



# Economic Partnership Agreements and Intellectual Property Rights: Lessons and Challenges for the Southern African Development Community (SADC)

by

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# Outline of the presentation

- Introduction and Brief background
- Status of IPR in interim SADC EPA
- Analysis of the innovation chapter of the CARIFORUM EPA
- Lessons and recommendations for SADC EPA countries
- Conclusion





# Introduction and brief background

- Framework for EPAs
- Second phase of negotiations- IPRs? Consequences?
- Importance of IP and knowledge society





## Status of IPRs in the Interim SADC EPA

- December 2007, most ACP countries including SADC EPA states initialed 'goods only' IEPA
- EU's strategy: seek to strengthen IPRs in future bilateral agreements
- Does mandate come from Article 46 of IEPA?





# Analysis of IP provisions in the CARIFORUM EPA

- Context and objectives of innovation and IP chapter
  - Context : Article 1(1)
  - Objectives : Article 2
  - IP in EPAs and the Most Favored Nation (MFN)





# Analysis of IP provisions in the CARIFORUM EPA

## ○ Innovation section

- provides for cooperation in areas of competitiveness and innovation; science and technology; information society and ICT; eco- innovation and energy
- no substantive obligations





# Analysis of the IP Provisions in the CARIFORUM EPA

## ○ IP section

- Nature and scope of obligations
  - Article 1
- Innovation and technology transfer
  - Article 4
- Copyright and related rights
  - Article 5





# Analysis of IP provisions in the CARIFORUM EPA

- Geographical indications (GIs)
  - Article 7
- Traditional Knowledge and Genetic resources
  - Article 12
- Enforcement
  - Article 13-25







# Analysis of IP provisions in the CARIFORUM EPA

- Regional cooperation
  - Article 3 of both Innovation and IP sections
  - Article 27
- Plant variety protection
  - Article 11





# Lessons and recommendations for SADC EPA countries

- Implementation costs
- Positive elements
  - Explicit inclusion of innovation section
  - objective on promotion of innovation
  - EC's obligation on transfer of technology
  - Longer transition period for LDCs
  - mandatory disclosure requirements for genetic resources and TK used in patent application





# Lessons and recommendations for SADC EPA countries

## ○ Challenges

- Gap in aspirations in provisions and translation into operational language and specific obligations
- TRIPS- plus standards : WIPO internet treaties, UPOV Convention 1991 Act and the protection of GIs and enforcement.
- IP technical assistance and cooperation does not adopt a development perspective





# Lessons and Recommendations for SADC EPA countries

- SADC EPA countries have to be cautious
- consider including pro development areas :
  - obligations to promote R&D in health
  - flexibilities in IP instruments
  - limitations and exceptions for copyright
  - competition policy
  - access to knowledge





# Conclusion

- EC may insist on IP negotiations
- SADC EPA countries need to draw lessons from the CARIFORUM EPA IP provisions
- SADC EPA countries need to build capacity on innovation in order to defend IP interest in negotiations

