP laws.
- d. The Government will strengthen the outreach program. The public shall be made aware of the importance of IP enforcement for the IP system to function efficiently. Educational campaigns will be mounted at major entry and departure points. A nation-wide consumer awareness campaign will be carried out to explain the negative health effects of counterfeit and pirated products.
- e. Under human resource development, empowerment of enforcement officials through technical and legal training in international IP protection standards, enforcement provisions, and dispute settlement mechanisms will be undertaken. Custom officers will be trained in procedures to prevent counterfeit and pirated products from entering the channels of commerce. Police officers will also be trained in IP enforcement issues.



A comprehensive monitoring and evaluation program of IP enforcement to monitor and evaluate the progress of implementation of the IP enforcement strategy.

### **5.7. Promote human resource development**

During the plan period, a comprehensive IP Training and Education Program will be developed and implemented to produce the required IP professionals required in various sectors. In formulating IP Training and Education Program, two factors will be considered; namely, to produce the required IP professional services providers and to impact basic knowledge of IP amongst potential generators and users of IP.

To produce the required IP professional service providers, attention would be given to the following:

- a. IP Generation - Technology Transfer Managers
- b. IP Protection –IP Attorneys, Drafters and Agents
- c. IP Offices – IP Examiners
- d. IP Commercialization - IP valuation, auditing, licensing, marketing and negotiations
- e. IP Enforcement - IP enforcement officers; judges, lawyers, police and custom officials
- f. IP Lecturers and teachers to support teaching of IP

To promote innovation and creativity, basic knowledge of IP will be provided to potential IP generators and users.

### **5.8 Strengthen public awareness and outreach program on intellectual property rights**

Research and Development (R&D) institutions in Ghana, mostly universities and autonomous institutions such as the Council for Scientific and Industrial Research (CSIR), Centre for Scientific Research Into Plant Medicine (CSRPM), the Cocoa Research Institute of Ghana (CRIG) are publicly owned. These institutions are engaged in original or innovative research as well as research to develop new technologies. In their activities they also seek to adapt existing technologies to local conditions. In some cases, research work often results in new technology, physical products and new processes. In other cases these result in improvements or adaptation of existing technology. However, these results do not translate into intellectual property rights, due to lack of awareness of how to acquire IPRs.

The situation is not any better in industry, SMEs, the informal sector and within government agencies. Although most businesses have an idea of the importance of IP rights, particularly trademarks and copyrights, the requirements for protection of a patent is largely unknown within the business community. Equally striking is the lack of knowledge of the existence of patent information, particularly those in the public domain that could be used free of charge. Due to lack of awareness, the business and public sectors have not taken advantage to leverage on IP assets to gain competitive advantage.

Therefore a comprehensive IP awareness creation and outreach program will be designed and implemented. Due to the unique requirement of various sectors, a sectoral approach will be undertaken targeting universities and research institutions, creators of the copyright works, industry in general and SME and the informal sector in particular, students and pupil and the general public. The program will be preceded by a study to establish the actual level of IP awareness in each sector. The outreach program will also explore the viability of establishing IP desk or focal points in relevant ministries.

## **5.9 PROMOTE INTELLECTUAL PROPERTY SERVICES INDUSTRY**

### **5.9.1 *Collective management organizations***

Some owners of creative works may not have the capacity to pursue the legal and administrative enforcement of copyright, especially given the increasingly worldwide use of literary, musical and performance rights. As a result, the establishment of collective management organizations or societies is a growing trend in many countries. These societies can provide members the benefits of the organization's administrative and legal expertise in, for example, collecting, managing, and disbursing royalties gained from international use of member's work. Three collective management organizations have been established and given operating licences. The Government will encourage the strengthening of the existing collective management organizations and the establishment of new ones in the short to medium term.

### **5.9.2 *Promote Associations of IP stakeholders***

The linkage between a national IP system and stakeholders is critical if IP is to thrive in an economy. IP offices must maintain a link with academia, research institutions, trade associations and IP professionals. In Ghana the link between IP offices and stakeholders has been weak. For example, in the past, the Ghana Inventors and Intellectual Property Protection Association (GIIPPA) offered a platform for meaningful interaction between the Registrar General's Department and stakeholders. The Association, which was affiliated to the International Federation of Inventors' Associations, helped provide an important link between the Industrial Property Office and the Ghana Association of Science Teachers, the Council for Scientific and Industrial Research, tertiary institutions, IP owners, and IP attorneys among others. The gap created by the current inactivity of this association will need to be filled. Therefore Government will encourage the establishment and strengthening the associations of IP professionals, inventors and creators.

### **5.9.3 *Regulation and certification of IP professionals***

Currently there is no system of registration of IP professionals in Ghana. There are no patent agents in Ghana although some persons with scientific or technological backgrounds mostly working for research institutions have been known to provide some advice on preparation of patent application documents. Some law firms provide representation to companies and individuals seeking to register or maintain their trademarks and designs. It is imperative to develop a system of accreditation, standards setting and training for IP practitioners.



## **5.10 PROMOTE RESEARCH IN INTELLECTUAL PROPERTY RELATED ISSUES**

### ***5.10.1 Undertake research on the contribution of the creative industries to the economy***

The creative industries can contribute significantly to the economy of Ghana if given proper support. Ghana, like most other African countries have a rich culture. Furthermore, Ghana has developed a national cultural policy to support the sector. Therefore, Ghana requires to have in place data that can be used to sensitize decision makers on the important role of creative industries to the economy. Few Latin American countries have done such studies and are now having data on which to develop national strategies for the creative industries. Ghana has recently initiated discussions about undertaking such studies. The said study will be undertaken and completed during the first year of the plan period.

### ***5.10.2 Undertake a study on consolidation of various enforcement agencies and assessing the economic impact of IP enforcement in the country***

Currently the functions of enforcement are being undertaken by various state organizations and departments including the Copyright Office, the Registrar General's Department, the Customs Division of the Ghana Revenue Authority, the Ghana Police Service. In the past, issues of coordination of the functions of these enforcement agencies have been raised in terms of duplications and conflict of roles. Whereas some countries have chosen to establish one agency to handle all the functions of enforcement of IP rights, Ghana has decided to approach the issue cautiously. Instead, the Government plans that a study is undertaken to explore how best coordination amongst the various enforcement agencies could be realized and to make appropriate recommendations. The study will also establish the economic importance of IP enforcement in the country.

### ***5.10.3 Undertake a study on the contribution of the plant varieties protection on the seed industry in agricultural sector***

The development of the legal framework for the protection of plant varieties in Ghana has been a slow process. A plant breeders rights (plant varieties protection) bill was drafted in 2002, was reviewed in 2010 and is currently before parliament. With the acceding to the UPOV envisaged, the need to have data on the economic benefit of selected African countries and other developing countries that have enacted plant varieties laws may be necessary. The Government will therefore undertake a study on the possible contribution of the plant varieties protection and the seed industry to the economy of the country.

### ***5.10.4 Undertake a study on identification of geographical indications***

Ghana is keen to promote the use of geographical indications and branding to enhance regional and international trade. That is why currently a review of the laws on geographical indications is being undertaken. As a starting point, it is desirable for Ghana to establish the potential of geographical indications in the country. It is therefore planned that a study will be undertaken to map the GIs resources in the country.

#### **5.10.5 Undertake a study on the impact of Madrid protocol on the economy**

Acceding to Madrid System for trademark normally require a lot of internal negotiation. In most countries, trademark attorneys normally resist the move due to fears that they would lose out on business and that the economic benefit to the country is minimum. Promoters of the Madrid System think otherwise. Ghana Acceded to the Madrid System in 2008. A study will be undertaken to establish the impact of this move to the country in general and the trademark attorneys in particular.

#### **5.10.6 Undertake a study on the extent of IP awareness in Ghana**

It is generally inferred that IP awareness is low in Ghana but there is no empirical evidence to support the degree of IP awareness in the country. In implementing this national IP policy and strategy, it is imperative that a detailed study on the issue of IP awareness be carried out. The study will focus on the extent of IP awareness in specific sectors and the general public in Ghana.

#### **5.10.7 Undertake a study on how best to establish IP units in relevant Government Ministries**

To sustain the visibility that IP will assume in the country with the implementation of this policy and strategy, it is expected that certain ministries and government agencies will establish IP units. As IP is a very broad area, these potential IP units if established will have specific roles and functions to play in their various institutions. Their roles and functions will not be the same across board as these institutions have different mandates. Therefore a study is to be undertaken and recommendations made on how best these IP units can be established and operated effectively.

#### **5.10.8 Undertake a study on unprotected research findings in the universities and research institutions**

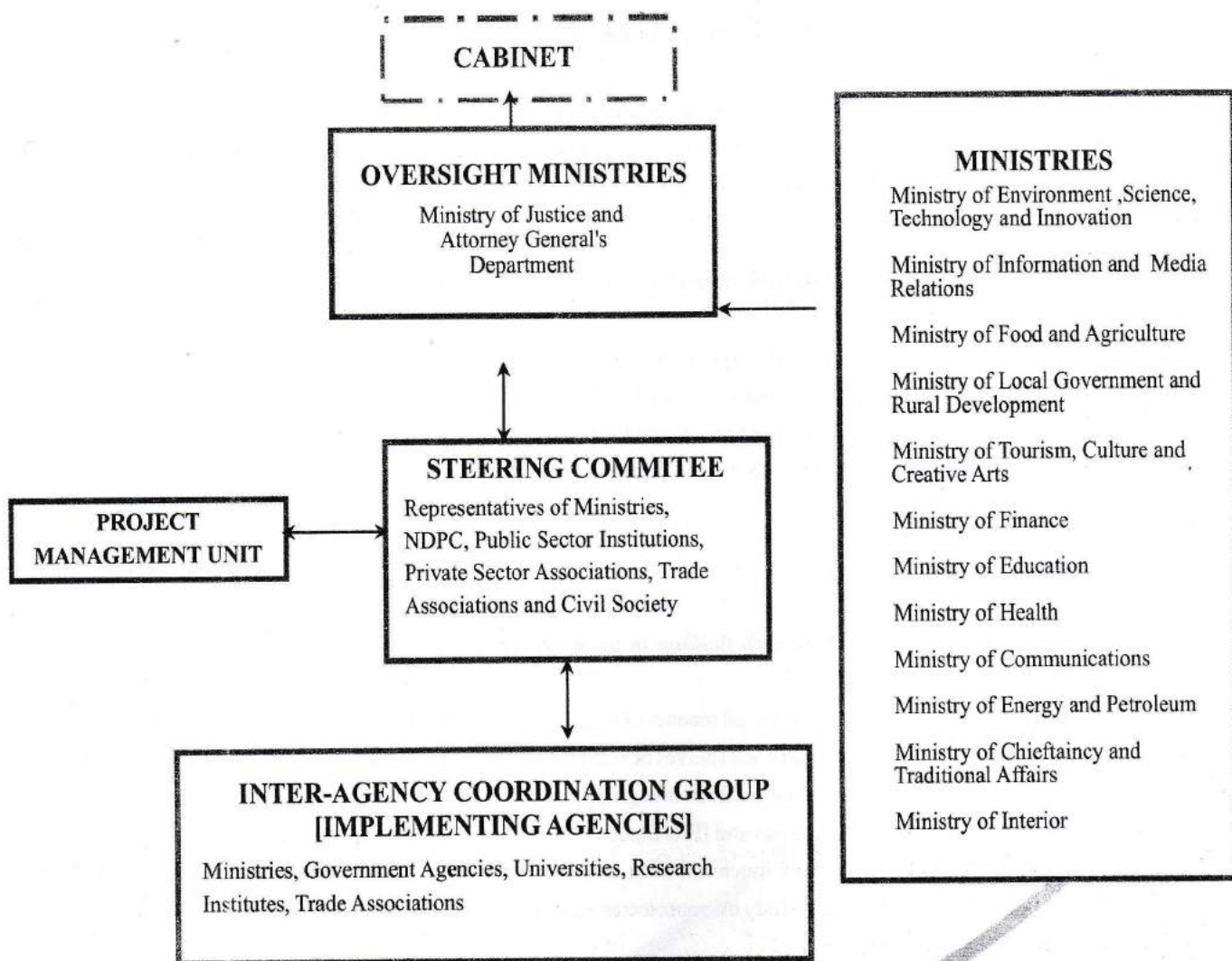
The universities and research institutions undertake all manner of research which might have generated certain outputs. Most of these research findings might have been stacked up on book shelves or archives in the various institutions as they have been used as part of a requirement of an academic work or for promotion from one grade to the other. These research findings might have components which could have been protected under the IP laws and IPRs obtained for their possible commercialization where feasible. It will be instructive to have an understanding as to how much has been lost in commercial terms because these research results were not protected. It is therefore being proposed that a study on unprotected research findings in the universities and the research institutions in last five years (2011-2015) be undertaken.



## 6.0. IMPLEMENTATION FRAMEWORK

### 1. Institutional Framework

To implement the National Intellectual Property Policy and Strategy will require several collaborators and hence a framework for the effective implementation, coordination and monitoring of the policy and strategy. The proposed institutional framework is indicated in the figure below.



The institutional framework is briefly discussed as follows:

- **Oversight Ministries** – The Ministry of Justice and Attorney General's Department and the Ministry of Trade and Industry will have ministerial oversight responsibilities for the implementation of this policy and strategy. The two ministries are currently implementing the IP reforms being carried out under the Swiss-Ghana Intellectual Property Project. The two ministries will liaise with other ministries as IP cuts across all sectors of the economy.
- **Ministries** – In implementing the IP policy and strategy other ministries will be involved at varying degrees and hence the relevant ministries have to be part of the institutional framework of implementing the said policy and strategy. The said ministries are: Ministry of Environment, Science, Technology and Innovation, Ministry of Information and Media Relations, Ministry of Food and Agriculture, Ministry of Local Government and Rural Development, Ministry of Tourism, Culture and Creative Arts, Ministry of Finance, Ministry of Education, Ministry of Chieftaincy and Traditional Affairs, Ministry of Energy and Petroleum, Ministry of Interior and Ministry of Communications.  
The oversight ministries and these ministries will constitute an Inter-Ministerial Committee and will be co-chaired by the Minister of Justice and Attorney General and the Minister of Trade and Industry.
- **Steering Committee** – The Steering Committee will be made up of members of the current National IP Policy Committee. They will have direct responsibility of overseeing to the implementation of the National IP Policy and Strategy. They will also be responsible for developing and implementing a communication plan for the national IP policy and strategy
- **Project Management Unit** – A project management unit with the requisite personnel will be an integral part of the institutional framework as the implementation of the IP Policy and Strategy will involve a complex interactions of several ministries and agencies. The project management will be the main coordination unit for implementation. It will be housed in the Ministry of Trade and Industry.
- **Implementing Agencies** – These are Ministries, Government Agencies, Universities, Research Institutions and other analogous institutions and trade associations which will implement the projects under the IP policy and strategy. They will develop the necessary work plans for implementation and present them to the steering committee for approval. The implementing agencies will report on their activities to the project management unit.

These institutions will constitute an Inter-Agency Coordination Group.

## 2. Coordination

The successful implementation of the National IP Policy and Strategy will hinge on effective coordination of its activities. As IP touches on all aspects of our lives, several ministries and agencies will be involved in implementing the projects, a few of which have experience in intellectual property issues. There is therefore the need to effectively coordinate the projects under this policy and strategy to ensure that its strategic objectives are met in a timely and cost effective manner.



The following entities will coordinate the activities of this policy and strategy:

- i. Inter-Ministerial Coordinating Group
- ii. Steering Committee
- iii. Project management unit
- iv. Inter-Agency Coordination Group

**Inter-Ministerial Coordinating Group:-** This will be the highest body in the coordination process and will have ministerial oversight responsibilities. It will be made up of the Ministry of Justice and Attorney General's Department and Ministry of Trade and Industry who will be the co-chair and other relevant ministries. This group will give the needed political support to the National IP Policy and Strategy and will engage Cabinet on all issues related to the said policy and strategy. The group will also be responsible for resource mobilization and allocation.

**Steering Committee:-** This is the committee that will engage the Inter-Ministerial coordination group. It will be made up of members who currently form the National IP Policy Committee and a representative from the project management unit. As this committee has direct responsibility of overseeing to the communication and implementation of the National IP Policy and Strategy, it will follow up on the implementation schedules to ensure that the set objectives are met.

**Project Management Unit:-** This unit or secretariat will carry out the active coordination of all activities being implemented under the IP policy and strategy. The leader of this unit will be a member of the Steering Committee.

**Inter-Agency Coordination Group:-** This group will be formed from the implementing agencies. All implementing agencies will have a focal person or persons. These persons will form the Inter Agency Coordination Group. The focal persons and other officers so nominated will develop the work plans and indicators for monitoring the projects the implementing agencies will be undertaking. The monitoring and evaluation will be done at the implementing agency level.

### 3. Communication

Communication will be key in the implementation of the IP Policy and Strategy. This policy and strategy should be widely disseminated. The dissemination will involve a number of institutions and will take some time. The level of dissemination will include among others all institutions that are involved at each level of coordination of this policy and strategy. Upon approval of the policy and strategy a comprehensive communication strategy will be developed. The communication will cover all stakeholders such as ministries, government agencies, educational institutions, research institutions, other stakeholders and the public.

### 4. Resource Mobilization

The successful implementation of this policy and strategy will require the utilization of a mix of resources in terms of financial and technical assistance support. It is imperative that these resources are mobilized with clear strategies in mind so as not to draw blanks. The sources from which these resources can be mobilized could typically be categorized as follows:

**Government of Ghana:-** The Government of Ghana resources.

**International Institutions:-** These will be multilateral agencies, inter-governmental and regional organizations, which may have either specific or non-specific mandates in the area of IP assistance.

**Bilateral Donor Agencies:-** National governments and their respective agencies dealing with development cooperation.

**Other:-** Sources such as non-governmental organization or quasi national government sources.

Below are some indicative sources of funding and technical assistance

### Some Indicative Sources of Funding and Technical Assistance

Source	Area of Interest
<b>International Institutions</b>	
World Intellectual Property Organization (WIPO)	UN specialized agency: Capacity development of IP in member states
International Union for the Protection of New Varieties of Plants (UPOV)	Intergovernmental organization for the protection of new varieties of plants
Food and Agriculture Organization (FAO)	UN specialized agency: IPRs with respect to plant varieties, animal breed, related technology and germplasm
World Bank (WB)	Creative Industries
United Nations Industrial Development Organization (UNIDO)	UN specialized agency: SME development, trade capacity building
World Trade Organization (WTO)	UN agency: Trade related aspects of intellectual property
<b>Bilateral Donors</b>	
Switzerland: (Swiss State Secretariat for Economic Affairs (SECO))	Capacity Building
European Union	Geographical Indications, Creative Industries
Norway: ( Norwegian Copyright Development Association (NORCODE))	Creative Industries
Sweden: (Swedish International Development Agency (SIDA))	Capacity Building
United States: United States Agency for International Development (USAID)	Capacity Development
United States: Department of Commerce	IP enforcement
United Kingdom: Department for International Development (DFID)	Private sector development
<b>National Government</b>	
Government of Ghana Sources	All aspects of IP
Other	
Alliance for a Green Revolution in Africa (AGRA)	Plant varieties protection
Nokia	IP enforcement



### 5. Monitoring and Evaluation

Monitoring will be done so as to make decisions aimed at improving performance, achievement of intended objectives, ensuring accountability to all parties involved in the implementation, to assess the use and delivery of resources in accordance with the implementation plan and to monitor the timely achievement of the intended deliverables. This policy and strategy will be evaluated during and after implementation to ensure that it produces the intended results.

A monitoring and evaluation framework for the policy and strategy will be designed and applied. A logical framework will be designed for each of the policy objectives, this will indicate expected outputs, activities, monitoring and evaluation tasks, means of verification, time frame and resource requirements.

The implementing agencies will submit reports on the progress of work at intervals to be determined by the Steering Committee and the project management unit. The reports so generated first goes to the Inter-Agency Coordinating Group after which it will be submitted to the project management unit. The project reports will be evaluated against the indicators of the activities reported on to track the progress of implementation of the projects.

#### SUMMARY IMPLEMENTATION FRAMEWORK

Policy Objective and Strategy	Tasks/Activities	Implementing Agency	Time Line
<b>Legal Framework for the Protection of Intellectual Property Rights</b>			
<b>Strengthen legal framework for protection of intellectual property rights in order to achieve and sustain a high standard of IP Protection</b>			
<b>Review and amend existing laws on IP to meet TRIPs requirements and emerging trends and best practices</b>	Complete amendment of Patents Act	MOJAG, RGD	September, 2016
	Complete amendment of Industrial Designs Act	MOJAG, RGD	September, 2016
	Complete amendment of Geographical Indications Act	MOJAG, RGD	September, 2016
	Review and amendment of Layout of Integrated Circuits Act	MOJAG, RGD	2016-2017
	Review and amendment of Undisclosed Information and Trade Secrets Act	MOJAG, RGD	2016-2017
<b>Develop comprehensive National IP laws on new and emerging areas</b>	Complete development of Bill on Plant Varieties Protection	MOJAG, RGD	April, 2016
	Develop Bill on Traditional Knowledge and Genetic Resources	MOJAG, RGD	2016-2018

<b>Policy Objective and Strategy</b>	<b>Tasks/Activities</b>	<b>Implementing Agency</b>	<b>Time Line</b>
<b>Accede to International Treaties and Agreements (International Obligations)</b>	Accede to UPOV Convention and ratify the Arusha Protocol	MOJAG, RGD	2015-2016
	Ratify Swakopmund Protocol	MOJAG, RGD	2015-2016
	Ratify Singapore Treaty	MOJAG, RGD	2016-2018
<b>Institutional framework for Administration and Management of intellectual property rights</b>			
<b>Strengthen institutional framework for Administration and Management of intellectual property rights</b>			
<b>Establish a National Intellectual Property Office</b>	Implement a Program to establish and operationalise a National Intellectual Property Office	MOJAG, RGD	2015-2017
<b>Automate the systems and procedures for administration of IP laws</b>	Complete automation of IP registration process based on new workflows and procedures	MOJAG, RGD, CO	2015-2019
<b>Undertake substantive examination of patent applications</b>	Develop and implement a Program for substantive examination of patent applications	MOJAG, RGD	2016-2020
<b>Encourage filing of patent applications of local inventors</b>	Develop and implement a Program to encourage the filing of patent applications of local inventors	RGD, MOTI, AGL, ATAG, CSIR, UG, KNUST, UCC, GAEC, CRIG, NBSSI, MESTI	2016-2019
<b>Establish Technology Innovation Support Centres</b>	Develop and implement a Program to establish Technology Information Service Centres (TISC)	RGD, KNUST, CSIR, UG and Other Universities and Research Institutions	2015-2017



Policy Objective and Strategy	Tasks/Activities	Implementing Agency	Time Line
Establish an E-library and digitization project	Finalize e-library and digitization project	CO, MUSIGA,RGD,UG	2016-2019
<b>Creativity and Innovation for enhanced IP generating activities</b>			
Promote creativity and innovation to enhance IP generating activities in Ghana			
Secure funding for IP development by universities, research institutions, industry and SMEs	Develop and implement Programs to access resources from various funding agencies for IP creation/generation	MOJAG,MOTI,MESTI,MOFA, MOF	2016-2020
	Develop and implement incentives Program for IP generation	MOJAG,MOTI,MESTI,MOFA, MOF	2016-2020
Establish National Centre For Creative Industries	Develop and implement a Program for the establishment of a National Centre for Creative Industries	MOJAG,RGD,MOTI,MOCTA, CO	2016-2020
Create an enabling environment to stimulate innovation and creativity	Develop and implement projects for SMEs	RGD,MOTI,NBSSI,ATAG,MESTI, GRATIS	2016-2020
	Develop and implement a Program to strengthen collaboration between academic institutions and industry (MSMEs) for IP generation	RGD,MESTI,MOTI,KNUST,UCC, UG,CSIR,MLGRD,NBSSI,GRATIS	2016-2020

Policy Objective and Strategy	Tasks/Activities	Implementing Agency	Time Line
<b>Commercial Exploitation of Intellectual property rights and Technology Transfer</b>			
<b>Promote and facilitate commercial exploitation of Intellectual property rights and Technology Transfer</b>			
<b>Establish an Industrial and Technological Information Unit</b>	Establish an Industrial and Technological Information Unit at the National IP office	MOJAG,RGD,MOTI,MOF	2017-2020
<b>Establish Technology Transfer Offices in Universities and Research Institutions</b>	Design and implement a program for the establishment of Technology Transfer Offices in the Universities and Research Institutions	MOJAG,RGD,MOTI,CSIR, <u>Universities</u>	2016-2019
<b>Develop IP Policies for Universities, Research Institutions, Technical and Vocational Institutions</b>	Design and implement a strategy for the promotion of the development of IP policies in public universities, research institutions, Polytechnics, Technical and Vocational Institutions	RGD,MOTI,CSIR,UG,GRATIS <u>KNUST,UCC,GAEC,CRIG,NBSSI,</u> MEST, CSRPM,POLYTECHNICS, TECHNICAL AND VOCATIONAL INSITITUTIONS	2016-2019
<b>Promote the establishment of infrastructure to support commercialization of IPRs</b>	Design and implement a program for establishing infrastructure for commercialization	RGD,MOTI,CSIR,UG, <u>KNUST,UCC,GAEC,CRIG,NBSSI,</u> MESTI, GRATIS, CSRPM,POLYTECHNICS AND VOCATIONAL INSTITUTIONS	2016-2019



<b>Policy Objective and Strategy</b>	<b>Tasks/Activities</b>	<b>Implementing Agency</b>	<b>Time Line</b>
<b>Promote Technology transfer policy</b>	Prepare and implement a technology transfer policy	RGD,MOTI,CSIR,UG,KNUST,UCC,GAEC,CRIG,NBSSI,MEST, CSRPM,POLYTECHNICS AND VOCATIONAL INSTITUTIONS	2016-2020
<b>Legal and institutional framework for enforcement of intellectual property rights</b>			
<b>Strengthen the legal and institutional framework for enforcement of intellectual property rights</b>			
<b>Enforcement of IP rights</b>	Strengthen legal and institutional framework on IP enforcement during the review of the various IP laws	MOJAG,RGD,CO,GPS,GRA (Customs)	2016-2019
	Design a handbook to guide enforcement officers and digitize it	MOJAG,RGD, CO,GPS, GRA(Customs) .	2016-2019
<b>Human Resource Development</b>			
<b>Develop adequate human resource capacity in the administration, protection, commercialization and enforcement of IP rights</b>			
<b>Develop and strengthen capacity building Programs for IP Professionals</b>	Design and implement a Program for the development of the required human resource for the promotion of IP	MOJAG,RGD,UG,UCC,KNUST, CSIR	2016-2020

<b>Policy Objective and Strategy</b>	<b>Tasks/Activities</b>	<b>Implementing Agency</b>	<b>Time Line</b>
<b>Promote IP Education at all levels of the educational system (formal, non-formal and informal)</b>	Design and implement a comprehensive Program for IP education	MOJAG,RGD,MOE	2016-2020
<b>Public Awareness Creation</b>			
<b>Create public awareness on IP issues for the general public and specific groups</b>			
<b>Promote awareness in intellectual property</b>	Develop and implement a strategy on public awareness and outreach Program on intellectual property rights	RGD,MOJAG,MOTI,MESTI, MOCTA, MoI	2017-2019
<b>Intellectual Property Services Industry</b>			
<b>Develop and strengthen IP services industry</b>	Strengthen existing Collective Management Organizations and encourage the establishment of new ones	CO	2016-2019
	Revive the Ghana Inventors and Intellectual Property Protection Association (GIIPPA)	RGD,CSIR,MESTI,KNUST,UCC, UG, GRATIS	2016-2018
	Design and implement a Program for the regulation and certification of IP professionals and intermediaries	RGD,CO	2016-2018



Policy Objective and Strategy	Tasks/Activities	Implementing Agency	Time Line
<b>Research in Intellectual Property Related Issues</b>			
<b>Promote research on emerging IP issues internally and externally to support evidenced based policy and decision making process</b>	Undertake a study to evaluate the contribution of creative industries to the economy	RGD,MOTI,CO	2017-2018
	Undertake a study on consolidation of various enforcement agencies and assessing the economic impact of IP enforcement in the country	MOJAG,RGD,CO	2016
	Undertake a study to evaluate the contribution of the plant varieties protection on the seed industry in the agricultural sector	MOFA,CSIR,RGD,UCC,KNUST,UG	2018-2019
	Undertake a study to identify potential geographical indications in the country	MOFA,CSIR,RGD,MLGRD	2016-2017
	Undertake a study to evaluate the impact of the Madrid Protocol to the economy	RGD	2017
	Undertake a study on the extent of IP awareness in specific sectors and the public in general	RGD,MOTI,MESTI,MOJAG	2018

Policy Objective and Strategy	Tasks/Activities	Implementing Agency	Time Line
	Undertake a study and make recommendations on how best IP units can be established in various relevant ministries	RGD	2017
	Undertake a study on unprotected research findings in universities and research institutions during the last five years (2012-2016)	RGD, <u>KNUST</u> , UCC, UG	2017-2019



**APPENDIX : INTELLECTUAL PROPERTY RIGHTS**

This section provides some basic information on the forms of IP rights.

	<b>Patent</b>	<b>Trademark</b>	<b>Industrial Designs</b>	<b>Geographical Indications</b>	<b>Layout-Designs of Integrated Circuits</b>	<b>Plant Breeders Rights (Plant Varieties Protection)</b>	<b>Copyright</b>
<b>What is protected</b>	Inventions (i.e. new technical solutions to technical problems)	Registered signs, marks, logos representing goods or services from abuse by third parties	Forms, i.e. , the exterior appearance of an object	Good produced or manufactured, evocative of a region	Exterior form of topographies such as : Micro chips, semiconductors, integrated circuits	New plant varieties that are novel, distinct, uniform and stable	Literary and artistic works (including computer Programs)
<b>How does it become protected</b>	Granting of a patent	Registration	Registration	Registration	Registration	Registration	Automatically at the moment of creation