This action is funded by the European Union

**ANNEX 1**

of the Commission Implementing Decision on the financing of the Annual Action programme 2019 Part 1 for the Pan-African Programme

**Action Document for "Intellectual Property Rights (IPRs) Action for Africa"**

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<th><strong>ANNUAL PROGRAMME/MEASURE</strong></th>
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<tr>
<td>This document constitutes the annual work programme in the sense of Article 110(2) of the Financial Regulation and action programme/measure in the sense of Articles 2 and 3 of Regulation N° 236/2014.</td>
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<tr>
<th><strong>1. Title/basic act/CRIS number</strong></th>
<th>&quot;Intellectual Property Rights (IPRs) Action for Africa&quot; CRIS number: DCI/PANAF/041-012 financed under the Development Cooperation Instrument</th>
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<th><strong>2. Zone benefiting from the action/location</strong></th>
<th>Pan-African The action shall be carried out at the following location: African countries, with focus on the Member countries of the African Regional Intellectual Property Organization (ARIPO)¹ and the African Intellectual Property Organization (OAPI)²</th>
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<th><strong>3. Programming document</strong></th>
<th>Pan-African Multi-Annual Indicative Programme (MIP) for 2018-2020³</th>
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<th><strong>4. Sustainable Development Goals SDGs</strong></th>
<th>SDG 9 : Industry, Innovation and Infrastructure Other significant SDG(s): SDG 5 : Gender Equality SDG 8 : Decent work and economic growth SDG 17 : Partnerships for the goals</th>
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<th>DCI - Sector of Cooperation 3: Continental Economic Integration: 4.3.1. Integrated markets</th>
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<th><strong>6. Amounts concerned</strong></th>
<th>Total estimated cost: EUR 8 000 000 Total amount of EU budget contribution: EUR 7 000 000 This action is co-financed in joint co-financing by: - EUIPO for an amount of EUR 1 000 000</th>
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¹ [http://www.aripo.org/about-aripo/membership-member-states](http://www.aripo.org/about-aripo/membership-member-states)


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<th>7. Aid modality and implementation modality</th>
<th>Project Modality: Indirect management with an EU specialised agency: the European Union Intellectual Property Office (EUIPO) (^4)</th>
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| 8 a) DAC code(s)                        | 33120 Trade Facilitation 50%  
33130 Regional Trade Agreement 10%  
32130 SME Development 20%  
31110 Agricultural policy and administrative management 20% |
| b) Main Delivery Channel                | 11000 - Donor Government (project via EAC, JRC,...) |
| 9. Markers (from CRIS DAC form)\(^5\)  |  |
| General policy objective                | Not targeted | Significant objective | Principal objective |
| Participation development/good governance | ☒ | ☐ | ☒ |
| Aid to environment                      | ☒ | ☐ | ☐ |
| Gender equality and Women’s and Girls’ Empowerment \(^6\) | ☒ | ☒ | ☐ |
| Trade Development                       | ☐ | ☐ | ☒ |
| Reproductive, Maternal, New born and child health | ☒ | ☐ | ☐ |
| RIO Convention markers                  | Not targeted | Significant objective | Principal objective |
| Biological diversity                    | ☒ | ☐ | ☐ |
| Combat desertification                  | ☒ | ☐ | ☐ |
| Climate change mitigation               | ☒ | ☐ | ☐ |
| Climate change adaptation               | ☒ | ☐ | ☐ |


\(^5\) When a marker is flagged as significant/principal objective, the action description should reflect an explicit intent to address the particular theme in the definition of objectives, results, activities and/or indicators (or of the performance / disbursement criteria, in the case of budget support).

\(^6\) Please check the Minimum Recommended Criteria for the Gender Marker and the Handbook on the OECD-DAC Gender Equality Policy Marker. If gender equality is not targeted, please provide explanation in section 4.5.Mainstreaming.
The action is consistent with the Communication "A new Europe-Africa Alliance for sustainable investment and jobs" \(^7\) and it aims at responding to the priorities identified at the 5\(^{th}\) AU-EU Summit in Abidjan (Nov. 2017), in line with the long-term vision presented in the African Union (AU) Agenda 2063 as well as the EU Global Strategy and new Consensus for Development.

More specifically, it will contribute to the support of the African Continental Free Trade Area (AfCFTA) and to boost the continental economic integration through the facilitation of intra-African / African-European trade and integrated markets by strengthening and improving the systems for Intellectual Property Rights (IPR) creation, protection, utilisation, administration and enforcement.

The action will contribute to supporting the AfCFTA specifically for the preparation of the second round of negotiations which concerns the Protocols on Investment, Intellectual Property Rights and Competition Policy (including Geographic Indications).

A specific component on Geographical Indications (GI) will also contribute to the Continental Strategy for GIs in Africa 2018-2023 and to the African Union Business Plan for Implementation of the Comprehensive Africa Agriculture Development Programme (CAAADP) - Malabo Declaration 2017-2021.

The **Overall Objective** of the action is "to facilitate intra-African trade and African and European investment".

The **Specific Objective** is that Intellectual Property Rights (IPR) are created, protected, utilized, administered and enforced across Africa, in line with international and European best practice and in support of the AfCFTA and the African Union’s Agenda 2063.

The expected outputs are:

- **Output 1**: Promoted international agreements in the area of IPR and reinforced cooperation between the EU and Africa in order to facilitate fact-based AfCFTA negotiations.

- **Output 2**: Strengthened national and regional IP institutions, networks, and tools, for more efficient and user-friendly IP protection and enforcement systems.

- **Output 3**: Strengthening the capacities of Micro, Small and Medium-sized Enterprises (MSMEs) / productive sector on the importance and value of IP protection (including GIs) in the African society.

- **Output 4**: Implementation of the priority actions identified by the work plan linked to the AU Continental Strategy for Geographical Indications is supported.

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1. CONTEXT ANALYSIS

1.1 Context Description

Following the EU-Africa Summit held in November 2017, the Abidjan Declaration placed strong emphasis on the need to promote intra-African trade, advance greater economic integration and support the establishment of the African Continental Free Trade Area in line with AU’s Agenda 2063.

The African Union concluded negotiations for an African Continental Free Trade Area (in March 2018 in Kigali, where close to 50 AU Member States signed the AfCFTA, the Kigali Declaration and the Free Movement Protocol. The launch of the AfCFTA is a major step towards regional integration and its objectives include the creation of a liberalized market for goods and services, and the facilitation of trade and investment.

Intellectual Property Rights, including Geographic Indications, are key in achieving a comprehensive integrated market. Countries with high standards of IPR protection and GIs systems tend to attract more investment, increase trade volumes, stimulate more innovation and, as a result, develop more rapidly at national and regional levels, bringing IPRs at the forefront of the development agenda to accomplishing a full-fledged AfCFTA.

The Intellectual Property Rights (IPRs) are one of the cornerstones of modern economic policy and are a catalyst for development. They are an important tool for the sustainable development of emerging economies. Through their ability to create and sustain exclusivity in the marketplace, IPRs are recognized all over the world as an important commercial asset and a driving force for technological innovation and progress.

Without a proper IPR framework, a foreign hi-tech company will avoid opening a factory in a given country, if its patents, trademarks, designs and trade secrets can be freely copied by anyone. Similarly, the incentive for African creators and GI holders to flourish and go global is severely curtailed if they cannot rip the benefits of their creativity and their know-how through an adequate copyright and GI protection. As an example, in the EU IPR-intensive industries generated 31% of all jobs in the EU during the period 2011-2013 and, on average, 82 million Europeans were employed directly or indirectly by IPR-intensive industries. Over the same period, IPR-intensive industries generated more than 42% of total economic activity (Gross Domestic Product (GDP)) in the EU, worth EUR 5.7 trillion. They also accounted for most of the EU’s trade with the rest of the world and generated a trade surplus, thus helping to keep the EU’s external trade in balance.

Thus, strong protection of IPRs such as patents, trademarks, designs, GIs and copyrights, is crucial to support African countries in the process through an integrated continental economy and reap the benefits of Global Value Chains. To manage this process, African economies need to keep track of international developments in the field of IP and to determine what best practices can be developed at Pan-African level.

Furthermore, in Africa there is a low participation in international agreements in the area of IP, low awareness on the role IP plays in development and on the negative impact of piracy and counterfeiting on the local economies. There is also a low awareness of the risks posed by IPR infringing products to the environment and consumers. African countries are heavily

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dependent on technology transfer, because they do not have the necessary manufacturing capacity to innovate.

Likewise, an efficient **fight against piracy and counterfeiting** is a cornerstone of a strong IPR policy because it allows right holders to benefit from the exploitation of their creation and their invention and ensure the return on their investment – there is no proper IPR protection without adequate enforcement. Piracy and counterfeiting constitute a serious threat for IPR and have several detrimental socio-economic consequences.

Firstly, the high scale counterfeiting and piracy in Africa has negative effect on local innovation, directly affecting job creation and economic growth. Commercial-scale counterfeiting and piracy cause financial losses for African right holders and for legitimate businesses (in particular SMEs) in Africa.

Secondly, IPR infringements cause significant risks to consumer health and safety (i.e. pharmaceuticals, toys, electronic appliances and spare parts) and to the environment (i.e. pesticides) as well as to the cultural diversity. While some consumers knowingly buy counterfeit and pirated products, others are deceived, purchasing counterfeit and pirated products believing they have bought genuine products. In both cases, a growing number of products are often sub-standard and carry significant risks that range from mild to life threatening. Counterfeit products range from high-end consumer luxury goods such as watches, perfumes or leather goods, to business-to-business products such as machines, chemicals or spare parts, to common consumer products such as toys, pharmaceuticals, cosmetics and foodstuffs. So, basically, every IP-protected product can be counterfeited.

Regarding pharmaceuticals, according to the OECD-EUIPO (2016) study, global trade in counterfeit pharmaceuticals was up to EUR 11.9 billion in 2013. This represents more than 3.3% of total trade in pharmaceutical products. Examples of counterfeit pharmaceutical products recorded in the database of customs seizures is striking. Over the period 2011-2013, customs authorities worldwide notably recorded seizures of counterfeit medicines for the treatment of malaria, HIV/AIDS and cancer. These pose a very serious threat to consumer health and safety. According to the same OECD-EUIPO Study, Africa is heavily exposed to the flow of counterfeit medicines. Effective enforcement to stop the flow of counterfeit medicines is crucial – substandard and falsified medicines pose a tremendous health risk to patients in need that have to rely on life-saving treatment. According to a WHO study, with regard to pneumonia alone, 72 000 to 169 000 children are dying each year due to substandard and falsified antibiotics. More than 116 000 people could be dying yearly in sub-Saharan Africa as a result of fake anti-malarial drugs alone, reports the WHO, or because the drugs were substandard or simply contained no active ingredients at all.

As the figures show, the African continent - which is very much dependent on essential medicines – is tremendously hit by counterfeit pharmaceuticals. There are of course promising attempts to improve the situation in certain African countries but a pan-African problem definition and enforcement strategy to tackle the problem does not exist. The most prominent success story is that of Nigeria and the National Agency for Food and Drug Administration and Control, which is a pioneer in the fight against spurious medicines in West Africa. By 2006, the share of counterfeit drugs had dropped from 41% (2001) to 16%

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due to the smartly calibrated measures taken by the agency. The efforts to combat pharmaceutical counterfeiting in Nigeria began with a single policy: restricting pharmaceutical imports to only two airports and two sea ports, each staffed by National Agency for Food and Drug Administration and Control (NAFDAC) officials. Policies entailing such an equivalent effectiveness like these are desperately needed also in other African countries.

Thirdly, the profit margins from counterfeiting and piracy are extremely high and in comparison to other forms of illegal trafficking the penalties are generally low. As a result, IPR infringements have become an attractive investment for organised crime.

Finally, counterfeiting and piracy affect the public budgets of the countries. Every year, millions in tax revenues (i.e. VAT, revenue taxes, customs duties) are lost as a result of pirated and counterfeited goods smuggled through customs and sold on grey or parallel markets.

In November 2015, African countries articulated, through the Dakar Declaration on Intellectual Property for Africa\(^\text{11}\), the importance and relevance of Intellectual Property (IP) for innovation and creativity in the knowledge-based economy of Africa. This declaration also emphasized the role of IP in advancing innovation for sustainable agricultural technologies, for the use and transfer of environmentally sound technologies, to help guarantee food security, improve access to health services, and combat the negative effects of climate change but first there is a need for developing a sound IP policy and institutional frameworks. The document highlights the importance of traditional and indigenous knowledge for true social and economic development in Africa. Through the Dakar Declaration, the African countries declared their commitment to:

- Enhance **innovative and creative capacities**;
- Build an **enabling environment for innovation and creativity** by strengthening the **regulatory environment**;
- Foster the development and utilization of **copyright and related rights** to support the protection and development of indigenous innovation and new business models;
- Increase support for **research and development** (R&D);
- Encourage **public private partnerships** for promoting production, exploitation and monetization of domestic innovation and all creative works.

Recently some African countries started to show willingness to improve their regime of IP protection and enforcement. At the International Conference "Respect for IP – Growing from the Tip of Africa" held in Sandton, South Africa, in October 2018, international experts further fostered dialogue on building respect for IP, with the aim of supporting a balanced IP enforcement system through international cooperation. Furthermore, the so called ESA-4 countries (Eastern and Southern Africa - Zimbabwe, Madagascar, Seychelles and Mauritania) in the course of the scoping negotiations for the revision of the Economic Partnership Agreement between the EU and the Eastern and Southern African countries, initiated deepening the protection and enforcement of IP in the framework of a new agreement. In 2017, Nigeria presented instruments of ratification to four key copyright treaties to the General Assemblies of member states of the World Intellectual Property Organization

(WIPO) in Geneva. These examples and attempts to improve the situation show that some African countries started to change their approach to IP.

Importantly, momentum for an IPR Action has been generated by the historic agreement of 47 African countries regarding the Continental Free Trade Agreement (AfCFTA), which includes IPR in the phase 2 of the negotiations starting in 2018. Further to that, African countries will need support in order to ratify and implement in practice the commitments acquired in relation to IPR in order to make the African Continental Free Trade Area a reality. Negotiations will continue in 2018 with Phase II, including Investment and Intellectual Property Rights. A draft shall be submitted for the January 2020 AU Assembly. The proposed IPR Action has been conceived to support this endeavour.

One specific aspect of the IPR framework, with a strategic impact on the agriculture-based economic activities, is certainly the Geographic Indications system. GIs refer to products with specific characteristics, qualities or a reputation resulting essentially from their geographical origin. This differentiation can be attributed to the unique local features of the product, its history or its distinctive characteristics linked to natural or human factors, such as soil, climate, local expertise and traditions. GIs can be used as a tool for sustainable and rural development (organization and promotion of agriculture value chains, smallholder empowerment) combining a market dimension (in relation to IPR) with linkages to public goods (heritage, food diversity, local expertise, local genetic resources, sociocultural identity, etc). GIs for food and non-food products represent an answer to enhance exchanges among stakeholders at infra-national levels and thus to preserve and promote traditional products on local markets, as well as to position African export products better on international markets.

The African Union Commission (AUC), together with Regional Economic Communities (RECs) had recognized the importance and need for a continental strategy on GIs. The rationale of such a strategy is threefold:

- Building on existing experiences and capacities developed, in particular within OAPI, and allowing this knowledge to be spread out, thanks to a permanent dialogue by national, regional and continental multi-stakeholders and on multi-sectorial platforms;
- Addressing the shortcomings of international protection of GIs by enforcing convergent rules and practices at the continental level that would encourage trade and improve the positioning of African products on regional, continental and international markets;
- Contributing with GI approaches to different agendas and programmes for Africa related to the agricultural sector development, in particular to the UN sustainable development goals but also to the Comprehensive Africa Agriculture Development Programme (CAADP) and to the Malabo Declaration endorsed by the African Union Assembly.

In this context, the AU Continental Strategy for GIs was adopted by the African Union (Ministerial level) on 6 October 2017 and later endorsed as a flagship deliverable of the AU EU Summit in November 2017 (Abidjan, Cote Ivoire). Work continued at technical level to advance an action plan for its implementation. This strategy has been formulated at a significant time when AU made progressive efforts towards continental integration.

The main aspects of the strategy are:

- An African vision on GIs as a tool contributing to sustainable rural development and food security and a GI African approach are developed and shared.
- A legal and institutional framework is enabled at the national and regional levels for the protection of GIs.
- The development and registration of GI products as pilots and drivers for rural and sustainable development are supported, to provide learning and demonstrative effects.
- Market development for GI products is promoted through innovative approaches on local markets, through regional trade among the RECs and on export markets (EU in particular as GIs are there an established market tool).
- Research, training programmes and extension are encouraged to ensure the identification, development and diffusion of the best African tailored practices and to contribute to the African approach, in a context of climate change. As a lot of research work has been undertaken by non-African institutions, co-operation between African and non-African experienced institutions should be facilitated.
- Awareness of all stakeholders, including consumers, is created, communication among stakeholders and information to a wider audience is insured.

The continental strategy process relies on the involvement of African key players, at continental and regional levels, among which the AU member States and the regional organizations specialized in Intellectual Property tools (including GIs), OAPI and ARlPO, and also the ministries and institutions responsible for or involved in GI issues at national or and local levels research, development actors, etc.

The proposed project will be a vehicle to implement part of the strategy at pan-African level.

1.2 Policy Framework (Global, EU)

The Communication\(^{12}\) on "A new Europe-Africa Alliance for sustainable investment and jobs: Taking our partnership for investment and jobs to the next level" highlights that "Boosting strategic investments for job creation and strengthening the role of the private sector", "Strengthening business environment and investment climate", and "Tapping the full potential of economic integration and trade" are aims to the new approach of Africa-Europe partnership, including the support to the AfCFTA.

The Pan-African Multi-annual Indicative Programme 2018-2020 (MIP 2) identifies the Continental Economic Integration as a main sector of cooperation. It commits EU to support the AfCFTA implementation, specifically, in contributing to the development of integrated markets, through the enhancement of the harmonization and appropriate application of IPR, including a better protection for GI and the promotion of international agreements in the area of IPR.

The action will be consistent with the strategic indications of the EU for the protection and enforcement of IPRs, as identified in the Commission Communication "Trade, growth and intellectual property - Strategy for the protection and enforcement of IPR in third countries.\(^{13}\) This strategy identifies the need for a policy response "not just to ensure the effective protection and enforcement of IPRs internationally but also to raise public awareness of the economic and other impacts of IPR-infringing goods and their detriment to innovation and also on health and safety. In a globalized economy of international supply chains, lack of proper IP protection in some jurisdictions can dramatically affect business and sustainable job creation anywhere in the world".

\(^{12}\) COM(2018)643 final of 12.9.2018
\(^{13}\) COM(2014)389 final of 1.7.2014.
These priorities are consistent with other relevant EU policies, contributing notably to the European External Investment Plan (EEIP) adopted by the Commission in 2016 through its Communication "Strengthening European Investments for jobs and growth: Towards a second phase of the European Fund for Strategic Investments and a new European External Investment Plan."14

The Joint ACP-EU Cooperation Framework for Private Sector Development support in African, Caribbean, and Pacific (ACP) Countries established in 2014 the conviction that a competitive private sector and an enabling business environment are key conditions for achieving smart, sustainable and inclusive growth, creation of decent jobs and poverty reduction. Both the Agenda for Change and the communication on "Strengthening the role of the private sector in achieving inclusive and sustainable growth in developing countries"15 highlight this priority and commit the EU to developing new ways of getting involved in favour of the private sector so as to attract additional resources.

The majority of African countries are either in the process of negotiating, implementing, or have recently concluded an Economic Partnership Agreement (EPA) with the EU. Discussions started in 2002 based on the trade chapter of the 2000 Cotonou Agreement. In these Agreements the Parties undertook the commitment to conclude the negotiations in the field of IPR within five years. An EPA with Central Africa was concluded and signed by Cameroon in 2009 as the only country in the region. Negotiations are ongoing. Furthermore, in 2014, an EPA was agreed with the West African Countries, with the priorities: customs enforcement and the protection of IPR, including traditional knowledge and genetic resources. In 2016, an EPA was signed with the Southern African Development Community (SADC) group including South Africa and a first meeting with the Trade Development Committee is to take place in 2017.16

1.3 Public Policy Analysis of the partner country/region

The African Union Commission - Agenda 2063 is the strategic framework for the socio-economic transformation of the continent over the next 50 years. Its vision starts with an aspiration of a prosperous Africa based on inclusive growth and sustainable development.

The Abidjan Declaration adopted at the 5th AU-EU Summit (November 2017) identifies investment as one of the Joint Africa-EU strategic priorities (Area 3), in particular:
- §64 : "We will foster European and Africa business relations, notably by establishing a structured dialogue with the European and African private sector and further strengthening mutually beneficiary EU-Africa trade relations. In particular, we will ensure that AU-EU Trade arrangements are complementary and supportive to the African Union trade and structural transformation agenda especially now as it gears towards implementing a Continental Free Trade Area (CFTA)” and,
- §67 “We commit to support the AU Business Plan for Implementation of the Comprehensive Africa Agriculture Development Programme (CAADP)-Malabo Declaration 2017-2021 […] to seize market opportunities for African food production and sustainable social and ecological livelihoods, notably through development of sustainable and fair value chains, and through the applicable EU Trade arrangements. […] In addition, we will enhance vocational training and education in sustainable agriculture and agri-food entrepreneurial activities, as

16 For a detailed overview of the state of play of EPA’s between the EU and African countries or regional bodies, see Annex II updated in March 2017.
well as support the implementation of the AU Continental Strategy to develop Geographical Indications (GI) in Africa."

The launch of the implementation of the African Continental Free Trade Area (AfCFTA) - Kigali March 2018 - is expected to gather impetus to boost economic growth and attract investments from both within Africa and the world. It is a positive signal to actual and potential investors, particularly as it promotes a rules-based free market agenda in Africa, contributes to enhancing a larger market in Africa countering the weaknesses of narrow national markets and incentivises reforms of the investment environment, including in terms of Intellectual Property and trade facilitation.

The Continental Strategy for Geographical Indications in Africa (2018-2023) was endorsed by the AU at Ministerial level in October 2017 and is one of the deliverables of the AU EU Summit of November 2017 in Abidjan (Ivory Coast). A draft action plan for the implementation of the strategy has been formally launched in October 2018 by a Consultative Committee involving at senior level the partners involved (AU, ARlPO, OAPI, EUIPO, the European Commission, including FAO and WIPO as observers). Its implementation is expected to start in January 2019. It will address the shortcomings of international protection of GIs by enforcing convergent rules and practices at the continental level that would encourage trade and improve the positioning of African products on regional, continental and international markets.

1.4 Stakeholder analysis

The action will work in close cooperation with stakeholders’ initiatives in the region.

The following is an indicative list of the main stakeholders influenced and already identified by the action. The list is to be completed, particularly in relation to already active stakeholders of the region to whom the action will engage:

- **African stakeholders**

  The action will actively involve and address all relevant African stakeholders according to their respective mandate, capacities and interests. Their involvement will be further defined during the inception phase.

  At policy level, the action will address Ministries with entitlement to represent the relevant country in international cooperation activities linked to IPR, in particular those with negotiations of EPAs with the EU (e.g. Directorates of International Cooperation of Ministries of Foreign Affairs).

  The main stakeholders will be the African national and (sub-) regional public bodies in charge of IPR, trade and agriculture. These will include, inter alia:

  - **Regional IP organizations**: ARlPO and OAPI – and their Member States

  ARlPO was created in 1976 mainly with the aim to pool the resources of its member countries in industrial property matters together in order to avoid duplication of financial and
human resources. ARIPPO is responsible for the granting and administration of IP rights on behalf of its Member States through the Harare Protocol on Patents and Industrial Designs and the Banjul Protocol on Marks. ARIPPO also plays an active role in the protection of copyright and traditional knowledge in the region. Overall, ARIPPO’s objectives and responsibilities reflect the strategic importance of IP regional cooperation and integration in Africa and are in line with the development objectives of the European Development Fund (EDF) and EU Agenda for Change, in particular those relating to the enhancement of the productive business environment and the promotion of regional integration in Africa. The ARIPPO governance is assured by: the Council of Ministers, composed of the Ministers responsible for IP in the Member States; the Administrative Council, composed of the Heads of the National IP Offices of the Member States; the Secretariat (the ARIPPO Office), headed by the Director General as the principal executive officer of the Organization;

OAPI was created on 2 March 1977 under the Bangui Agreement to introduce a uniform law on intellectual property and to create a common industrial property office in Yaoundé, Cameroon. OAPI replaces the African and Malagasy Intellectual Property Organization (OAMPI) established by the Libreville Agreement of 13 September 1962.

In each Member State, OAPI serves as both the National Office of Industrial Property and the Central Agency for documentation and information regarding Intellectual Property. The Organization also provides intellectual property training and participates in the development of policies for its Member States. OAPI is contracting party to a number of International Treaties.

- Pan-African Intellectual Property Organization

In May 2006, the meeting on the African Group on Intellectual Property recommended the establishment of a Pan-African Organization on Intellectual Property. The PAIPO Statute was endorsed by AU Assembly of Heads of State and Governments in January 2016, Addis Ababa. Only Ghana and Sierra Leone signed the treaty. The Statute will enter into force once the 15th ratification instrument is deposited with the Chairperson of the AU Commission.

PAIPO is supposed to be an agency responsible for IP and other merging issues related to IP in Africa and shall promote effective use of the IP system as a tool for economic, cultural, social and technological development of the continent as well as set IP standards that reflect the needs of AU, its MSs and RECs, ARIPPO and OAPI.

PAIPO would have a broad mandate covering the harmonisation of the legislations, the leadership of African Negotiations on IPR matters, and empowerment aimed to “facilitate” the harmonisation of regional and national AU member state IP legislations. PAIPO is designed to complement and supplement the regional organisations (ARIPPO and OAPI) but a clear definition of the competencies of the regional and national IP offices and their relationships with PAIPO is still required. Once effectively established PAIPO will be a key player in the definition of the IPR framework in Africa.

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17 There are currently 19 States which are party to the Lusaka Agreement and therefore members of ARIPPO. These are: Botswana, The Gambia, Ghana, Kenya, Lesotho, Malawi, Mozambique, Namibia, Sierra Leone, Liberia, Rwanda, São Tomé and Príncipe, Somalia, Sudan, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.


19 OAPI is composed of 16 Member States: Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Congo, Côte d'Ivoire, Gabon, Guinea, Equatorial Guinea, Mali, Mauritania, Niger, Guinea Bissau, Senegal and Togo.
- **Regional Economic Communities (RECs) such:**
  - Arab Maghreb Union (UMA)
  - Common Market for Eastern and Southern Africa (COMESA)
  - Community of Sahel–Saharan States (CEN–SAD)
  - East African Community (EAC)
  - Economic Community of Central African States (ECCAS)
  - Economic Community of West African States (ECOWAS)
  - Intergovernmental Authority on Development (IGAD)
  - Southern African Development Community (SADC)

- **Ministries and agencies related to IP protection and enforcement:**
  - National IP Offices and/or Ministries from which they depend
  - Ministries with competence on Copyright matters (e.g., Culture, Education)
  - Ministries in charge of GI administration (e.g., Ministry of Agriculture)

- **Judicial Bodies**
- **Customs**
- **Ministries of Agencies in charge of promoting Research, Development and Innovation**
- **Ministries with competence in supporting SMEs**
- **Ministries of Agencies in charge of health related and marketing authorizations**
- **Academia: research networks and technology transfer networks**
- **Civil society including the private sector**

- **European Union Stakeholders:**

  - **Commission services** dealing to some extent with IP in Africa, which could include for example EU Delegations, DG International Cooperation and Development (DG DEVCO), DG TRADE, DG Internal Market, Industry, Entrepreneurship and SMEs (DG GROW), DG Agriculture and Rural Development (DG AGRI), DG Communication Networks, Content and Technology (DG CNECT), DG Competition (DG COMP), DG Taxation and Customs Union (DG TAXUD), or DG Health and Food Safety (DG SANTE). They will be directly involved in the management of the action through information and consultation on specific activities during the implementation period. Upon request and provided that the annual work plans allow, the action will provide support to their undertakings in Africa in relation to IP.

  - **EU Member States, including their IP Offices and enforcement authorities (police, customs, judiciary, etc)** cooperating on IPRs with Africa, in areas compatible with the objectives of this project. MS agencies with activity in the region will be consulted to provide advice, expertise and input for activities. Particular emphasis will be given to obtaining leverage from pre-existing cooperation projects in the region as well as towards achieving synergies with functioning networks integrating African IPOs and European MS offices. This will be particularly the case for projects related to the implementation of the AU Continental Strategy for GIs where some EU MS will be particularly/directly involved.

  - **Academic Community in Europe** (Higher Education and Research Institutions active in the field of IP): cooperation at the academic level is crucial to create understanding and share knowledge about the IP system. In particular, EU University experience in creating value from University-generated IP and in expanding IP awareness in society,
for example by introducing IP in University curricula will be of particular utility, as a result of the European Observatory’s activities.

- **EU Industry**, business associations and chambers of commerce will be consulted through the IP Dialogues and Working Groups.

### International Stakeholders:

- **European Patent Office (EPO):** in the context of the Memorandum of Understanding (MoU) with EUIPO, EPO will be consulted to provide advice, expertise and input for activities in the area of patents. Synergies will also be sought with any other relevant initiatives undertaken by EPO in Africa.

- **World Intellectual Property Organization (WIPO):** synergies will be sought with relevant initiatives undertaken by WIPO, with whom EUIPO has a MoU, which established cooperation, in particular in relation to activities which foster the internationalisation of the IPR system, including the extension of adhesion of African countries to international agreements.

- **Other international organisations involved in the thematic (WTO, FAO, UNCTAD, etc.)**

- **Third countries’ authorities and agencies in the field of IP, as well as diplomatic representations in Africa, including for example the "IP Like Minded group" (US, Japan, Korea, Australia, Canada).** Mainly through the EU Delegations’ involvement in the IP Like Minded Group, which tend to be the relevant donors in the area, synergies will be established and activities of the Annual Work Plans (AWPs) aligned.

### 1.5 Problem analysis/priority areas for support

African countries present a wide and diverse spectrum of cultural, ethnic, geographic and economic features, as well as varying degrees of development of their IP systems. Nevertheless, a number of critical issues can be identified across the continent.

- **Untapped innovation potential and wealth of natural resources**
  
  Africa has a great wealth of traditional knowledge, creativity and has extraordinary resources but has often struggled to realize their full economic potential. Africa holds great potential to generate more wealth from natural resources and products, which could be underpinned by effective application of IPR.

- **Low awareness and perception**
  
  There is a general low level of awareness, interest and excitement regarding IP rights. There are countries in which the problems of internal security, external threats, environmental disaster, and demographic instability are so great that IP is viewed as a distraction. There is therefore a need to demonstrate how IPR can benefit the local needs and communities.

- **Weak policy frameworks**
  
  The absence of a consistent and coherent national policy on IP in most sub-Saharan countries creates issues as far as they relate to other developmental efforts. Yet, domestic applications

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for IPR are sometimes also hindered by the lack of an effective and coherent policy framework and enforcement mechanisms.

- **Efficiency of IP administrations**
Over the years, the main IP focus in Africa has been to establish basic IP infrastructure, regulatory frameworks, capacity-building, and human capital but needs to improve the quality and predictability of IP registration and enforcement mechanisms, enhancing transparency and access to information on already registered rights.

- **Access to information and transparency**
One problem across African countries is that it is difficult to obtain information in general, including on what the law is and how it works. There are very view IP professionals, who often interpret an IP question differently simply because they have different pieces of legislation in their hands and little opportunity to obtain information on similar cases in the past, or to exchange views with peers.

- **Lack of human resources qualified in IP**
The creators of IP and government officials sometimes demonstrate a limited understanding of IPR and the implications of instituting effective IP protection systems. There are very few people and institutions on the continent with experience and capacity to handle IPR, especially with respect to trade, competition, investment and other elements of globalization.

- **Enforcement: lack of capacity, counterfeit and pirated products**
The consumption of counterfeit and pirated products, being sold in virtually all economies, it is widespread. Effective controls on the distribution of pharmaceutical products have sharply limited the distribution of counterfeit products in African economies. Enhancing enforcement mechanisms is important to avoid that Africa becomes the final destination of fake medicines. In the case of GI, the institutional and legal framework does not always provide enough effective enforcement with regard to protection: guarantee system measures such as certification, inspection and controls are often lacking, and accreditation and accredited certification bodies are often not available.

The action will contribute to the mitigation of those problems by supporting African IPR policy and its harmonization, by improving networks and tools and by strengthening capacity building of national and regional IP institutions as well as MSMEs and civil society on IPR, including GI.

### 2. RISKS AND ASSUMPTIONS

The inception phase will provide a solid base to identify risks. Nevertheless, the prior analysis shows the following:

<table>
<thead>
<tr>
<th>Risks</th>
<th>Risk level (H/M/L)</th>
<th>Mitigating measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>International markets disrupted by economic, social, political crises and instability</td>
<td>M</td>
<td>EU-IPO will regularly report to Commission for updating risk-related issues that can be addressed through dialogues and other policy-driven activities led by Commission with partners in the region, so as to establish priorities in case of such disruptions.</td>
</tr>
<tr>
<td>Local communities perception as to IPR contribution to their development is minimum or non-existent</td>
<td>H</td>
<td>Incorporate IP-perception activities modelled on the EUIPO’s Observatory as a way to benchmark such perception and focus on awareness raising activities in particular to MSMEs and local communities, including the establishment of &quot;authenticities&quot; models (e.g. communities attached to IP protection).</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Collaboration of the beneficiary agencies/IPOs/Ministries with the project or among themselves not at the expected level</td>
<td>M</td>
<td>Establishment of a feasible plan during the inception phase and continuing monitoring during the implementation of the project. Identification and appointment of (relevant) National (or regional) Coordinators and potential back-ups with the support of ARlPO, OAPI and AU under the coordination of the PSC.</td>
</tr>
<tr>
<td>Staff capacity shortages or high workloads prevent attendance at project events</td>
<td>M</td>
<td>If necessary, negotiate with the beneficiary authorities on reallocating resources related to its project contribution.</td>
</tr>
<tr>
<td>Disagreement on the selection of IPOs experts and on the kind of expertise provided</td>
<td>L</td>
<td>Establishment of agreed expert selection criteria during the inception phase and the definition of the Activity terms of reference.</td>
</tr>
<tr>
<td>MSs or regional organisations do not disclose information to monitor achievement of results</td>
<td>M</td>
<td>Create understanding on importance of statistical information, baselines, targets and KPIs.</td>
</tr>
<tr>
<td>African Partners / Key Stakeholders do not participate in consultations, meetings, etc. to formulate policy, take decisions on strategic and technical matters</td>
<td>L</td>
<td>The EUIPO and Project Steering Committee will establish and operate a network to engage with national counterparts, through ARlPO, OAPI and African Union.</td>
</tr>
</tbody>
</table>

**Assumptions**

African States remain motivated and committed to pursuing reform of regulations and procedures to create a more conducive business enabling environment and financial structure. They take ownership of the project results. There is low awareness of IPR benefits and its perception differs from country to country which requires the customization of specific targeted activities.

Enabling operating environment of the IP administration and enforcement institutions remains stable throughout the project. Implementing partners (ARlPO/OAPI/AU…) will remain committed to cooperate in the implementation of the actions defined with in close cooperation with them.

The target groups of the capacity development activities will be properly identified by the target countries / national focal points, will be given sufficient advance notice and time for the training (be it face to face or online).

### 3. LESSONS LEARNT AND COMPLEMENTARITY

#### 3.1 Lessons learnt

The proposed EU implementing agency EUIPO has a track-record of successful projects in the IP field under DCI and IP projects, in a variety of different regions and also implemented specific technical bilateral activities with some of the target countries and sub-regional bodies.
such as ARIPO and OAPI. From its previous experience, EUIPO can apply important lessons learnt, including but not limited to:

- EU visibility should be properly addressed and strengthened.
- Political-related objectives should be balanced with sound development actions based on sustainable outputs such as IP tools and harmonisation of IP practices in the continent.
- The level of commitment of the target countries and stakeholders needs to be ensured at a very early stage for the proposed activities.
- Training of staff in National Institutions has to be seen as a continuous process, selection of participants needs to be based on sound criteria (including permanency in the institution, statutory link, specific responsibilities, etc); a sound training for trainers methodology has to be applied to ensure multiplier effects are enabled; and corresponding training facilities have to be established in the Region.
- Beneficiaries should feel owners of the action and be monitored with regards to their perceived needs and the benefits they obtain from the action, throughout the implementation period.
- An Exit strategy should be defined for the main deliverables from the very project start.

3.2 Complementarity, synergy and donor coordination

The action will build on the achievements of previous EU-funded projects. During the inception phase fact-finding missions will be launched to seek synergies and complementarities with similar initiatives in Africa at regional and national level.

Mainly through the EU Delegations’ involvement in the IP Like Minded Group (US, Japan, Korea, Australia, Canada), which tend to be the relevant donors in the area, synergies will be established and activities of the Annual Work Plans (AWPs) aligned.

United National Conference on Trade and Development (UNCTAD) will be involved in the implementation of the action, making the best use of their expertise and experience in the field and seeking synergies.

The World Trade Organisation provides technical cooperation in the area of Intellectual Property Rights in favour of developing and least-developed country members to facilitate the implementation of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights) as foreseen in Article 67 of the same agreement.

4. Description of the action

4.1. Overall objective, specific objective(s), expected outputs and indicative activities

The Overall Objective is "to facilitate intra-African trade and African and European investment".

The Specific Objective of the action is that Intellectual Property Rights (IPR) are created, protected, utilized, administered and enforced across Africa, in line with international and European best practice and in support of the AfCFTA and the African Union’s Agenda 2063.

The outputs of the action are:
• **Output 1:** Promoted international agreements in the area of IPR and reinforced cooperation between the EU and Africa in order to facilitate fact-based AfCFTA negotiations.

International IPR agreements are the key facilitators of international trade in the globalized economy. The treaties administered by the World Intellectual Property Organization (WIPO) form the basis for facilitating international trade on products involving IP. The future Protocol on IPR to be negotiated in Phase II of the AfCFTA should integrate IPR international standards.

Accession to the Madrid Agreement and Protocol on Trademarks, the Hague Agreement on Designs, the Lisbon Treaty on GIs, the WIPO Internet Treaties on Copyright and Related Rights and the Convention on International Union for the Protection of New Plant Varieties would be promoted under this action, including proper implementation after accession. Most African countries (as well as OAPI) are already contracting parties of the most relevant treaties, but issues regarding the effectiveness and efficiency of implementation remain weak either because the Offices have not adopted the necessary procedures to implement the system, either because the Governments have not changed the national legislations that allow the possibility to file international applications, or simply because of the unawareness from the Offices or local SMEs regarding the matter.

The on-going negotiations and later implementation of the AfCFTA, are to be facilitated by the action, through provision of technical assistance and specialist support to the African Union and its Member States in the process. This includes provision of data and advice to facilitate evidence-based decision making by the AU and its Member States regarding the IPR provisions to be included in the AfCFTA chapter, with the ultimate aim to encourage regional convergence of IPR law and practice in the interest of intra-African trade. Depending on the duration of the process, the action would also support Member States in the transposition process into national laws, inter alia, through advice on required legal reforms; as well as hands-on support and training for the application in practice of the commitments set-out in the future AfCFTA Chapter.

• **Output 2:** Strengthened national and regional IP institutions, networks, and tools, for more efficient and user-friendly IP protection and enforcement systems.

The focus under this output will be on the improvement of enforcement mechanisms in African countries to facilitate the rapid exchange of information between the African partner countries, as well as between the EU and African partner countries, regarding the circulation of counterfeit and pirated products (with special focus on counterfeit medicines, which pose health risks) and to improve their tools to detect infringing goods. This would include for instance the establishment of an electronic database, similar to the EU tool "COPIS", which collects statistics on suspicious products, destinations and origins and results of enforcement operations accessible to all the IP authorities of the target countries to assist in performing risk analysis and operations management by the police and the customs authorities. Creation of a communication system to provide early warning between the customs offices in cases of suspicious shipments and cargos moving from one country to another will also contribute to the fight against IP infringements at a Pan-African level.

Besides, IP administrations will be supported by improving the IP registration tools, therefore enhancing their efficiency to provide quality services in a timely manner, and enhancing transparency. Convergence and harmonization of IPRs registration best practices and the implementation of common IP tools at pan-African level will be achieved under this output.
similar to the European experience within the EUTM and RCD system. Activities under this remit would also comprise capacity building for national and regional IP offices, and the sharing of IP practices and IP tools that have proven successful in Europe and beyond.

The project will support African institutions to implement the IT tools and databases already developed and used by the European Union Intellectual Property Network (EUIPN), and which continue to be extended successfully to non-EU countries. This includes tools that digitalize certain steps in the registration processes, as well as databases that facilitate an up-to-date overview of registered rights in a given jurisdiction to the wider public, free of charge. Integrating African economies in the EUIPN tools such as TMview\(^\text{22}\) and DesignView\(^\text{23}\) means that for the first time it would be possible to search – free of charge - for trademarks and designs registered in African countries, using the very same search mechanism and database structure that is already used in some 50 countries in the EU and beyond (including for example US, India, Korea, Mexico, Brazil, etc.). The integration of ARIPO into TMview in 2015 and DesignView in 2016), and OAPI in TMclass in 2015 provides a successful example on which further efforts in this area can be built.

Digitalising and modernising the IP administrations in African countries will make the systems more cost-effective, reliable and responsive to (particularly small and micro) businesses’ needs.

The uptake of the EUIPN tools and databases will provide immediate tangible benefits to the users of the IP system in Africa (e.g. quality and reliability, access to information,). At the same time, it generates efficiency gains for IP administrations and frees resources to expand the IPR service environment offered. As a consequence, the access to IPR protection becomes more affordable in the medium-term (due to more efficient registration processes, easier and faster access to information), which particularly benefits African creators and innovators who frequently highlight the cost of protection as a barrier. It also offers a strong impetus for cooperation between national IP offices in both continents, as they would be using the same tools for their operations.

- **Output 3:** Strengthening the capacities of MSMEs / productive sector on the importance and value of IP protection (including GIs) in the African society.

This output reflects the fundamental need to accelerate the pace and scope of IP asset creation and commercialization in Africa, in order to enhance the awareness of the productive sector on the opportunities offered by IP protection and to upgrade its capacity to create, protect and manage their own IP assets. To achieve this output, emphasis will be put on assisting entrepreneurs and firms to integrate IP in their business strategies and plans. Tools will be developed to make relevant information available to the business community.

It is important to encourage innovators in African countries to protect their IP as sets. However, domestic applications for IPR are sometimes hindered by the lack of awareness of the possibilities the IP systems offer, together with the inability to afford registration fees and the general lack of technical capacity and infrastructure at IP offices.

The project will improve the awareness in the different sectors of society (including the youth, MSMEs, consumers) of the importance and value of IP and enhance capacities of the business sector, particularly MSMEs, to reap the benefits of the IP system and generate more value.

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\(^{22}\) [https://www.tmdn.org/tmview/welcome](https://www.tmdn.org/tmview/welcome)

from their products. Dissemination of information will include raise awareness on cost-free mechanisms; and "Open source" IP mechanisms.

Online tools could be developed for SMEs and micro enterprises, to understand if they have IP rights worth protecting and how to do so in a cost efficient manner. The E-learning for SMEs and IP Teaching Kit developed by EUIPO and EPO, as well as the IP e-learning tool created for SMEs in ASEAN have generated relevant experience which could be transferred to an action in Africa. This could be complemented by capacity building workshops and training in branding and marketing strategies that will allow local businesses add value and obtain higher benefits from their produce (rather than selling low value raw products), and train researchers and engineers how to access technical information (e.g. composed in patent databases) that is still widely untapped in Africa.

- **Output 4**: Implementation of the priority actions identified by the work plan linked to the AU Continental Strategy for Geographical Indications is supported.

The AU Continental Strategy for Geographical Indications provides the roadmap for the African Union Commission (AUC) and a collaborative opportunity with African Intellectual Property Organization (OAPI), the African Regional Intellectual Property Organization (ARIPO), RECs, member states and key stakeholders of the strategy, to facilitate development, promotion and protection of GIs in Africa.

Based on recommendations that emerged from the legal and operational development of GIs in Africa, a policy framework has been designed, based on the following six main expected outcomes:

1. An African vision on GIs as a tool contributing to sustainable rural development and food security and a GI African approach are developed and shared.
2. A legal and institutional framework is enabled at the national and regional levels for the protection of GIs
3. The development and registration of GI products as pilots and drivers for rural and sustainable development are supported, to provide learning and demonstrative effects.
4. Market development for GI products is promoted through innovative approaches on local markets, through regional trade among the RECs and on export markets (EU in particular as GIs are there an established market tool).
5. Research, training programmes and extension are encouraged to ensure the identification, development and diffusion of the best African tailored practices and to contribute to the African approach, in a context of climate change. As a lot of research work has been undertaken by non-African institutions, co-operation between African and non-African experienced institutions should be facilitated.
6. Awareness of all stakeholders, including consumers, is created, communication among stakeholders and information to a wider audience is insured.

To achieve the specific objectives and expected outputs identified above, the following tentative activities are proposed. Only after the inception phase and after specific input from key stakeholders will the list be adopted within an overall work plan to be complemented by annual work plans which will be drawn up each year.

The work plans will be approved by the Project Steering Committee as stated in the below section. Consultations will be carried out with Member States, the private sector and other organisations such as WIPO/EPO/FAO and the AU prior to the approval of work plans. In this way, the synergies within the action will be fully exploited and duplication of efforts avoided.
### OUTPUT 1: Promoted international agreements in the area of IPR and reinforced cooperation between the EU and Africa in order to facilitate fact-based AfCFTA negotiations

1. Organization of dedicated conferences for the promotion of international agreements and their proper implementation, which will be potentially also discussed during the AfCFTA negotiations (i.e. Madrid Agreement and Protocol on Trademarks, the Hague Agreement on Designs, the Lisbon Treaty on GIs, the WIPO Internet Treaties on Copyright and Related Rights and the Convention on International Union for the Protection of New Plant Varieties).
2. Preparation of studies and data to support evidence-based policy-making for the accession and implementation of these international agreements and treaties.
3. Preparation and dissemination of awareness-raising materials for the accession and implementation of these international agreements and treaties on IPR, including GIs.
4. Provide legal and technical assistance, including trainings through a Train the Trainer approach, to interested African States in preparing for accession and post-accession implementation of IPR protection mechanisms, including GIs.
5. Provide technical assistance to interested African States in the effective use of the classification systems and/or implementation of the Nice, Locarno, and Vienna Agreements should they decide to join the agreements.
6. Provide trainings on the classification systems through a Train the Trainer approach and render assistance in updating of the classifications of respective database records of interested IP Offices.
7. Preparation of studies, reports and analysis on the status of specific IP issues in specific countries or regions, to support the negotiation process of the IP chapter of the AfCFTA and other trade agreements concluded with the EU.
8. Provide technical assistance and capacity building to African countries to effectively transpose and implement provisions of the IPR related commitments attained in the AfCFTA and other FTAs.

### OUTPUT 2: Strengthened national and regional IP institutions, networks, and tools, for more efficient and user-friendly IP protection and enforcement systems

1. Visits/Contacts/Seminars, in order to exchange experiences and best practices on legal matters.
2. Adequate and targeted training for customs and police officials, representatives of the judiciary and other relevant authorities – including through seminars, study visits, peer-to-peer exchanges, mock-trials, etc.
3. Preparation of studies and data to support evidence-based policy-making to counter IP infringements (counterfeiting and piracy).
4. Establishment of an early warning system to facilitate the rapid exchange of information between the African partner countries, as well as between the EU and African partner countries, regarding the circulation of counterfeit and pirated products that pose serious risks to the health and safety of consumers; this includes a communication system between the customs offices in cases of suspicious shipments and cargos moving from one country to another. This warning system can be modelled on tools developed by the EUIPO’s European Observatory on Infringements of IPRs (e.g. EDB, ACRIS, ACIST\(^24\), etc) and/or, when possible, on the on-line, swift alert mechanisms used in the EU as well.
5. Creation of an electronic database, similar to the EU tool "COPIS" and/or EUIPO’s Obseravtory tools (e.g. EDB, ACRIS, ACIST) including statistics on suspicious products, destinations and origins and results of enforcement operations accessible to all the IP

authorities of the target countries to assist in performing risk analysis and operations management; this could also help identifying new trends and methods of counterfeitters and pirates.

6. Development of a mechanism to enable the competent authorities and IPR enforcement bodies to access specific technical data on authentic goods, including markings such as bar-coding and images where appropriate, to be used for identification of infringing, counterfeit and pirated goods, based on the EUIPO’s Observatory tools (e.g. EDB, ACRIS, ACIST).

7. Creation of a contact list and a search engine of all the competent IPR enforcement bodies of each African partner countries, accessible to the competent authorities of the continent, based on the EUIPO’s Observatory tools (e.g. EDB, ACRIS, ACIST).

8. Training seminars and workshops, inspired by EUIPO’s Observatory activities with enforcement networks (e.g. prosecutors, market surveillance, etc).

9. Provide feasibility studies, piloting, testing and deployment of the IP tools used across and beyond the EU (such as TMview, DesignView and TMclass).

10. Provide Technical assistance and tools used in EUIPO to facilitate IP administration procedures (e.g. e-filing, CESTO, etc) for the simplification and harmonisation of IP registration procedures.

11. Assistance for collective management of copyright.

12. IP training, capacity building and technical assistance for IP Offices officials on all relevant IP rights (trademarks, designs, GIs, patents, copyrights, plant varieties).

13. Training and capacity building of national authorities fighting against counterfeiting and piracy as regards the use of internet for the spreading of counterfeit and pirated goods with specific focus on the role and actions of internet service providers.

**OUTPUT 3 : Strengthening the capacities of MSMEs / productive sector on the importance and value of IP protection (including GIs) in the African society**

1. Organization of dedicated events for the promotion of the benefits of IP (such as roving-seminars, competitions and fairs for specific sectors such as the creative industry, and the youth such as the IdeasPowered initiative by EUIPO).

2. Preparation and dissemination of information about the importance of IP enforcement and the costs of infringements for African MSMEs and African society at large.

3. Development and dissemination of IP education materials to training and research institutions.

4. Provide assistance to the business communities, in particular innovative SMEs in identifying IP assets, IP filing strategies, brand creation, management and enforcement.

5. Workshops, training, e-learning tools, assistance in identifying and obtaining adequate protection.

6. Promotion of African IPR in the world, through initiatives such as a design-competition, or the promotion of selected African IPR in international fairs and via promotional videos, etc.

**OUTPUT 4 : Implementation of the priority actions identified by the work plan linked to the AU Continental Strategy for Geographical Indications is supported**

1. Support to the creation of a GI data base for Africa, ensuring its sustainability and ownership by one of the key partners, i.e., ARIPPO and/or OAPI).

2. Trainings and Technical Assistance to regional and national institutions responsible for the recognition, protection, control/certification, promotion and enforcement of GI.

3. Legal and technical support in order to develop legal framework and regulations for GIs.

4. Organize seminars and workshops to targeted relevant stakeholders including the diffusion of knowledge or document sharing.

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26 [https://www.tmdu.org/](https://www.tmdu.org/)
5. Promote the use and benefits of GIs and present protected GI in exhibitions and fairs at continental, regional, national levels.

6. Prospective study for assessing in which ways African regional economic communities (RECs) could foster trade for GI products.

7. Technical support to the development and protection of GI (as pilot projects) aimed at strengthening the practical expertise among authorities in charge of GIs, beneficiaries/users/right-holders of GIs (e.g. producers, traders).

### 4.2 Intervention Logic

Trade marks, designs and copyright, offer a wealth of untapped opportunities to African individuals and businesses to generate value from their resources, creations and products. This action will promote international agreements and cooperation in the area of IPR (output 1), strengthen national and regional IP institutions/networks (output 2), strengthen the capacities of MSMEs/private sector on IPR protection (output 3) and support the implementation of priority actions under the AU Continental Strategy for Geographical Indications (output 4). If these outputs are delivered, the action will reach its Specific Objective of ensuring that Intellectual Property Rights (IPR) are created, protected, utilized, administered and enforced across Africa. We assume in this explanation that the enabling operating environment of the IP administration and enforcement institutions remains stable.

These outputs were chosen because there is currently low participation in international agreements in the area of IP, as well as low awareness of the role IP plays in development and the negative impact of piracy and counterfeiting on the local economies.

If the action reaches its Specific Objective, in the long-term it will contribute to the desired impact of facilitating intra-African trade and African and European investment. The main assumption in this explanation is that African States (and any newly elected governments) remain committed to pursuing reform of regulations and procedures to create a more conducive business enabling environment.

### 4.3 Mainstreaming

The MIP and the action are non-discriminatory in general. The Design and Monitoring Frameworks for the action will include indicators which require sex disaggregated data, and set targets for the participation of women. Every intervention must be informed by a Gender Analysis\(^\text{27}\) undertaken in order to identify how it will contribute to gender equality and women's empowerment in line with the priorities set in the EU Gender Action Plan 2016-2020 (GAP II)\(^\text{28}\). The project will (i) ensure women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life; (ii) enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of women (iii) promote gender equality and empowerment of all women involved in the project.

It is expected that the action could have a beneficial environmental impact in the long-run, through for example promoting innovation, and providing tools to promote the commercialization of and value generation from origin-based and local made products that should have less environmental impact.


4.4 Contribution to SDGs

This intervention is relevant for the United Nations 2030 Agenda for Sustainable Development which established 17 Sustainable Development Goals (SDGs)\(^29\) and 169 associated targets demonstrate the scale and ambition of this new universal Agenda.

The action contributes primarily to the progressive achievement of SDG 9 'Industry, innovation and infrastructure' (Target 9.2, Target 9.4 and Target 9.5), while also contributing to other significant SDGs: SDG 5 'Gender Equality' (Target 5.5 and Target 5.7), SDG 8 'Decent work and economic growth' (Target 8.2, Target 8.3 and Target 8.4) and SDG 17 'Partnership for the goals' (Target 17.11).

5. IMPLEMENTATION

5.1 Financing agreement

In order to implement this action, it is not foreseen to conclude a financing agreement with the regional organisation.

5.2 Indicative implementation period

The indicative operational implementation period of this action, during which the activities described in section 4 will be carried out and the corresponding contracts and agreements implemented, is **48 months** from the date of the adoption by the Commission of this Financing Decision.

Extensions of the implementation period may be agreed by the Commission’s responsible authorising officer by amending this Decision and the relevant contracts and agreements.

5.3 Implementation of the budget support component

N/A

5.4 Implementation modalities

The Commission will ensure that the EU appropriate rules and procedures for providing financing to third parties are respected, including review procedures, where appropriate, and compliance of the action with EU restrictive measures\(^30\).

5.4.1 Indirect management with a EU specialised (traditional/regulatory) agency

This action may be implemented in indirect management with the European Intellectual Property Office (EUIPO)\(^31\). This implementation entails the achievement of the outputs described in section 4. The envisaged entity has been selected using the following criteria: EUIPO is the European Union Intellectual Property Office responsible for managing the EU trade mark and the registered Community design and it has also competences to deal with the protection and enforcement of other IP rights. It also works with the IP offices of the EU Member States and international partners to transfer experience for trademarks and designs as well as other IP rights and IP enforcement across Europe and the world. EUIPO has also established an effective working partnership with OAPI and ARIPO. It has a high level of knowledge of regional integration on trademarks, designs, GI as well as others IP rights and...


\(^{30}\) [www.sanctionsmap.eu](http://www.sanctionsmap.eu) Please note that the sanctions map is an IT tool for identifying the sanctions regimes. The source of the sanctions stems from legal acts published in the Official Journal (OJ). In case of discrepancy between the published legal acts and the updates on the website it is the OJ version that prevails.

\(^{31}\) From 24 March 2016, the name of the European Office for Harmonisation in the Internal Market (OHIM) has been replaced by European Union Intellectual Property Office Regulation (EU) 2015/2424 of 16.12.2015 (OJL 341, p. 21, of 24/12/2014).
experience on implementation of projects at regional and national levels, including cooperation programmes for instance in Southeast Asia, China, Latin America and the Caribbeans.

In case the envisaged entity would need to be replaced, the Commission’s services may select a replacement entity using the same criteria.

5.5. Scope of geographical eligibility for procurement and grants

The geographical eligibility in terms of place of establishment for participating in procurement and grant award procedures and in terms of origin of supplies purchased as established in the basic act and set out in the relevant contractual documents shall apply.

The Commission’s authorising officer responsible may extend the geographical eligibility on the basis of urgency or of unavailability of products and services in the markets of the countries concerned, or in other duly substantiated cases where the eligibility rules would make the realisation of this action impossible or exceedingly difficult.

5.6. Indicative budget

<table>
<thead>
<tr>
<th>EU contribution (EUR)</th>
<th>Partner contribution (EUR)</th>
</tr>
</thead>
<tbody>
<tr>
<td>7 000 000</td>
<td>1 000 000</td>
</tr>
</tbody>
</table>

5.4.1. - Indirect management with EUIPO -

5.9 - Evaluation and 5.10 - Audit

Will be covered by another decision

5.11 - Communication and visibility

Included in the EUR 7 000 000

N/A

Totals

7 000 000 1 000 000

5.7. Organisational set-up and responsibilities

The organizational set up of the action will comprise a Project Steering Committee (PSC), the Project Management Team (PMT) and the National Coordinators on the ground.

Project Steering Committee (PSC)

The PSC will oversee and validate the overall direction and policy of the action. It will have responsibility to approve the overall and annual work plans, reports prepared by the PMT and to discuss evaluation reports. The PSC will be chaired by the European Commission and will comprise, at least, representatives of the European Commission and one high-level representative of each IP regional (ARIPO, AU and OAPI) offices. Observers, such as EPO, FAO, CPVO (Community Plant Varieties Office), may attend the PSC as well. The EUIPO, in its capacity as implementing organization, will also be represented in the PSC meetings and will ensure their secretariat.

The decisions of the PSC on work plans, reports and the action in general shall be made by consensus. The PSC will meet at least once a year, preferably during the first quarter of each year. Those meetings may take place back-to-back, for instance, to regional relevant working groups on trade/IPR within the African Union.

Project Management Team (EUIPO)

The action would be implemented by EUIPO through a Project Management Team (PMT) comprising two sub-teams, one based at a Project Office(s) in Africa, and the other one based
at the EUIPO Headquarters in Alicante, Spain. The PMT would be in charge of the overall planning and implementation of project activities as well as the relations with the partners in the region. The team in Alicante will ensure the budgetary and financial administration of the project under the EU Financial Regulation principles as well as the necessary coordination of project activities within EUIPO and with other European/international/African institutions and project experts. Given the large regional scope of the action, the set-up of regional offices may be considered.

**National/regional Coordinators (NC)**

Each African country/region will appoint a National (and regional for organisations such as OAPI/ARIPO) Coordinator (NC) for the action. The aim of these N/RCs is to maintain close consultation with the PMT concerning national and regional developments in the area of IP, and in particular for the planning and implementation of the project national / regional activities. The NCs’ role is pivotal for the success of the action at day-to-day operational level. They shall assist in the project implementation by: i) maintaining the PMT briefed on IP developments in their respective countries/regions and assisting on the compilation of relevant data, ii) contributing to the planning and effective implementation of the activities, such as liaising with other national/regional stakeholders to propose the most suitable dates and venues for certain activities, provide advice regarding key target groups in each country/region and providing contacts / assist with outreach activities; iii) logistic support and maintaining a fluent communication with the PMT in all matters relating to the project implementation.

Stakeholder management of these will be coordinated by utilising successful models employed on similar IPR-related projects in Southeast Asia (e.g. ECAP III, ARISE+IPR, IPKEY SEA) and Latin America (e.g. IPKEY LAT). To this end, OAPI and ARIPO will play a pivotal role to reach out to the related IP players (e.g. academia, customs authorities, law enforcers, etc).

**5.8. Performance and Results monitoring and reporting**

Implementation will be monitored at EUIPO level using an Integrated Management System based on the performance, and results achievement, combining it with a Risk management framework and focusing on the sustainability of the project.

At project level, the project management team will develop a result-based monitoring following the logical framework matrix.

Mission reports, progress reports and evaluation reports will be produced at various stages of the action and enable continuous monitoring and timely evaluation.

The day-to-day technical and financial monitoring of the implementation of this action will be a continuous process, and part of the implementing partner’s responsibilities. To this aim, the implementing partner shall establish a permanent internal, technical and financial monitoring system for the action and elaborate regular progress reports (not less than annual) and final reports. Every report shall provide an accurate account of implementation of the action, difficulties encountered, changes introduced, as well as the degree of achievement of its results (outputs and direct outcomes) as measured by corresponding indicators, using as reference the Logframe matrix.

SDGs indicators and, if applicable, any jointly agreed indicators as for instance per Joint Programming document should be taken into account.
The report shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the action. The final report, narrative and financial, will cover the entire period of the action implementation.

The Commission may undertake additional project monitoring visits both through its own staff and through independent consultants recruited directly by the Commission for independent monitoring reviews (or recruited by the responsible agent contracted by the Commission for implementing such reviews).

5.9. Evaluation

Having regard to the importance of the action, a final evaluation will be carried out for this action or its components via independent consultants contracted by the Commission.

It will be carried out for accountability and learning purposes at various levels (including for policy revision), taking into account in particular the fact that has several themes on IPR and several stakeholders and beneficiaries in different regions of Africa.

The Commission shall inform the implementing partner at least one month in advance of the dates foreseen for the evaluation missions. The implementing partner shall collaborate efficiently and effectively with the evaluation experts, and inter alia provide them with all necessary information and documentation, as well as access to the project premises and activities.

The evaluation reports shall be shared with the partner country and other key stakeholders. The implementing partner and the Commission shall analyse the conclusions and recommendations of the evaluations and, where appropriate, in agreement with the partner country, jointly decide on the follow-up actions to be taken and any adjustments necessary, including, if indicated, the reorientation of the project.

The financing of the evaluation shall be covered by another measure constituting a financing decision.

5.10. Audit

Without prejudice to the obligations applicable to contracts concluded for the implementation of this action, the Commission may, on the basis of a risk assessment, contract independent audits or expenditure verification assignments for one or several contracts or agreements.

The financing of the audit shall be covered by another measure constituting a financing decision.

5.11. Communication and visibility

Communication and visibility of the EU is a legal obligation for all external actions funded by the EU.

This action shall contain communication and visibility measures which shall be based on a specific Communication and Visibility Plan of the Action, to be elaborated at the start of implementation.
In terms of legal obligations on communication and visibility, the measures shall be implemented by the Commission, the partner country, contractors, grant beneficiaries and/or entrusted entities. Appropriate contractual obligations shall be included in, respectively, the financing agreement, procurement and grant contracts, and delegation agreements.

The Communication and Visibility Requirements for European Union External Action (or any succeeding document) shall be used to establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.
## APPENDIX - INDICATIVE LOGFRAME MATRIX (FOR PROJECT MODALITY)

<table>
<thead>
<tr>
<th>Overall objective</th>
<th>Results chain</th>
<th>Indicators</th>
<th>Sources and means of verification</th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>The Overall Objective</strong>, in line with the sector of cooperation number 3 of the MIP, is “to facilitate intra-African trade and African and European investment”.</td>
<td></td>
<td>1. EU merchandise trade with Africa (in EUR)</td>
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<td></td>
<td></td>
<td>2. Incidence of non-tariff measures in Africa (number of)</td>
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<td></td>
<td></td>
<td>3. Progress (%) in implementation of Trade Facilitation Agreement commitments by developing MSs in Africa</td>
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<td></td>
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<tr>
<td>Specific objectives</td>
<td></td>
<td>1. Number of AfCFTA protocols and annexes negotiated, signed and implemented by target countries in relation to IPR</td>
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<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>1.1. Number of AfCFTA protocols and annexes negotiated, signed and implemented by target countries in relation to IPR</td>
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<td></td>
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<tr>
<td></td>
<td></td>
<td>1.2. Number of IPR registered in African target countries /internationally by African nationals</td>
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<tr>
<td></td>
<td></td>
<td>1.3. Number of IPR infringements reported by enforcement authorities</td>
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<td></td>
<td></td>
<td>1.4. Number of IP good practice adopted by African institutions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Outputs</td>
<td></td>
<td>1.1. Number of Trade Agreement negotiation and implementation processes supported</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>1.2. Number of IP tools implemented in African administrations</td>
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<td></td>
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<tr>
<td></td>
<td></td>
<td>2.1. Number of public and private IP</td>
<td></td>
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</tbody>
</table>

African States remain committed to pursuing reform of regulations and procedures to create a more conducive business enabling environment.

Implementing partners will remain committed to cooperate in the implementation of the actions defined with them.

The target groups of the capacity development...
institutions, networks, and tools, for more efficient and user-friendly IP protection and enforcement systems.

- **Output 3**: Strengthening the capacities of MSMEs / productive sector on the importance and value of IP protection (including GIs) in the African society.

- **Output 4**: Implementation of the priority actions identified by the work plan linked to the AU Continental Strategy for Geographical Indications is supported.

<table>
<thead>
<tr>
<th>2.2. % of persons trained putting in practice their capacity-building</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1. Number of knowledge-based products developed (studies, policy recommendations, databases)</td>
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<tr>
<td>3.2. Number of visits to communication platforms (i.e. website)</td>
</tr>
<tr>
<td>4.1. Number of GIs registered in the GI database</td>
</tr>
<tr>
<td>4.2. Number of officials, government agencies and private sector benefiting from trainings and capacity development activities on GIs</td>
</tr>
</tbody>
</table>

activities will be properly identified by the target countries / national focal points, will be given sufficient advance notice and time for the training (be it face to face or online).