

**BUSINESS AND INTELLECTUAL  
PROPERTY AUTHORITY**

*Protecting Entrepreneurship and Innovation*

# **Draft Intellectual Property Policy & Strategy**

# Presentation Outline

INTRODUCTION TO IP

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IP AUDIT FINDINGS

ABOUT THE POLICY

POLICY GUIDELINES

VISION

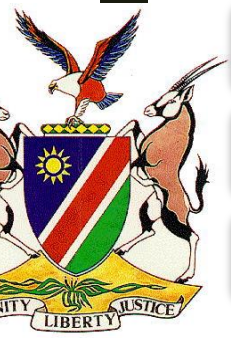
MISSION

GOALS

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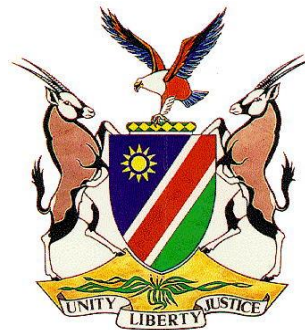
RESOURCES MOBILIZATION

INSTITUTIONAL FRAMEWORK



# Introduction to IP

- Intellectual Property refers to creations of the mind,
  - such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce



# About IPRs



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- Enforceable property rights over the creations of the mind
  - Set of exclusive rights enabling the owner to exclude others from access to and/or use of protected subject matter
  - Time-bound
- IP rights give the creator the right to prevent others from making unauthorized use of their property for a limited period, in exchange of the disclosure of the creative work.

# IP Principal Categories

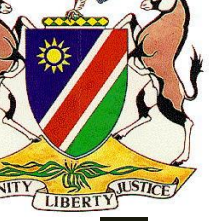
Copyright and related rights – rights afforded to authors of original literary and artistic works (e.g., writings, musical compositions, films, paintings and computer programs)

Industrial property rights – protect useful inventions, industrial designs, trade secrets, geographical indications and other distinctive signs used in commerce



# Principal Categories





# Types of IP Rights (1)



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Copyright	Patent	Trade Mark
<p>➤ <b>Definition:</b> Monopoly granted to an author by the State to <b>encourage the creation of expressive works</b> and thus to promote, enrich and disseminate national cultural heritage</p>	<p>➤ <b>Definition:</b> Right granted by the State to an inventor to exclude others from commercially exploiting an invention for a limited period in return for its <b>disclosure</b></p>	<p>➤ <b>Definition:</b> Protection for distinctive non-functional names and dress extended by the State in order to <b>improve the quality of information in the marketplace</b></p>
<p>➤ <b>Coverage:</b> Original works of authorship in the literary, scientific and artistic domain, whatever may be the mode or form of their expression</p>	<p>➤ <b>Coverage:</b> Inventions (products or processes) in all fields of technology that are (i) new (novel), (ii) exhibit a sufficient “inventive step” (are non-obvious) and (iii) industrially applicable (useful),</p>	<p>➤ <b>Coverage:</b> Any sign, or any combination of signs, capable of distinguishing the goods or services of one undertaking from those of other undertakings</p>
<p>➤ <b>Examples:</b> Literary works; musical works; dramatic works; pantomimes and choreographic works; pictorial, graphic, and sculptural works; audiovisual works; sound recordings; architectural works</p>	<p>➤ <b>Examples:</b> Process, machine, manufacture, composition of matter, or any combination thereof</p>	<p>➤ <b>Examples:</b> Words (including personal names), letters, numerals, figurative elements and combinations of colors</p>

# Types of IP Rights (2)

IPR	Overview
<b>Utility Models</b>	<ul style="list-style-type: none"><li>➤ “Petty patent”</li><li>➤ Available for all inventions “with the exclusion of a process, a microbiological process and the products of a microbiological process.” <i>Namibia Industrial Property Act (NIPA), Art. 86(1)</i></li><li>➤ The technological progress (“inventive step”) required to obtain a UM is smaller than the technological progress required in the case of a patented invention.</li><li>➤ Term of protection is generally shorter than the term of protection provided for a patented invention (Namibia – 7 years for UMs/20 years for patents).</li></ul>
<b>Industrial Designs</b>	<ul style="list-style-type: none"><li>➤ Any feature or combination of features of form or shape or configuration, or any feature or combination of features of pattern or ornamentation, including any composition of lines or colours, applied to an article to give it an appearance having such features discernable by the eye, but does not include any feature serving solely to obtain a functional or technical result.</li></ul>

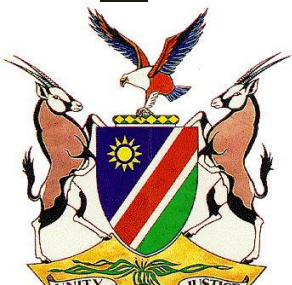


## 1. Moral/natural rights rationale

- Social contract theory
- Protection of human creativity and personality from unfair exploitation
- Social origin of creativity/inventions and technological interdependence

## 2. Economic rationale

- IPRs provide economic incentives for creators/inventors that result in benefits for society as a whole
  - Incentive to invent, be creative and innovate
  - Incentive to use and allocate resources more efficiently
  - Incentive to disclose ideas to the public



## **3. Enhanced competition and protection of entrepreneurship**

- Industrial development and social welfare is achieved through competition and/or protection of entrepreneurial talent
- Property rights on ideas are the most efficient means to stimulate competitiveness

## **4. Economic rationale of organizing science, technology and creativity – increased information spillover**

- Rationale of increased information, increased spillover and better advice



# IP Formulation Background

Stakeholders  
consultations  
in 2015

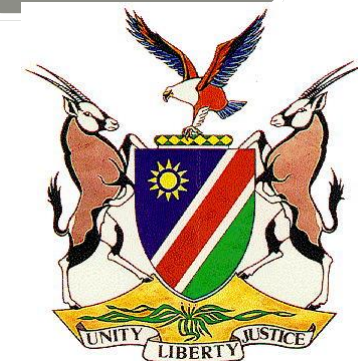
IP audit  
exercise held  
in 2015-  
2016

Formulation  
of IP Policy in  
2016

Stakeholders  
consultations  
in 2016

Draft IP  
Policy and  
Strategy  
developed,  
legal scrutiny  
received  
from AG in  
2017

Submission to  
Cabinet in  
2018



# IP Audit Findings

Lack of IP Policy

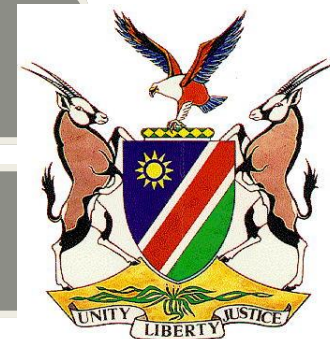
Inadequate integration of IP into National and Sectoral development policies

Inadequate institutional mechanism to ensure policy coherence and coordination

Lack of or adequate Institutional IP policy and management framework

Inadequate use of IP in areas where Namibia has comparative advantage

Insufficient awareness of IP



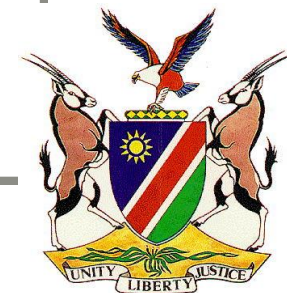
# IP Audit Findings (2)

Inadequate enforcement of IPRs

Lack of guidance on promotion of the creative Industry

Absence of laws and mechanisms:

- - *To protect traditional knowledge and traditional cultural expressions;*
- - *To implement the ARIPO Swakopmund Protocol on the protection of traditional knowledge and expressions of folklore;*
- - *To address concerns related to misappropriation and sharing of benefits.*

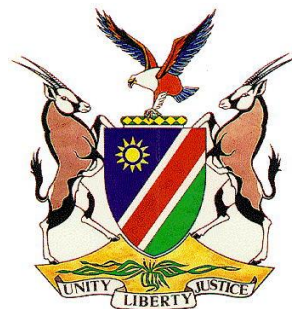


# About the Policy



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- Establishes the *framework conducive for innovation and competitiveness through **IP education, protection and commercialization.***
- Defines the parameters of the use of IP as a strategic catalyst to accelerate transformational growth at home.
- Sets Namibia's **vision for IP**, identifies **objectives and key strategies** and establishes **an institutional framework** to serve as the **coordinating body in IP related policy and strategic matters.**
- Places an obligation on the state to ensure that **all forms** of intellectual property rights are recognized, protected and valued.
- effective policy tool to:
  - ***unlock local creative, inventive and innovative potential;***
  - *stimulate the transfer and use of technologies and creative works;*
  - *encourage fair competition thereby promoting the creation of wealth; and*
  - *foster national social, cultural and economic development.*



## About the Policy (2)

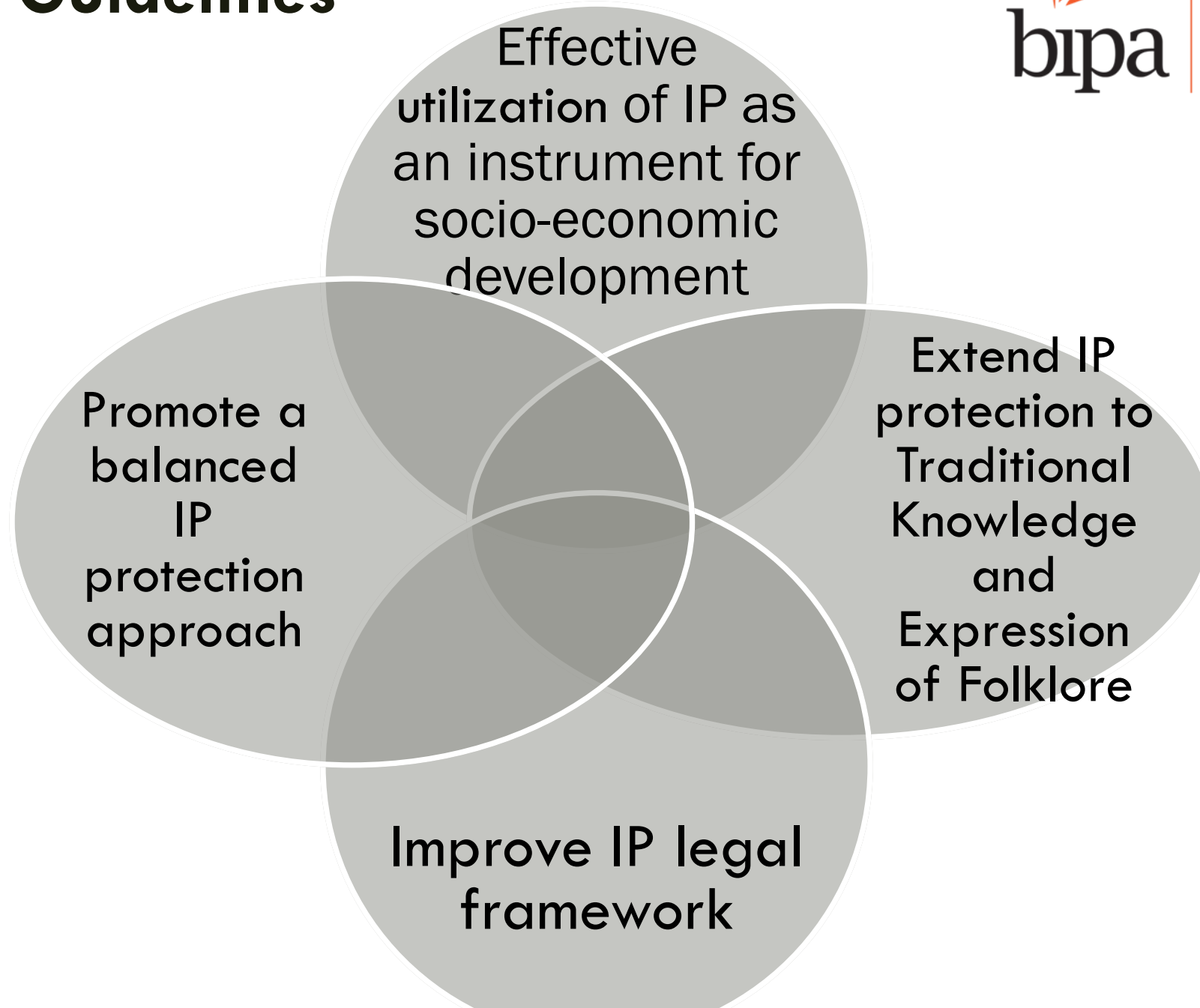
- facilitate the **integration of intellectual property into national and sectoral development policies and strategies;**
- ensure the **setting up of development oriented IP systems;**
- foster the **use of IP as a tool for development;** and
- facilitate the **monitoring and evaluation of the impact of the IP system.**
- ensures the use of IP system as a tool for:
  - *meeting development policy goals; and*
  - *encouraging the generation, protection and exploitation of intellectual property assets;*
- provide guidance in the strengthening of the IP legal and institutional framework;
- Aligns the national IP system with the applicable international IP system



# Policy Guidelines



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# Policy Vision

An IP system that is utilized effectively to  
contribute towards the realization of vision  
2030.

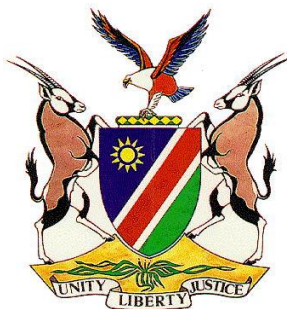


# Policy Mission

To create an enabling environment-

**for setting up a balanced, effective and accessible intellectual property system that:**

- *will encourage creative, cultural, inventive and innovative activities,*
- *facilitate protection and commercialization of intellectual property assets (IPAs),*
- *stimulate transfer of technology,*
- *promote fair trade,*
- *improve IP awareness,*
- *enhance respect for intellectual property rights and*
- *strengthen competitiveness of Namibian industries and businesses.*



# Policy Goals



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Integration of IP into  
national development  
plans

Maximize benefits  
from Regional &  
International legal  
instruments

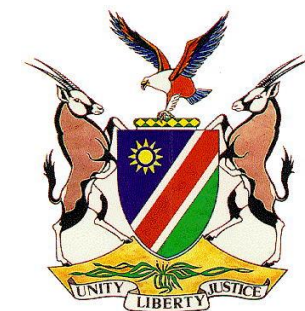
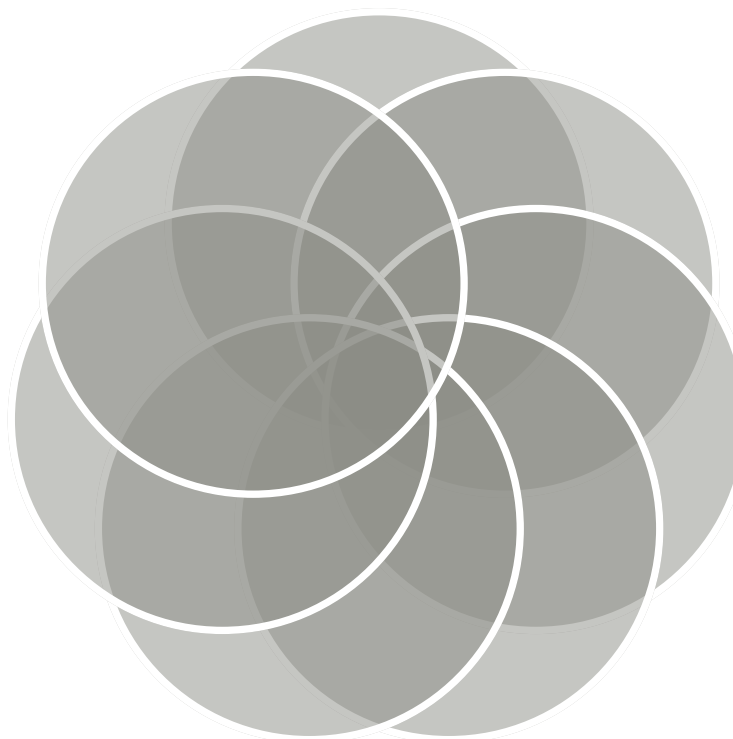
Use of intellectual  
property as a tool for  
socio-economic  
development;

awareness of  
intellectual property

The generation,  
protection,  
management and  
commercialization of  
IP assets in Namibia;

Build and strengthen  
capacity

balanced and  
accessible IP  
infrastructure



# Policy Objectives



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IP integration national development plans and sectoral development

Effective mechanism for policy coherence and coordination

Institutional Policies

Effective and comprehensive IP legal framework

promote cooperation in the field of IP

Strengthen institutional framework

Promote generation of IP assets

Effective protection of IP rights

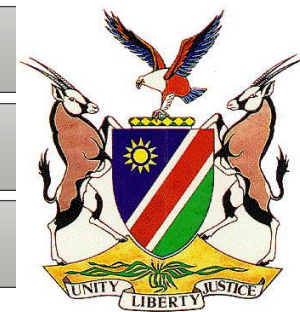
Support the commercialization of IP assets

Improve IP awareness

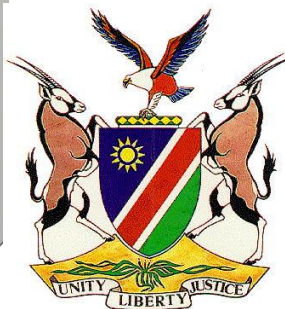
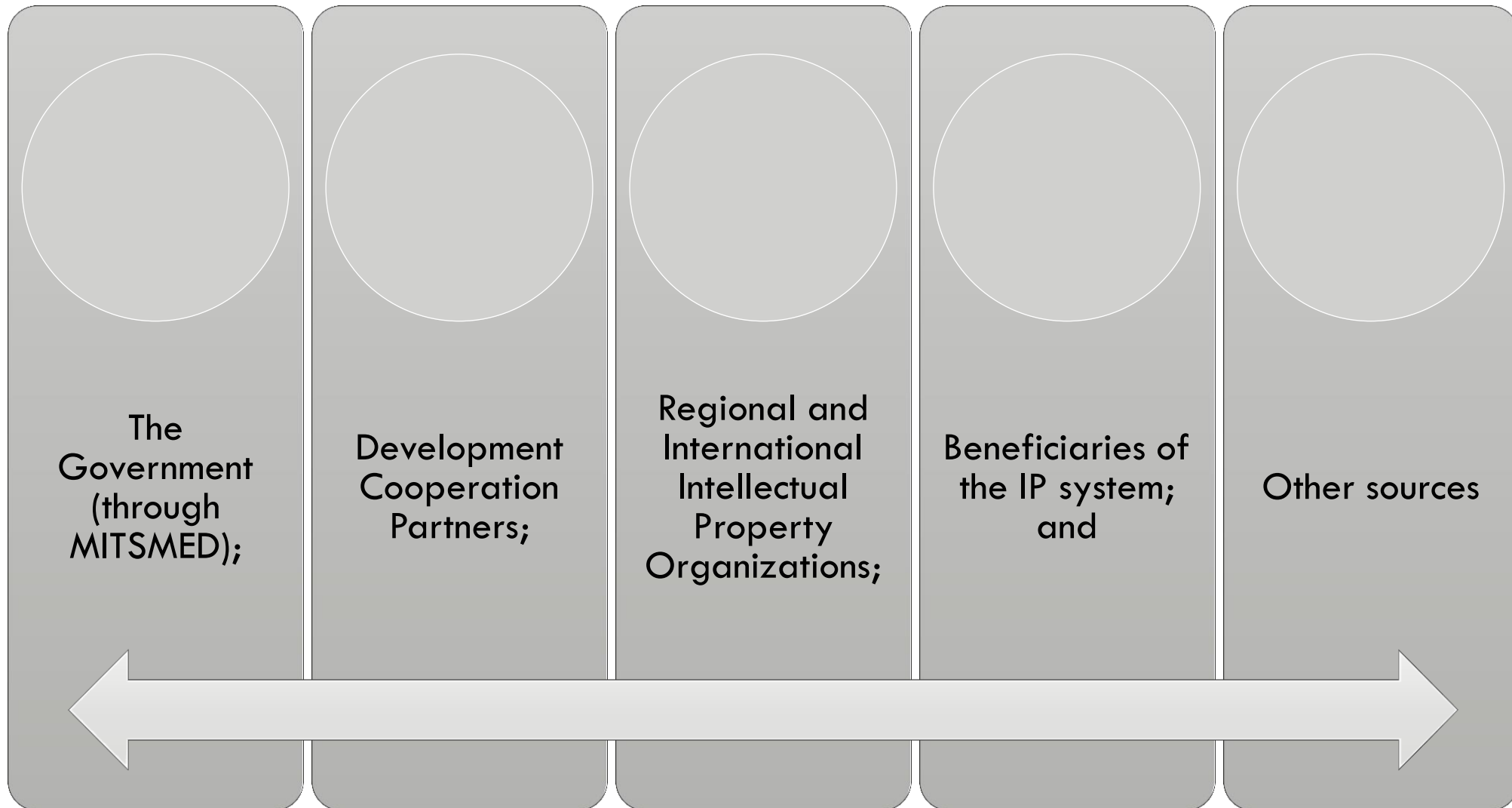
Strengthen enforcement of IP rights

Protection for Traditional Knowledge and Folklore

Value addition through IP



# Resources Mobilization



**BIPA-responsible for  
coordination of the IP  
implementation**



■ THANK YOU

