

African Union, African Regional Bodies

## Statute of the Pan African Intellectual Property Organisation (PAIPO)

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African Union

# Statute of the Pan African Intellectual Property Organisation (PAIPO)

Published

**Commenced**

*[This is the version of this document at 31 January 2016.]*

## **WE, Member States of the African Union:**

**DETERMINED** to promote a development-oriented intellectual property system, in order to achieve the objectives of the African Union;

**RECALLING** Decision Assembly/AU/Dec. 138 (VIII) adopted by the Assembly of the Union in Addis Ababa, Ethiopia, in January 2007 requesting the Chairperson of the Commission, in collaboration with the Regional Economic Communities (RECs), World Intellectual Property Organisation (WIPO) and in coordination with the Organisation Africaine de la Propriete Intellectuelle (OAPI) and the African Regional Intellectual Property Organisation (ARIPO) to submit to it the texts relevant to the establishment of a single Pan-African Intellectual Property Organisation (PAIPO);

**FURTHER RECALLING** Decision Assembly/AU/Dec. 453 (XX) adopted by the Assembly in Addis Ababa, Ethiopia in January 2013 on the creation of the PanAfrican Intellectual Property Organisation (PAIPO);

**RECOGNIZING** that intellectual property can serve as a tool for development, including through achieving economic growth and development;

**BEING FULLY AWARE** of the need to provide a broad-based intellectual property platform that would provide a forum for policy based discussions and formulation of common African position on global and emerging Intellectual Property issues;

**BEING COGNISANT** of the valuable benefits that the Member States would derive from an effective, continuous and well-coordinated stock of specialized intellectual property information, knowledge and services that would be instrumental in promoting and protecting creativity, invention, innovation, facilitating technology transfer, techno-industrial competitiveness and economic growth in Africa;

**RECOGNIZING** the need to promote creativity and utilization of the intellectual property system amongst Member States;

**FURTHER RECOGNIZING** the need for positive efforts designed to raise effective awareness on intellectual property issues in Africa, and the need to encourage the creation of a knowledge-based and innovative society and to promote the creation, use and exploitation of Intellectual Property assets in Africa for development purposes;

**DESIROUS** of encouraging creativity as well as promoting the strategic use of, protection and exploitation of intellectual property rights for development throughout Africa;

**REALISING** the role that an efficient continental intellectual property organisation can play in promoting the cultural and socio-economic development of Africa and deal more effectively on the challenges posed by globalization;

**APPRECIATING** the crucial role played by national Intellectual Property offices of Member States, and taking note of the autonomy of ARIPO and OAPI, in recognizing the need to modernize and harmonize Intellectual Property legislation throughout Africa and to render more efficient the administration of Intellectual Property rights;

**RECOGNIZING** ARIPO and OAPI as building blocks for the creation of a Pan Africa Intellectual Property Organisation as well as welcoming their support in the implementation of the Heads of State and Government decisions on PAIPO, Assembly/AU/Dec. 522 (XXIII);

**BEING DESIROUS** of supporting the role played by national intellectual property offices of Member States;

**REALISING** the need to strengthen the capacity of national intellectual property institutions and boosting manpower development in intellectual property management as well as affirming the 45 recommendations of the WIPO Development Agenda adopted in 2007:

**NOTING** that indigenous knowledge in the continent has become a vital source of wealth while at the same time local communities have become increasingly marginalized in the use, appropriation, and commercialization of their knowledge, genetic and cultural resources;

**RECOGNISING** international human rights laws and international agreements on sustainable development and the protection of indigenous knowledge, that provides legitimate right of indigenous and local communities;

**RECALLING** the United Nations Resolution A/RES/70/1 entitled: Transforming our world: the 2030 Agenda for Sustainable Development adopted on 25 September 2015 and the African Union Agenda 2063;

**FURTHER RECOGNISING** the cross-cutting nature of intellectual property and the need to have co-operation in the field of intellectual property systems within the African Union;

**HAVE AGREED AS FOLLOWS:**

## Article 1 – Definitions

For purposes of this Statute:

"**Assembly**" means the Assembly of Heads of State and Government of the African Union;

"**ARIPO**" means the African Regional Intellectual Property Organisation as established by the Lusaka Agreement of 1976, as amended from time to time;

"**CBD**" means the Convention on Biological Diversity, which entered into force on 29 December 1993;

"**Commission**" means the African Union Commission;

"**Conference of State Parties**" means the highest political decision making body of the parties to the PAIPO;

"**Council of Ministers**" means the Ministers in charge of intellectual property in Member States of the AU;

"**Member States**" means Member States of the PAIPO;

"**OAPI**" means the African Intellectual Property Organisation established under the Bangui Agreement of March 2, 1977; as amended from time to time;

"**PAIPO**" means the Pan-African Intellectual Property Organisation;

"**RECs**" means Regional Economic Communities recognized by the African Union;

"**Secretariat**" means the Secretariat of the Pan-African Intellectual Property Organisation;

"**State Parties**" means states that are party to the PAIPO statute;

"**Statute**" means the present statute of the Pan-African Intellectual Property Organisation;

"**Union**" or "AU" means the African Union;

"**WIPO**" means the World Intellectual Property Organisation;

"**Intellectual Property**" shall refer and include the rights relating to:

- a. Creations of the mind, inventions, literary and artistic works, and symbols, names, images and designs used in commerce;



- b. indigenous knowledge systems, genetic resources and associated traditional knowledge, geographical indications, expressions of folklore among others;
- c. Authors, performers, producers and broadcasters, who contribute to the cultural and economic development of nations;
- d. Intangible assets of brands, designs and other intangible fruits of a company's creative and innovative capacity; and
- e. All other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

"IP Systems" means tools and other legal and administrative measures that assist in the use of intellectual property and the application of intellectual property rights for the socio-economic development of Africa.

## **Article 2 – Establishment of the PAIPO**

PAIPO is hereby established as a Specialized Agency of the Union.

## **Article 3 – Mandate of the PAIPO**

The PAIPO shall be responsible for intellectual property and other emerging issues related to intellectual property in Africa and shall promote effective use of the intellectual property system as a tool for economic, cultural, social and technological development of the continent as well as set intellectual property standards that reflect the needs of the African Union, its Member States and RECs, ARIPO and OAPI.

## **Article 4 – Functions of the PAIPO**

The PAIPO shall:

- a) Harmonize intellectual property standards that reflect the needs of the AU, its Member States and RECs; ARIPO and OAPI;
- b) Facilitate the realization and harmonization of national legislation and regional treaties with continental intellectual property standards;
- c) Facilitate the use of intellectual property to promote creativity and innovativeness on the continent;
- d) Assist its Member States upon request in formulating policies and addressing current and emerging intellectual property issues;
- e) Initiate and facilitate strategies that shall promote and develop the intellectual property system;
- f) Strengthen existing regional organisations or such other organisations as may be necessary;
- g) Strengthen existing collective management organisations and facilitate their establishment in the Member States, which have no collective management organisation in the field of copyright and related rights;
- h) Take deliberate measures to promote the protection and exploitation of intellectual property rights within the Member States, including conclusion of bilateral and multilateral agreements;
- i) Collect, process and disseminate relevant information on intellectual property to Member States and support the establishment of continental databases on genetic resources, traditional knowledge and traditional cultural expressions and folklore in order for Member States to derive regular and maximum benefit;
- j) Develop policy guidelines using best practices and training modules to support Member States to achieve world-class intellectual property systems;
- k) Contribute to the accelerated achievement of the objectives of the African Union as stated in the Constitutive Act of the African Union;

- l) Promote the harmonization of intellectual property systems of its Member States, with particular regard to protection, exploitation, commercialization and enforcement of intellectual property rights;
- m) Perform administrative tasks provided in Intellectual Property Treaties adopted by the Conference of States Parties;
- n) Provide a forum for policy discussions and formulation, addressing political issue and developing African Common positions relating to intellectual property matters, particular regard being given to genetic resources, traditional knowledge, geographic indications, expressions of folklore, matters pertaining and arising from the CBD and emerging topics in the field of intellectual property;
- o) Initiate and facilitate activities that strengthen the human, financial and technical capacity of Member States to maximize the benefits of the intellectual property system;
- p) Promote and facilitate positive efforts designed to raise awareness intellectual property in Africa and to encourage the creation of a knowledge-based economy, innovative society as well as emphasizing the importance of creative and cultural industries;
- q) Lead the African negotiation in the international IP issues and to ensure the attainment of African common positions; and
- r) Undertake other intellectual property activities as may be necessary for the achievement of the objectives of the PAIPO.

### **Article 5 – Membership**

Membership shall be open to AU Member States. Each Member State shall enjoy equal rights in terms of participation and representation at PAIPO meetings.

### **Article 6 – Legal capacity**

1. The PAIPO shall enjoy, in the territory of each Member State, legal capacity and full juridical capacity necessary for the fulfillment of its objectives and the exercise of its functions in accordance with this Statute.
2. For the fulfillment of its objectives, the PAIPO shall, in particular, have legal capacity to include:
  - a) Enter into agreements;
  - b) Acquire and dispose of movable and immovable property;
  - c) Institute legal proceedings.

### **Article 7 – Privileges and immunities**

The PAIPO, its representatives and staff shall enjoy in the territory of each Member State, the privileges and immunities stipulated in the 1965 General Convention on Privileges and Immunities of the Organisation of African Unity and other relevant international instruments.

### **Article 8 – Headquarters of the PAIPO**

The headquarters of the PAIPO shall be situated in Tunisia in accordance with the decision of the Assembly.

### **Article 9 – Organs of the PAIPO**

The PAIPO shall be composed of the following organs:

- a) Conference of States Parties;

- b) Council of Ministers;
- c) Secretariat; and
- d) The Board of Appeal.

### **Article 10 – The Conference of States Parties**

1. The Conference of States Parties is hereby established as the supreme policymaking organ of PAIPO.
2. The Conference of State Parties shall adopt its rules of procedures and those of any subsidiary body it may establish, as well as financial rules to determine in particular the financial participation of the Parties to PAIPO.
3. The Conference of States Parties shall:
  - a) Provides strategic leadership and ensure oversight for the implementation of the PAIPO Statute and takes all measures it deems necessary for the promotion of the objectives of PAIPO;
  - b) Consider and adopt, as appropriate, recommendations of the Council of Ministers;
  - c) Consider the reports and activities of the Bureau and take appropriate action in regard thereto; and
  - d) Perform any other function consistent with PAIPO's Statute or the Rules of Procedure of the Conference of State Parties.
4. The Conference of States Parties shall have a Bureau consisting of a President, three Vice-Presidents, and a Rapporteur elected by the Conference of States Parties for a one three-year term. The members of the Bureau shall reflect equitable geographical representation.
5. The Conference of States Parties shall meet every three (3) years.

### **Article 11 – Council of Ministers**

1. The Council of Ministers is the highest decision-making Organ and shall constitute the General Assembly of PAIPO. The Council of Ministers shall adopt its rules of procedures as well as the rules of procedure of any of its committees, working groups and/or subsidiary bodies,
2. The Council of Ministers shall consist of Ministers in charge of intellectual property in the Member States;
3. The Council of Ministers shall meet once every two years;
4. The Council shall have a Committee of Experts composed of senior officials representing the ministries in charge of intellectual property of States Parties;
5. The Council of Ministers may establish such other working groups and/or subsidiary bodies as it deems fit;
6. The Council of Ministers shall have the following functions:
  - a) Give policy direction to the PAIPO and address policy matters relating to the Organisation;
  - b) Set the amount of annual contributions and special contributions to be paid by Member States to the budget of the PAIPO;
  - c) Elect the Director General of the PAIPO upon the recommendation of its Bureau and in accordance with rules of procedure of the Council of Ministers;
  - d) Approve the PAIPO strategic plan, budget, policies and programmes;
  - e) Decide and prioritize the activities of the PAIPO relating to intellectual property;

- f) Elect a Bureau of five (5) Members consisting of a President, three Vice-Presidents, and a Rapporteur drawn from the five (5) AU geographical regions, where applicable. The AUC Commissioner in charge of intellectual property shall serve as an observer member of the Bureau;
  - g) Develop the structure and the administrative guidelines of the Secretariat including the staff and financial rules and regulations, the terms of reference of the Board of Appeal as well as adopt the governing rules and regulations of the Board of Appeal;
  - h) Report and submit recommendations to the Executive Council of the African Union; and
  - i) May delegate any of its functions to any organ of the PAIPO.
7. The Bureau of the Council of Ministers shall meet once (1) a year in ordinary session and may hold an extra-ordinary session subject to availability of resources and when it deems necessary.

### **Article 12 – The Director General**

- 1. The Council of Ministers shall elect the Director-General for a term of three (3) years based on geographical rotation, renewable once.
- 2. The powers, duties and conditions of service of the Director General shall be as set out in staff rules and regulations of PAIPO.
- 3. The Director General shall be the Head of the Secretariat.
- 4. The Director General shall appoint staff members of the Secretariat in accordance with the staff rules and regulations of PAIPO.
- 5. In the discharge of his/her duties, the Director General shall not seek or accept instructions from any state, authority or individual external to the PAIPO.

### **Article 13 – The Secretariat of the PAIPO**

- 1. There shall be a Secretariat of the PAIPO.
- 2. The Secretariat Shall:
  - a) Ensure the implementation of the decisions of the PAIPO in accordance with its objectives;
  - b) Draft policies and strategies aimed at the fulfillment of the PAIPO's objectives for adoption by the council of Ministers;
  - c) Develop and implement capacity building programmes for the benefit of Member States in the areas of intellectual property;
  - d) Take necessary actions to ensure the protection of Intellectual Property and Rights in Africa, including indigenous knowledge systems, genetic resources and associated traditional knowledge, geographical indications, expressions of folklore among others;
  - e) Develop advocacy policies and strategies to create community awareness in the intellectual property sector;
  - f) Draft the policy and strategy on international cooperation in matters of intellectual property for adoption by Council of Ministers;
  - g) Prepare strategic plan, work programmes, the budget, financial statements and annual reports on the activities of the PAIPO;
  - h) Be responsible for the day-to-day management of the PAIPO; and
  - i) Perform any other duties as may be assigned by the Council of Ministers.

### **Article 14 – The Board of Appeal**

1. A Board of Appeal shall be established by the Council of Ministers.
2. The Board shall hear disputes and litigations arising from the activities of the PAIPO.

### **Article 15 – Observers**

The Council of Ministers may invite any State, REC, international, regional or sub-regional organisation or institution, which is not a Member to attend any meetings of any organ of the PAIPO, as an Observer.

### **Article 16 – Relationship with other institutions, co-operating States and organisations**

The PAIPO shall establish and maintain working relationships with any intergovernmental, international, regional or national institutions that may assist PAIPO to achieve its objectives.

### **Article 17 – Finances**

1. The PAIPO shall be funded by:
  - a) Annual statutory contributions and special contributions to be paid by Member States as may be set by the Council of Ministers;
  - b) Income from services rendered by the PAIPO, and
  - c) Income from property owned by or other investments made by the PAIPO;
2. The PAIPO may receive donations and voluntary contributions from:
  - a) Member States;
  - b) Other States and institutions that are not members of the PAIPO; and
  - c) Any other sources approved by the Council of Ministers.
3. The Union shall consider a contribution of seed funding to PAIPO for a period of five years. The Assembly shall be regularly informed of the status of the funding of the PAIPO.

### **Article 18 – Official languages**

The official languages of the PAIPO shall be those of the AU.

### **Article 19 – Settlement of disputes**

1. Any dispute or difference arising between States Parties with regard to the interpretation, application and implementation of this Statute shall be settled by mutual consent between the States concerned, including through negotiations, mediation, conciliation or other peaceful means;
2. In the event of failure by the disputing parties to settle the dispute or difference, the disputing Parties may, by mutual consent, refer the dispute to:
  - a) The African Court of Justice Human and Peoples’ Rights, where applicable; or

- b) To an Arbitration Panel of three (3) Arbitrators whose appointment shall be as follows:
  - i. The Parties to the dispute shall appoint two of the Arbitrators; and
  - ii. The Chairperson of the Commission shall appoint the third Arbitrator who shall be the President of the Panel.
3. The decision of the Panel of Arbitrators shall be binding.

### **Article 20 – Dissolution of the PAIPO**

1. The PAIPO may be dissolved by a decision of the Conference of States Parties.
2. The notice period for any meeting of the Conference of States Parties that the dissolution of the PAIPO is to be considered shall not be less than six months.
3. Where a decision has been made on the dissolution of the PAIPO, the Conference of States Parties shall establish the modalities for the liquidation of the assets of the PAIPO.

### **Article 21 – Popularization of the Statute**

States Parties shall take all appropriate measures to ensure the widest possible dissemination of this Statute.

### **Article 22 – Safeguard clause**

1. No provision in this present Statute shall be interpreted as derogating from the principles and values contained in other relevant instruments for the promotion of Intellectual Property development in Africa.
2. Nothing in this Statute shall be construed as preventing a Party from taking any action compatible with the provisions of the United Nations Charter or any other international instrument and that is limited to the exigencies of the situation, as it considers necessary to its external or internal security.

### **Article 23 – Signature, ratification and accession**

1. This Statute shall be open to Member States of the Union for signature and ratification or accession.
2. The instrument of ratification or accession to the present Statute shall be deposited with the Chairperson of the Commission who shall notify Member States of the Union of the deposit of the instruments of ratification or accession.

### **Article 24 – Entry into force**

1. This Statute shall enter into force thirty (30) days after the deposit of fifteenth (15<sup>th</sup>) instrument of ratification.
2. The Chairperson of the Commission shall inform all Member States of the Union of the entry into force of the present Statute.
3. For any Member State of the Union acceding to the present Statute, the Statute shall come into force in respect of that State on the date of the deposit of its instrument of accession.

### **Article 25 – Reservations**

1. A State Party may, when ratifying or acceding to this Statute, submit in writing, a reservation with respect to any of the provisions of this Statute. Reservations shall not be incompatible with the object and purpose of this Statute.
2. The withdrawal of a reservation must be submitted in writing to the Chairperson of the Commission who shall notify other States Parties of the withdrawal accordingly.

### **Article 26 – Depository**

This Statute shall be deposited with the Chairperson of the Commission, who shall transmit a certified true copy of the Statute to the Government of each signatory State.

### **Article 27 – Registration**

The Chairperson of the Commission upon the entry into force of this Statute shall register this Statute with the United Nations Secretary General in conformity with Article 102 of the Charter of the United Nations.

### **Article 28 – Withdrawal**

1. At any time after three years from the date of entry into force of this Statute, a State Party may withdraw by giving written notification to the Depository.
2. Withdrawal shall be effective one year after receipt of notification by the Depository, or on such later date as may be specified in the notification.
3. Withdrawal shall not affect any obligation of the withdrawing State Party prior to withdrawal.

### **Article 29 – Amendment and revision**

1. Any State Party may submit proposals for the amendment or revision of this Statute. Such proposals shall be adopted at a meeting of the Conference of States Parties;
2. Proposals for amendment or revision shall be submitted to the Chairperson of the Commission who shall transmit the amendment or revision to the President of the Bureau of the Council of Ministers within thirty (30) days of receipt thereof.
3. The Conference of States Parties, upon the advice of the Council of Ministers, shall examine these proposals within a period of one year from the date of receipt of such proposals;
4. Amendments or revisions shall be adopted by the Conference of States Parties by consensus or, failing which, by a two-thirds majority.
5. The amendment or revision shall enter into force in accordance with the procedures outlined in Article 24 of this Statute.

### **Article 30 – Authentic texts**

This Statute is drawn up in four (4) original texts, in Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic.

**Adopted by the Twenty Sixth Ordinary Session of the Assembly, held in Addis Ababa, Ethiopia**

**31 January 2016**