FINAL DRAFT STATUTE OF
THE PAN-AFRICAN INTELLECTUAL PROPERTY ORGANIZATION (PAIPO)
PREAMBLE

We the African Union Head of States and governments,

DETERMINED to promote the development of the continent through an effective intellectual property system in order to achieve objectives of the African Union;

RECOGNIZING that Intellectual Property rights are tools for economic growth and dissemination of knowledge;

BEING FULLY AWARE of the urgent and requisite 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; and 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 address the continued necessity to promote creativity and utilization of the Intellectual Property system amongst Member States;

RECOGNIZING FURTHER 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;

DESIRING to encourage creativity as well as to promote, protect and exploit Intellectual Property rights throughout Africa;

BEING DESIROUS to formulate and implement strategies for the effective combating piracy and counterfeit in Africa;

REALIZING the role that an efficient continental intellectual property organization can play in promoting the socio-economic development of Africa and face more effectively the challenges posed by globalization;

APPRECIATING and RESPECTING the crucial role played by national Intellectual Property offices of Member States, as well as 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;

**BEING DESIROUS** of supplementing and complementing the role played by ARIPO and OAPI

**REALIZING** the need to strengthen the capacity of national Intellectual Property institutions and boosting manpower development in Intellectual Property management;

**RECOGNIZING** the cross-cutting nature of Intellectual Property and the need to have a streamlined co-ordination system for Intellectual Property within the framework of the African Union, and the importance of addressing Intellectual Property matters within the African Union;

**HAVING CONSIDERED** Article 19 of the Paris Convention for the Protection of Industrial Property of 1883 and Article 20 of the Berne Convention for the Protection of Literary and Artistic Works of 1886, both of which allow countries that are members of the Unions created by the two Conventions to enter into special agreements among themselves;

**AND RECALLING** the Assembly Decision (Assembly Council/AU/Dec.138 (VIII)) on the need to establish the Pan-African Intellectual Property Organization (PAIPO) in collaboration with all the stakeholders.

**HEREBY AGREE AS FOLLOWS:**

**Article 1**

**Definitions**

For purposes of this Statute:

(i) “ARIPO” means the African Regional Intellectual Property Organization as established by the Lusaka Agreement of 1976, as amended from time to time;

(ii) “Board of Appeal” means the Board established by Article 10 of this Statute;

(iii) “Council of Ministers” means the Council established by Article 8 of this Statute;

(iv) “Committee of Experts” means the committee established by Article 9 of this Statute;

(v) “Harare Protocol” means the Protocol on Patents and Industrial Designs within the framework of ARIPO adopted at Harare, Zimbabwe on December 10, 1982, at Harare, as amended from time to time;
“Member States” means Member States of the Organization as set out in Article 14 of this Statute;

“OAPI” means the African Intellectual Property Organization established under the Bangui Agreement of March 2, 1977;

“the Office” means the Pan African Intellectual Property Office or the Secretariat of the Organization;

“Organization” means the Pan-African Intellectual Property Organization;

“PAIPO” means the Organization established under Article 2 of this Statute as the Pan-African Intellectual Property Organization and as implementation to the Assembly Decision (Assembly Council/AU/Dec.138 (VIII));

(The Commission) is the African Union Commission as established by the Constitutive Article in 2003

“RECs” Regional Economic Communities recognized by the African Union;


“WIPO” World Intellectual Property Organization

Article 2
Establishment of the Organization

The Pan-African Intellectual Property Organization is hereby established and shall operate and be governed according to the provisions of this Statute.

The Organization shall be a specialized agency of the African Union that responsible for Intellectual Property and other emerging issues related to Intellectual Property in Africa.

Article 3
Status of the Organization

The Organization shall enjoy in the territory of each Member State, the legal capacity accorded to legal persons under the national laws of the Member States as may be necessary for the fulfillment of its objectives and the exercise of its functions, and shall in particular have the legal capacity to:

(i) Enter into contracts and conclude agreements, except agreements and contracts for the collective management of copyright and related rights;
(ii) Acquire and dispose of movable and immovable property; and

(iii) Be a party to a judicial and other legal or other administrative proceedings.

Article 4
Privileges and Immunities

The privileges and immunities to be accorded to the Organization and the representatives in the territory of each Member State shall be similar to the privileges and immunities stipulated in the General Convention on Privileges and Immunities of the Organization of African Unity.

Article 5
Objectives of the Organization

The objectives of the Organization shall be to:

(i) Ensure the effective use of the intellectual property system as a tool for economic, cultural, social and technological development of the continent;

(ii) Contribute to the accelerated achievement of the objectives of the African Union as stated in the Constitutive Act of the African Union;

(iii) Promote the harmonization of intellectual property systems of its Member States, with particular regard to protection, exploitation, commercialization and enforcement of intellectual property rights;

(iv) Provide common services to Member States and/or regional economic communities in the administration and management of intellectual property rights that maximizes and builds upon the solid achievements of ARIPO, OAPI and/or WIPO;

(v) Provide a forum for policy discussions and formulation, addressing political issues and developing African common positions relating to Intellectual Property matters, particular regard being given to genetic resources, traditional knowledge, Geographic indicators, expressions of folklore, matters pertaining and arising from the Convention on Biological Diversity (CBD) and emerging topics in the field of intellectual property;

(vi) Initiate activities that strengthen the human, financial and technical capacity of Member States to maximize the benefits of the intellectual property system to improve public health and eradicate the scourge of piracy and counterfeits on the continent; and
(vii) To foster and undertake positive efforts designed to raise awareness on intellectual property in Africa and to encourage the creation of a knowledge-based and innovative society as well as the importance of creative industries including, in particular, cultural and artistic industries;

(viii) To lead the African negotiation in the international IP issues and to ensure the African common position.

**Article 6**

**Functions of the Organization**

In order to attain the objectives described in this Statute, the Organization through its appropriate organs shall:

(i) Set intellectual property standards that reflect the needs of both the African Union and its Member States and Regional Economic Communities of the Organization;

(ii) To grant and register industrial property titles;

(iii) Facilitate the realization and harmonization of national legislation and regional treaties and intellectual property standards in all the AU levels;

(iv) Facilitate the use of intellectual property to promote creativity and innovativeness on the continent;

(v) Assist its Member States in formulating policies and addressing current and emerging Intellectual Property issues in conformity with the Objectives of the Organization;

(vi) Initiate strategies that will promote and develop the Intellectual Property system;

(vii) Strengthen the existing regional organizations or such other organizations as may be necessary;

(viii) Strengthen the existing collective management organizations and facilitate their establishment in the Member States which have no collective management organization in the field of copyright and related rights;

(ix) Take deliberate measures to promote the protection and exploitation of Intellectual Property rights within the Member States, including conclusion of bilateral and multilateral agreements;

(x) Collect, process and disseminate relevant information on Intellectual Property to Member States and support the establishment of databases on genetic
resources, traditional knowledge and traditional cultural expressions and folklore in order for Member States to derive regular and maximum benefit;

(xi) To develop updated policy guidelines and training modules to support Member States to achieve a world-class IP systems; and

(xii) Do such other things as may be necessary for the achievement of the Objectives of the Organization.

**Article 7**

**Organs of the Organization**

The Organization shall have the following organs:

(i) Council of Ministers and its Bureau;

(ii) Experts Committee and its Bureau;

(iii) Board of Appeal; and

(iv) The Office.

The above mentioned organs shall together comprise the Pan African Intellectual Property Organization.

**Article 8**

**Council of Ministers**

(i) The Council of Ministers is the supreme organ of the PAIPO and it forms its General Assembly.

(ii) The Council of Ministers shall consist of ministers in charge of intellectual property in the Members States of the Organization and the Council shall;

(a) Give policy direction to the Organization and address any policy matter relating to the Organization;

(b) Set the amount of annual contributions and special contributions to be paid by Member States to the budget of the Organization;

(c) Meet each four years to discuss and approve the PAIPO Strategic plan, budget, policies, programmes and etc;

(d) To appoint a Bureau of Ministers that composed of five ministers to be drawn one per AU geographic region to monitor the PAIPO annual financial and technical
reports, programmes, etc; the AUC Commissioner in charge of Intellectual Property will be an ex-office of the Bureau

(e) The Bureau of Ministers to meet once a year on ordinary session and to conduct extra-ordinary one when its needed;

(f) The ordinary session of the Bureau of Ministers is to approve, upon recommendation by the Bureau of the Experts Committee programme, activities, annual reports, budget and financial of the Organization, and shall take such action on them as it deems fit;

(g) The Council of Ministries to be responsible for resolving problems which, because of their nature, cannot be resolved by the Committee of Experts;

(h) Reports and recommendations of the Council of Ministers to be presented to the African Union Executive Council and consequently to the AU Assembly.

(iii) The Council of Ministers may establish such other subsidiary bodies as the Council deems fit.

(iv) The Council of Ministers in its first meeting with the support of the PAIPO office to develop the governing rules and regulations including terms of reference for its Bureau; Expert Committee and its Bureau; and the Board of Appeal for subsequent endorsement.

(v) The Council of Ministers may delegate any of its functions to any organ of the Organization.

Article 9
The Committee of Experts

(i) The Committee of Experts shall consist of the senior official representing the ministers in charge of intellectual property in the Members States of the Organization;

(ii) The Committee of Experts shall have the overall responsibility of ensuring the proper execution of the decisions of the Council of Ministers by the office;

(iii) The Committee of Experts shall meet biannually to deliberate on activities, annual reports, budget and finance of the Organization, and shall take such action on them as it deems fit;

(iv) The Committee of Experts shall appoint a Committee of Experts Bureau that composed of one member to be drawn from the five AU geographical regions and the AUC. The Director General of PAIPO will be an ex-officio of the Experts Committee Bureau
(v) The Committee of Experts Bureau shall meet twice a year to:

(a) To recommend for the Bureau Ministers Council the adoption of PAIPO activities, annual reports, budget and financial of the Organization, and shall take such action on them as it deems fit;

(b) To advice PAIPO on the policy issues, international cooperation agreements and etc;

(c) To ensure the implementation of the directions, policy guidelines, strategies and other discussions given by the Council of Ministers and its Bureau; and

(d) To examine and endorse the recommendation made by the Board of Appeal.

(vi) The Committee of Experts shall invite ARIPO, OAPI, RECs, WIPO, to participate in their biannual meetings as observers.

Article 10
The Board of Appeal

(i) The Board of Appeal shall consist of five (5) members appointed by the Council of Ministers upon the recommendation by the Committee of Experts and in consultation with the office; these five members should be representing the AU five geopolitical regions.

(ii) The Board of Appeal shall hear appeals from decisions made by the Office on any aspect of the grant or registration of any intellectual property right under this Statute or any protocol to this Agreement.

(iii) The Board of Appeal should make recommendation to the Committee of Experts Bureau on all the issues of dispute.

(iv) The Board of Appeal to hold biannual meetings prior to the Committee of Experts Bureau meetings if the need arise.

Article 11
The Office

(i) The Office shall be headed by a Director General who shall be appointed by the Chairperson of the African Union Commission;

(ii) The Director General shall be appointed for a term of four (4) years, which may be renewed once;
(iii) The terms and conditions of service and the mandate of the Director General and other staff of the Office; and the office structure shall be defined by the Chairperson of the Commission in consultation with Committee of Experts Bureau.

**Article 12**  
**Functions of the Office**

(i) The Office shall be the executive arm for all other organs of the organization and it is the organ.

(ii) The Office shall be Secretariat of the Organization;

(iii) The Office is to ensure the implementation of the organization’s objectives identified under article 5 of this statute and to follow up on the implementation of the decisions made by other organs of the Organization;

(iv) Draft policies and strategies that will lead to the fulfillment of the organization objectives;

(v) Develop and implement capacity building programmes for the Member States on IP sector

(vi) Take all the necessary actions to ensure the protection of Africa’s genetic resources, traditional knowledge, Geographic indicators, expressions of folklore etc;

(vii) To develop advocacy policies and strategies to create community awareness in the IP sector;

(viii) To draft the AU policy and strategy in international cooperation in IP matters;

(ix) To ensure that successful meeting to be conducted in due course for all other organs in accordance with articles 8, 9, 10 of this statute.

(x) To prepare strategic plan, work programmes, the draft budgets, annual reports, financial statements and reports on the activities of the Organization;

(xi) To be responsible for the day to day management of the Organization;

(xii) Perform any other duty that may be entrusted to it by any organ of the Organization.
Article 13
Membership

Membership to the Organization shall be open to any State, which is a member of the African Union.

Article 14
Obligations of Member States of the Organization

The Member States of the Organization shall undertake all steps that are within their power to give effect to this Statute and, in particular to:

(i) Pay their annual contributions;

(ii) Pay such special contributions as may be determined by the Council of Ministers; and

(iii) Facilitate the exchange and dissemination of information under this Statute.

Article 15
Observers

The Council of Ministers shall be entitled to invite any State or institution, which is not a Member, to attend any meetings of any organ of the Organization as an Observer.

Article 16
Special Relationship with Other Institutions, Co-operating States and Organizations

(i) The Organization shall establish and maintain close and continuous working relationships with ARIPO, OAPI, World Intellectual Property Organization (WIPO) the International Confederation of Authors and Composers Societies (CISAC) and World Trade Organization (WTO).

(ii) The Organization may co-operate with Governments of States not members of the Organization and with organizations, institutions and bodies other than those referred to in paragraph 1 of this Article (hereinafter referred to collectively as "Co-operating States and Organizations") which are desirous of assisting the Organization or its members in achieving the objectives of the Organization.

Article 17
Headquarters

(i) The location of the headquarters of the Organization shall be determined by the African Union Commission and in accordance with the AU Constitutive Act.
(ii) The African Union Commission shall conclude a host agreement with the government of the Member State in which the headquarters will be situated.

**Article 18**

**Finances**

(i) The Organization shall be funded by:

(a) Annual contributions or such other special contributions of Member States as determined by the Council of Ministers;

(b) Income from services rendered by the Organization;

(c) Income from property owned by or other investments made by the Organization.

(ii) The Organization may receive donations and bequests from:

(a) Member States;

(b) Other States and institutions that are not members of the Organization; and

(c) Any other sources approved by the Council of Ministers.

(iii) The African Union Commission is to fund the PAIPO in its first two phases or to the time that PAIPO is capable to generate resource to sustain itself.

**Article 19**

**Sanctions**

(i) Any Member State that fails to honour its financial obligations to the Organization for a period of two (2) years or more shall, as long as it is in such arrears, forfeit the right to vote in any organ of the Organization or to present candidates for any elective or other post within the Organization.

(ii) Any Member State that remains in sanctions for a period of three (3) years or more shall, in addition to the sanctions referred to in the preceding paragraph, have its nationals deprived of the rights, privileges, benefits and advantages usually accorded to Member States.

(iii) Any violation of any of the provisions of this Statute by a Member State shall result in such sanctions as may be determined by the Council of Ministers.
Article 20
Entry into force of the Statute

This Statute shall come into force on the day of the endorsement by the Assembly of Head of States and Government of the African Union.

Article 21
Amendments

(i) Any Member State or the Director-General may initiate proposals for amendments to this Statute. Such proposals shall be communicated to the Director-General at least six months in advance for their consideration by the committee of Experts;

(ii) Amendments shall be approved, on recommendation of the Committee of Experts, by the Council of Ministers by consensus, or, failing that, by a two-thirds majority; and

(iii) Any amendment shall enter into force three months after the approval of the Council of Ministers.

Article 22
Reservations

No reservations to this Statute shall be permitted.

Article 23
Withdrawal

(i) Any Member State wishing to withdraw from the Organization shall give one-year notice of its intention to do so to the Director General who shall inform Member States thereof. Upon expiry of such period, that Member State shall, if the notice is not withdrawn, cease to be a Member of the Organization.

(ii) During the period of one year referred to in paragraph 1 of this Article, the Member State wishing to withdraw shall comply with the provisions of this Statute and shall be bound to discharge all its obligations under this Statute up to and including the date of its withdrawal.

Article 24
Dissolution

The Council of Ministers may decide, by agreement of two thirds of the Member States of the Organization, to dissolve the Organization and determine the terms and conditions for sharing of its assets and liabilities.
Article 25
Settlement of Disputes

Any disputes arising out of the interpretation or application of any of the provisions of this Statute which cannot be settled by the Committee of Experts shall be submitted to the Council of Ministers whose decision on the matter shall be final and binding on all Member States of the Organization.

Article 26
Deposit

(i) This Statute shall be in all AU official languages (Arabic, English, French and Portuguese), all texts being equally authentic and shall be deposited by the Chairperson of the African Union Commission;

(ii) The Director-General shall transmit two duly certified copies of this Statute, and of each amendment adapted by the Council of Ministers, to the Governments of the Member States.