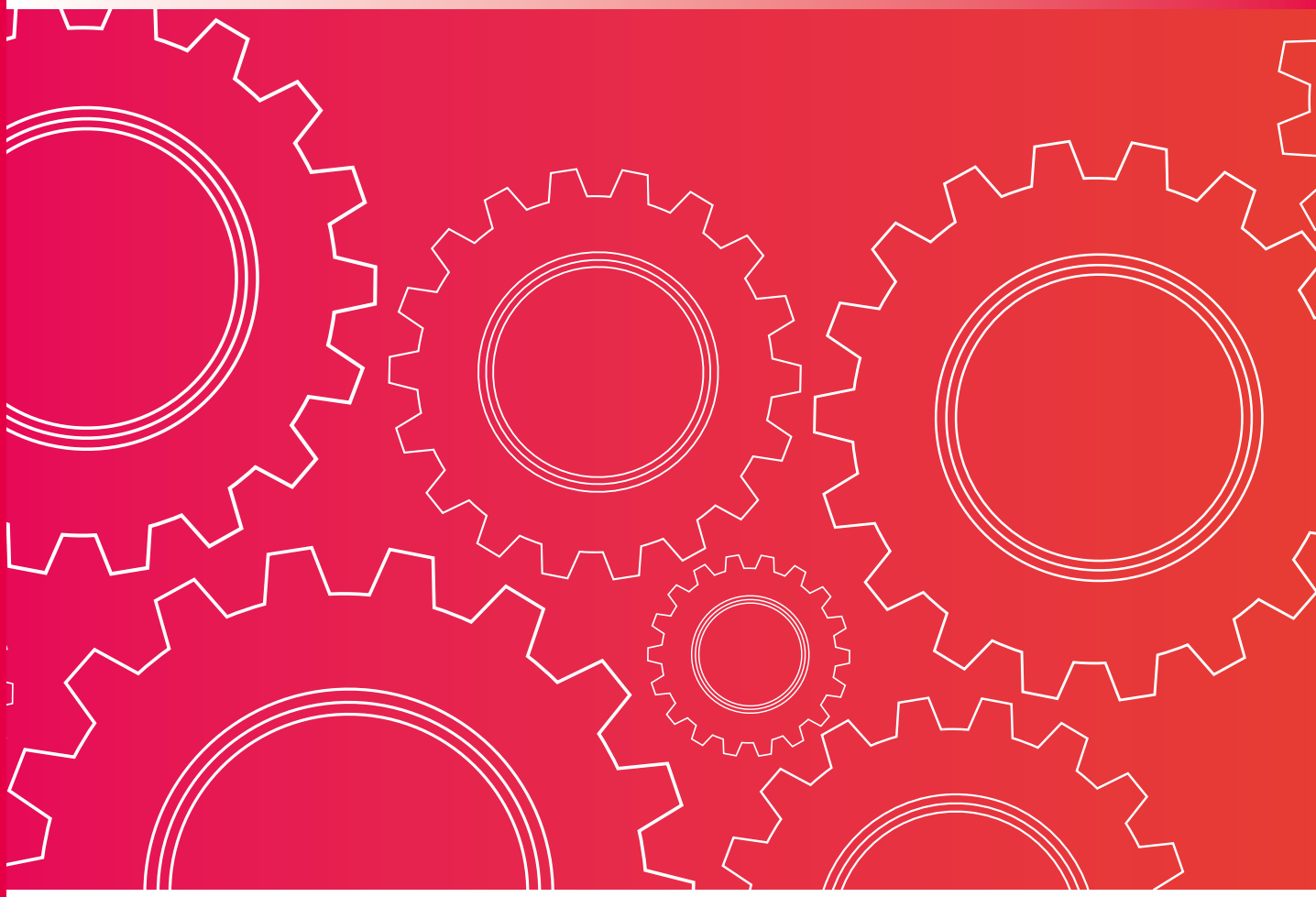
Methodology for the Development of National Intellectual Property Strategies

Toolkit

Tool 1: The Process



2014

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

Methodology for the Development of National Intellectual Property Strategies

Tool 1: The Process

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LIST OF ABBREVIATIONS

DA	**Development Agenda**
EPO	**European Patent Office**
FTA	**Free Trade Agreement**
IGOs	**Intergovernmental Organizations**
IP	**Intellectual Property**
JPO	**Japan Patent Office**
KBE	**Knowledge-Based Economy**
LDCs	**Least-Developed Countries**
MDGs	**Millennium Development Goals**
NGOs	**Non-Governmental Organizations**
SMART	**Specific, Measurable, Actionable, Realizable, and Time-Based**
SMEs	**Small and Medium-Scale Enterprises**
TRIPS	**Trade-Related Aspects of Intellectual Property Rights**
UNCTAD	**United Nations Conference on Trade and Development**
UNDAF	**United Nations Development Assistance Framework**
USPTO	**US Patent Office**

CHAPTER 1
INTRODUCTION

1.1. What is a national intellectual property (IP) strategy?

A national intellectual property (IP) strategy is a set of measures formulated and implemented by a government to encourage and facilitate the effective creation, development, management and protection of IP at national level. An IP strategy may also be defined as a comprehensive national document which outlines how all policy developments related to IP, and the implementation of these developments, should take place in a coordinated manner within a national framework.

1.2. Importance, role and goals of a national IP strategy

It is widely accepted that a well-functioning and balanced IP system is key to promoting innovation and creativity, which are the main drivers of economic development of knowledge-based economies (KBEs). The success of a KBE is dependent on a system that promotes knowledge-based enterprises, strengthens linkages between industry and research institutions, and develops the workforce necessary to deliver IP services. Such a system presupposes the appropriate integration of IP into the national development framework, and the interfacing of broad national IP policies and strategies with relevant national policy issues.

An IP strategy is important because it strengthens a country's ability to generate economically valuable IP assets.

All countries have wealth in the form of human capital, universities, research institutions and entrepreneurial businesses. Therefore, the aim of an IP strategy is to, over time, provide a plan whereby all national stakeholders can work together to create, own and exploit research results, innovations, new technologies and works of creativity.

1.3. Harmonized framework for developing a national IP strategy

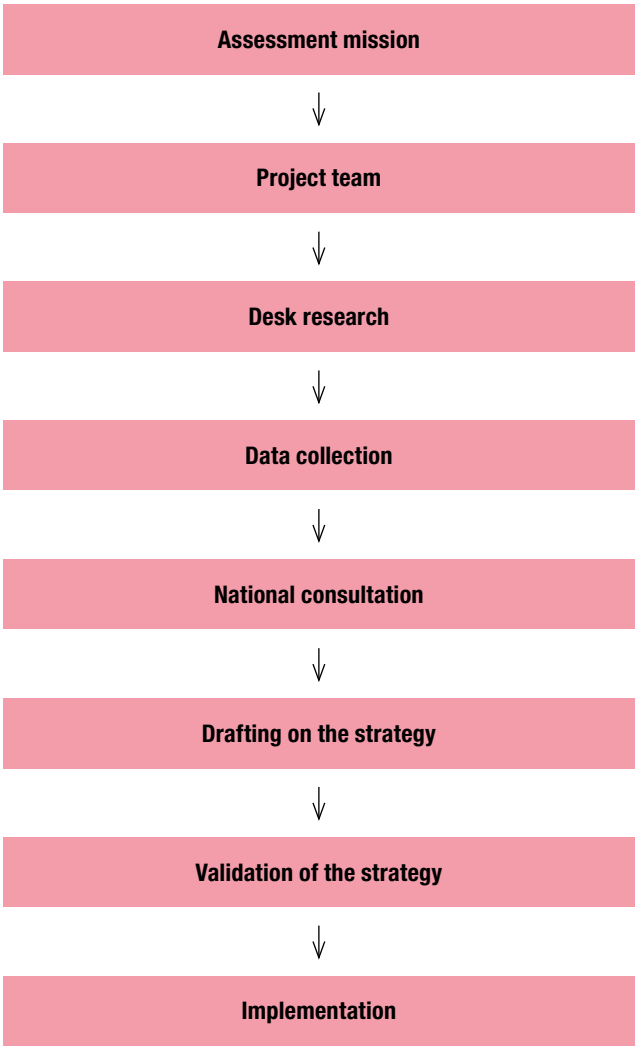
One of the World Intellectual Property Organization's (WIPO) main tasks is to support developing countries and least developed countries (LDCs) in the formulation of national IP strategies, in order to build and strengthen national and regional IP institutions, infrastructure and resources, thus helping countries to achieve the requisite level of economic, social and cultural development. In the recent past, WIPO has received a wide range of requests from Member States for assistance in the formulation and implementation of IP strategies that are consistent with these Member States' development goals and needs. While WIPO has responded to such requests on a case-by-case-basis, it has become clear that there is a need for a harmonized and integrated approach to guiding Member States in the formulation of their national IP strategies. Although development priorities and goals may vary significantly from country to country, the existence of similar issues suggests that providing a common tool to be used in the development of such strategies would be a more effective and efficient way to handle the process.

Against this background, the WIPO Development Agenda Project DA_10_05 was created with the aim of providing a coherent and harmonized approach, including a set of tools and mechanisms, to guide Member States in the development of a national IP strategy. The project also aims to ensure that WIPO's technical assistance and capacity-building activities in the development of the respective national IP strategies are delivered in an effective, efficient and coordinated way.

1.4. Steps involved in developing a national IP strategy

The methodology developed as part of Project DA_10_05 aims to provide a standard and integrated approach to IP policy, strategy, institutional reform and modernization. It consists of a series of steps, practical tools and key components, which are listed in Box 1 and expanded on briefly below:

Box 1 – Steps for formulating a national IP strategy



a. **Assessment mission** The assessment mission, which is undertaken by WIPO officials, is usually the first major activity to be carried out during the course of the IP strategy development process. The assessment mission, which is intended to prepare the ground for the IP strategy development process, involves meeting with the institutions responsible for the formulation of the IP strategy at national level. It also involves meeting with other key stakeholders – such as, inter alia, the national IP office(s), relevant government departments, universities and research institutions, SMEs, inventors, creators, legal practitioners, non-governmental organizations (NGOs) – to explain the scope, methodology and requirements for a successful IP strategy formulation process. The assessment mission should help to secure political commitment at the highest possible level, in addition to helping to identify and train the national team of experts who will be responsible for drafting the strategy.

b. **Project team** A project (national) team will be required to undertake an initial fact-finding exercise, carry out an IP audit, and develop a strategy document and action plan. The team may comprise national IP office(s) staff members or national experts recruited from somewhere other than the IP office(s). The appointment of a national project team will ensure that the country takes ownership of the results of the strategy formulation process; it will also ensure that the process is implemented by experts who have a comprehensive knowledge and understanding of the country's economic circumstances as well as its social and political infrastructure. In most cases, an international consultant will be required to work with and assist the national team.

c. **Desk research** The purpose of carrying out desk research is to review existing policy documents, in order to create a comprehensive assessment of the country's national development objectives, strategies and policies, and also in order to identify how to align the national IP strategy with the country's national development priorities.

d. **Data collection** The desk research will be complemented by extensive data collection using an integrated tool – the Baseline Survey Questionnaire – which was developed by WIPO. The purpose of data collection is to obtain a clear picture of the current IP situation in the country (IP audit), its weaknesses, strengths and potential, and, on this basis, to realistically assess what issues need to be considered during the formulation of the national IP strategy.
e. **National consultations** The purpose of carrying out national consultations is to enable stakeholders to actively participate in the validation of the IP audit findings and the formulation of the national IP strategy. The ultimate goal of this exercise is to enhance a wide range of IP stakeholders' ownership of the process of developing and eventually implementing a national IP strategy.
f. **Drafting the strategy** Based on the suggestions, opinions and recommendations received during the national consultation process (i.e., suggestions, opinions and recommendations that would be considered useful for inclusion in the draft national IP strategy), the project team will then be entrusted with the task of formulating the national IP strategy and related action plan. This task will include identifying key strategic IP objectives and priorities for each sector, as well as for the country as a whole.
g. **Validation of the strategy** A second round of stakeholder consultations will be required in order to validate the proposed draft strategy, and also in order to ensure that all suggestions, opinions, recommendations and concerns raised during the first round of consultations have been taken into account before the document is finally submitted to the government for approval.
h. **Implementation** The development of a national IP strategy would not be complete without a clear implementation framework. Such a framework should include implementation structures, a resource mobilization strategy, and monitoring and evaluation mechanisms.

1.5. The WIPO methodology

The purpose of the WIPO methodology is to provide guidance to those who are involved in the preparation of a national IP strategy. Specifically, the methodology's objectives are to:

a. Provide a reference tool for WIPO staff, IP offices, project teams and other relevant officers who are involved in the process of developing a national IP strategy;
b. Explain the importance of each of the above-mentioned steps; clarify what works best; identify any challenges that are likely to be encountered; and determine how best to address them; and
c. Provide tools, templates and examples for use by the project team during the preparation of a national IP strategy.

CHAPTER 2
PLANNING AND MANAGING THE PROCESS

2.1. Preliminary preparations

2.1.1. Justifications for developing a national IP strategy

The decision to develop a national IP strategy is the sole prerogative of a country, government or nation. The reasons for initiating such a process vary from country to country. The justifications may include one or more of the following:

a. **Need to consolidate sectoral policies:** In many countries, issues associated with the development of IP may already be integrated into a number of sector-based policies. For example, a science and technology policy may seek to strengthen the creation and commercialization of IP assets by universities and research institutions as a way of making science and technology respond to the needs of society; an agriculture policy may contain prescriptions for promoting the development of disease-resistant, drought-resistant, and high-yielding seed varieties as a way of ensuring a country's food security; a trade policy may contain prescriptions for the use of geographical indications and branding, in order to enhance access to the international market of locally manufactured products. The existence of such policy prescriptions in the country's development agenda may trigger the need for the development of a national IP strategy to consolidate the various policy prescriptions and objectives into a single national IP strategy.

b. **National long-term development agenda:** Today, many countries are involved in the process of formulating a long-term development agenda; they regard IP as a useful tool for the realization of such an agenda. Japan, for example, has tried to develop an economy based on IP and innovation.

c. **Benchmarking and best practices:** Some countries are anxious to strengthen their IP systems and infrastructure, in order to conform to best practices, and also in order to benchmark themselves against regional and international trade partners. A national IP strategy provides the appropriate framework in which to strengthen a country's IP system and infrastructure.

d. **International trade obligations:** Certain international trade agreements, such as Trade-Related Aspects of Intellectual Property Rights (TRIPS) and Free Trade Agreements (FTAs), may require trading partners to modernize and strengthen their IP systems and infrastructure. Such agreements may also serve as a trigger for the development of an IP strategy.

e. **Strengthening the national IP office:** In most cases, because the national IP office is the competent agency on matters relating to IP, it is the body that is most likely to initiate the development of a national IP strategy. It will take on this role not only because it recognizes the need to strengthen the country's IP system and give the issue of IP the appropriate attention, but also because it recognizes the need to strengthen the role and status of the IP office itself.

   National IP offices vary in size. It may be a small unit within the government department that holds responsibility for the area of culture, justice, trade, or industry. Alternatively, it may be an autonomous organization, or a semi-autonomous organization with executive powers and resources.

2.1.2. Identifying the key institution or body driving the process

Before the process gets underway, it would be important to identify which institution or body will be responsible for driving it at national level. For example:

a. Where a country has one organization covering all aspects of IP (both industrial property and copyright), then that organization may be the most appropriate one to take the lead. Where such a situation applies, it would be important to ensure that the organization is keenly aware that the issue at hand is the development of a national IP strategy, and not the development of a strategic plan for the IP office.
b. Some countries have multiple offices dealing with IP rights. For example, in one WIPO Member State, industrial property rights may be handled by an industrial property institute operating under the aegis of the Ministry of Trade and Industry; copyright issues may be handled by a copyright board operating under the aegis of the Attorney General; issues relating to the Plant Varieties Act may be handled by a plant breeders' rights office operating under the aegis of the Ministry of Agriculture. In such cases, ideally, a steering committee should drive the process, unless the offices mutually agree to have one of the offices, as well as a team of representatives appointed by that particular office, drive the process.

2.1.3. Project team and steering committee[1]

The next major decision to be considered is the composition of the team who will be charged with responsibility for developing the strategy. It is important to note that two groups will be involved in this process – a project team and a steering committee. The project team will be responsible for carrying out the work (including tasks such as undertaking the IP audit and drafting the strategy). The project team may report to a steering committee which represents the key stakeholders. The steering committee will provide policy and overall direction during the execution of the IP audit and the drafting of the national IP strategy. Therefore, the steering committee will be the authority responsible for delivering the strategy to the government, whereas the project team will act as the technical support unit for the steering committee.

Countries may go about the appointment of the project team and the steering committee in one of three possible ways, as follows:

a. Some countries may start out with a small team which develops the strategy; thereafter they may establish a bigger team (an implementation steering committee or an IP working group) to implement the strategy. The membership of this group includes all the key stakeholders identified in the national IP strategy.
b. Some countries may start out with a steering committee comprising all the key stakeholders. The steering committee is then charged with responsibility for both developing and implementing the strategy;
c. Some countries may start out with a small team charged with responsibility for developing the strategy. This stage in the process may be followed by the establishment of a high-level inter-ministerial body to oversee the implementation of the national IP strategy.

2.1.4. Mapping the stakeholders

The purpose of a national IP strategy is to promote the development of a country's IP system. The system should be designed to handle the following areas:

1. **IP creation:** This refers to structures and policies that support the creation of IP assets.
2. **IP commercialization:** This refers to support structures and policies that promote the commercialization of IP rights.
3. **IP legal framework:** This refers to the IP laws in a country which stipulate the depth and breadth of IP rights. The specifics contained within the IP laws provide direction on the protection of IP, the handling of disputes, and the penalties that apply for IP offenses.
4. **IP administration:** This refers to the government functions of administering IP rights, including IP filing and granting, and the infrastructure and resources that are available to support such functions.
5. **IP enforcement:** This refers to IP enforcement mechanisms, such as dispute resolution and the prevention of IP rights' violations by way of civil, administrative and criminal procedures.

One efficient way to pinpoint potential stakeholders would be to use an IP system approach. This would require the

1 See Template 1 for examples of project team compositions

identification of relevant stakeholders in each sector, i.e., those who are involved in the creation, commercialization, administration and management, and enforcement of IP rights. Other key stakeholders would include associations of IP stakeholders, such as inventors, creators, breeders, publishers and IP attorneys, and collective management organizations. Ideally, the exercise of stakeholder mapping, and the identification of selected key issues of concern to these stakeholders, should be carried out in advance of the WIPO assessment mission to the country. In addition, it may be useful for the government to begin designating focal points (individuals) in each key sector/institution to assist with the interviewing process and to ensure the active participation of all relevant sectors/institutions in the national consultation process.

2.2. Preliminary preparations by WIPO

In order to ensure that the assessment mission achieves its objectives, it will be important for WIPO also to engage in some preliminary preparations. Such preparations will include carrying out an assessment of the country's profile, and securing agreement on the assessment mission program with the team in the host country. The identification of suitable national experts on IP will be the responsibility of the country and, ideally, the national team will have been identified in advance of the assessment mission. WIPO may assist the host country with the identification of the requisite national experts by way of clarifying the types of responsibilities that such experts would be expected to assume.

Reviewing the country's profile[2]

WIPO should have acquired a deep understanding of the country's situation prior to undertaking the assessment mission. Specifically, it should seek to ascertain the following information: the country's international IP obligations, key economic and social sectors and issues, coupled with an understanding of the political and cultural landscape.

National and international experts

Before undertaking the assessment mission, WIPO should, ideally, agree with the host country whether or not the country will require national and international experts to provide assistance with the process of carrying out the audit and drafting the strategy. If such assistance is required, then the relevant experts should be identified in advance of the mission. It would be worth emphasizing the benefits of having a national team on board because this would enhance the country's ownership of the development of a national IP strategy; it would also serve to create a better understanding of the country's economic/social situation by the WIPO team and ensure the development of national capacities as a result of undergoing the process of developing an IP strategy.

In the majority of cases, the international expert will assist the national team of experts in the formulation of a national IP strategy framework; the international expert will also design a roadmap, and provide additional advice, guidance and recommendations on IP strategy options, based on a thorough analysis of the IP audit findings.

Depending on the country's needs, the international expert may participate in the process of developing a national IP strategy from the outset. For example, they may decide to join the WIPO assessment mission team so that they can better understand the full extent of the scope and objectives of the process.

The international expert/consultant's role should be that of a guide/mentor.

Detailed terms of reference (ToRs) describing the tasks, and identifying both key deliverables and a clear timeframe, have been designed to assist the country in recruiting the consultants. The ToRs are adapted to reflect the requirements of the national situation and the different coordination methods used by international and national experts.[3]

Securing agreement on the assessment mission program with the national team

The key objectives of the assessment mission are to:

- Prepare the ground for the implementation of the IP strategy formulation process: this will include holding meetings with the main institutions responsible for the formulation of the national IP strategy and meetings with key IP stakeholders, in order to secure political commitment at the highest level;
- Explain/discuss human resources requirements (if the national team is not already in place), including the profiles and the responsibilities of the team of experts who have been charged with implementing the various project phases at national level; and

2 See Template 2 for an example of country profile

3 See Templates 3a and 3b for an example of TORs for national and international consultants

- Train the national project team on the methodology and use of the WIPO tools employed in the formulation of a national IP strategy, and then prepare a practical work plan.

The assessment mission program should be formulated with the above objectives in mind.

2.3. Undertaking the assessment mission

Outcome of the assessment mission

The assessment mission should be used as an opportunity to clarify the objectives, goals and scope of the project, and also to clarify what will be required in order to secure high-level government commitment for the process. It will also be used as an opportunity to agree a roadmap for the project. The assessment mission is, therefore, a key component of the process of developing a national IP strategy.

A key element of the WIPO methodology is the active participation of all IP stakeholders and the team of national experts in the IP audit, the national consultation process and the preparation of the strategy. This approach offers a number of advantages, as follows:

- The country owns the results of the IP audit exercise, as the audit is conducted by national experts who have comprehensive knowledge of the country's economic, social and political infrastructure;
- By ensuring the active participation of all key IP stakeholders – by means of interviews and consultations – the national IP strategy is more likely to enjoy a high level of support and to be successful in the long term; and
- WIPO's role focuses on developing the skills of national experts so as to enable them to develop the national IP strategy, thereby strengthening human and institutional capacities at national level.

The assessment mission should stress the importance of all stakeholders actively participating in all stages of the strategy development process.

Duration

Assuming that adequate pre-mission planning has been carried out, the ideal duration of a mission would be five days. Breakdown as follows:

- Meetings with various stakeholders; identification of the focal points for follow-up during project implementation: two days
- Training of national IP consultants/project team: two days
- Developing a work plan: one day

Training the project team

The aim of training the project team is to brief them on:

- The importance of having a national IP strategy in place;
- The data that will need to be collected, and why;
- How to collect the data;
- Challenges that the team may encounter during the data collection process;
- How to record the findings; and
- How to analyze the data collected.

Specifically, the project team should be taken through the data collection questionnaire,[4] so that they have a good understanding of the meaning and significance of each question and the type of information that the completed questionnaire should contain.

Meeting the stakeholders

The meetings with stakeholders should achieve the following outcomes:

- Inform the stakeholders and explain the objectives and the scope of the work;
- Secure their commitment;
- Identify a leader/champion for the process;
- Clarify resource requirements and the government's obligations in this regard; and
- Clarify the role of WIPO and what support will be provided.

Preparing the work plan

Before the assessment mission concludes, it will be important to ensure that WIPO and the project team have agreed on a work plan for the implementation of the project. The work plan should include activities, responsibilities, a timeframe, resources and a budget for the main phases in the strategy development process – data collection, national consultations and formulation of the strategy. An example of a typical work plan is included in the WIPO toolkit.[5]

4 The questionnaire is included in the WIPO toolit

5 See Template 4 for an example of a work plan for developing a national IP strategy

CHAPTER 3
PLANNING AND MANAGING THE DATA COLLECTION PROCESS

The data collection process consists of two steps: desk research and the collection of data using the WIPO Baseline Survey Questionnaire. Both steps are briefly described in this chapter

3.1. Desk research

Importance of desk research

Desk research is an important step in the data collection process. Ideally, the desk research should be carried out in advance of the interviewing phase. This would enable the national team of experts to collect useful secondary data, to obtain a clear picture of the IP system in the country, and to plan properly for the interview phase, including identifying the key stakeholders who will need to be interviewed. However, both during and after the interview process, the consultants may need to undertake additional desk research in order to validate some of the interview findings. The desk research should focus on the following two key issues:

a. Obtaining information about the country's development agenda and how IP can be used to support the realization of this agenda; and
b. Obtaining available secondary data on IP in the country.

Desk research on public policy – understanding the overall policy framework

As referred to earlier in this document, a national IP strategy cannot be developed in isolation and without taking into account the country's other national policies and strategies. The national IP strategy must be regarded as a tool to be used in the delivery of the country's national development agenda. It is therefore important that the drafting team clearly understand the national development agenda on which the IP strategy will be based. It will need to review existing documents in order to obtain a comprehensive assessment of the country's national development objectives, strategies and policies, and determine how these can be linked to the national IP strategy. The documents to be reviewed therefore should include, in particular: national development strategies, including national strategies for the achievement of the United Nations (UN) Millennium Development Goals (MDGs); the United Nations Development Assistance Framework for the country (UNDAF);[6] national poverty-reduction policy strategies, including poverty-reduction strategy papers, and national policies and strategies related to specific sectors in the economy (health, education, science and technology, environment, national competitiveness). The research process should also serve to highlight the productive sectors and policy areas where the country has a comparative advantage. Additionally, it should highlight the potential to boost the country's economic, social and cultural development as a result of leveraging the opportunities that may be afforded by the exploitation of IP.

As a starting point, the desk research should seek to review all relevant public policies. Specifically, the desk research findings should enable the national team to answer the following questions:

a. What is the country's long-term development plan? Does it have a policy document on this area? What is the country's stated long-term vision and mission? What are its stated goals? What key strategic objectives have been identified?
b. What are the key pillars identified in the long-term development policy?

6 UNDAFs provide an integrated framework for the management of UN development funds and programs in a given country, in line with the country's national development priorities and needs, and the MDGs. They are used as planning tools by the UN Country Teams (UNCTs), which are led by the UN Resident Coordinators, and are composed of representatives of various UN funds and programs, specialized agencies and other UN bodies that are accredited to a given country. The main purpose of the UNCTs is to coordinate the work of individual agencies and to ensure the delivery of tangible results that support the country's development agenda.

c. What key sectors have been identified as the country's main economic and social pillars? Which of these sectors have policies and strategies in place? What visions, missions and key objectives have been identified for each of these sectors?
d. Which of these objectives and action plans can be addressed through the promotion of IP rights?

WIPO has prepared a questionnaire to assist the national team in carrying out this exercise. The national team must be completely conversant with the objectives and content of the questionnaire so that it can subsequently extract the information required by means of desk/documentary research and additional interviews. A template is also provided to help the team collect and document relevant data.[7]

Desk research on IP

The collection of primary data can be both expensive and time-consuming. That is why, ideally, data collection by means of questionnaires and interviews should aim to obtain information which is not already available in the public domain. The purpose of the desk research (secondary data collection) is to reduce the volume of information that needs to be obtained by means of interviews and questionnaires. Consequently, attempts should be made to obtain, through desk research, the maximum amount of information possible on the IP system – information that is already in the public domain. By accessing the websites and libraries of various institutions and government departments, the national team should be able to obtain the following basic information on the country's IP system:

1. The location of the office that is responsible for IP, and whether or not that office is a department operating under the aegis of a government department, or whether it is a semi-autonomous entity;
2. How many entities are responsible for the administration of the country's various types of IP rights (including industrial property, copyright, Plant Varieties Act, and traditional knowledge);
3. The laws governing the country's various types of IP rights;
4. The infrastructure that the country has in place for the promotion, creation, commercialization and enforcement of IP rights; and
5. The country's international obligations with regard to its IP system.

3.2. Baseline Survey Questionnaire

3.2.1. Data collection plan

In order to formulate a national IP strategy, it will be necessary to have a clear picture of the country's current IP system, and also to have carried out a realistic assessment of what it is possible to achieve during the implementation of a national IP strategy. This phase of the project focuses on collecting and analyzing data on the country's current IP system, including its strengths and weaknesses; it also focuses on identifying strategic IP targets and needs, with a view to formulating a national IP strategy that is in line with the country's national development priorities and goals.

Whereas it is assumed that an action plan encompassing data collection and strategy formulation will already have been drawn up during the course of the assessment mission, the details of a comprehensive data collection plan should be finalized as soon as the desk research process has concluded. The plan should provide answers to some of the following questions:

1. **Scope of the data collection:** Should it cover the main city(s) only, or should it cover the entire country?
2. **Data collection methodology:** Is it intended to use a questionnaire which respondents will be invited to complete on their own? Is it intended to use face-to-face interviews, Skype interviews, telephone interviews, focus group discussions, or a combination of these methods?
3. **Respondents:** Who should the data be collected from, and what method(s) should be used to collect this data? What information should be collected from whom?
4. **Research assistants:** What number of people would be required in order to carry out the data collection exercise? What background, experience and IP knowledge should these people have? For what period of time should they be retained, and how much should they be paid? What timelines apply in terms of recruiting them and training them? At what point should they be sent into the field?

7 See Template 5 for an example of collection and documentation of data on public policy
8 See Template 6 for an example of a data collection work plan

5. **Funding:** How much will the data collection exercise cost and who will pay for it?
6. **Duration:** How long will the entire exercise take?
7. **Responsibility:** Who will be responsible for what?

A template for a standard data collection plan is provided by WIPO to support the recommended methodology[8].

3.2.2. Data to be collected

The data collection team will be expected to engage in a series of interviews with key stakeholders – in particular, officials who are directly involved in the operation of the national IP system and who are familiar with the country's IP laws, administration and enforcement mechanisms. Specifically, the team will be engaged to collect data on:

a. Existing legal, administrative and enforcement structures related to IP, as well as data on national policies and strategies related to economic, social and cultural development;
b. Existing business and innovation support infrastructures, as well as national policies and strategies, if any, which are designed to promote and support business and are also designed to enable universities and research and development institutions to make effective use of IP;
c. The level of use of the IP system, taking into account the number of filings, registrations and grants of IP rights, as they relate to each sector and to each type of applicant;
d. The country's strategic objectives and the interface between IP and public policy areas;
e. The country's needs in terms of filling existing gaps between the current IP system and the country's strategic objectives – so that IP can be used effectively as a development tool; and
f. IP and existing related initiatives being undertaken by the UN and other intergovernmental organizations (IGOs). These initiatives include Aid for Trade, private sector development, trade-related technical assistance and legislative assistance. It would also include support being given by other providers of IP-related technical assistance (i.e., organizations such as the United States Patent and Trademark Office (USPTO); the European Patent Office (EPO); the Japan Patent Office (JPO); and the United Nations Conference on Trade and Development (UNCTAD)).

3.2.3. Data collection tool

A data collection tool has been developed by a group of experts, and has been piloted and subsequently fine-tuned in the Dominican Republic, Mongolia, the People's Democratic Republic of Algeria, the Republic of Mali, the Republic of Moldova, and the United Republic of Tanzania, and is now available for use by interested WIPO Member States. Known as the 'WIPO Baseline Survey Questionnaire', this is the main tool used to collect essential data on a country's IP system. The questionnaire is designed to be used by those directly involved in the operation and use of the national IP system. Such individuals may include the following:

a. National IP office officials who deal with enacting IP laws, or with the processing of applications for IP rights;
b. IP professionals, such as IP lawyers, technology managers, IP valuers and auditors;
c. Officials and agencies dealing with the enforcement of IP rights;
d. Inventors and creators operating in either the public sector, or the private sector;
e. Business support associations, such as collective management organizations, publishers' associations, music societies, inventors, and creators' associations;
f. Officials and organizations who are interested in developing innovative commercial enterprises;
g. Officials and agencies who are responsible for the promotion of the commercial exploitation of IP assets and technology transfer;
h. Officials from key sectors of the economy, such as industry, trade, agriculture, health and the enviroment.

The questionnaire contains questions which are grouped in clusters that specifically relate to different sectors in society and the economy. The questions are designed to elicit information on IP rules, regulations and laws, government infrastructure and support for the filing and granting of IP rights; legal practice in relation to the enforcement of IP laws; the level of use of the IP system; the strengths, weaknesses and potential of the system in terms of its contribution to the country's national and sectoral economic, social and cultural development objectives.

3.2.4. Data collection process

The data collection process may involve the use of any of the following methods:

Individual visits to institutions
Making individual visits to institutions would create an opportunity to hold face-to-face discussions with various stakeholders – an approach that would also be likely to yield good results. Such visits would, however, be time-consuming. The value of engaging in face-to-face discussions may be enhanced by ensuring that the stakeholders receive the questionnaire in advance of the interviewer's arrival.

Clustering of stakeholders, and interviewing them as a group
The information obtained during group interviews/discussions would provide a good overview of the state of the IP system in a particular sector/cluster. While the group interviews/group discussions method of collecting information is less time-consuming than making individual visits to stakeholders, the fact that information is presented in a group setting means that particularly useful data may not be readily provided by stakeholders. The positive aspect of organizing group interviews/discussions is that it combines data collection with opportunities to raise awareness of IP-related issues.

Combining both methods (individual visits and group interviews)
This method involves using both the clustering approach and individual one-on-one discussions. At the completion of the group discussions, the researchers may decide to have one-on-one discussions with some stakeholders in order to obtain more in-depth information. A template describing the various data collection approaches that can be used is included in the toolkit.[9]

3.3. Data collection phase–success factors

As already outlined, the interview element of the data collection phase is the most critical, the most difficult, and the most time-consuming aspect of developing a national IP strategy. Based on researchers' experience of carrying out interviews in other countries, the following factors can help to improve the interview process success rate:

a. Level of support provided by the national IP office;
b. Quality of research assistants, in terms of their ability to conduct interviews and document the results;
c. High-level support for the process;
d. Having an organization/individual who champions the process;
e. Having flexibility in terms of how the questionnaire is administered;
f. Having the flexibility to use multiple approaches during the interviewing process;
g. Adequate publicity/level of awareness among stakeholders;
h. Appropriate training; and
i. Appropriate respondents (ideally, the stakeholders to be interviewed should actively participate in the process from the outset; they should also have been briefed on the process during the WIPO assessment mission.)

Support provided by the national IP office
The national IP office, or another designated body, should treat this project seriously, and should provide the national team with all support necessary to enable them to collect quality data. The national IP office may support the national team in a number of ways. For example, the office can provide a letter introducing the national team to stakeholders, explaining the project and its importance for the country, and requesting stakeholders to support the process by providing comprehensive answers to the researchers' questions. Experience has shown that such letters usually help to facilitate the interview team's access to stakeholders. In certain cases, a telephone call from the national IP office to a stakeholder may be sufficient to elicit the required cooperation.

Where the national IP office has access to a ready supply of vehicles, it may assist the interview team by providing it with transport support during the interview phase. The office may also, where resources permit, provide a venue for focus group discussions. In addition, it may release one or more of its staff members to accompany national team members as they carry out the data collection and interviewing process.

Quality of research assistants
Depending on the size of the country, the national team may require research assistants to assist in the data collection and interviewing process. Ideally, these research assistants should be competent, knowledgeable and have

9 See Template 7 for various approaches to data collection

good communication skills – a combination of qualities that is often difficult to find in young researchers. The scarcity of such researchers would justify the need to recruit and train a new cohort of research assistants.

Prior to making interview arrangements with stakeholders, it would be important to decide which stakeholders should be interviewed by a research assistant, and which should be interviewed by the national team leader. In order to treat the interview process with the gravity it deserves, it would be preferable to divide the national team into two groups, with each group consisting of an experienced and IP-knowledgeable person and a number of research assistants. If research assistants are left to conduct interviews on their own, they may find that they are unable to handle certain issues or address certain stakeholder concerns.

High-level support

Based on experiences of carrying out interviews in other countries, it has been shown that securing high-level support from a senior government official (e.g., the prime minister, government minister or permanent secretary of a government department) is a key factor in determining the success of a data collection project. Securing such support is, therefore, an issue that is worth expending effort on. WIPO, together with the national IP office, should strive to secure the requisite high-level government support in each case.

Identifying a champion for the process

As already indicated, the process of collecting data and developing an IP strategy can be both difficult and frustrating, and, for this reason, it is vitally important to identify an individual who will champion the process. This person should be very committed to the process, and should also have the ability to motivate and encourage others to persist in their endeavors – even if repeatedly presented with a series of setbacks. Responsibility for driving the process of developing a national IP strategy should not be left solely in the hands of the national IP office management team or steering committee.

Flexibility in administering the questionnaire

Based on the experiences of other countries that have been involved in piloting the methodology described above, it is important to adapt the data collection tools to suit particular circumstances. In certain cases, additional (or modified) tools may be needed in order to capture specific information that is not addressed/is not taken into account in the survey tools provided. Where possible, the questionnaire should be made available in the local dialect(s), so as to simplify the questionnaire completion process.

Flexibility in using multiple approaches to the interviewing process

The national team should demonstrate flexibility in terms of adopting several methods of data collection. Such methods may range from forwarding a copy of the questionnaire document to the interviewee(s) in advance of the scheduled interview session, to carrying out face-to-face interviews, telephone/Skype interviews, focus group discussions, or a combination of all of these.

Publicity

The process of developing a national IP strategy should be well publicized in the national media by the national IP offices, as this could serve to improve the level of stakeholder cooperation. Similarly, a letter or briefing document issued by a respected national authority, and circulated to stakeholders, could also serve to enlist the support of stakeholders for the interview process.

Training

As already outlined, it would be important to organize training for the national team on the process of developing a national IP strategy; how to use the questionnaire, and how to raise awareness and knowledge of specific IP-related issues among the main participants in the data collection process.

Appropriate respondents

The stakeholders who are scheduled to be interviewed should be encouraged to actively participate in the process of developing a national IP strategy. Ideally, they will have been briefed on the overall process during the WIPO assessment mission.

As outlined earlier in this document, focal points in each key sector should have been identified at the outset of the project. Additionally, relevant institutions should also be involved in assisting with the data collection process.

CHAPTER 4
NATIONAL CONSULTATION PROCESS

4.1. Purpose

Bearing in mind the fact that the successful formulation and implementation of a national IP strategy is very largely dependent on the active participation and buy-in of key IP stakeholders – including government and non-governmental representatives, the private sector and civil society, the UN, other IGOs and donors – the next phase of the project will focus on organizing national consultations with IP stakeholders, with a view to sharing the results of the data collection process and engaging these stakeholders in the IP strategy formulation process.

The purpose of carrying out consultations nationally is, therefore, to:

i) Validate the findings of the data collection phase; and
ii) Enable the stakeholders to make concrete suggestions and recommendations, with a view to having them included in the draft IP strategy.

4.2. Timing and frequency

The consultations should take place in phases. Sequence as follows:

Phase One consultations should take place after the completion of the data collection phase of the project. The main purpose of these consultations should be to validate the audit findings and make recommendations for inputs to the strategy.

Phase Two consultations should take place once a first draft of the strategy has been developed. This would give stakeholders the opportunity to discuss the draft strategy and provide suggestions and recommendations for improving it.

A third consultation/validation meeting may be necessary in order to give stakeholders a final opportunity to contribute their comments before the strategy document is submitted to the government.

4.3. Duration and organization

The first consultation would take place over a period of one week. Format as follows:

Day 1: Plenary presentation on the findings;
Day 2: Discussions on the findings as they relate to each sector (parallel sessions);
Day 3: Discussions on suggestions and recommendations as they relate to each sector, (parallel sessions);
Day 4: Discussions on suggestions and recommenda tions as they relate to each sector (parallel sessions);
Day 5: Plenary presentations and creating synergies.

The second consultation would take place over a period of four days. Format as follows:

Day 1: Plenary presentation on the draft strategy;
Day 2: Discussions on the draft strategy by sector (in parallel sessions);
Day 3: Discussions on the draft strategy by sector (in parallel sessions);
Day 4: Plenary presentation and discussions on sectoral observations.

The third consultation would take place on a single day. Format as follows:

Morning: Sectoral discussions
Afternoon: Sectoral presentations, plenary discussions

4.4. Selection of participants

The selection of the participants invited to join the various discussion groups should be made on the basis that it would result in each group comprising sufficient numbers to deliver appropriate representation of the relevant sector(s); a total of between 10 and 15 participants in each discussion group should be sufficient to deliver the requisite level of sectoral representation. Each group should include multi-disciplinary representation from each key sector. Those interviewed during the course of the data collection process should comprise the majority of the discussion group participants.

4.5. Discussion Format

The discussion on audit findings should be a facilitated session. The facilitator may be a WIPO official, the international consultant to the project, and/or the national consultant(s)/expert(s). Ideally, the discussion should be chaired by a sectoral representative; this person should be accompanied by a second sectoral representative who would take notes and act as rapporteur. In certain cases, the discussion may be facilitated by a PowerPoint presentation. In addition, where technological/audiovisual resources are available, it may be a good idea to project the strategy text onto a screen during the discussion. This would enable the rapporteur to directly add comments/recommendations into the text of the draft audit report while it is being discussed. This approach would serve to further encourage the active participation of all members of the various consultation groups.

4.6. Key outputs

The national consultations on the validation of the audit report should deliver the following outputs:

a. Final IP audit report, including recommendations and suggestions provided by the national consultation forum; and
b. A clear statement on how to progress from the IP audit/data collection phase to the strategy development phase.

4.7. Follow-up

It may be necessary to arrange follow-up meetings with representatives of specific sectors in certain circumstances – for example in cases where consensus has not been reached; where additional information is required, or where there is a need to consult other high-ranking officials before final decisions are made.

CHAPTER 5
PLANNING AND MANAGING THE DRAFTING OF THE NATIONAL IP STRATEGY

5.1. Introduction

Once the data collection phase is completed, the next step in the IP strategy development process will involve focusing on the formulation of key strategic objectives and targets. Such strategic objectives and targets may be identified following an analysis of elements of the IP system which were found to be weak in the baseline survey (IP audit), and which will therefore require reinforcing or strengthening.

5.2. Roles and obligations of key stakeholders

The roles and obligations of individuals or institutions who may be involved in the drafting process are as follows:

National IP office

In most cases, the national IP office is the institution that will be best placed to conduct the IP audit, develop the strategy document and action plan, and coordinate and manage the implementation of the strategy itself. However, it is important to ensure that the office works with other key stakeholders since, without buy-in from all stakeholders, the strategy has little chance of practical success and is likely to remain a mere document, as opposed to a specific action plan.

The national team

The national team holds the principal responsibility for drafting and delivering the strategy.

The international consultant

While the responsibility for drafting the national IP strategy will rest with the national team of experts, the role of the international expert/consultant will be critical at this stage of the project. As this type of project may be a new experience for the national team, the knowledge and experience of the international consultant/expert will provide a moderating and guiding influence during the process of drafting the national IP strategy. Securing the active involvement of the international consultant as a coach during the drafting process is therefore recommended. It will also be important to ensure that good communication is maintained between the international consultant and the national team while the process of guiding, reviewing and monitoring the drafting of the strategy is underway. It is important to note that the term "international consultant" does not necessarily mean an individual who is based outside the country. Rather, it indicates that the person has international experience and is not linked with any organizations/institutions that may have a direct interest in the strategy.

Steering committee

In certain cases, a country may have appointed a steering committee to which the national team reports. Where this occurs, the steering committee should ensure that the national team has the necessary resources to implement the drafting process and create the requisite linkages between the national team and senior government officials or departments.

5.3. Key issues to be considered during the drafting process

Linking the IP strategy to the national development agenda

The team will need to reflect on the country's long-term development agenda and describe how the national IP strategy will contribute to the realization of this agenda.

A graphic representation of the IP strategy formulation process and of the interface between IP and the national development agenda is contained in template 8, included in the toolkit.[10]

10 See Template 8 for the link between national development agenda and national IP strategy

Vision, mission and goals

Once the national team has reflected on the current status of the IP system and has considered in what way it wishes the national IP strategy to contribute to the national development agenda, the team will define the national IP strategy vision, mission and goals. Examples of the vision and mission, as articulated by a number of countries, are included in the toolkit.[11]

Objectives and strategies

The team will define the specific national IP strategy objectives that should be identified in order to realize the stated national IP strategy vision and mission. Such objectives will articulate the government's policy on a particular issue, whereas the strategy will indicate how the objective is to be realized. For example:

Objective – The government will strengthen the legal framework for the protection of IP rights in order to achieve and sustain a high standard of IP protection.

Strategy – To achieve the above mentioned objective, the government will:

a. Review and amend existing national laws on IP, in order to meet TRIPS requirements;
b. Develop comprehensive national IP laws for new and emerging areas;
c. Accede to international treaties and agreements, having considered the best interests of the country.

A template highlighting possible indicators for the development of national IP strategies is included in the toolkit.[12]

Development of an action plan with specific projects or activities

Once the strategy has been developed, it is strongly recommended that it is complemented by a detailed work plan or action plan that identifies specific projects and uses a project-based approach[13] to implement and realize the strategy's objectives. Prioritization of these projects/activities should be undertaken, and should be based on available resources and their potential impact on the IP system.[14]

Examples of concrete projects might include:

a. Developing a law on plant varieties;
b. Reviewing patent legislation;
c. Automation of IP registration processes;
d. Establishing a technology information service center;
e. Introducing IP policies in universities and research institutions;
f. Establishing a collective management organization;

Preparation of a work plan

For each project identified, an implementation work plan should be developed. Key components of each project work plan/action plan should include:

a. A clear timeframe for implementation, with a defined start and finish date;
b. Clearly identified resources;
c. Clearly identified responsibilities;
d. Specific milestones.

The formulation of a work plan/action plan is an important element of the process involved in developing a national IP strategy. Such plans should specify concrete activities to be executed during the implementation of the strategic plan. If the activities are clearly defined, then it should be possible to provide an indicative budget for each element of the strategy.

A template containing an example of a work plan for the implementation of a specific activity/project is included in the toolkit.[15]

Implementation frameworks – need for a national coordination mechanism

The implementation of a national IP strategy will require the involvement of a number of collaborators and participants from both the public and private sectors and, therefore, a framework for the effective implementation, coordination and monitoring of the strategy is required. The implementation framework may vary from country to country. It may comprise four levels of authority. As follows:

11 See Template 9 for examples of visions and missions from selected countries
12 See Template 10 for possible indicators
13 See Template 11 for information on a project-based approach
14 See Template 12 for guidelines on priority setting
15 See Template 13 for an example of a work plan for the implementation of a specific project/activity under the strategy

- High-level bodies consisting of government departments (interministerial body) involved in the process;
- A steering committee;
- Implementation unit: This is an office which functions as a secretariat, and provides day-to-day support to the institution/group that is mainly responsible for the implementation of the strategy.
- Implementing agencies: This includes the government departments or agencies that hold responsibility for the implementation of given projects. For example, the national IP office may be responsible for developing new IP laws, whereas the government body in charge of science and technology may be responsible for ensuring that universities have an IP policy.

Results-based monitoring and evaluation framework

Monitoring is important for ensuring that decisions are aimed at improving performance, and are also aimed at achieving the intended objectives. Monitoring is also important for reinforcing the accountability for all parties involved in the implementation process, and also for ensuring that decisions are capable being assessed in terms of whether the use of resources is in accordance with the implementation plan and the timely achievement of the intended deliverables.

The design of the monitoring and evaluation framework should take into account the need to create a logical framework for each of the objectives – indicating expected outputs, activities, monitoring and evaluation tasks, verification methods, timeframe and resource requirements. The implementing agencies will be required to submit reports on the progress of their work at intervals that are mutually agreed by the authority to which they report.

Resource mobilization strategy

Some strategies and policies include a framework for the mobilization of resources in the context of the strategy implementation. The successful implementation of a national IP strategy may require the utilization of a combination of resources in terms of financial support and technical assistance. Areas from which these resources may be mobilized include the government, international institutions and bilateral donor agencies.

5.4. Formulating targets using a bench marking and best practice approach

5.4.1. Introduction

Targets will be established for specific elements of the country's IP system which the findings of the data collection process – and in particular the results of the baseline survey – will have indicated need to be strengthened and reinforced. One way to identify specific targets is to use a benchmarking and best practice approach. Benchmarking is the process of identifying, learning from and adapting good practice and best practice in similar organizations so as to improve performance. The overall aim of benchmarking is to improve efficiency and effectiveness by comparing procedures and/or processes with identical or similar procedures or processes carried out by other bodies, and then identifying and implementing the best practices.

5.4.2. Best practice benchmarking – national IP strategies

Best practice benchmarking refers to a situation where a country that is involved in developing a national IP strategy identifies and analyzes the approach already adopted by countries which are acknowledged as high performers in specific aspects of operating IP systems.

The processes that these benchmark countries employ – as opposed to the performance levels associated with those processes – are the key elements of the system that are subjected to analysis.

For example, if the element of the system of particular interest to outsiders is the number of applications for, and grants of, IP rights, then the country developing an IP strategy will be more focused on analyzing the strategies that the benchmark countries employed in order to realize high levels of applications and grants of IP rights.

The knowledge gained through such analyses is documented by the country that is developing a national IP strategy and, where feasible and appropriate, some of these high-performing activities or best practices are adapted and incorporated as objectives during the development of a national IP strategy. The main advantage of benchmarking is that a country can choose which countries to benchmark against for each element of the IP system that it wishes to strengthen.

5.4.3. Benchmarking process

Using the results of the baseline survey and the list of recommendations compiled as a result of the consultation process, the national team will need to provide definitive answers to the following questions:

1. What aspects of the IP system will be bench marked?
2. Which countries' IP strategies will be used as benchmarks?
3. How will the data be collected?

The data collected in the benchmarking study will be analyzed so as to provide a basis for comparison. The key questions to be considered during this phase are:

1. What is the performance of the best practice benchmark countries?
2. How does our country's performance compare with those countries?
3. In what way are those countries better?
4. What can we learn from those countries?
5. How can we apply the lessons learned in those countries to the development of our own country's IP strategy?

5.4.4. Criteria for selecting benchmark countries

Criteria that may be used when selecting benchmark countries include the following:

1. Countries which are at same stage of economic development.
2. Countries which have achieved a higher level of economic development.
3. Countries which have similar resources.
4. Countries which have recent experience with a specific element of the IP system that your country is also planning to implement.
5. Countries with similar future economic development plans.
6. Countries with similar specific IP requirements.
7. Countries belonging to the same economic block as the one that your country belongs to.
8. International treaties, protocols and conventions.
9. Competitiveness.

These criteria may be briefly summarized as follows:

Same stage of economic development: This refers to the achievements and best practices of countries which are at the same stage of economic development – countries which are considered to be high performers in selected areas of the IP system that the new country wishes to be benchmarked against.

More advanced stage of economic development: This refers to the achievements and best practices of countries which are at a more advanced stage of economic development, and against which the new country is benchmarking its economic development plans. For example, some African countries benchmark their economic development plans against those of the Asian Tiger economies.

Same resource base: This refers to selecting benchmark countries from among those that have used IP to economically exploit a resource base similar to the one in your country. For example, if a country is interested in developing its genetic resources, music industry or film industry, then it should be benchmarked against countries which are already successfully using IP to exploit such resources and talents.

Recent experience in undertaking similar projects: This refers to selecting benchmark countries from among those that recently successfully implemented similar projects. For example, if one of a country's objectives is to automate the IP registration process, it may be useful to learn from countries that have recently successfully implemented the automation of their IP offices and have comprehensively documented the process and the various challenges involved, as well as how these challenges were addressed.

Similar future economic development plans: This refers to selecting benchmark countries from among those with economic development plans which are similar in some respects to the plans that another country wishes to implement. For example, if a country plans to move from an agriculture-based economy to an industrialized economy, then it may wish to analyze the IP strategies of countries that are striving to become industrialized.

Similar specific IP requirements: This refers to selecting benchmark countries from among those whose IP strategies address similar issues to the ones that another country plans to address. For example, if it plans to promote IP training, education and research, then it may wish to benchmark against countries whose IP strategies contain the same objectives.

Countries belonging to the same economic block: If a particular country and the proposed benchmark countries belong to the same economic block for trading purposes, then that country may wish to analyze the IP systems of the benchmark countries, so as to identify which areas may need to be strengthened in order to achieve the benchmark level, or higher.

5.5. Drafting aids

5.5.1. Model national IP strategy

WIPO has developed a template containing key components of a national IP strategy that may be used to guide the strategy development process. This is included in the WIPO toolkit.

5.5.2. Existing national formats and practices

Many countries have already developed strategies for various social/economic sectors with the aim of delivering specific improvements in those sectors. These strategies and formats should be analyzed and, if necessary, the relevant formats may be adopted while developing the national IP strategy.

5.5.3. Existing national IP strategies

During the drafting process, the drafting team may wish to review existing national IP strategies in various countries.

TEMPLATES

TEMPLATE 1

Examples of composition of project teams

IP office-led: This refers to a situation where the IP office is in charge of carrying out the IP audit and is also responsible for strategy development. In this scenario, the project team members would comprise staff from the IP office. The national team members may comprise representatives from each of the key technical departments (e.g., patents, trademarks, industrial design, copyright, documentation) appointed by the head of the IP office.

Multi-sectoral team: This refers to a situation where the project team comprises representatives appointed by different government departments and bodies handling various IP-related areas. The team may be chaired by a member of the IP office.

Consultant-led: This refers to a situation where a team of experts under the leadership of a national consultant is appointed by the body that has taken on responsibility for the development of the IP strategy.

Steering committee-led: This refers to a situation where a steering committee is appointed by a higher authority to assume responsibility for the development of the strategy. Membership of the steering committee may be broad, and may comprise representatives of various stakeholders, including the government, the private sector and civil society. The steering committee may appoint a small team of experts to carry out the IP audit and prepare the draft IP strategy.

Observations and conclusion:

There is no single correct approach.
What is important is that the process is driven and owned by the country and its people

TEMPLATE 2

Examples of issues to be considered when preparing a country profile

Geography

a. Area;
b. Average altitude;
c. Terrain;
d. Climate.

2. People

a. Population;
b. Annual population growth rate;
c. Health: Infant mortality rate (children aged under one year);
d. Life expectancy;
e. Religions.

Economy

a. GDP;
b. GDP growth;
c. Per capita GDP;
d. Natural resources;
e. Agriculture;
f. Industry;
g. Trade;
h. Aid received;
i. Fiscal year.

Government

a. Government type;
b. Independence;
c. Constitution;
d. Legal code;
e. Political parties;
f. Suffrage;
g. Administrative subdivisions.

Education

a. Primary education;
b. Literary;
c. Secondary education;
d. University education;
e. Number of universities;
f. Number of technical universities;
g. Number of research institutions.

Institutions managing IP

a. Industrial property;
b. Copyright and related rights;
c. Plant breeders' rights;
d. Traditional knowledge and genetic resources.

Legal framework

(possible source of information: http://www.wipo.int/wipolex/en/)

a. Industrial property;
b. Copyright and related rights;
c. Plant breeder's rights;
d. Traditional knowledge and genetic resources.

TEMPLATE 3A

Example of terms of reference for national consultant

Objectives of the assignment:

a. Assess the state of the national IP system in the country;
b. Mobilize the stakeholders who will be involved in the IP strategy formulation process; and
c. Formulate, in consultation with the relevant stakeholders, a national IP strategy for implementation by the government.

Suggested tasks to be undertaken by the national consultant/national team:

1. Carry out an audit of the current national IP system by collecting and analyzing information on:

a. Existing legal, administrative and enforcement structures related to IP, as well as national policies and strategies, if any, related to economic, social and cultural development;
b. Existing business and innovation support infrastructures, as well as national policies and strategies, if any, to promote and support businesses, universities and research and development institutions in making effective use of IP; and
c. The level of use of the IP system in view of the numbers of filings, registrations and grants of IP rights by sectors and by type of applicants.

2. Identify key sectors or industries where the country may have a comparative advantage and the potential to boost trade and economic growth by leveraging opportunities that may be afforded by IP.

3. Engage in consultations with various stakeholders, in order to gauge their level of awareness of IP rights and the role that such rights could play in the country's economic, social and cultural development. Stakeholders would include relevant government departments, IP professionals, business communities, consumer group representatives, creative industries, traditional knowledge holders and users, research and development institutions, and universities.

4. Taking into account the data collected and the feedback received during the national consultations, the national team will draft a national IP strategy for the country. This strategy will address the interface between IP and the key public policy areas which are relevant in terms of achieving national economic, social and cultural development objectives.

5. Engage in consultations with the main stakeholders (national multi-sectoral consultation process), present the findings of the IP audit, and discuss the proposed draft IP strategy.

6. Finalize the IP strategy framework, taking into account the feedback received during the consultation process.

Suggested deliverables:

a. Report on the data collection and analysis process (IP audit report), identifying the main strengths, weaknesses, opportunities and threats associated with the national IP system, and the interface between IP and the country's national development priorities;
b. Proposed draft IP strategy framework;
c. Report on the national consultation process, identifying recommendations and amendments to be incorporated into the draft IP strategy;
d. Final revised and consolidated IP strategy framework to be submitted to the government for approval.

TEMPLATE 3B

Example of terms of reference for international consultant

Objectives of the assignment:

a. Provide guidance to the national team of consultants on the IP strategy formulation process;
b. Provide recommendations, with a view to consolidating the draft IP strategy based on the consultant's experience and expertise in this area.

Suggested tasks to be undertaken by the international consultant:

1. Review and analyze the results of the IP audit carried out by the national team of consultants, taking into account the country's national development priorities and potential strengths with regard to IP.

2. Provide guidance and recommendations on IP strategy options on the basis of the findings from the data collection phase, and prepare a roadmap for the national team of consultants to assist in the IP strategy drafting process.

3. Participate in the national consultation process, and assist the national team with the consolidation of the proposed draft national IP strategy on the basis of the recommendations/feedback received during the consultation process.

In the course of the assignment, the international consultant may be required to visit the country to undertake a series of missions.

Suggested deliverables:

a. Report containing a series of recommendations and a roadmap for the formulation of the national IP strategy based on a detailed analysis of the IP audit and data collection process; and
b. Report containing specific recommendations for improvements based on the national consultation process, following a thorough review of the draft national IP strategy.

TEMPLATE 4

Example of work plan for developing a national IP strategy

S/N	ACTIVITY	YEARS (quarterly segments)							
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1.	Approve the development of a national IP strategy.								
2.	Designate the coordinating office.								
3.	Appoint national team.								
4.	Appoint international consultant.								
5.	Train project team on the overall process.								
6.	Carry out desk research.								
7.	Conduct interviews with stakeholders (data collection).								
8.	National consultations to validate the audit findings.								
9.	Prepare final audit report.								
10.	Develop first draft national IP strategy.								
11.	National consultations to validate the first draft national IP strategy.								
12.	Prepare second draft national IP strategy.								
13.	Present draft to a stakeholders' forum.								
14.	Prepare final draft based on feedback obtained during national consultations.								
15.	Prepare final strategy document.								
16.	Submit to government for adoption.								
17.	Launch strategy.								

TEMPLATE 5

Collection and documentation of data on public policy

1. National development policy

a. Does the country have a long-term national development policy?
b. If yes, please provide the following information:
   - Title of the policy----------
   - Date it was launched ----------
   - Duration----------
   - Institution responsible for its implementation----------
c. What long-term vision is encapsulated in this policy?
d. Does the policy have an economic pillar? If yes, what long-term vision is encapsulated in this economic pillar?
e. Does the policy have a social pillar? If yes, what long-term vision is encapsulated in this social pillar?
f. Does the policy have a cultural pillar? If yes, what long-term vision is encapsulated in this cultural pillar?

2. Key economic and social sectors identified, and policy documents

Please list the key economic sectors identified in the National Development Blueprint (NDBP) as well as those identified sectors with Policy (Tick where appropriate)

S/N	SECTOR	IDENTIFIED IN NDBP		HAS A NATIONAL POLICY	
		YES	NO	YES	NO
1.	Agriculture				
2.	Culture				
3.	Education				
4.	Employment				
5.	Energy				
6.	Environment				
7.	Health				
8.	Housing				
9.	ICT*/BPO**				
10.	Industry/manufacturing				
11.	Mining				
12.	Oil				
13.	SMEs				
14.	Tourism				
15.	Trade				
16.	Water and sanitation				
17.	Others (list)				

*ICT - Information Communication Technology, **BPO - Business Processing and Outsourcing

3. Analysis of public policies

For each of the identified public policies, please document the following:

Policy details

i. Title;
ii. Date of launch;
iii. Duration;
iv. Institution responsible for its implementation.

a. Strategic direction of the policy: document the vision, mission and key objectives

b. Strategies required in order to achieve the agreed objectives: Please list the strategies that have been identified in order to achieve each of the key objectives.

c. Linking strategies with intellectual property: Please analyze each of the strategies, and identify those for which IP will be important.

d. Linking strategies with intellectual property: Please analyse each of the strategies and identify those for which IP will be important.

TEMPLATE 6

Example of data collection work plan

	ACTIVITY	MONTH							
		1	2	3	4	5	6	7	8
Preparatory									
1.	Approve the development of a national IP strategy								
2.	Designate a coordinating office								
Assembling the data collection team									
3.	Appoint national project team								
4.	Appoint international consultant								
5.	Adapt questionnaire								
6.	Train national team on how to implement the data collection process								
Desk research									
7.	Agree the key review issues								
8.	Agree the sectors to be reviewed								
9.	Identify documents to be reviewed								
10.	Carry out review								
11.	Prepare report								
12.	Validate report								
Data collection									
13.	Agree the scope of the data collection process								
14.	Identify respondents								
15.	Determine the data collection method(s)								
16.	Develop interview schedule								
17.	Conduct interviews according to schedule								
18.	Data entry								
19.	Data analysis and cross-checking								
20.	Prepare final report								

NOTE: Data collection methods may include face-to-face interviews, completion of questionnaires, email, telephone and Skype. The interview schedule refers to a program indicating which respondent is to be contacted by whom, when, and how. Cross-checking refers to filling the gaps in the desk research by carrying out interviews.

TEMPLATE 7

Various approaches to data collection

a. **Questionnaire:** Inviting people to complete a questionnaire is the most cost-effective way to collect data. Those who are invited to participate in the data collection process in this way are more likely to have the time to carry out the requisite research and provide the information required to complete the questionnaire. Once completed, the questionnaire will be returned to the national team. Based on experience of carrying out similar projects in other countries, the questionnaire approach is not without its challenges, and most respondents need to be sent repeated reminders to return the questionnaire. In addition, many individuals/officials are already overburdened with requests to complete various types of questionnaires and survey data, and they do not have the time to cooperate with such requests. Attempts to make IP a special case are hampered by the fact that so few people are familiar with the area. Experience in other countries has shown that the data collection process is more effective in projects where researchers take respondents through the questionnaire in a face-to-face meeting, explaining the various concepts according as the questionnaire is being completed.

b. **Face-to-face interview:** This is the most effective option, but it is also very costly. The main challenge presented by choosing this option is how to secure appointments for face-to-face interviews with the proposed participants. In such instances, sending a copy of the questionnaire accompanied by a letter of introduction from the national IP office or some other high-level office may be helpful.

c. **Telephone interviews:** While a telephone interview may be a very effective option, this tends to be a passive form of interaction. In cases where it has been decided to choose the telephone interview option, it is recommended that the questionnaire is sent to the respondents well in advance of the interview, so that they are prepared for the questions and have already ascertained the relevant information from within their own organization.

d. **Skype:** This technology is more effective than using conventional telephone technology because it is more flexible and can facilitate group discussions.

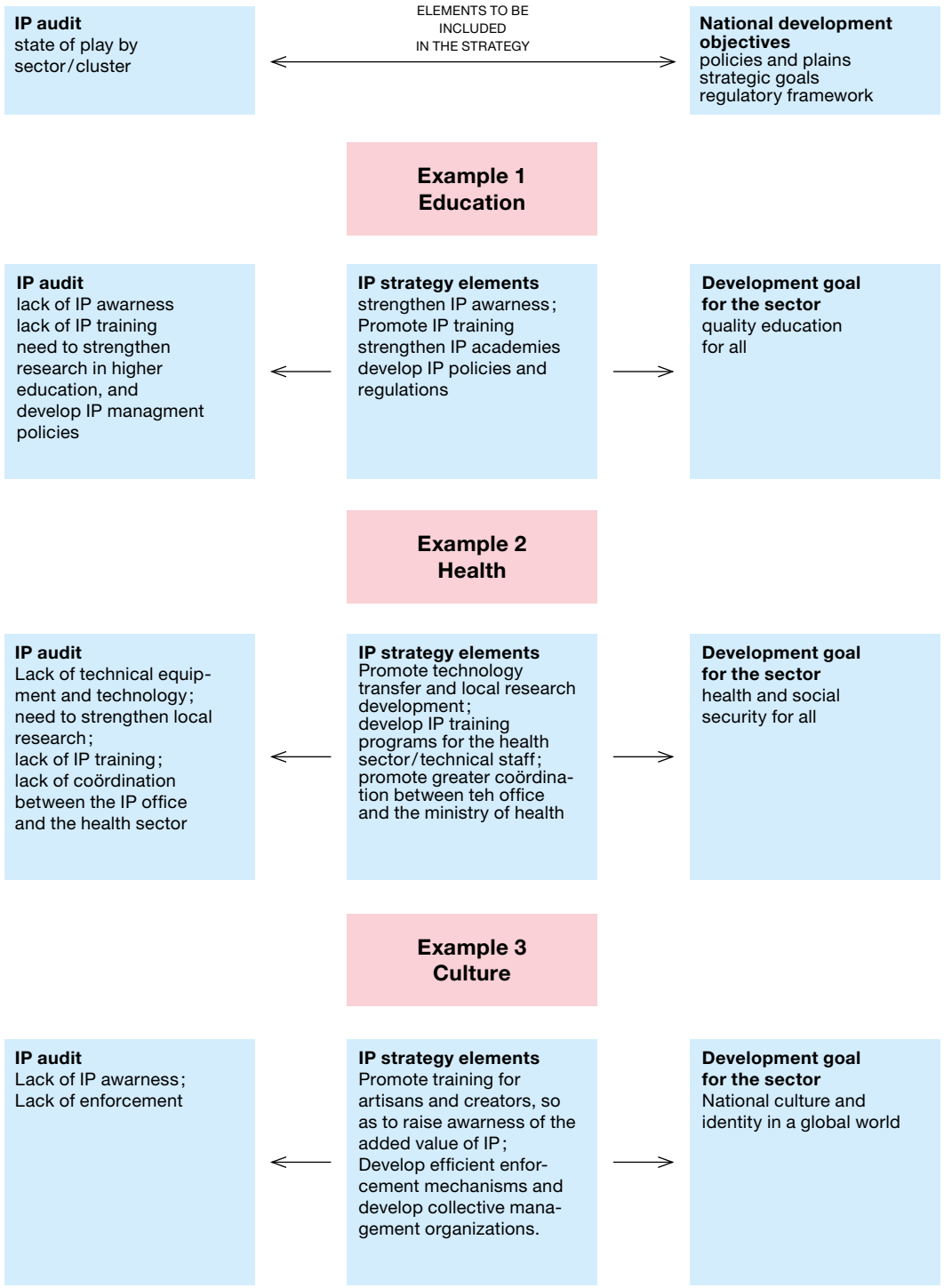
e: **Focus group discussions:** While focus group sessions are very effective, the process involved in eliciting the required information is slow. The researcher facilitating the discussions must have the appropriate skills, and must prepare well in advance, in order to ensure that the sessions are successful.

f: **A combination of these methods:** As a successful outcome cannot be guaranteed for any one particular data collection method, the national team will need to employ different approaches, depending on the respondent audience in question. In certain circumstances, multiple data collection approaches may need to be employed.

g. **Teleconferencing:** Where the requisite facilities are in place, teleconferencing may present a very suitable alternative to face-to-face interviews. Teleconferencing may be particularly relevant in situations where the potential interviewees are located a long distance away from where the researchers/interview team are based or are planning to carry out the interview sessions.

TEMPLATE 8

Graphic representation of the IP strategy formulation process



TEMPLATE 9

	COUNTRY	STRATEGY TITLE	VISION
1.	**China**	Compendium of China's National Intellectual Property Strategy, 2008	By 2020 to develop China into a country with a relatively high level of intellectual property rights creation, utilization, protection and administration.
2.	**Croatia**	National Strategy for the Development of the Intellectual Property System of Croatia for the period 2010–2012	a) guarantee the level of protection of intellectual property rights so that they are equal to the rights that exist in the EU, and harmonize those rights with all international agreements concluded by Croatia in that area, b) provide the optimal conditions for the advanced application of intellectual property as a power tool for economic growth and as a driver of scientific, cultural and overall social progress, so that conditions are equal to those that exist in leading EU Member States.
3.	**Czech Republic**	The National Innovation Policy of the Czech Republic, 2005–2010.	Place the Czech Republic in a better position in the context of a knowledge economy.
4.	**Ghana**	Ghana Intellectual Property Policy and Strategy 2012–2017	Ghana to be among the leading countries in the utilization of IP as a tool for rapid national development.
5.	**Hungary**	Science, technology and innovation strategy in Hungary, 2005–2013	Promote and accelerate the economic growth of Hungary by investing in R&D and bringing about innovation change – from external investment-led growth to innovation-led growth.
6.	**Japan**	Intellectual Property Policy of 2002	Make Japan «an intellectual property-based nation» for the purpose of creating a dynamic economy and vigorous society through the strategic generation, protection and exploitation of intellectual property.
7.	**Sweden**	Innovative Sweden-A strategy for growth through renewal, 2004	To be Europe's most competitive, dynamic and knowledge-based economy, and thus one of the world's most attractive countries for investment by large and small knowledge-based enterprises.

TEMPLATE 10

Possible indictators for developing national IP strategies

Cluster 1: IP administration and management

1. Legal status of the national IP office.
2. Autonomy of the national IP office.
3. Key functions of the national IP office.
4. Staffing of the national IP office and human resources development plan.
5. Formal and substantive examination.
6. Automation and modernization of the national IP office.
7. IP applications and grants.
8. National laws on IP.
9. IP tribunal.
10. Compliance with TRIPS.
11. Use of flexibilities in TRIPS (compulsory licensing and parallelimportation).
12. Compliance with international agreements, treaties and protocols.
13. IP registration professionals (attorneys and agents).

Cluster 2: Generation of IP by universities, research organizations, business, industry, SMEs and individuals

1. Science technology and innovation (STI) policy.
2. Promoting innovation and patenting in industry.
3. Institutional IP policies.
4. Funding of research and development (R&D).
5. Human resources for innovation.
6. National innovation system.
7. Technology and IP information services.
8. IP awareness and outreach programs.

Cluster 3: Commercialization of IP and technology transfer by universities, research organizations, business, industry, smes and individuals

1. Technology transfer offices (TTOs).
2. Valuation of IP assets.
3. Financing of commercialization of IP assets
   a. Financial products;
   b. Collateral;
   c. Business plans;
   d. Financial reporting;
   e. Privatization;
   f. Monetization or securitization;
   g. Venture capital;
   h. Joint venture or merger;
   i. Government financial institutions.
4. Licensing of IP assets.
5. Business (technology) incubation.
6. Product and prototype development facility.
7. Science and technology parks.
8. Technology transfer policy.
9. IP commercialization professionals (valuation, auditing, licensing and technology managers).

Cluster 4: The copyright and copyright industries

1. Legal status of the copyright office.
2. Autonomy of the copyright office.
3. Key functions of the copyright IP office.
4. Staffing of the copyright IP office and human resources development plan.
5. National cultural policy.
6. Economic impact of copyright and related industries.
7. Promoting the creative industries.
8. Collective management organizations.
9. Traditional knowledge and folklore.
10. IP and Information and Communication Technology (ICT).

Cluster 5: Plant variety rights and seed industries (Plant variety protection)

1. Legal status of the Plant Breeders' Rights Office.
2. Autonomy of the Plant Breeders' Rights Office.
3. Key functions of the Plant Breeders' Rights Office.
4. Staffing of the Plant Breeders' Rights Office and human resources development plan.
5. Agricultural policy.
6. Genetic resources and products.
7. Geographical indications.
8. Commercialization of plant variety rights.
9. Business associations.

Cluster 6: Enforcement of IP rights

1. IP enforcement laws.
2. Coverage of IP enforcement laws.
3. IP enforcement agency.
4. Border measures.
5. IP enforcement courts.
6. IP enforcement officers (lawyers, judges and police).
7. Civil disputes.
8. Education and awareness creation aimed at the public and consumers.

TEMPLATE 11

Project-Based Approach

1. **The various elements of the strategy to be implemented are treated as projects. Examples:**
- Automating the IP registration process;
- Establishing technology transfer offices in universities;
- Developing institutional IP policies;
- Developing IP enforcement laws;
- Establishing IP outreach programs;
- Establishing a national licensing agency;
- Establishing a collective management organization.

2. **The projects are distributed to the different agencies for implementation. (In the graph below, P1-P8 denotes projects; A1-A7 denotes agencies.)**

	P1	P2	P3	P4	P5	P6	P7	P8	P9
A1	X								X
A2			X						
A3				X	X		X		
A4		X							
A5						X		X	
A6									
A7									

3. **The projects are incorporated into the strategic plans of the relevant agencies according to the year in which they are due to be implemented. (In the graph below, P1-P9 denotes projects.)**

	P1	P2	P3	P4	P5	P6	P7	P8	P9
Year 1				X					
Year 2									
Year 3					X				
Year 4									
Year 5							X		

TEMPLATE 12

Brief on priority setting

1. Definition of priority setting

a. Priority setting refers to the process used by a planning team to help them decide which of the various elements set out in the strategic plan should be implemented and when;
b. Where it refers to a five-year strategic plan, it is the process of deciding which elements are to be addressed during the first, second, third, fourth and fifth year.

2. Challenges of priority setting

a. Implementation by various agencies;
b. Different interests of stakeholders;
c. Scrambling for ever-limited resources;
d. Different interests of various donors.

3. Importance of priority setting

a. Priority setting is key to success;
b. Priority setting involves value-based decisions;
c. The duration of a national IP strategy is normally three to five years. This means that decisions need to be taken with regard to which projects should be undertaken when during the implementation of the action plan.
d. Optimum utilization of scarce resources;
e. Implementation is synchronized with resource mobilization;
f. Ease of the monitoring and evaluation process.

4. Criteria for priority setting

Urgency, benefit and impact, cost, time and support.

a. Urgency

a. Meeting international obligations, e.g., TRIPS;
b. Meeting regional harmonization requirements (e.g., legal instruments for fighting piracy and counterfeiting at regional level);
c. Benchmarking with competitors.

b. Benefits and impact

- Benefits to the country (e.g., promoting foreign direct investment, exploiting available resources in a country e.g., geographical indications (GIs));
- Benefits to a larger percentage of the population (policies for compulsory licensing);

c. Cost

- What is the cost of the project?
- Are there resources available to support the project?
- Is this the best way to use the available resources, or is there another project that would deliver greater impact if the funding were instead used for this project?

d. Time

- How long will it take to implement the project? Is there a project that should be undertaken in order to ensure that the current project functions optimally?

e. Support

- Is there an organization that is willing and ready to support this project?
- If the project is implemented in the manner proposed, will it function optimally?

TEMPLATE 13

Example of a work plan for a specific activity under a national IP strategy

Work plans for developing new IP laws or revising existing laws

1. Introduction

Where a country plans to develop new IP laws or revise existing laws, some of the following actions will be required. These activities may be modified as necessary.

1. Initiate high-level decision-making on the development of new laws or the revision of existing laws.
2. Designate a coordinating office.
3. Inform stakeholders on the need for new laws, or the need to revise existing laws.
4. Appoint the drafting team.
5. Recruit an international consultant.
6. Train the drafting team.
7. Benchmark with other countries.
8. Prepare draft laws.
9. Solicit comments on draft laws from an expert organization.
10. Present draft laws to stakeholders for comments and suggestions.
11. Submit draft laws to the relevant authority for presentation to parliament.
12. Brief members of parliament.

2. Coordinating office

It will be necessary to designate an office to spearhead the process of developing new IP laws or revising selected existing laws. The designated office should be given the requisite resources to implement the work plans.

3. Appoint/train the drafting team

A drafting team should be appointed and it should comprise people who have relevant experience in the drafting of national IP laws. It might be helpful if the drafting team were to receive additional training from experts with practical experience of drafting similar IP laws

4. Briefing workshop

As is the case with the baseline survey, it will be necessary to host a workshop to explain to both the stakeholders and the public why it is crucial to develop selected new IP laws, or to revise selected existing laws. The workshop may also be used as a forum to solicit comments and suggestions from members of public with regard to the proposed new IP laws, or the revision of the existing laws.

5. Hire an international consultant

An international expert from WIPO or related IP organizations may be identified; the role of this expert would be to guide and assist the drafting team

6. Benchmarking with other countries

One of the drafting team's roles will be to identify countries which have developed or revised IP laws that are the same or similar to those proposed by your country, and to then select a number of countries against which your country could be benchmarked. The drafting team will collect data, including IP laws, from the selected benchmark countries; this data will cover areas including the benefits and challenges of enacting such laws, as well as details of any other useful experience gained by drafting teams in the benchmark countries. If feasible, it may be helpful to arrange a visit by the drafting team to one of the benchmark countries.

7. Drafting the laws

The drafting team will prepare the text for the proposed laws based on the data collected and an analysis of existing laws in the benchmark countries.

8. Comments on the draft laws

The draft laws should be sent to international experts or relevant organizations, who would be invited to provide comments and suggestions on the proposed texts.

9. Present draft to stakeholders for comments and suggestions

Having assimilated the comments and suggestions received from international experts and organizations, a second draft would be prepared and presented to a wider stakeholders' forum for comments and suggestions, and buy-in. At this point, any fears expressed by stakeholders should be addressed, and explanations provided.

10. Prepare final draft

Once the comments and suggestions compiled at the stakeholders' workshops – as well as the comments/suggestions submitted by relevant national organizations – have been received, the bill will be prepared and submitted to parliament.

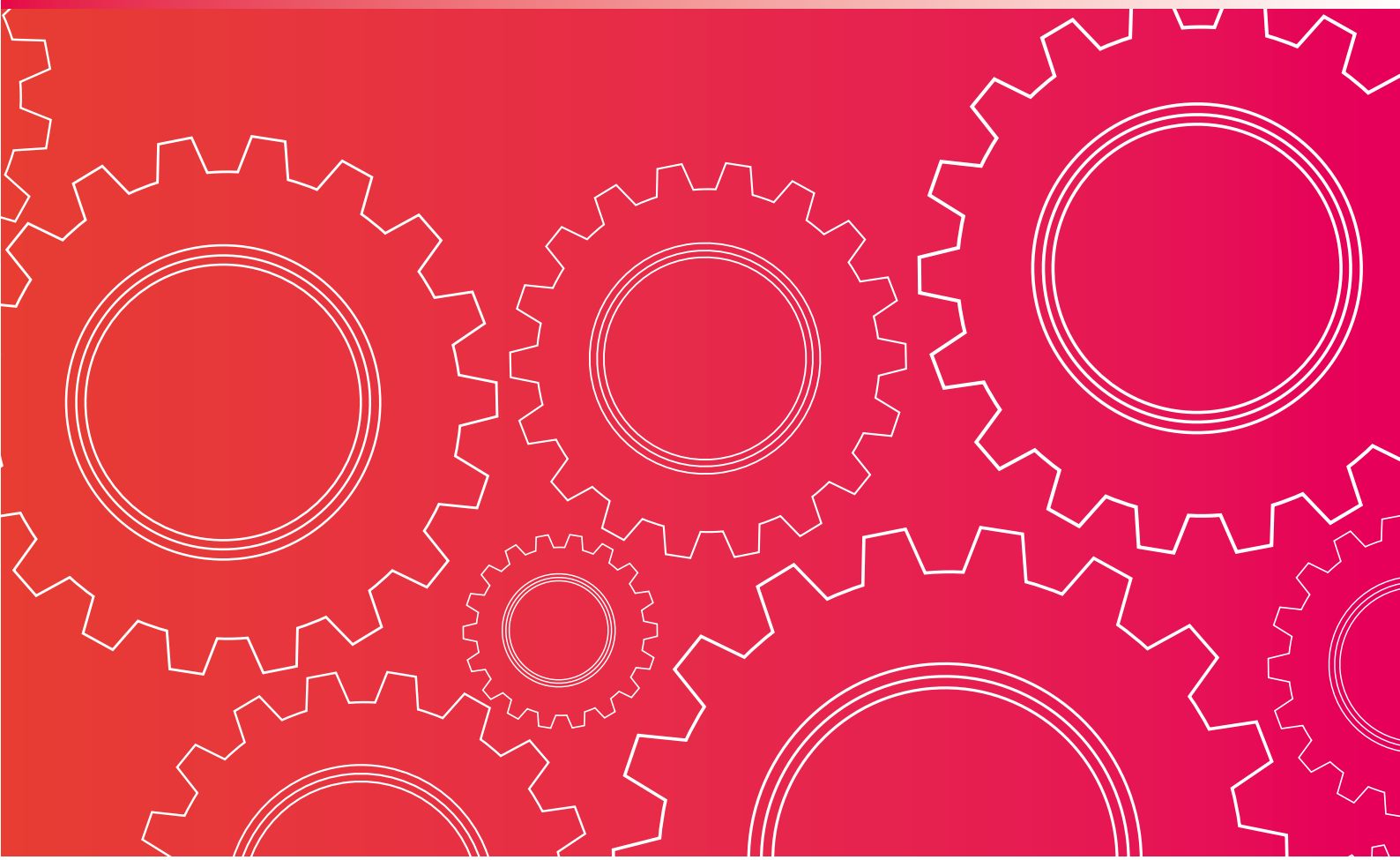
11. Briefing members of parliament

Before the bill is discussed in parliament, members of parliament should be briefed on the propsed legislation, so that consensus on any critical issues is reached before it is presented to parliament for debate.

12. Implementation schedule

An implementation schedule should be prepared by the drafting team at the outset of the project. This schedule would be based on agreed activities. Examples as follows:

	ACTIVITY	MONTH							
1.	Approval of high-level agency on the development of the new laws	1	2	3	4	5	6	7	8
2.	Designate coordinating office								
3.	Stakeholders' workshop								
4.	Appoint the drafting team								
5.	Hire international consultant								
6.	Train the drafting team								
7.	Collect relevant data from benchmark countries								
8.	Draft the new laws								
9.	Expert comments on draft								
10.	Present draft to stakeholders for comments and suggestions								
11.	Sensitize members of parliament								
12.	Draft the bill								
13.	Enact the bill into law								



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