Consolidated Comparative Study on Copyright Laws of ARIPO Member States and their Adherence to International Instruments on Copyright and Related Rights
CONSOLIDATED COMPARATIVE STUDY OF COPYRIGHT LAWS OF ARIPO MEMBER STATES AND THEIR ADHERENCE TO INTERNATIONAL INSTRUMENTS ON COPYRIGHT AND RELATED RIGHTS

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**EXECUTIVE SUMMARY**

The Copyright and Related Rights mandate was included in 2002 to the African Regional Intellectual Property Organization (ARIPO). This called for ARIPO to develop and implement strategies through which it can promote and support growth and effectiveness in the administration, management and enforcement of copyright and related rights in the Member States and Africa. As a result this research was undertaken by ARIPO and represents the position on stated variables based on available literature. The report presents a comparative study of eighteen of the ARIPO Member States, whose copyright and related rights laws were reviewed at length as part of the study. These are (Botswana, Kingdom of Eswatini, The Gambia, Ghana, Kenya, Lesotho, Liberia, Namibia, Malawi, Mozambique, Rwanda, São Tomé and Principe, Sierra Leone, Sudan, Tanzania, Uganda, Zambia and Zimbabwe).

The study further looks at the adherence to international treaties and conventions related to copyright and related rights of the eighteen ARIPO Member States, mentioned above, as well as the benefits of international instruments both at the broad level and on a country-specific level. This is one of the tools that could inform ARIPO, it’s Member States and the general public of the status of compliance to international treaties and conventions and the national laws on copyright and related rights. Such information will contribute towards advising Member States on policy issues, harmonizing the laws and also improving the national legislations for the benefit of all stakeholders nationally and internationally so as to ensure growth and development in the copyright and related rights arena.

Fernando dos Santos  
Director General
ACKNOWLEDGMENT

This desk research is a result of concerted efforts by the African Regional Intellectual Property Organization (ARIPO) in its quest to bring value and growth transformation within the Member States copyright and related rights legislations through the comparative study of their laws on copyright and related rights. Many thanks go to ARIPO’s Anderson Ray Zikonda Library for the favorable environment availed to conduct this desk research. We thank the Member States who gave their inputs to improve this study and all colleagues who assisted in one way or the other to make this work a success.
I. BACKGROUND

In implementing its mandate on Copyright and Related Rights, ARIPPO undertook a comparative study on copyright laws of its Member States and their adherence to international instruments on copyright and related rights with the view to study the legal regimes on copyright and related rights. This includes; identification of provisions and gaps in the copyright laws and their compliance to international instruments on copyright and related rights. The study will contribute towards advising Member States on policy issues, harmonizing the laws and also improving the national legislations for the benefit of all stakeholders nationally and internationally so as to ensure growth and development in the copyright and related rights arena.


In the case of Somalia, it is not possible to obtain reliable responses due to the prevailing political situation. The studies applied desk research on comparative study of the copyright and related rights regime in the eighteen countries.

II. COUNTRY PROFILES

(i) Botswana

Botswana is situated in Southern Africa surrounded by Angola, Zambia, Zimbabwe, South Africa and Namibia. The country has a total land size of 581,730 sq. km; a population of 2,155,784 (July 2014 est.); a GDP purchasing power parity of USD 34 Billion and an 85.1% literacy rate. A study on the contribution of the creative industry on the GDP has been undertaken in 2018. In the draft report creative industries surpass other important sectors such as water and electricity (0.3%); agriculture (2%); manufacturing (5.20%). In 2016 the industries contributed 5.46% to GDP and 2.66% to the total labour force. Music, photography and dramatic works are some of the major copyright sectors which contribute to the national economy. The key industries are mining, livestock agriculture and textiles. The currency used is the Botswana Pula.

In Botswana there is an established system for intellectual property. The Companies and Intellectual Property Authority (CIPA) has three Offices within the Authority, namely, the Companies and Business Names Office, the Industrial Property Office and the Copyright Office. CIPA’s functions include promoting and enabling the full protection of the rights of investors and right-holders obtained under the Companies Act, Registration of Business Names Act, Industrial Property Act and Copyright and Neighbouring Rights Act. The Copyright Office is responsible for all matters affecting copyright in Botswana; supervises the activities as provided for under section 36A of the Copyright and Neighbouring Rights Act; maintains an effective database on copyright matters and on authors and their works; maintains a register of works published in Botswana; issues a licence, and distribute to right holders. By virtue of representing copyright owners or owners of protected works, that is music, photography, film and video, visual arts, literary and dramatic works; through legislation by the Copyright and Neighbouring Rights Act of Botswana.

(ii) Kingdom of Eswatini

Eswatini is situated in Southern Africa, bordered by Mozambique and South Africa. The country has a total area size of 17,364 sq. km; a population of 1,419,623 (July 2014 est.); GDP (purchasing power parity) of USD 6.259 Billion (2013 est.); and a literacy rate of 87.8% of the total population. The main contributors to the GDP according to 2013 estimates are agriculture (7.6%).
The Gambia (Gambia) is situated in West Africa, bordered by the Senegal and the North Atlantic Ocean. The country has a total land size of 11,295 sq. km; a population of 1,925,527 (July 2014 est.); GDP (purchasing power parity) of USD 3,678 Billion (2013 est.); and a literacy rate of 51.1% of the total population. The main contributors to the GDP include: agriculture (21.5 %), industry (12.6%) and Services (44.6%). The main industries are processing peanuts, fish and hides, tourism, beverages, agricultural machinery industry (47.7%) and Services (44.6%). The main industries are coal, wood pulp, sugar, soft drink concentrates, textiles and apparel. The currency used in Eswatini is the emalangeni.

Eswatini was not part of the survey on the status of CMOs in ARlPO Member States undertaken by ARlPO in cooperation with NORCODE published in 2016 as at that time the Copyright Act 1912 had no provision on the establishment of CMO. Currently there is a new law Copyright and Neighbouring Rights Act 2018 which provides for copyright and neighbouring rights Society of Swaziland. Eswatini has not undertaken a creative industries study.

(ii) The Gambia

The Gambia (Gambia) is situated in West Africa, bordered by the Senegal and the North Atlantic Ocean. The country has a total land size of 11,295 sq. km; a population of 1,925,527 (July 2014 est.); GDP (purchasing power parity) of USD 3,678 Billion (2013 est.); and a literacy rate of 51.1% of the total population. The main contributors to the GDP according to 2013 estimates are agriculture (19.7%), industry (12.6%) and Services (67.7%). The main industries are processing peanuts, fish and hides, tourism, beverages, agricultural machinery assembly, woodworking, metalworking and clothing. The currency used in the Gambia is the Gambian Dalasis.

The Gambia has a functional industrial property office run by the Attorney Generals Chambers under the Ministry of Justice. Copyright is governed under the Copyright Act of 2004 which includes provisions for Related Rights and for the establishment of the Collecting Society of the Gambia (CSG), a CMO. The Society which was subsequently established in 2014 is responsible for all rights under the Copyright Act (Broadcasting, Public Performance, Reproduction, Related Rights). CSG is being mentored by the Copyright Society of Malawi (COSOMA) and CopyGhana with the support from the World Intellectual Property Organization (WIPO) and ARlPO. The Minister of Tourism and Culture on 28 March 2018 signed the regulations that seeks to implement the Copyright Act and encourage reward to creativity. This is a milestone to CSG and the rightholders as collection for usage of their works will be realised. The country has also not yet undertaken the creative industries survey. In an article on the Music in Africa website, Hassoum Ceessay notes that the challenges with copyright in the country include a lethargic collective management organisation and a clear lack of capacity in the sector with Gambia’s creative industries still largely in their formative stages. Ceessay further notes that in the book publishing industry there are no book publishers - instead there are editors and printers who print on demand from authors and authors distribute the books themselves, while in the music industry, artists have a limited knowledge of copyright matters and require education on the subject and that the Copyright Office has limited resources, including staff and budget, to undertake its full responsibilities.

(iv) Ghana

Ghana has not yet undertaken a study on the creative industry’s contribution to the national economy but a study was commissioned by the Musicians Union of Ghana in 2014 titled “Comprehensive Study of the Music Sector in Ghana” funded by the Government of Ghana with the support from World Bank. The study established that the sector is estimated to employ over 27,000 along the value chain and it contributes approximately 0.20% to the GDP of the country.

The Copyright Office has Copyright Regulations 2010 L.I. 1962 which has provisions to be followed for any person who wants to establish a Collective Management Organization. They have to get the approval of the Minister in writing if they meet the conditions in the regulations such as a body corporate registered as a company limited by guarantee under the Companies Act, 1963 (Act 179). If it is a music, audio-visual rights, performers rights or literary rights society, have to provide evidence of having functional presence in the society. If it is a music rights or performers rights society that it has at least twenty members in each of the regions in which it is functional. If it is a literary rights or audio-visuals rights society that it has at least fifty members at the national level, and each member has at least one published work or holds the entire economic rights on one published work. There are three Collective Management Organization in Ghana. These are Ghana Music Rights Organization (GHAMRO), CopyGhana (Reproduction Rights Organization), and Audio-visual Rights Society of Ghana (ARSGO).

GHAMRO are collecting royalties on behalf of the music right-holders and the right holders are fully involved as they accompany GHAMRO officials to negotiate and collect royalties. Distribution of royalties is also done through the use of mobile phones.

Authentication devices will soon be re-introduced in Ghana to mitigate piracy in the country. Piracy kills creativity, piracy is illegal, piracy is unacceptable it needs concerted efforts from all players the public, users, right holders, police, customs, judiciary, copyright office and the CMOs to curb it.

GHAMRO has come up with a system called AGRIMoS (Age, Right holders Monthly Stipend) which intends to financially support the retired members of the society. Some of the right holders as they get old some can no longer produce songs. So AGRIMoS supports right holders when need arises. It is very helpful to the retired members surety of having something to sustain themselves.

The Audio-visual Rights Society of Ghana (ARSGO) was established in 2011 to protect the rights of owners of Audio-visual works in Ghana. These right owners are producers, writers and performers. ARSGO collects royalties on behalf of right holders from users.

CopyGhana is the Reproduction Rights Organization which has mandate from five (5) member associations namely, Ghana Association Writers, Ghana Book Publishers Association, Ghana Journalists Association, Ghana Association of Visual Artists and Ghana Union of Professional Photographers and other individual rights holders. CopyGhana has licensed four tertiary institutions and ten polytechnics, namely Accra Polytechnic, Bolgatanga Polytechnic, Cape Coast Polytechnic, Koforidua Polytechnic, Ho Polytechnic, Takoradi Polytechnic, Kumasi Polytechnic, Sunyani Polytechnic, Wa Polytechnic and Tamale Polytechnic as at April 2016. Eight (8) of the Polytechnics have been upgraded to Technical Universities with effect from September 2016.

(v) Kenya

Kenya is situated in East Africa and it borders Ethiopia, Somalia, Tanzania, Uganda and Southern Sudan. The country
II. COUNTRY PROFILES

has a total area of 580,367 sq. km, a population of 45,016,056, GDP purchasing power parity is at USD 79.9 billion and literacy levels are 87.4% of the total population. The main economic contributors to GDP are agriculture (29.3%), industry (17.4%) and services (53.3%) (2013 est.). The currency used in Kenya is the Kenyan Shillings. A study on creative industry which was undertaken in 2009 showed that in 2007 copyright industries contributed 5.3% to GDP and 3.4% to employment.

The Copyright Act Cap 130 governs the copyright system in Kenya. This Act established the Kenya Copyright Board to direct, co-ordinate and oversee the implementation of laws and international treaties and conventions to which Kenya is a party. It also performs all other functions that relate to copyright and other rights recognised by this Act and ensure the observance thereof. Further KECOBO also supervises the activities of collective management societies as provided for under this Act. KECOBO also devise promotion, introduction and training programs on copyright and related rights. Apart from this it also organises the legislation on copyright and related rights, supervises the activities of collective management societies as provided for under this Act. KECOBO also devise promotion, introduction and training programs on copyright and related rights, to which end it may co-ordinate its work with national or international organisations concerned with the same subject matter. Apart from this it also organises the legislation on copyright and related rights and propose other arrangements that will ensure its constant improvement and continuing effectiveness. Other functions are to enlighten and inform the public on matters relating to copyright and related rights; maintain an effective data bank on authors and their works; and administer all matters of copyright and related rights in Kenya as provided for under the Act and to deal with ancillary matters connected with its functions.

KECOBO grants certificates of registration for a period of twelve months from date of issue to associations who have satisfied the criteria to carry on the collective administration of copyright that include: the body is a company limited by guarantee and incorporated under the Companies Act (Cap. 486); it is a non-profit making entity; its rules and regulations contain such other provisions as are prescribed, being provisions necessary to ensure that the interests of members of the collecting society are adequately protected; its principal objectives are the collection and distribution of royalties; and its accounts are regularly audited by independent external auditors elected by the society.

KECOBO shall not approve another collecting society in respect of the same class of right and category of works if there exists another collecting society that has been licensed and functions to the satisfaction of its members. Furthermore, by notice in the Gazette, KECOBO may de-register a collecting society if it is satisfied that the collecting society is not functioning adequately as a collecting society; is not acting in accordance with its Memorandum and Articles of Association or in the best interests of its members; has altered its rules so that it no longer complies with subsection 4 of section 46; and it has refused or failed to comply with any of the provisions of the Act.

The collecting societies in Kenya, are: Kenya Association of Music Producers (KAMP), Reproduction Rights Society of Kenya (KAPIDE), Performers Rights Society of Kenya (PRISK) and Music Publishers Association of Kenya (MPPAK). The Music Copyright Society of Kenya (MCSK) is a collective management organisation registered in 1983 as a Company limited by guarantee under the Companies Act (Cap 486 of the law of Kenya) and licensed by KECOBO as a collecting society. It aims at building, mobilizing, institutionalizing, and supporting the music fraternity within Kenya. Integrating, sustaining and enhancing earning for their works for authors, composers, arrangers and publishers.

The Performers Rights Society of Kenya (PRISK) is a collective management organisation licensed by the Kenya Copyright Board to represent performers in sound recording and audio-visual works. PRISK is a non-profit company limited by guarantee, and not having a share capital. PRISK negotiates, sets tariffs with users of sound recordings and audio-visual works in respect to any exploitation of works relating to broadcasting, communication to the public, making available by wire or wireless including transmission to subscribers to a diffusion or any digital service, copying or similar reproduction such as digital copying and collects license fees and distributes royalties to its right holders.

The Kenya Association of Music Producers (KAMP) is a collective management organization registered as a non-profit making private company, with no share capital limited by guarantee in 2003 under the Companies Act, Chapter 486 of the Laws of Kenya and licensed by the Kenya Copyright Board to operate as a collective management organisation in May 2008. KAMP represents the rights and interests of producers of sound recordings, it negotiates with users, collects license fees and distribute royalties for communication to the public and broadcasting in accordance with the Copyright Act of 2001 of the Laws of Kenya.

KOPIKEN is a CMO established in 2005 under the Copyright Act as a company limited by guarantee. KOPIKEN licenses reproduction of printed literary, artistic and musical works used by way of photocopying, scanning, printing and similar means such as digital reproduction against payment of fees where it is not practical for individual right holders to do so. KOPIKEN represents authors (non-fiction, fiction and oral literature), publishers, photographers illustrators and designers through their respective associations which include, Kenya Non Fiction Authors Association (KENFAC). This is an association of non-fiction writers and translators who have published at least 100 pages works comprising of books, periodicals and professional and scientific journals. Writers Association of Kenya (WAK), which is an association of writers in Kenya, who have published creative literary works such as poems, short stories, novels, plays, biographies, autobiographies and memoirs, literary criticism and other kinds of literary scholarship. Kenya Oral Literature Association (KOLA). Which is a professional association of researchers, scholars in Kenyan Universities and oral artists. Kenya Union of Journalists (KUJ), which is an association of persons engaged in journalistic works in Kenya and the Kenya Association of Photographers Illustrators and Designers (KAPIDE) which is an association for artists, visual creators, photojournalists, illustrators and designers are represented too by KOPIKEN. Song lyricists and writers of sheet music are also represented by KOPIKEN and the Kenya Publishers Association (KPA) which is an association bringing together all companies, organizations or individuals engaged in book publishing in Kenya. MPAKE is a non-profit organization representing authors, composers and music publishers in Kenya.

(vi) Lesotho

Lesotho is situated in Southern Africa, surrounded by South Africa. The country has a total land size of 30,355 sq. km; a population of 1,942,008 (July 2014 est.); a GDP purchasing power parity of USD 4.265 billion (2013 est.) and a literacy rate of 89.6% of the total population. The key economic drivers are the textile and Garment industry, Agriculture, Customs Duties and Other remittances and Diamond mining.

In Lesotho, there is an established intellectual property system. Industrial Property was initiated in Lesotho in 1989 and it operates under Industrial Property Order No. 5 of May 1989, covering the Patents, Trade Marks, Industrial Designs and Utility Model and is administered by the Registrar General in the Ministry of Law and Constitutional Affairs. The country has not undertaken a Creative Industry study. On 5th September 2018 Board Directors of the Society of Authors and Artists was gazetted. This is a milestone to Lesotho to have a CMO. Copyright is administered under the Copyright Order No. 13 of May 1989 by the office of the Registrar General of the Ministry of Law and Constitutional Affairs for the Industrial Property. The role of the Registrar is to monitor operations of the Society of Authors and Artists, collect and distribute.
royalties and other remuneration accruing from expressions of folklore and implementation of the Copyright Order. Enforcement and dispute resolution is the responsibility of the High Court of Lesotho. The Act provides for the creation of a non-profit making Society of Authors and Artists whose role is to promote and protect the interests of authors, artists and performers who are its members through collection and distribution of royalties or other remuneration accruing to its members in respect of their rights and maintenance of a register of works, productions and associations of authors, artists and performers.

(vii) Liberia
Liberia is situated in West Africa, bordered by Sierra Leone, Guinea, Cote D’Ivoire and the North Atlantic Ocean. The country has a total land size of 111,369 sq. km; a population of 4,092,310 (July 2014 est.); GDP (purchasing power parity) of USD 4 Billion (2015 est.); and a literacy rate of 60.8% of the total population. The main contributors to the GDP according to 2002 estimates are agriculture (76.9%), industry (5.4%) and Services (17.7%). The main industries are mining, rubber processing, palm oil processing, timber and diamonds. The currency used in Liberia is the Liberian Dollar.

In the survey on the status of CMOs in ARIPRO Member States undertaken by ARIPRO in cooperation with NORCODE revealed that the Copyright Society of Liberia (COSLIB), though established, had not yet commenced the management of rights. Liberia has not yet undertaken a study on the contribution of creative industries. The Intellectual Property Act 2016 governs the management of copyright and has provisions for the registration of works. There is also an established intellectual property system.

(viii) Namibia
Namibia officially the Republic of Namibia is a country in southern Africa whose western border is the Atlantic Ocean. It shares land borders with Zambia and Angola to the north, Botswana to the east and South Africa to the south and east. Although it does not border Zimbabwe, less than 200 metres of the Zambezi River (essentially a small bulge in Botswana/ Zambian micro-border) separates the two countries. Namibia gained independence from South Africa on 21 March 1990, following the Namibian War of Independence. Its capital and largest city is Windhoek, and it is a member state of the United Nations (UN), the Southern African Development Community (SADC), the African Union (AU), and the Commonwealth of Nations.

The dry lands of Namibia were inhabited since early times by the San, Damaras, and Nama peoples. From 1948, with the National Party elected to power, South Africa applied apartheid also to what was then known as South West Africa. Namibia obtained full independence from South Africa in 1990. However, Walvis Bay and the Penguin Islands remained under South African control until 1994. Namibia has a population of 2.6 million people and a stable multi-party parliamentary democracy. Agriculture, herding, tourism and the mining industry – including mining for gems diamonds, uranium, gold, silver, and base metals – form the basis of its economy. The large, arid Namib Desert has resulted in Namibia being overall one of the least densely populated countries in the world.

Tanzania to the northeast, and Mozambique on the east, south and west. Malawi is over 118,000 km2 (45,560 sq mi) with an estimated population of 18,091,575 (July 2016 est.). Its capital is Lilongwe, which is also Malawi’s largest city. The country is also nicknamed “The Warm Heart of Africa”. Lake Malawi takes up about a third of Malawi’s area.

Malawi’s foreign policy is pro-Western and includes positive diplomatic relations with most countries and participation in several international organizations, including the United Nations, the Commonwealth of Nations, the Southern African Development Community (SADC), the Common Market for Eastern and Southern Africa (COMESA), and the African Union (AU).

Malawi is among the world’s least-developed countries. The economy is heavily based in agriculture, with a largely rural population. The Malawian government depends heavily on outside aid to meet development needs, although this need (and the aid offered) has decreased since 2000. The Malawian government faces challenges in building and expanding the economy, improving education, healthcare, environmental protection, and becoming financially independent amidst widespread overpopulation and unemployment. Since 2005, Malawi has developed several programs that focus on these issues, and the country’s outlook appears to be improving, with a rise in the economy, education and healthcare seen in 2007 and 2008. Although there was periodic regional conflict fueled in part by ethnic divisions in the past, in 2008 it had diminished considerably and the concept of a Malawian nationality had re-emerged.

(x) Mozambique
Mozambique is situated in Southern Africa, bordered by Zimbabwe, Zambia, Malawi, Tanzania, Eswatini, South Africa and the Indian Ocean. The country has a total land size of 799,380 sq; km; a population of 24,692,144 (July 2014 est.); GDP (purchasing power parity) of USD 28.15 Billion (2013 est.); and a literacy rate of 56.1% of the total population.

The main contributors to the GDP according to 2013 estimates are agriculture (28.7%), industry (24.9%) and Services (46.4%). The main industries are aluminium, petroleum products, chemicals (fertilizer, soap, paints), textiles, cement, glass, asbestos, tobacco, food and beverages. The currency used in Mozambique is the metical.

Mozambique has created an industrial property office run by the industrial property institute under the current Ministry of Industry and Commerce. It is responsible for Patents, Trade and Service marks, Industrial designs, Utility Model, Geographical Indications, Commercial Names and Denominations of origin and logo. The Copyright and Related Rights are under the Ministry of Culture Youth and Sports and Administered by the National Institute of Books and Records. The current copyright law was enacted in 2001 and the first CMO Associação Moçambicana de Autores- (SOMAS) was established in 2000. SOMAS manages Public Performance, Broadcasting and Audio-visual Rights and is composed of authors of literary works, composers, visual artists and photographers. The country has undertaken a creative industries study with the help of the United Nations Conference on Trade and Development (UNCTAD).

(xi) Rwanda
Rwanda is a landlocked country situated in East Africa, bordered to the North by Uganda, to the East by Tanzania, to the South by Burundi and to the West by the Democratic
In Rwanda there is one multi-purpose collective management and to arbitrate all disputes arising from intellectual property. Institutions that manage jointly copyright and related rights, to monitor activities of private equitable distribution of remunerations available under the registration of intellectual property, to establish measures for the exploitation of the data to establish their contribution to the economic growth of the region. The law governing copyright matters is the Copyright Act 2011 which provides for the establishment of a collecting society of Sierra Leone. It is a corporate body with perpetual succession and a common seal and is specifically tasked and charged with that responsibility of administering and enforcing provisions of the Act in consultation with the national enforcement agencies.

São Tomé and Príncipe is located in the Central Atlantic Ocean, north of the Equator, west of Gabon. The part of the volcanic chain featuring striking rock and coral formations rain forests and beaches. On the Larger Island São Tomé is the Lagoa Azul Lagoon, Obó Natural Park, a biodiverse jungle preserve covers much of São Tomé and Príncipe and distinguished by Pico Cao Grande a sky scraper like volcanic rock. The country has a total area of 964 sq km, Sao Tome the capital city has a quarter of the nations population. The northern areas of both islands have the highest population densities. Agriculture, tourism, fishing are among economic activities. GDP purchasing power parity $676 million. The currency used is the dobra (db).

São Tomé and Príncipe has not undertaken the creative industries study. The Ministry of Sport and Culture is responsible for protecting the moral rights of creators of copyrighted works, promote artists and performers, promote and protect Rwanda’s national culture and heritage and to prepare orders related to copyright. The Registrar General of Intellectual Property is the petroleum authority of the country. It is an office responsible for registering, maintaining, and amendment of intellectual property, and for the determination of its validity and infringement.

Sierra Leone is sitsuated in West Africa. It is surrounded by Liberia, Guinea and the Atlantic Ocean. The country has a total area of 71,740 sq. km, a population of 7,092,113, GDP purchasing power parity of USD 9.156 Billion and literacy rates of 43.3 %. Agriculture and mining are the major contributors to the economy though there are other activities such as tourism and industrial processing. The currency used is the United States Dollars.

Sierra Leone has not undertaken the study on the contribution of creative industries to the national economy. The law governing copyright matters is the Copyright Act 2011 which provides for the establishment of a collecting society of Sierra Leone. It is a corporate body with perpetual succession and a common seal and is specifically tasked and charged with that responsibility of administering and enforcing provisions of the Act in consultation with the national enforcement agencies.

Sudan is situated in North-Eastern Africa, bordered by the Red Sea, Egypt and Eritrea. The country has a total land size of 1,861,484 sq. km; a population of 35,482,233 (July 2014 est.); GDP (purchasing power parity) of USD 89.97 Billion (2013 est.); and a literacy rate of 56.1% of the total population. The main contributors to the GDP according to 2013 estimates are agriculture (27.4%), industry (33.6%) and Services (39%). The main industries are oil, cotton ginning, textiles, cement, edible oils, sugar, soap distilling’s, shoes, petroleum refining, pharmaceuticals, armaments and automobile/light truck assembly. The currency used in Sudan is the Sudanese Pound.

Sudan has created an industrial property office run by the Registrar General of Intellectual Property under the Ministry of Justice. Copyright is governed by the Copyright and neighbouring rights (protection) and literal and artistic works Act of 2013. The country has not undertaken a creative industries study and was not part of the survey on the status of CMOs in ARIPPO Member States undertaken by ARIPPO in cooperation with NORCODE published in 2016. An IPRs survey published in 2013 concluded that findings “indicate the recognition of the importance of strengthening IPRs for achieving economic development objectives in Sudan and show that the important types of IPRs protection implemented in Sudan are industrial designs, trademarks, related rights to copyright, copyright, patents and invention and protection against unfair competition respectively.” The copyright act does not have provisions for CMOs.

Tanzania is a state in eastern Africa within the African Great Lakes region. It borders Kenya and Uganda to the north; Rwanda, Burundi, and the Democratic Republic of the Congo to the west; Zambia, Malawi, and Mozambique to the south; and the Indian Ocean to the east. Mount Kilimanjaro, Africa’s highest mountain, is in north-eastern Tanzania.

The United Nations estimated Tanzania’s 2016 population at 55.57 million. The population is composed of several ethnic, linguistic, and religious groups. Tanzania is a presidential constitutional republic and since 1996 its official capital city has been Dodoma. Dar es Salaam, the former capital, retains most government offices and is the country’s largest city, principal port, and leading commercial centre. The Menai Bay Conservation Area is Zanzibar’s largest marine protected area. Over 100 different languages are spoken in Tanzania, making it the most linguistically diverse country in East Africa.

Uganda is located in East Africa, to the northwest of Lake Victoria surrounded by South Sudan, Democratic Republic of the Congo, Rwanda, Kenya and Tanzania. The country has a total area of 241,038 sq km, a population of 35,918,915, a GDP of 8.156 Billion and literacy rates of 71.1 % literacy rate. The currency used is the Rwandan Franc.

The law governing copyright matters is the Law on Intellectual Property, Law N° 31/2009 of 26/10/2009. The Ministry of Trade and Industry (MINICOM) is responsible for: the policy framework, preparing policy related to the promotion of intellectual property, preparing orders related to the application of the law and to supervise the organ in charge of intellectual property.

The Ministry of Sport and Culture is responsible for protecting the moral rights of creators of copyrighted works, promote artists and performers, promote and protect Rwanda’s national culture and heritage and to prepare orders related to copyright. The Registrar General of Intellectual Property under the Ministry of Justice. Copyright is governed by the Copyright and neighbouring rights (protection) and literal and artistic works Act of 2013. The country has not undertaken a creative industries study and was not part of the survey on the status of CMOs in ARIPPO Member States undertaken by ARIPPO in cooperation with NORCODE published in 2016. An IPRs survey published in 2013 concluded that findings “indicate the recognition of the importance of strengthening IPRs for achieving economic development objectives in Sudan and show that the important types of IPRs protection implemented in Sudan are industrial designs, trademarks, related rights to copyright, copyright, patents and invention and protection against unfair competition respectively.” The copyright act does not have provisions for CMOs.

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purchasing power parity of USD 54.37 Billion and the literacy levels of 73.2 % of the total population. Agriculture is the mainstay of the economy. The currency used is the Ugandan Shilling.

Uganda has a relatively vibrant information sector, including a small but fast-growing publishing industry. Furthermore, Uganda has a liberalized telecommunications industry which has contributed tremendously to growth of the country’s ICT sector. Given this infrastructure, education and research institutions are making increasing use of digital technology for both instruction and research. The country however has a growing film and music industry, rich cultural heritage and other diverse copyright and related rights activities. A creative industries study to establish potential contribution of copyright to the national economy has not yet been undertaken.

The law governing copyright matters is the Copyright and Neighbouring Rights Act 2006. Section 2 of the Copyright Act provides the scope for copyright protection and defines the different types of works. Section 5 of the Act outlines the specific types of works that are eligible for protection under copyright. Besides economic rights including publication, distribution, broadcasting and communication to the public, which are outlined in detail in Section 9, the law also recognizes and protects moral rights under Section 10. The types of works that will receive protection, include literary, scientific and artistic works (including computer programmes, illustrations and traditional folklore and knowledge), as well as derivative works such as translations, transformations and collections. However, Section 6 makes it clear that ideas are not protected by copyright and Section 7 excludes from copyright protection ‘public benefit works’ such as laws and government reports. The 2006 Copyright and Neighbouring Rights Act affords copyright protection for 50 years after the lifetime of the author in most cases, but otherwise the term of protection varies depending on the type of work. With reference to audiovisual work, sound recordings and broadcasts, the economic rights of the author are protected until the expiration of 50 years from the date of making the work or from the date the work is made available to the public with the consent of the author. In general, the duration of copyright term in Uganda keeps to the minimum requirements laid out in Article 12 of TRIPs.

The Uganda Registration Services Bureau (URSB) is the National Copyright Information Center. Section 41 of the Act, provides for a Registrar of Copyright and other officers. The Registrar of Copyright shall: process applications for licenses; register works and productions to be registered under this Act; register collecting societies; give guidance to and discipline collecting societies; register assignments, licences and transfers of copyrights; register copyright contracts relating to exploitation of rights; provide copyright and neighbouring rights information service to the public and users of copyright works; in collaboration with the collecting societies, advise Government, on matters relating to copyright and neighbouring rights; perform any other duty or function relating to copyrights, neighbouring rights and collecting societies as may be necessary for the better functioning of the Act or as the Minister may by regulation prescribe. As at August 2016, URSB has registered and licensed three collecting management organizations’ namely: Uganda Federation for Movie Industry, Uganda Performing Right Society and Uganda Reproduction Rights Organisation.

The Uganda Federation for Movie Industry (UFMI) was formed in 2006 as a company limited by guarantee having no share capital. On 24 July 2009 UFMI was licensed as a collective management organisation. The CMO manages members’ rights in audiovisual works. Uganda Performing Rights Society (UPRS) was formed in 1985 by authors (mainly musicians) to advance the cause of copyright administration in Uganda. It is registered with the Registrar of Companies as a company limited by guarantee having no share capital. UPRS administers performing rights of members in musical works and sound recording both foreign and local works falling within their repertoire.

Uganda Reproduction Rights Organisation (URRO) was approved as a collective management organization for reproduction rights in 2011. URRO represents the Uganda Publishers Associations, Uganda Visual Artists and Designers Association, Uganda Children Writers and Illustrator’s Association, Uganda Female Writers Association, Uganda Textbook, Academic and Non-fiction Authors Association, and Uganda Journalists Association. URRO administers reproduction/reprographic rights in literary works.

(xvii) Zambia

Zambia is situated in Southern Africa, bordered by Zimbabwe, Botswana, Namibia, Angola, Democratic Republic of the Congo, Malawi, Tanzania and Mozambique. The country has a total land size of 752,618 sq. km; a population of 15,066,266 (2015 est.); GDP (purchasing power parity) of USD 62.71 Billion (2015 est.); and a literacy rate of 63.4% of the total population. The main contributors to the GDP according to 2015 estimates are agriculture (8.6%), industry (31.3%) and services (60%). The main industries are copper mining and processing, construction, foodstuffs, beverages, chemicals, textiles, fertilizer and horticulture. The country’s currency is the Zambian Kwacha.

The country has a functional intellectual property system. Industrial Property is managed by the Patents and Companies Registration Agency (PACRA). Copyright is governed under the Copyright and Performances Rights (Act No. 44 of 1994) which is read together with Copyright and Performance Rights (Amendment) Act, 2010, (Act 25 of 2010), which includes provisions for Related Rights and for the establishment and monitoring of the collecting societies. Two collecting societies, Zambian Music Copyright Protection Society (ZAMCOPS) established in 1996 and Zambia Reproduction Rights Society (ZARRSO) established in 2010 are in operation. The country has also not yet undertaken the creative industries study.

(xviii) Zimbabwe

Zimbabwe is situated in Southern Africa, bordered by South Africa, Mozambique, Botswana and Zambia. The country has a total land size of 390,757 sq. km; a population of 14,229,541 (July 2015 est.); GDP (purchasing power parity) of USD 28.1 Billion (2015 est.); and a literacy rate of 86.5 % of the total population. The main contributors to the GDP according to 2015 estimates are agriculture (20%), industry (26%) and Services (53.3%). The main industries are mining, steel, wood products, cement, chemicals, fertilizer, clothing and footwear, foodstuffs, beverages.

Zimbabwe uses a basket of currencies that include Zimbabwean Bond notes denominated at par with the US Dollar, US dollars, South African Rand and other key foreign currencies such as the Botswana Pula and Chinese renminbi.

The country has an intellectual property system. Industrial Property is managed by the Zimbabwe Intellectual Property Office (ZIPPO). Copyright is governed under the Copyright and Neighbouring Rights Act (Chapter 26:05) which includes provisions for Related Rights and for the registration of collecting societies. Two collecting societies, the Zimbabwe Music Rights Association (ZIMURA) established in 1982 and the Reproduction Rights Organisation of Zimbabwe (ZIMCOPY) established in 1985, are operational.

The Act also provides for the establishment of Copyright and Neighbouring Rights Collecting Society of Zimbabwe, which has however not been established. The country has also not yet undertaken the copyright industries survey and little data exists on the contribution of these industries to the economy.
International treaties and conventions set the international norms that the international regime has to work within and abide to. The international instruments clearly show the commitment made by the signatories and they are expected to set systems within their jurisdictions to observe the international commitments.

There are various benefits that arise from being party to international instruments and these include:

a. Creation of common rules and regulations essential to achieving a robust intellectual property protection that spurs global economic expansion;
b. Broadening protection for local creators;
c. Coordinating the efforts to track use of works to ensure creators benefit, in light of digitization and technological changes;
d. Enabling cooperation in fighting infringement and promoting commercialization;
e. Creating grounds for dispute settlement;
f. Enabling works of country’s authors to be automatically protected in all countries party to the convention in the same way as they treat the works of national authors.

Therefore, there will be no discrimination as each country is required to treat works from other countries in the same way as they treat the works of their own nationals. Similarly, on the ‘national treatment principle’, non-national right holders cannot demand to have their works treated differently to that of national right holders in the different jurisdictions provided they abide to the national legislation requirements. Automatic protection by virtue of creation not subject to the formality of registration, deposit or the like though in some ARIPO Member States they provide for the voluntary registration and notification systems and territoriality aspect.

There is also the “Appendix to the Berne Convention” which is very instrumental for developing countries concerning translation for the purpose of teaching, scholarship or research and reproduction of works of foreign origin to use the opportunity to implement non-voluntary licenses for translation and reproduction of works in certain cases, in connection with educational activities. In these cases, the described use is allowed without the authorization of the right holder, subject to the payment of remuneration to be fixed by the law and after compliance with certain procedural steps by the competent authority of the developing country concerned.

The aim of the Berne Convention, as indicated in its preamble, is “to protect, in an effective and uniform manner as possible, the rights of authors in their literary and artistic works.”

The Berne Convention sets the minimum standard on what copyright and related rights legislation should incorporate in the different jurisdictions. Most of the ARIPO member states are party to the Berne convention and have included most of the Berne provisions in their national legislations on copyright and related rights. Some of the principles incorporated in the Berne Convention are the “national treatment principle” whereby a country is to treat the works of non-national authors in the same way as they treat the works of national authors.

Rome Convention
The Rome Convention secures protection in performances for performers, in phonograms for producers of phonograms and in broadcasts for broadcasting organisations. The Rome Convention is based on the “national treatment” principle minimum protection guaranteed by the Convention to performers is provided by “the possibility of preventing certain acts”. The restricted acts comprise: broadcasting or communication to the public of a “live” performance; recording an unfixed performance; reproducing a fixation of the performance, provided that the original fixation was made without the consent of the performer or the reproduction is made for purposes not permitted by the Convention or the performers.

Producers of phonograms have the right to authorize or prohibit the direct or indirect reproduction of their phonograms. The Rome Convention does not provide for any right to authorize performances of the phonogram and does not explicitly prohibit distribution or importation of unauthorized duplicates of phonograms.

Broadcasting organizations have the right to authorize or prohibit: the simultaneous rebroadcasting of their broadcasts, the fixation of their broadcasts, the reproduction of unauthorized fixations of their broadcasts or reproduction of lawful fixations for illicit purposes and the communication to the public of their television broadcasts by means of receivers in places accessible to the public against payment. The later right does not extend to communication to the public of merely sound broadcasts, and that it is a matter for domestic legislation to determine the conditions under which such a right may be exercised. The Rome Convention does not protect against distribution by cable of broadcasts. The Convention allows for limitations and exceptions to the protection and gives country discretion to interpret certain provisions according to its needs.

Brussels Convention
This convention provides for the obligation of each Contracting State to take adequate measures to prevent the unauthorized distribution on or from its territory of any programme-carrying signal transmitted by satellite. This convention is very relevant because of the importance of satellite communications in the modern era.
III. BENEFITS OF INTERNATIONAL INSTRUMENTS

The Convention shall not apply where the signals emitted by or on behalf of the originating organization are intended for direct reception from the satellite by the general public. Safeguard clauses are provided for in this Convention that the Convention shall in no way be interpreted to limit or prejudice the protection secured to authors, performers, producers of phonograms, or broadcasting organizations, under any domestic law or international agreement, and in no way will the Convention be interpreted as limiting the right of any Contracting State to apply its domestic law in order to prevent abuses of monopoly.

Marrakesh Treaty

The World Health Organization in 2010 estimated that the total number of people with blindness in Africa was 5,888 million; low vision was 20,407 million and 26,295 million with visual impairments. This represents a significant figure of people needing access to enhanced materials for both their educational and informational needs. Botswana and Liberia acceded to the Marrakesh Treaty in October of 2016. Recently Kenya acceded to the treaty on behalf of the originating organization are intended for direct reception from the satellite by the general public.

Contracting Parties shall, when applying the Berne Convention, confine any limitations of or exceptions to rights provided for therein to certain special cases that do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author.

WCT mentions two subject matters to be protected by copyright that is computer programs, whatever the mode or form of their expression; and compilations of data or other material ("databases"), in any form, which, by reason of the selection or arrangement of their contents, constitute intellectual creations. Where a database does not constitute such a creation, it is outside the scope of protection under the Treaty. The treaty also extends to owners of works the rights to distribution, rental and communication to the public.

WIPO Copyright Treaty (WCT)

This Treaty is a special agreement within the meaning of Article 20 of the Berne Convention for the Protection of Literary and Artistic Works, as regards Contracting Parties that are countries of the Union established by that Convention. This Treaty shall not have any connection with treaties other than the Berne Convention, nor shall it prejudice any rights and obligations under any other treaties. Nothing in this Treaty shall derogate from existing obligations that Contracting Parties have to each other under the Treaty on the Rights of Disabled Persons, which is normally creators do not benefit because of increased incidents of infringement through illegal copying and downloads. The Treaty grants performers and producers moral rights and interests of the performer. The Treaty clearly provides for limitations and exceptions in observance of the three step test. “Contracting Parties may, in their national legislation, provide for limitations or exceptions to the rights granted to authors of literary and artistic works under this Treaty in certain special cases that do not conflict with a normalexploration ofthe work and do not unreasonably prejudice the legitimate interests of the author.

WIPO Performances and Phonogram Treaty (WPPT)

This is an important Treaty for the performers and producers of phonogram. It provides for a safeguard provision — “Nothing in this Treaty shall derogate from existing obligations that Contracting Parties have to each other under the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations done in Rome, October 26, 1961 (herein after the “Rome Convention”). Protection granted under this Treaty shall have no effect in no way affect the protection of copyright in literary and artistic works. Consequently, no provision of this Treaty may be interpreted as prejudicing such protection. This Treaty shall not have any connection with, nor shall it prejudice any rights and obligations under, any other treaties.

The Treaty is of special importance in the digital environment where making economic gains is increased due to the growth of the world into a connected digital market, but where normally creators do not benefit because of increased incidents of infringement through illegal copying and downloads. The Treaty grants performers and producers moral rights and economic rights in their performances fixed in phonograms, sound recording: the right of reproduction; the right of distribution; the right of rental; the right of making available; the right of broadcasting (except in the case of re-broadcasting); the right of communication to the public (except where the performance is a broadcast performance); and the right of fixation. The Treaty also addresses technological protection measures (TPM) that “adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by performers or producers of phonograms in connection with the exercise of their rights under this Treaty and that restrict acts, in respect of their performances or phonograms, which are not authorized by the performers or the producers of phonograms concerned or permitted by law against circumvention of TPMs, which is rampant in the digital sphere.
### IV. Status of ARIPo Member States Understudy on International Instruments for Copyright & Related Rights

#### Country Comparisons Treaties, Conventions and Agreement

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#### Source: WIPO website
IV. STATUS OFARIPO MEMBER STATES UNDERSTUDY ON INTERNATIONAL INSTRUMENTSFOR COPYRIGHT & RELATED RIGHTS

The countries reviewed have a very low uptake of international treaties, with some treaties such as WPPT, WCT, Beijing, Rome and Brussels Convention having zero up-take. The Berne Convention has majority of the countries excluding Kenya and Botswana who are not parties to it, signifying its universality to the copyright sector globally.

The same applies for other treaties that are of importance to various industries that are the mainstay of African economies including performances and phonograms in the online spheres such as the WPPT and the Phonograms Convention.

GHANA

Phonograms Convention Benefits: The country has a growing film industry and its producers need protection in foreign countries.

Marrakesh Treaty Benefits: The country has an estimated 200,000 blind and 600,000 visually impaired persons (Ghana Eye Foundation.org), representing a combined 3.11 percent of the total population. Ghana has a fairly large enough population of people who need access to reading materials provided for under the Marrakesh Treaty.

The country can also import materials for VIPs under certain conditions as provided in the treaty, as well as export to other contracting countries.

KENYA

Marrakesh Treaty Benefits: The country has an estimated 328,000 blind and 750,000 visually impaired persons (The Fred Hollows Foundation), representing a combined 2.40 percent of the total population. This percentage represents a large enough proportion of people in need of educational materials enhanced for their conditions.

The country can also import materials for VIPs under certain conditions as provided in the treaty, as well as export to other contracting countries.

WCT Benefits: The country has a growing ICT sector with various innovative solutions in software coming out of the country. There is also a lot of FDI flowing into the ICT sector. While the country’s Copyright Laws provide for the protection of computer programs, by becoming a contracting party to the WCT, the country will broaden the protection of the works and securing of rights of its creators beyond its own borders. Data is currently big business and compilations of data or other material (databases) are increasingly important, meaning that

CHINA

Creative standard performances are being liked and subscribed to even globally. Therefore ratification to this treaty will offer right holders further protection and ensure recognition locally and abroad.

Beijing Treaty Benefits: audio-visual performances platforms now require intense protection due to their increased growth. Creative standard performances are being liked and subscribed to even globally. Therefore ratification to this treaty will offer right holders further protection and ensure recognition locally and abroad.

Figure 1: Graphical Representation of Treaty Uptake by Reviewed Countries

The countries reviewed have a very low uptake of international treaties, with some treaties such as WPPT, WCT, Beijing, Rome and Brussels Convention having zero up-take. The Berne Convention has majority of the countries excluding Uganda and Sierra Leone who are not parties to it, signifying its universality to the copyright sector globally.

In 2010, an estimated 26,295,000 Africans have visual impairments (including blindness and low vision) with an estimated 306,000 of these being children. This makes it crucial for African Governments to consider how they can enable access to reading materials for these children and other Visually Impaired Persons. Ratification of the Marrakesh Treaty represents one such step towards enabling such access. With a growing ICT sector and online presence, African governments need to consider their membership to treaties such as the WCT.

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Table 1: Status of ARIPO Member States under study to International Instruments on Copyright & Related Rights

<table>
<thead>
<tr>
<th>Country</th>
<th>WPPT (Signed or ratified/ in force)</th>
<th>WCT (Signed only, not in force or ratified)</th>
<th>Marrakesh Treaty (Signed only, not in force or ratified)</th>
<th>WAIPPP (Signed only, not in force or ratified)</th>
<th>TRIPS (Signed only, not in force or ratified)</th>
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<td>Namibia</td>
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<td>Senegal</td>
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<td>1</td>
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</tr>
</tbody>
</table>

The same applies for other treaties that are of importance to various industries that are the mainstay of African economies including performances and phonograms in the online spheres such as the WPPT and the Phonograms Convention.

Botswana

WCT Benefits: the state has an improving ICT sector. By ratifying to the WCT, Botswana stands a chance to expand coverage in light of works protection even beyond borders. With increased data compilations the country could now ensure protection of database creators within and out of State.

WPPT Benefits: with increased online presence through digitization more works are now availed online. Through this ratification performers and producers of phonograms will be secured with regards to economic benefits derived from their works in this digital era.

Beijing Treaty Benefits: audio-visual performances platforms now require intense protection due to their increased growth. Creative standard performances are being liked and subscribed to even globally. Therefore ratification to this treaty will offer right holders further protection and ensure recognition locally and abroad.

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IV. STATUS OF ARIPO MEMBER STATES UNDERSTUDY ON INTERNATIONAL INSTRUMENTS FOR COPYRIGHT & RELATED RIGHTS

Country Comparisons Treaties, Conventions and Agreement

Kenya

Must consider how to protect the creators of databases in Kenya beyond the borders.

WPPT Benefits: The country has a growing online population, which will result in more local works being available online. By acceding to and ratifying this treaty, the country will join other countries collaborating to ensure that performers and producers of phonograms are secured and make economic benefits out of their works in an increasingly digital world.

Beijing Treaty Benefits: The country has a growing audiovisual performances platform which needs to be nourished and protected. The performers are improving day in day out to come up with creative performances which are liked in and out of the country. This calls for the country to ratify or accede to the treaty so as to offer the right holders more protection and recognition nationally and internationally.

Lesotho

The country has ratified or acceded to only 4 international treaties, the Berne Convention, Rome Convention, Marrakesh Treaty and TRIPS Agreement. The country is not also taking advantage of the benefits to be derived from the other international treaties.

Liberia

The country has ratified or acceded to 5 international treaties, the Berne Convention, Rome Convention, Marrakesh Treaty, Phonograms Convention and TRIPS Agreement. With the prevalence of blindness in Liberia estimated at a total of 35 000 blind people and 10 500 people who suffer from visual impairment (WHO 2002 figures), the country has acceded to the Marrakesh Treaty. The country is yet to take advantage of the benefits to be derived from the other international treaties.

Namibia

Namibia signed the WIPO Performances and Phonograms Treaty (WPPT). This treaty deals with the rights of two kinds of beneficiaries, especially in the digital environment that is, (i) performers (actors, singers, musicians, etc.) and (ii) producers of phonograms (persons or legal entities that take the initiative and have the responsibility for the fixation of sounds).

Malawi

Malawi is a party to the Berne Convention, Marrakesh Treaty and TRIPS. Implementing the Marrakesh treaty was a way of ensuring access of information to people who are deaf and blind in the country. There was a need to have vital information in braille writing as a way of ensuring that people who are deaf and blind have access even to have newspapers and books in braille writing for people who are visually impaired. Acceding to the treaty gave access to vital information, to a lot of issues happening that the blind and deaf usually miss, such as adverts in newspapers, HIV/AIDS information. The treaty allows for copyright exceptions to facilitate the creation of accessible versions of books and other copyrighted works for visually impaired persons. The treaty also sets a norm for countries ratifying the treaty to have a domestic copyright exception covering these activities, and allowing for the import and export of such material.

MOZAMBIQUE

The country has ratified or acceded to only 2 international treaties, the Berne Convention and TRIPS agreement. It is positive to note that the country has signed the Marrakesh Treaty, though it has not yet ratified it. The Treaty will go a long way in ensuring access to reading materials to the estimated 44 567 people who had a visual impairment according to the 2007 Census. The country is not also taking advantage of the benefits to be derived from the other international treaties.

RWANDA

The country has an estimated 11 384 blind people (Fred Hollows Foundation) and an unquantified number of visually impaired persons. This represents not less than 0.09 percent of the total population and this represents a large proportion of people in need of educational and informational materials enhanced for their conditions.

The Rwanda copyright law has provisions on visually impaired persons. By ratifying the Treaty, the country will move a step towards ensuring access to this critical section of the country’s population. The country can also import materials for VIPs under certain conditions as provided in the treaty, as well as export to other contracting countries.

The country is a member to TRIPS, Brussels Convention and Berne Convention. This means that it cannot take advantage of the significant international benefits that come with the international collaborations. In an increasingly global village, this presents challenges for its citizens as well as reducing potential contribution of copyright related industries to exports on the GDP as most countries are not obliged to protect works of countries which are not members of specific treaties and agreements.

Sierra Leone

The country is a member of TRIPS. As for Marrakesh and Beijing treaties, Sierra Leone has signed yet to ratify the treaties. Sierra Leone is not a party to the Berne Convention. This means that it cannot take advantage of the significant international benefits that come with the international collaborations.

In an increasingly global village, this presents challenges for its citizens as well as reducing potential contribution of copyright related industries to exports on the GDP as most countries are not obliged to protect works of countries which are not members of specific treaties and agreements.

SUDAN

The country has acceded to only 1 international treaty, the Berne Convention. It has also signed, but not yet ratified the Marrakesh Treaty and the Beijing Treaty. Ratification of these treaties will be an important step towards ensuring full access to the benefits afforded by these two treaties. The country is not a party to the TRIPS Agreement which is crucial in today’s world trade. The country is not also taking advantage of the benefits to be derived from the other international treaties.

Tanzania

The country is a member of TRIPS. Tanzania has not ratified the Marrakesh and Beijing treaties. Therefore this state cannot take advantage of the international benefits that come with the international collaborations. In an increasingly digital era, this presents challenges for its citizens as well as reducing potential contribution of copyright related industries to exports on the GDP as most countries are not obliged to protect works of countries which are not members of specific treaties and agreements.

Uganda

The country is not party to Berne Convention though it has some provisions in its legislation that reflect the Berne Convention and its Appendix. Uganda has not ratified the Beijing Treaty. Uganda is party to TRIPS and has ratified the Marrakesh Treaty. This means that it can take advantage of the significant international benefits that come with the international collaborations.

Zambia

The country is a member to only two treaties, The Berne Convention and TRIPS Agreement. Zambia has signed the Beijing Treaty, though it has not yet ratified it. There remains room to benefit from the other international treaties.

Zimbabwe

The country has signed international treaties but has not yet acceded to or ratified the Marrakesh Treaty and Beijing Treaty. The treaties in force are Berne Convention and TRIPS Agreement. There is room to take advantage of the treaties the country is not a member to.
### IV. STATUS OF ARIPO MEMBER STATES UNDERSTUDY ON INTERNATIONAL INSTRUMENTS FOR COPYRIGHT & RELATED RIGHTS

#### Table 1: Status of ARIPO Member States to International Instruments on Copyright & Related Rights

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**Key:** 2 = Ratified or Acceded; 1 = Signed; 0 = Not signed/ratified/acceded

#### Table 2: Summary of treaties status by country

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(Key: A = Ratified or acceded; B = Signed only; 0 = Not signed/ Ratified/ Acceded)

#### Figure 1: Status of ARIPO Member States to International instruments on Copyright & Related Rights

#### Figure 2: Treaties taken by country
### Protected Works

<table>
<thead>
<tr>
<th>Countries/Parameter</th>
<th>Ghana</th>
<th>Kenya</th>
<th>Botswana</th>
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<th>Sierra Leone</th>
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<th>Tanzania</th>
<th>Malawi</th>
<th>Namibia</th>
<th>São Tomé and Príncipe</th>
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</tr>
<tr>
<td>Computer programmes not included under protected works</td>
<td>Computer programmes included among category with electronic data and other writings (S. 2)</td>
<td>Computer programmes included in category for books, pamphlets and other writings (S. 3)</td>
<td>Computer programmes included in category for books, pamphlets and other writings (S. 3)</td>
<td>Computer programmes included under protected works (S. 1)</td>
<td>Computer programmes included under protected works (S. 1)</td>
<td>Computer programmes included under protected works (S. 1)</td>
<td>Computer programmes included under protected works (S. 1)</td>
<td>Computer programmes included under protected works (S. 1)</td>
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### Folklore

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<th>Tanzania</th>
<th>Malawi</th>
<th>Namibia</th>
<th>São Tomé and Príncipe</th>
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<tr>
<td>Folklore is protected</td>
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<td>Folklore is recognised as falling under literary works (S. 2)</td>
<td>Folklore is recognised as falling under literary works (S. 2)</td>
<td>Folklore is recognised as falling under literary works (S. 2)</td>
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<td>Folklore is recognised as falling under literary works (S. 2)</td>
<td>Folklore is recognised as falling under literary works (S. 2)</td>
<td>Folklore is not protected within the code</td>
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<td>Countries/Parameter</td>
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<td>Botswana</td>
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<tr>
<td><strong>Protected Works (continued)</strong></td>
<td>Act defines &quot;artistic works&quot; (S.76)</td>
<td>The Act clearly defines what is included under artistic works (S. 2)</td>
<td>Act provides for protection of neighbouring rights for works which do not ordinarily qualify for copyright (S. 29-32)</td>
<td>Act does not mention neighbouring rights</td>
<td>Act provides for protection of neighbouring rights for works which do not ordinarily qualify for copyright (S.12)</td>
<td>Act does not mention neighbouring rights</td>
<td>Act provides for protection of neighbouring rights for works which do not ordinarily qualify for copyright (S. 44-46)</td>
<td>Act provides for protection of neighbouring rights for works which do not ordinarily qualify for copyright (S. 46)</td>
<td>The code clearly defines what is included under artistic works (Chapter 3).</td>
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<tr>
<td><strong>Formality Requirements</strong></td>
<td>While providing for registration, Act states that protection shall not be dependent on the registration of the work (S. 29)</td>
<td>Act provides an effective database (S. 57)</td>
<td>Act provides in S.22(b)(i) an effective database register of works (S. 22)</td>
<td>Voluntary for both copyright and neighbouring rights (S. 41)</td>
<td>Provides for registration of works (S. 49)</td>
<td>Optional registration, but protection exists without it for legal formalities (Art. 177)</td>
<td>The Act provides for maintaining registers (S.47)</td>
<td>The Act provides for maintaining registers (S.5)</td>
<td>Copyright is recognized regardless of registration, filing or any other formalities (Art. 112)</td>
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</tr>
<tr>
<td><strong>Duration of Copyright</strong></td>
<td>Copyright vests in author except in cases of commissioned work, works produced in the course of one’s employment, or created under commission by the Government or an international body (S. 5-8)</td>
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<td>Subject to other provisions in the Act, the original owner of economic rights is the author who has created the work (S. 9)</td>
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<td>Subject to other provisions in the Act, the original owner of economic rights is the author who has created the work (S. 9)</td>
<td>The original owner is the author who created work (Art. 10)</td>
<td>The original owner is the author who created work (Art. 10)</td>
<td>The original owner is the author who created work (Art. 10)</td>
<td>Copyright belongs to the intellectual creator of the work, unless otherwise specified (Art. 11)</td>
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</table>
No express mention of Audio-visual works.

Audio-visual works, the economic and moral rights shall be protected during the lifetime of the author and for fifty years after his death. (s. 34)

Fifty (50) years from the end of the year in which it was published, in works of joint authorship. (S. 15)

No express mention of duration of copyright for works created by bodies corporate.

Seventy (70) years from the date on which work was either made, published or otherwise made available to the public, whichever is later. If identity of author is later known or revealed beyond doubt, the duration reverts to end-of-year-of-death of author and seventy years after the date of publication or making, whichever is later. (S. 13)

Fifty years from the date on which work was either made, published or otherwise made available to the public, whichever is later. If identity of author is later known or revealed beyond doubt, the duration reverts to end-of-year-of-death of author and fifty years after the death of the author. (S. 23.2)

Anonymous/ Pseudonymous works

Where the author's identity is revealed or is no longer in doubt before the expiration of that period, the terms for known authors shall apply. (S. 13)

Seventy (70) years from date of publication or making, whichever is later. (S. 15)

Fifteen (15) years from date of fixation, making available to the public or first publication, whichever is later. (S. 13)

Fifty years from the date on which the work was either made, published or otherwise made available to the public, whichever is later. If identity of author is later known or revealed beyond doubt, duration reverts to end of year of death of author and seventy years thereafter. (S. 14)

Fifty (50) years from the date of the end of the year in which it was published. (S. 20)

Fifty years from the date on which the work was either made, published or otherwise made available to the public, whichever is later. If identity of author is later known or revealed beyond doubt, duration reverts to end of year of death of author and fifty years after the death of the author. (S. 23.3)

Anonymous works

Seventy years from date of date on which work was either made, published or otherwise made available to the public, whichever is later. If identity of author is later known or revealed beyond doubt, duration reverts to end of year of death of author and seventy years after the date of publication or making, whichever is later. (S. 14)

Fifteen (15) years from date of fixation, making available to the public or first publication, whichever is later. (S. 13)

Fifty years from the date of fixation, making available to the public or first publication, whichever is later. (S. 13)

Fifty (50) years from the end of the year in which it was published. (S. 13)

Fifty years from the date of fixation, making available to the public or first publication, whichever is later. (S. 13)

Fifty years from the date of the publication of the work. (S. 13)

Fifty years from the date of first public publication. (S. 13)

Fifty years from the date on which the work was first available to the public or first published, whichever date is the latest. (S. 23.2-4)

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Fifty years from the date of first public publication. (S. 13)

Fifty years from the date the work was either made, published or otherwise made available to the public, whichever is later. (S. 13)

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Fifty years from the date on which the work was either made, published or otherwise made available to the public, whichever is later. If identity of author is later known or revealed beyond doubt, duration reverts to end of year of death of author and seventy years thereafter. (S. 14)

Fifteen (15) years from date of the end of the year in which the work was either made, published or otherwise made available to the public, whichever is later. (S. 23:2)

LAWs COMPARISON

V. COUNTRY COPYRIGHT & RELATED RIGHTS
Related Rights shall expire after a period of 50 years (Art. 183).

No mention of broadcast duration.

Broadcasts

Fifty years from the end of the year in which the broadcast took place. (S. 23)

Perfomances and Phonograms

Fifty years from the year that follows the year in which broadcast took place. (S. 25)

Programme carrying signals

Fifty years from the date of making or making available to the public with consent of the author. (S. 24)

Photographic Work

Fifty years from the date of making the work. (S. 25)

Broadcasts

Twenty-five (25) years from the first month of the year that follows the year in which broadcast took place. (S. 26)

Programme carrying signals

Fifty years from the year that follows the year in which broadcast or signal was made available to the public. (S. 26)

Perfomances and Phonograms

Fifty years from the year that follows the year in which broadcast or signal was made available to the public. (S. 26)

Broadcasts

Fifty years after the end of the year in which the broadcast was first made. (Art. 22.1)

Sound recordings

Fifty years from the date of making the work. (S. 24)

Sound recordings

Fifty years after the end of the year in which the recording was first made. (S. 23)

Broadcasts

Fifty years after the end of the year in which the recording was first made. (S. 23)

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Broadcasts

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Sound recordings

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Programme carrying signals

Fifty years from the year that follows the year in which broadcast or signal was made available to the public with consent of the author. (S. 24)

Broadcasts

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Programme carrying signals

Fifty years from the year that follows the year in which broadcast or signal was made available to the public with consent of the author. (S. 24)
### Permitted Uses of Copyrights

<table>
<thead>
<tr>
<th>Countries/Parameter</th>
<th>Ghana</th>
<th>Kenya</th>
<th>Botswana</th>
<th>Uganda</th>
<th>Sierra Leone</th>
<th>Rwanda</th>
<th>Tanzania</th>
<th>Malawi</th>
<th>Namibia</th>
<th>São Tomé and Príncipe</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public domain</td>
<td>Works with expired terms of protection; works by authors who have renounced their right; foreign worked that do not enjoy protection in the republic (S. 38)</td>
<td>Works whose term of protection has expired; works in respect of which authors have renounced their rights; foreign works which do not enjoy protection in Kenya (S. 45)</td>
<td>Works with expired terms of protection, by authors who have renounced their rights; foreign works that do not enjoy protection in Sierra Leone (S. 48)</td>
<td>Works with expired terms of protection, by authors who have renounced their rights; foreign works that do not enjoy protection in the republic (S. 48)</td>
<td>All works in the public domain (Art. 202)</td>
<td>No express mention of public domain works. (S. 48)</td>
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</tr>
<tr>
<td>Use of works in public domain</td>
<td>Subject to payment of such fees as may be determined by minister in relation thereto, a work which has fallen into the public domain may be used without restriction (S. 38)</td>
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<td>No mention of use of works in the public domain</td>
<td>No mention of use of works in the public domain</td>
<td>Any use for commercial purposes is made in return for payment of royalties in the conditions determined by the empowered authority (Art. 202)</td>
<td>No express mention of use of works in the public domain</td>
<td>When a work in the public domain the provisions of the Copyright Act shall not prevent or limit its use (S.48)</td>
<td>No express mention of use of works in the public domain</td>
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<td>Expression of use of works in the public domain (Art. 38)</td>
</tr>
</tbody>
</table>

### Notable lacunae and inclusions on permitted uses

- No express exceptions for works targeting the blind and other visually impaired persons.
- No express mention of use of works in the public domain.
- Subject to payment of such fees as may be determined by minister in relation thereto, a work which has fallen into the public domain may be used without restriction (S. 38).
- Any use for commercial purposes is made in return for payment of royalties in the conditions determined by the empowered authority (Art. 202).
- 1840 São Tomé

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#### Fair use of copyrighted works

- The Act cites what is considered as fair use.

#### Exceptions to copyright

- Various exceptions permitted to the copyright with specific exceptions as well (art. 222).
- Various exceptions permitted to the copyright with specific exceptions, highlighting Computer Programs (S. 12).
- Various exceptions permitted to the copyright with specific exceptions, highlighting Computer Programs (S. 19).
- Various exceptions permitted to the copyright with specific exceptions, highlighting Computer Programs (S. 26(1)).

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#### Works and related subject matter in the public domain

- Works whose term of protection has expired; works by authors who have renounced their rights; foreign works that do not enjoy protection in Sierra Leone (S. 48).
- Works with expired terms of protection; works by authors who have renounced their rights; foreign works that do not enjoy protection in Sierra Leone (S. 48).

#### Public domain

- Works with expired terms of protection; works by authors who have renounced their rights; foreign works that do not enjoy protection in the republic (S. 38).
- Works in respect of which authors have renounced their rights; foreign works which do not enjoy protection in Kenya (S. 45).

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#### Reproduction

- Reproduction of a work for people with purpose of targeting the blind and other visually impaired persons.
- Reproduction of a work for people with disabilities.
- Reproduction of a work for people with disabilities (art. 48).
- Reproduction of a work for people with disabilities (S. 48).

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#### Use of works in public domain

- Any use for commercial purposes is made in return for payment of royalties in the conditions determined by the empowered authority (Art. 202).
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</thead>
<tbody>
<tr>
<td><strong>Penalties</strong> (continued)</td>
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<td></td>
<td>Second or subsequent offenders shall be fined a minimum of P10,000 and Maximum of P5,000,000 or imprisoned for a term not exceeding 30 years or both. (S. 29-31)</td>
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<td>no more than imprisonment term of three years and a fine of Le50,000,000 or imprisonment for a term not exceeding 15 years (S. 197)</td>
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<tr>
<td><strong>Anton Pillar Orders</strong></td>
<td>No express mention of Anton Pillar Orders but similar provisions exist (S. 47(2))</td>
<td>Provides for Anton Pillar Orders (S. 37)</td>
<td>No express mention of Anton Pillar Orders</td>
<td>No express mention of Anton Pillar Orders but similar provisions exist in the Act. (S. 53-54)</td>
<td>No mention of Anton Pillar Orders or similar provisions</td>
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<td><strong>V. Country Copyright &amp; Related Rights Laws Comparison</strong></td>
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### V. COUNTRY COPYRIGHT & RELATED RIGHTS

#### LAWS COMPARISON

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<th>Réunion</th>
<th>São Tomé and Príncipe</th>
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<tbody>
<tr>
<td><strong>Restitution and forfeiture</strong></td>
<td>Court may order payment of sum to owner of copyright (S. 46(h))</td>
<td>Court may order payment of sum to owner of copyright (S. 46(h))</td>
<td>Court may order payment of sum due to owner of copyright (S. 46(h))</td>
<td>Court may order payment of sum to owner of copyright (S. 46(h))</td>
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</tr>
<tr>
<td><strong>Infringement of copyright</strong></td>
<td>Copyright shall be actionable by the owner of the copyright. Profit awarded to plaintiffs. (S. 114)</td>
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<tr>
<td><strong>Infringement of patent</strong></td>
<td><strong>Not mentioned.</strong></td>
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<tr>
<td><strong>Compensation</strong></td>
<td><strong>Awards for damages and any other compensation shall be payable.</strong></td>
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<tr>
<td><strong>Injunction</strong></td>
<td><strong>Court may order the destruction of copies that have been unlawfully manufactured or unlawfully distributed or which are intended for unlawful distribution (Art. 49).</strong></td>
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</tr>
<tr>
<td><strong>Provisions for the disposal of infringing works</strong></td>
<td><strong>Upon request of owner, competent tribunal may order disposal of the implements, instruments or materials outside the channel of commerce that are used to commit or continue to commit acts of infringement, to the right owner (Art. 259).</strong></td>
<td><strong>Upon request of owner, competent tribunal may order disposal of the implements, instruments or materials outside the channel of commerce that are used to commit or continue to commit acts of infringement, to the right owner (Art. 259).</strong></td>
<td><strong>Upon request of owner, competent tribunal may order disposal of the implements, instruments or materials outside the channel of commerce that are used to commit or continue to commit acts of infringement, to the right owner (Art. 259).</strong></td>
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<tr>
<td><strong>Informatory and communicative provisions</strong></td>
<td><strong>There is mention throughout the Act of a competent tribunal for assistance in implementing the Act.</strong></td>
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<tr>
<td><strong>Special enforcement</strong></td>
<td><strong>Competent authorities may establish a Copyright Monitoring Team composed of Police Officers, Representatives of copyright owners, and officers of the Board for enforcement outside the normal law enforcement services. (Art. 257)</strong></td>
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<tr>
<td><strong>Non-civil remedy</strong></td>
<td><strong>Restitution and forfeiture.</strong></td>
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<tr>
<td><strong>Special provisions</strong></td>
<td><strong>There is mention of a special team for enforcement of rights afforded by Act. (S. 46(a))</strong></td>
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</tr>
<tr>
<td><strong>Economic or social impact of the Act</strong></td>
<td><strong>There is no mention of financial restitution to the person entitled under the act.</strong></td>
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[44] 44

[45] 45
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<tr>
<th>Country/ Parameter</th>
<th>South Africa</th>
<th>Ghana</th>
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<tr>
<td>Use and management</td>
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<td>Settlement of Disputes</td>
<td>Settlement of disputes referred to an arbitrator or arbitrators under the Arbitration and Conciliation Act. (S. 47)</td>
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V. COUNTRY COPYRIGHT & RELATED RIGHTS

LAWS COMPARISON
<table>
<thead>
<tr>
<th>Countries/Parameter</th>
<th>Lesotho</th>
<th>Liberia</th>
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<th>Sudan</th>
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<th>Zambia</th>
<th>Zimbabwe</th>
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</thead>
<tbody>
<tr>
<td>Protected works</td>
<td>Literary, artistic and scientific works, regardless of their form of expression and purpose of creation and Derivative works. (S. 3; 4)</td>
<td>Act does not apply. (S. 5)</td>
<td>A literary and artistic work that is original intellectual creation is protected S.9.1(a) (b)</td>
<td>Written works, including computer programs, musical works, photographic works, works of architecture, Audio-visual work, Choreographic work, Derivative work, Computer software or programmes. (Art. 4)</td>
<td>Written works, works of fine arts, dramatic and musical works, audio-visual works, photographic works, works of architecture, computer programs, electronic databases and other works known or unknown. (S. 2)</td>
<td>Literary, Artistic and Musical works, Computer programs, Compilations, Audio-visual works, Choreographic work, Derivative works, Programme Carrying Signals. (S. 4)</td>
<td>Literary, Artistic and Musical works, Computer programs, Sound recordings, Audio-visual works, Choreographic work, Derivative works, Programme Carrying Signals. (S. 8)</td>
<td>Literary, musical, dramatic, artistic, audio-visual works, sound recordings, broadcasts, cable programs, typographical arrangements of published editions. (S. 10)</td>
</tr>
<tr>
<td>NB: Use of expressions of folklore is provided for and the Act outlines works that fall under folklore (S. 19; 23-23)</td>
<td>No mention of expression of folklore in the Act. (S. 8)</td>
<td>Provides for Protection of Traditional Cultural Expressions (S.9.34)</td>
<td>Provides for Protection of Folklore expressions (Chapter V1)</td>
<td>No mention of expression of folklore in the Act. (S. 8)</td>
<td>Provides for Protection of Folklore expressions (Chapter V1)</td>
<td>No mention of expression of folklore in the Act. (S. 8)</td>
<td>Provides for Protection of Folklore expressions (Chapter V1)</td>
<td>No mention of expression of folklore in the Act. (S. 8)</td>
</tr>
<tr>
<td>NB: No mention of computer programs in the Act</td>
<td>Computer programs (S. 9.1(b)(x))</td>
<td>Provides for Computer programmes in the Act (S.29)</td>
<td>NB: Computer programs included under written works (Art. 4)</td>
<td>NB: Computer programmes and electronic data hubs are protected (S. 5)</td>
<td>Computer programs protected but have to be recorded in writing or in some other form. (S. 8)</td>
<td>Computer programs protected but have to be reduced to writing, recorded or another form (S. 8)</td>
<td>Computer programs protected but have to be reduced to writing, recorded or another form (S. 8)</td>
<td>Computer programs protected but have to be reduced to writing, recorded or another form (S. 8)</td>
</tr>
</tbody>
</table>

### Formality requirements
- Protection exists by the sole fact of creation of works. (S. 3) | No mention of registration requirements | No mention of registration requirements | No mention of registration requirements | Protection exists by the sole fact of creation of works. (S. 3) | No mention of registration requirements | No mention of registration requirements | No mention of registration requirements | No mention of registration requirements |
- Provides for voluntary registration of works. (S. 49) | Provides for voluntary registration of works. (S. 49) | Provides for voluntary registration of works. (S. 49) | Provides for voluntary registration of works. (S. 49) | Provides for voluntary registration of works. (S. 49) | Provides for voluntary registration of works. (S. 49) | Provides for voluntary registration of works. (S. 49) | Provides for voluntary registration of works. (S. 49) | Provides for voluntary registration of works. (S. 49) |

### Rights Afforded
### Moral Rights

<table>
<thead>
<tr>
<th>First ownership</th>
<th>Protection of Moral rights shall expire on the death of the author or persons who created the work.</th>
<th>Ownership of copyright vests in the author of the work.</th>
<th>Ownership of Copyright vests in the author of the work of the last surviving author and for fifty years from the end of the year in which the work was first published. (S. 10(1)(b); 11(1)(c))</th>
</tr>
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</table>

### Duration of Copyright

<table>
<thead>
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<tbody>
<tr>
<td>First ownership</td>
<td>Copyright vests in the author of the work if the author is the first owner of the copyright which vests in the work. Copyright vests in the author of the work if the author of the work is the first owner of the copyright which vests in the work.</td>
<td>The author of the work in the primary owner of the economic and non-economic rights in the work. Specifically, to ownership title to Works of Joint Authorship, Collective Works, Works of Folkslore, Works created under contract which the work is performed, and Audio-visual works.</td>
<td>The author of the work in the primary owner of the copyright which vests in the work.</td>
<td>Copyright vests in the author of the work for a term of 50 years from the end of the year in which the work was first published.</td>
<td>Ownership of Copyright vests in the author of the work of the last surviving author and for fifty years from the end of the year in which the work was first published.</td>
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### Copyright & Related Rights

<table>
<thead>
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<tbody>
<tr>
<td></td>
<td>Life of author and for fifty (50) years after his death. (S. 13)</td>
<td>Economic and moral rights protected during the life of the author and for fifty years after his death. (S. 14)</td>
<td>Economic and moral rights protected during the life of the author and for fifty years after his death. (S. 14)</td>
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### Joint Works

<table>
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<tr>
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<th>Zimbabwe</th>
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<tr>
<td>Joint Works in works of joint authorship, the rights shall be protected during the life of the last surviving author and for 50 years from the end of the calendar year in which the performance took place. (S. 13(2))</td>
<td>Copyright shall subsist during the life of the author and for fifty years after the death of the author of the work which the author dies last, whichever period is the longer. (S. 5(20))</td>
<td>Copyright subsists during the life of the author of the work of joint authorship until the end of the calendar year in which the performance took place. (S. 13(2))</td>
<td>Copyright shall subsist during the life of the author and for fifty years after the death of the author of the work which the author dies last, whichever period is the longer. (S. 5(20))</td>
<td>Copyright shall subsist during the life of the author and for fifty years after the death of the author of the work which the author dies last, whichever period is the longer. (S. 5(20))</td>
<td>Copyright shall subsist during the life of the author and for fifty years after the death of the author of the work which the author dies last, whichever period is the longer. (S. 5(20))</td>
<td>Copyright shall subsist during the life of the author and for fifty years after the death of the author of the work which the author dies last, whichever period is the longer. (S. 5(20))</td>
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<td>Copyright shall subsist during the life of the author and for fifty years after the death of the author of the work which the author dies last, whichever period is the longer. (S. 5(20))</td>
</tr>
</tbody>
</table>
### Anonymous/ Pseudonymous Works

- **Anonymous Works:** Rights protected until expiration of fifty years from the date on which the work was first lawfully published. If author’s identity is revealed or no longer in doubt before expiration, provisions for author and joint authors apply. (S. 14(4))

- **Pseudonymous Works:** Economic and moral rights shall be protected for fifty years from the end of the calendar year in which the work was made or first made available to the public by authorised publication or by any other means whichever date is the latest. (S. 20(c))

### Collective or Audio-visual Works

- **Collective Works:** Protection shall last for fifty years after the audio-visual works put at the disposal of the public or after its completion. (Art. 25)

- **Audio-visual Works:** Protection shall last for fifty years after the audio-visual works put at the disposal of the public or after its completion. (Art. 25)

### Folklore

- **Folklore:** The protection of folklore is not limited in time. (Art. 52)

### Work of Applied Art

- **Photographic Works:** Economic and moral rights shall be protected for fifty years from the end of the calendar year in which the work was made or first made available to the public by publication whichever is the latest. (S. 20(g))

### Audio-visual Works & Sound Recordings

- **Audio-visual works & Sound Recordings:** Protection shall last for fifty years after the audio-visual works put at the disposal of the public or after its completion. (Art. 25)

### Work of Applied Art

- **Photographic Works:** Provided under (S. 8(1)(a))

### Audio-visual Works & Sound Recordings

- **Audio-visual works & Sound Recordings:** Protection shall last for fifty years after the audio-visual works put at the disposal of the public or after its completion. (Art. 25)

### Work of Applied Art

- **Works of Applied Art:** Protection shall last for seventy years from the completion of the work. (Art. 25)

### Audio-visual Works & Sound Recordings

- **Audio-visual works & Sound Recordings:** Protection shall last for fifty years after the audio-visual works put at the disposal of the public or after its completion. (Art. 25)

### Work of Applied Art

- **Works of Applied Art:** Protection shall last for seventy years from the completion of the work. (Art. 25)
The term of protection of a broadcast programme is 25 years from the end of the year in which the broadcast took place.

Broadcasts

- Protection subsists for twenty years from the end of year in which the broadcast took place. (S. 39(3))
- Protection subsists for fifty years from the end of the calendar year in which the broadcast was made. (S. 14)

Programme carrying signals

- Economic rights of an audio-visual work shall last for fifty years after the audio-visual work is made available to the public. (S. 24(3))

Cable Programme

- Copyright shall expire at the end of fifty years from the end of the calendar year in which the cable was made available to the public. (S. 47)

Duration

- Duration of performers' rights shall subsist for fifty years from the end of the calendar year in which the performance takes place. (S. 47)

Copyright is a real right which subsists in a work by virtue of the Act and which entitles its owner exclusively to do or authorise others to do in Zimbabwe the things which the Act designates in relation to the work. (S. 17)

Also grants moral rights to claim authorship of his work and object to any distortion, mutilation or other modification of the work. (S. 17)

Moral rights

- Also grants moral rights to claim authorship of his work and object to any distortion, mutilation or other modification of the work. (S. 17)

Performance

- The sole right to produce or reproduce the work or any substantial part thereof in any material form whatsoever, perform, deliver or publish the work. (S. 3)

Protection

- Protection subsists for twenty years from the end of the calendar year in which the broadcast took place. (S. 9(2)(c))

Programme

- The term of protection of a broadcast programme is 20 years from the first of the year in which the broadcast first takes place. (S. 28(1)(c))

Broadcasts

- The term of protection of a broadcast programme is 25 years from the end of the year in which the broadcast took place. (S. 29(2))

Fifty years from the date of making the work or making available to the public. (S. 13(4))

Duration

- Duration of fifty years from the end of the calendar year in which the broadcast was made. (S. 14)

Copyright

- The author has the exclusive economic right to undertake the following works: reproduction; translation; adaptation of the arrangement and other transformations; making copies available for sale to the public or any other transfer of ownership, for rental and for public lending; presentation or performance of his work in public; import or export of his work; communication of his work to the public. Exceptions exist for computer programs. (Art. 6; 7)

Non-economic rights

- Non-economic rights to claim authorship, to remain anonymous or use a pseudonym and to object to any distortion, mutilation or other modification of his work. (Art. 6; 8)

All copyright works

- The author has the exclusive right to authorise the following works: reproduction; translation; adaptation of the arrangement and other transformations; making copies available for sale to the public or any other transfer of ownership, for rental and for public lending; presentation or performance of his work in public; import or export of his work; communication of his work to the public. Exceptions exist for computer programs. (Art. 6; 7)

Specific rights

- Specific rights relating to Protection of Neighbouring Rights of performers are outlined in Chapter III of the Act.

Radio, television and audiovisual works

- The sole right to produce or reproduce the work or any substantial part thereof in any material form whatsoever, perform, deliver or publish the work. (S. 3)

All copyright works

- The author has the exclusive economic right to undertake the following works: reproduction; translation; preparation of adaptation, arrangements and other transformations; making copies available for sale to the public or any other transfer of ownership, for rental and for public lending; presentation or performance of his work in public; import or export of his work; communication of his work to the public. Exceptions exist for computer programs. (Art. 6; 7)

Non-economic rights

- Non-economic rights to claim authorship, to remain anonymous or use a pseudonym and to object to any distortion, mutilation or other modification of his work. (Art. 6; 8)
### Permitted Uses of Copyright

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<tbody>
<tr>
<td><strong>Public domain</strong></td>
<td>Works that are in the public domain are those whose term of protection has expired, whose authors have no successors in title, and whose owners have renounced copyright protection. (S. 18(2))</td>
<td>No mention of use of works in the public domain</td>
<td>Express mention of use of works in the public domain (s. 62)</td>
<td>No-express exceptions for works in the public domain works.</td>
<td>Conditions for works to fall into the public domain include expiry of terms of protection, where author dies and leaves no heir, and failure by heirs of author and other persons to exercise the rights vesting in them. Chapter II</td>
<td>Works with expired terms of protection, by author who have renounced their rights, and foreign works that do not enjoy protection in The Gambia belong to the public domain. (S. 48)</td>
<td>There is no clear definition of works in the public domain though certain sections can be read to infer that works whose authors have died fifty or more years prior and whose copyright has expired are in the public domain.</td>
<td>No mention of use of works in the public domain.</td>
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**Use of works in public domain**

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<tbody>
<tr>
<td>Only the registrar or a person duly authorised by him has the right to authorise use of works in the public domain (S. 18(1))</td>
<td>No mention of use of works in the public domain</td>
<td>Express mention of use of works in the public domain (s. 62)</td>
<td>No mention of use of works in the public domain</td>
<td>The works in the public domain may be freely used. Chapter II</td>
<td>Subject to payment of a fee specified by the Centre a work that has fallen into the public domain may be used without restriction. (S. 48(4))</td>
<td>The use of works that have unknown authors and whose copyright has expired or whose authors died more than fifty years prior to the date of such use is not considered as infringement. (S. 21(1))</td>
<td>No mention of use of works in the public domain</td>
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<td><strong>Infringement</strong></td>
<td>Any act contravening the provisions of the Act constitutes the commission of an offence. (S. 37)</td>
<td>A copyright and related rights is primarily to prevent an infringement from occurring and preserve relevant evidence in regard to a alleged infringement including cultural or traditional expressions (S.15.1)</td>
<td>A copyright shall be deemed to be infringing by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by the Act conferred on the owner of the copyright. (S.40(1)(2) and (S.45)</td>
<td>Infringement is committed by a person who fraudulently uses in his own creation or performance a work, performance, phonogram or broadcast programme that is a total or partial reproduction of another’s work or performance, whether disclosed or not, or so similar to it as to have no distinctive character of its own. (Art. 62-64)</td>
<td>Any doing, knowingly and without permission of the owner, of acts reserved for author and extracting, imitating, selling, hiring, distribution, importation or exploitation for commercial purposes. (S. 62)</td>
<td>Doing of any acts that are contrary to the provisions of the Act. Also cites the exploitation of a work in a manner prejudicial to the honour or reputation of the author as an infringement to the rights of the author. (S. 30)</td>
<td>Doing of acts controlled by the act, importing infringing copies, making or trading in articles for making infringing copies or transmission for the purpose of making infringing copies or transmission for the purpose of making infringing copies constitutes infringement. (S. 18-20)</td>
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<tr>
<td><strong>Anton Pillar Orders</strong></td>
<td>No express mention of Anton Pillar Orders</td>
<td>No mention of Anton Pillar Orders</td>
<td>No mention of Anton Pillar Orders</td>
<td>No mention of Anton Pillar Orders but provides for similar conditions</td>
<td>No mention of Anton Pillar Orders</td>
<td>No mention of Anton Pillar Orders but similar provisions exist (S. 33)</td>
<td>Provides for Anton Pillar Orders (S. 57)</td>
</tr>
<tr>
<td><strong>Penalties</strong></td>
<td>Without prejudice to civil remedies and sanctions, a person who commits an offence is liable on conviction to payment of a determined fine or to imprisonment or to both. Maximum jail term is 5 years. (S. 37)</td>
<td>The Act details out criminal penalties including fine not exceeding 5,000,000 Dalasis and in cases of subsequent offenders either such fine or to imprisonment for a term not exceeding 5 years. (S. 64)</td>
<td>The crimes of infringement and infringement referred to in the Act are misdemeanours and punishable in law by imprisonment and corresponding fine. (Art 65) Provides for penalties for authors who having wholly or partly disposed of their relevant rights or having authorised the use of his work, uses or exploits the said work directly and in a manner prejudicial to third party rights. (Art 66.4)</td>
<td>The crimes of infringement and infringement shall be punished with a fine as determined by the court or imprisonment or both. (S. 64, S. 65)</td>
<td>All crimes of infringement shall be punished with a fine as determined by the court or imprisonment or both. (S. 64, S. 65)</td>
<td>Payment of fine of not more than 500,000 Dalasis or no more than imprisonment term of three years or to both the fine and imprisonment. The court shall also fix the amount of profits, taking into account the defendant’s profits. In repeat offenders, penalties may be doubled. Court may apply civil remedies in criminal proceedings if no decision has been taken in civil proceedings. (S. 51; 53)</td>
<td>On conviction, offenders are liable to payment of a penalty of fifty thousand penalty units or ten units for each infringing copy, whichever is greater, or to imprisonment for a term not exceeding five years or to both. On subsequent conviction, payment of one hundred thousand penalty units or twenty penalty units for each infringing copy, whichever is greater, or to imprisonment for a term not exceeding ten years or both. (S. 28)</td>
</tr>
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</table>

**V. COUNTRY COPYRIGHT & RELATED RIGHTS LAWS COMPARISON**

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<th>Zambia</th>
<th>Zimbabwe</th>
</tr>
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<tbody>
<tr>
<td><strong>Penalties</strong></td>
<td>Without prejudice to civil remedies and sanctions, a person who commits an offence is liable on conviction to payment of a determined fine or to imprisonment or to both. Maximum jail term is 5 years. (S. 37)</td>
<td>The Act details out criminal penalties including fine not exceeding 5,000,000 Dalasis and in cases of subsequent offenders either such fine or to imprisonment for a term not exceeding 5 years. (S. 64)</td>
<td>The crimes of infringement and infringement referred to in the Act are misdemeanours and punishable in law by imprisonment and corresponding fine. (Art 65) Provides for penalties for authors who having wholly or partly disposed of their relevant rights or having authorised the use of his work, uses or exploits the said work directly and in a manner prejudicial to third party rights. (Art 66.4)</td>
<td>The crimes of infringement and infringement shall be punished with a fine as determined by the court or imprisonment or both. (S. 64, S. 65)</td>
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<td>A person guilty of an offence shall be liable to a fine not exceeding level ten or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment in respect of each article to which the offence relates. (S. 59)</td>
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</table>
The owner of copyright shall be entitled to all remedies and rights in respect of infringing copies and any article designed for making infringing copies (S. 58).

Where a person is charged with an offence, and whether convicted or not, the court may order that any article in his possession or intended for making infringing copies be destroyed or delivered to the owner of copyright or dealt with as the court may see fit.

Where infringing copies exist, the court may order destruction or other reasonable disposal of those copies and their packaging outside channels of distribution and in a manner that avoids harm to the rights owner (S. 52).

The court may also order the delivery of such materials to the owner of copyright (S. 65).

Court shall whenever this is adequate to create an effective deterrent to further infringement order seizure, forfeiture or disposal of the infringing goods and any materials used in commission of the offence (S.16.9).

The Act provides for availability to the plaintiff of all such remedies by way of interdict, attachment, the rendering of account, the delivery of infringing copies or articles used or intended to be used for making infringing copies (S. 52-56).

The Act provides for civil remedies to the owner including payment for damages suffered and expenses caused by infringement including legal costs (S. 51; 52).

Court may order payment of exemplary damages (S. 36).

The object which was made in violation of the Act and any receipts of the person violating it and resulting from such violations shall be forfeited by the state and disposed of as it may deem fit (S. 65).

Restitution and forfeiture (Art. 69-71).

The Act provides for civil remedies by way of interdict, damages, accounts and otherwise as maybe conferred by law for the infringement (S. 40-46).

There shall be established a court of arbitration and settlement of disputes (S. 70).

The Act details damages, right holders expenses including attorneys fees, injunctions, equitable procedures (S. 16.1, 16.3, 16.4).

The Act provides for provisional measures (S.17 (a)(b)(c)(d)(e)(f)(g)).

There is no mention of dispute settlement guidelines.

There is no mention of a special enforcement Centre.

The Act provides for appointment of inspectors for the enforcement of the Act (S. 110B).

There is no mention of dispute settlement guidelines.

Disputes settlement procedures provided for on disputes between Collecting Societies and people requiring licenses (S. 23).

No procedures for disputes between and the authority managing copyright.

Three step dispute settlement procedure which begins with negotiation (S. 88).

The Act provides for the granting of civil remedies including interdict, payment of damages, including profits attributable to infringement (S. 36).

Interdict is not available in respect of the construction of a building (S. 56).

The equipment and instruments used in infringement shall revert to the State (Art. 70.3). Destruction of infringing copies is permissible only if certain conditions are met (Art. 68).
The Act is read with other amendments. Act 22/2001 (S. 4) and Act 32/2004 (S. 38 Amendment) provide for technological protection measures, including holograms. Also, provisions for accreditation of importers and producers and establishment of a Technical Implementation Committee.

The Act provides for the establishment and registration of collecting societies (S. 91-95). Act establishes the Copyright and Neighbouring Rights Collecting Society of Zimbabwe, though not operational (S. 96-110B).

The Act provides for the establishment and registration of collecting societies (S. 22-23) and making societies for the collective management, promotion, and defense of member interests and promotion of cultural goods. Art. 74 recognizes the importance of copyright and related rights and the need to incorporate copyright laws to regulate the system in their respective countries.

The Act provides for recordance of transfers and other documents (S. 46). Copyright and related rights owners may create non-profit organizations for collective administration of copyright and neighboring rights. The Copyright and related rights owners may form societies for collective management, promotion, and defense of member interests and promotion of cultural goods. Art. 74 also provides for public lending right (S. 60).

The Act mentions national collective societies in S. 2(46), but there is no provision for collective administration. Some of the observations made include:

1. Uganda and Sierra Leone are not party to the Berne Convention. Ghana has ratified the internet treaties (WCT & WPPT) while Botswana has acceded, Kenya has signed WCT & WPPT while the rest of the countries are not party to the treaties.
2. Rwanda and Liberia have provisions in their national law for visually impaired persons on free reproduction of the work for visually impaired persons though they did not sign, ratify or accede to the treaty. Uganda has a provision in its copyright law on fair use that includes exceptions and limitations.
3. Botswana has technical implementation of copyright and related rights hence coming up with the Marrakesh Treaty.
4. Sierra Leone has an anomaly on duration of moral and economic rights in its law. In S.21(2) it is stated that subject to subsection (2) moral and economic rights of an author shall last for 50 years after his death. Subsection (2) states that, moral rights shall last in perpetuity. There may be a need to undertake an in-depth review of Sierra Leone’s copyright law to assess possible contradictions in provisions for duration of moral right and economic rights.
5. Sierra Leone and Ghana provide that the rights vest in the President on behalf of the citizens and exist in perpetuity.
6. Ghana’s duration of protection is life of the author plus seventy (70) years after the author’s death. The rest of the countries is life of the author plus fifty (50) years after the author’s death.
7. Registration procedures of copyrighted works are provided in all the countries.
8. Exceptions and limitations provisions are provided in the national laws but they need to be improved to accommodate new developments for example the exception of anti-circumventing Technological Protection Measure (TPM) for digital use in the case of Beijing Treaty for the protection of audio-visual performances and the Marrakesh Treaty.
9. Kenya, Kingdom of Eswatini and Zimbabwe have Anton pillar order while Ghana, Uganda and Rwanda have provisions that direct towards the Anton pillar order for the rest of the countries need to include such a provision in their laws.
10. Civil and criminal remedies are provided in all the laws. Ghana, Kenya and Uganda penalty provisions use the words “not exceeding” a certain amount. This may be detrimental with time due to the economic situation in each country.
11. Liberia and Lesotho do not have a dispute settlement mechanism.
12. All countries have provision on the collective administration of copyright.
13. Uganda has resale rights provision while the rest do not have. The resale right is important to be included in the laws so as to benefit the visual artist in a subsequent sale of their products.
14. Public lending rights needs to be incorporated to benefit authors and publishers.
15. Private copying levy (Blank tape levy) is provided in Ghana copyright legislations, Botswana has technical device levy and Malawi has levy on storage devices.
16. All the laws recognize the protection of folklore. Sierra Leone and Ghana provide that the rights vest in the President on behalf of the citizens and exist in perpetuity.
17. There is little data on the economic contribution of creative industries. Only Malawi, Kenya, Tanzania undertook the study incorporation with WIPO while Mozambique, (with the help of the United Nations
V. COUNTRY COPYRIGHT & RELATED RIGHTS LAWS COMPARISON

Conference on Trade and Development (UNCTAD) have undertaken a creative industries survey. The following provides a brief view on the findings of the Mozambique survey:

• Results of the meetings with stakeholders and with relevant government ministries. The need for institution building and capacity building
• The need to reinforce policy procedures and implement the policies through regulations and strategies.
• Results of the sectors with high potential for growth among the creative industries. A differentiation can be made among sectors that have a high development potential nationally or in terms of exports. Examples of these sectors are, but not limited to, the Visual arts, Design, Music etc.
• A Plan of Action proposed as a tool for the formulation of a comprehensive policy towards the enhancement of the creative economy in a long-term perspective. Budgetary constraints limited the Plan of Action but a strategy was laid out for: Reinforced institutional mechanisms and policy formulation for an enabling environment for creative industries; Developed publicity and visibility for programme in the country; Policy review on creative industries; identified key issues and policy recommendations; Strengthened capacities on trade and investment-related issues for policymakers and institutional stakeholders; and developed capacity of institutions and skilled artists in business management.

CONCLUSION
This report presented findings of a desk research on member country copyright and related rights laws and International Instruments on copyright and related rights status. 18 countries of ARIPO Member States were reviewed excluding Somalia.

Member States are encouraged to ratify or accede to international treaties and conventions on copyright and related rights and domesticate their national laws. Economic contribution of creative industries to be constantly undertaken and to explore the potential of value transference of copyrighted works for the benefit of the right holders by having good laws, administration, management, transparency, good governance and knowledgeable enforcement agencies on IP matters who are effective. Collaboration among all stakeholders will shape the IP landscape in Africa.

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