

Topic 5: Implementation of Policies – Institutional Issues: *Optimal Monitoring and Review Mechanisms*

McLean Sibanda
Partner: Sibanda & Zantwijk Attorneys, South Africa

**THE ROLE OF INTELLECTUAL PROPERTY OFFICES (IPOs) IN
PROMOTING INNOVATION, BUSINESS COMPETITIVENESS AND
ECONOMIC GROWTH**

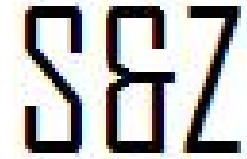
organized by
World Intellectual Property Organization (WIPO) in cooperation with Japan Patent Office (JPO)
February 2 and 3, 2012, Tokyo, Japan.

Overview

S&Z

- Introduction
- Monitoring
- Review / Evaluation
- Different Approaches and Illustrations
- Success Factors
- Concluding Remarks

Introduction

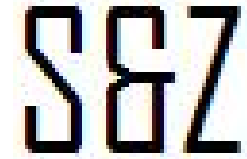


- ❑ Policies, strategies and legislation based on a given set of conditions at the time of establishment

- ❑ Conditions change
 - *Effectiveness of implementation of policy, strategy, legislation*
 - *Failure of the policy, strategy, legislation*
 - *Impact of other policies, strategies and legislation*
 - *Market conditions*
 - *Global trends – globalisation*

- ❑ Monitoring and Review critical for determining achievement of objects of policy, strategy or legislation

Monitoring

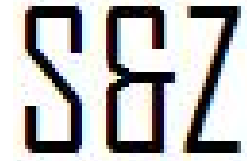


- ❑ Effective Monitoring and Review mechanisms demonstrate transparency and confer accountability

- ❑ Must clearly define:
 - *What is to be measured*
 - *What is the purpose of measurement / monitoring*
 - *How should it be monitored*
 - *Who is responsible for monitoring and review*
 - *What should be monitored and reviewed must be clearly defined in terms of SMART – Specific, Measurable, Attainable, Realistic and Time based*

Monitoring

Key Issues



- ❑ Monitoring is **routine, regular assessment** of ongoing activities and progress
- ❑ The Monitoring must address the following:
 - Implementation of planned activities as envisaged / planned
 - Meeting of deadlines
 - Meeting of milestones and deliverables
 - Barriers to achievement of envisaged milestones and deliverables
 - What adjustments must be made in light of findings

Review / Evaluation

S&Z

- Occasional determination / assessment** of overall achievement.
- Focus on achievements as well as impacts of initiative
- The Review / Evaluation must address the following:
 - Have desired results that necessitated their passing been achieved?
 - To what extent has that been achieved and how?
 - Are the results directly attributable to the intervention or incidental?
 - What else has contributed to the achievement?
 - What impact?
 - In essence this is an assessment of whether the policy, strategy or legislation is achieving the right things

Approaches to Monitoring & Review

S&Z

□ Institutional / Operational

- Based on annual or time based agreed goals / objectives (e.g. business plan targets)
- E.g. development of capacity for patent examiners; establishment of electronic filing system; increase in patent and trademark filings

□ Policy

- Establishment of committees / panels
- Focus groups to review climatic conditions to establish legislation
- External review – e.g. OECD territorial

Approaches to Monitoring & Review

S&Z

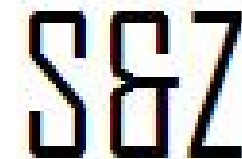
Legislative

- Parliamentary Committees
- Governance Boards
- Powers conferred under a legislation

Evidence based monitoring and review

Evidence must be established during indicator and target setting

Measurement Framework

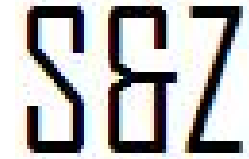


NARRATIVE SUMMARY	OBJECTIVELY VERIFIABLE INDICATORS (OVI)	MEANS OF VERIFICATION (MOV)	IMPORTANT ASSUMPTIONS
Inputs	<ul style="list-style-type: none"> • Nature and level of resources • Necessary cost • Planned starting date 	<ul style="list-style-type: none"> • Sources of information 	<ul style="list-style-type: none"> • Initial project assumptions
Outputs	<ul style="list-style-type: none"> • Magnitudes of outputs • Planned completion data 	<ul style="list-style-type: none"> • Sources of information • Methods used 	<ul style="list-style-type: none"> • Assumptions affecting the input-output linkage
Purpose	<ul style="list-style-type: none"> • End-of-project status 	<ul style="list-style-type: none"> • Sources of information • Methods used 	<ul style="list-style-type: none"> • Assumptions affecting the output-purpose linkage
Goal	<ul style="list-style-type: none"> • Measures of goal achievement 	<ul style="list-style-type: none"> • Sources of information • Methods used 	<ul style="list-style-type: none"> • Assumptions affecting the purpose-goal linkage

Source: S Pefile, *Monitoring , Evaluating and Assessing Impact* - Intellectual Property Management in Health and Agricultural Innovation: A handbook of best Practices (ed. A Krattiger, et al), 2007

Measurement Framework

(Example)



2012-13 POA

OUTCOME 4: Decent employment through inclusive economic growth

OUTPUT	S/O No.:	SUBOUTPUT	INDICATOR	Responsible	Actual Performance 2010/11	2012/13 Target	Q1 target	Q2 target	Q3 target	Q4 target	Budget Allocation 2012/13
1. Strategic economic infrastructure stimulating employment-led growth and development	1.1										
	1.2										



Legislative Approaches

e.g. IPR-PFRD Act, 2008

S&Z

NIPMO

- *IP disclosures by recipients*
- *Annual submissions of commercialisation reports*
- *Audits of IP and commercialisation*
- *Advisory Panel*
- *Dispute Panel*

Objective	Measure/indicator	Output 2010-2013
To grow the portfolio of innovations	<ul style="list-style-type: none">• Number of patent applications filed• Number of granted patents	<ul style="list-style-type: none">• 15• 5
To contribute towards socio economic development through R&D	<ul style="list-style-type: none">• Number of start-up businesses established• Number of jobs created	<ul style="list-style-type: none">• 5• 32

OTT

- *IP Committees*
 - *Business Plans and outcomes frameworks*
- 

Institutional Arrangements

* National Intellectual Property Management Office (NIPMO)

* Office of Technology Transfer

Legislative Approaches

e.g. IPR-PFRD Act, 2008

S&Z

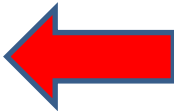
8 No. 31745

GOVERNMENT GAZETTE, 22 DECEMBER 2008

Act No. 51, 2008 INTELLECTUAL PROPERTY RIGHTS FROM PUBLICLY FINANCED RESEARCH AND DEVELOPMENT ACT, 2008


- (h) report to NIPMO twice a year and as provided for in this Act, on all matters pertaining to the intellectual property contemplated in this Act, including all intellectual property from which it elects to obtain statutory protection and the state of commercialisation thereof, in a manner stipulated by NIPMO; 10
- (i) provide NIPMO with full reasons in respect of any intellectual property that is not commercialised; and 15
- (j) in respect of an institution, put in place mechanisms to annually assess, record and report to NIPMO on the benefits for society of publicly financed research conducted in that institution.

**TTO
Obligations
S5(1)(h) – (j)**

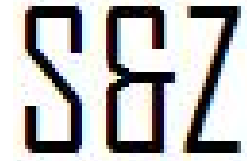


- (f) monitor, evaluate and review the obligations of recipients in terms of this Act.
- (5) In addition to its other functions, NIPMO may do anything necessary to meet the objects of this Act and to carry out any other function consistent with those objects that may be prescribed. 45

**NIPMO
Functions
S9(4)(f)**

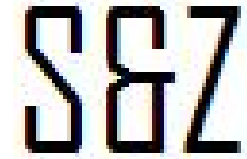


Success Factors for Monitoring and Review ...1/2



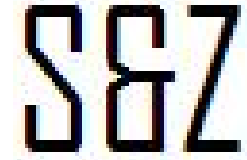
- Clear mandate in respect of the monitoring and review body (e.g. committee, board, organisation, etc.)
- Clear guidelines on what to monitor and review
- Clear deliverables and milestones against which to monitor
- Historical performance as benchmark of performance
- Clear understanding of circumstances that may affect performance

Success Factors for Monitoring and Review ...2/2



- Evidence based monitoring and review mechanisms provide more objective outcomes
- Baselines are important for determining progress being made
- Successful reviews also depend on clear “Terms of Reference” for reviewers / evaluators – must ensure these are developed well upfront
- Ability to institute corrective action (e.g. adjustment of targets, amendments to legislation, development of supportive legislation, provision of resources, etc.)

Concluding Remarks



- ❑ Monitoring is like “on-course inspection of cockpit instruments and effecting course adjustments”
 - Essential to ensure that achieve desired results – don’t get drastically off-course and crash into mountain
 - Clear plan or ‘flight path’ is a precondition to successful monitoring
 - Precondition for a successful review and evaluation – ensures that impact achieved

- ❑ Review is critical to justify public expenditure, resource allocation, ensure alignment with other policy, strategy and legislative imperatives

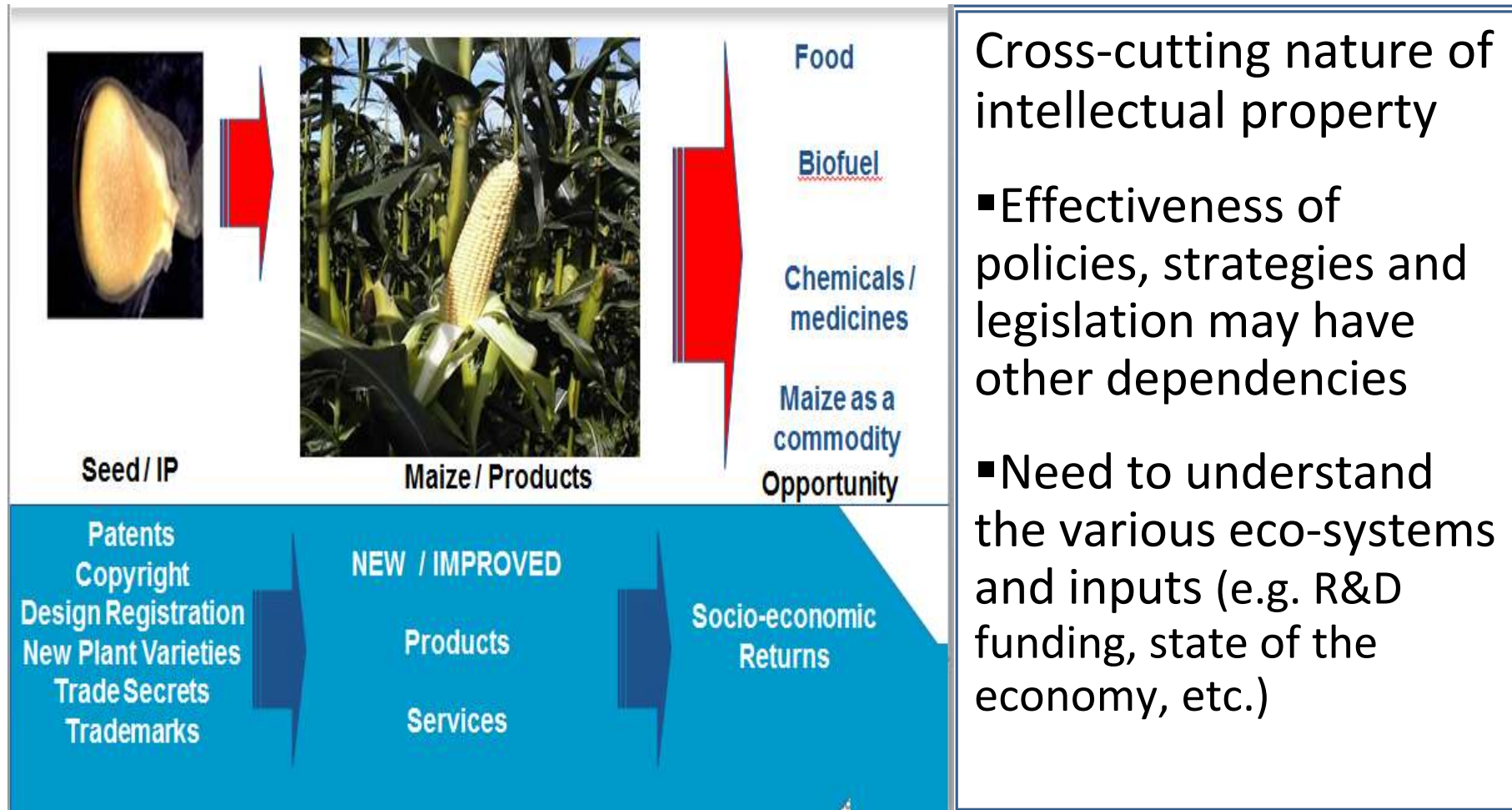
Concluding Remarks


S&Z



Concluding Remarks

S&Z



The logo for S&Z, featuring the letters 'S' and 'Z' in a stylized, bold, black font with a white outline, and an ampersand between them. The logo is positioned in the top right corner of the slide.

S&Z

THANK YOU

mclean@snz.co.za