

CIPC Presentation to the Joint Portfolio Committees on Science & Technology and on Trade & Industry

01 March 2017



Companies and Intellectual
Property Commission
a member of **the dti** group

CIPC introduced

- CIPC is an agency of the Department of Trade and Industry
- Establishment in **May 2011** by the Companies Act 78 of 2008
- CIPC registers Companies and Intellectual Property Rights
- A merger between:
 - **CIPRO** (Companies and Intellectual Property Registration Office)
 - **OCIPE** (Office of Companies and Intellectual Property Enforcement)

IPLAA and DST Bill

- IPLAA shall mean Intellectual Property Laws Amendment Act, 2013 for purposes of this presentation
- While DST Bill shall mean Department of Science and Technology Indigenous Knowledge Systems Bill, 2014
- CIPC acknowledges the existing two legal instruments (IPLAA, 2013 and the DST Bill, 2014)
- CIPC supports the DST Bill and will collaborate with the Science and Technology Department to deal with implementation
- CIPC recognizes the importance and the need to have a workable indigenous knowledge system for the country

CIPC's mandate in Intellectual Property

- CIPC is a national Intellectual Property Office
- CIPC's legislative mandate is the registration of Patents, Designs, Cinematograph Films and Trademarks
- Relevant Legal framework:
 - Copyright Act, 1978 and Cinematograph Films Act, 1967
 - Trademarks Act, 1993 and Counterfeit Goods Act, 1997
 - Patents Act, 1978 and Designs Act, 1993

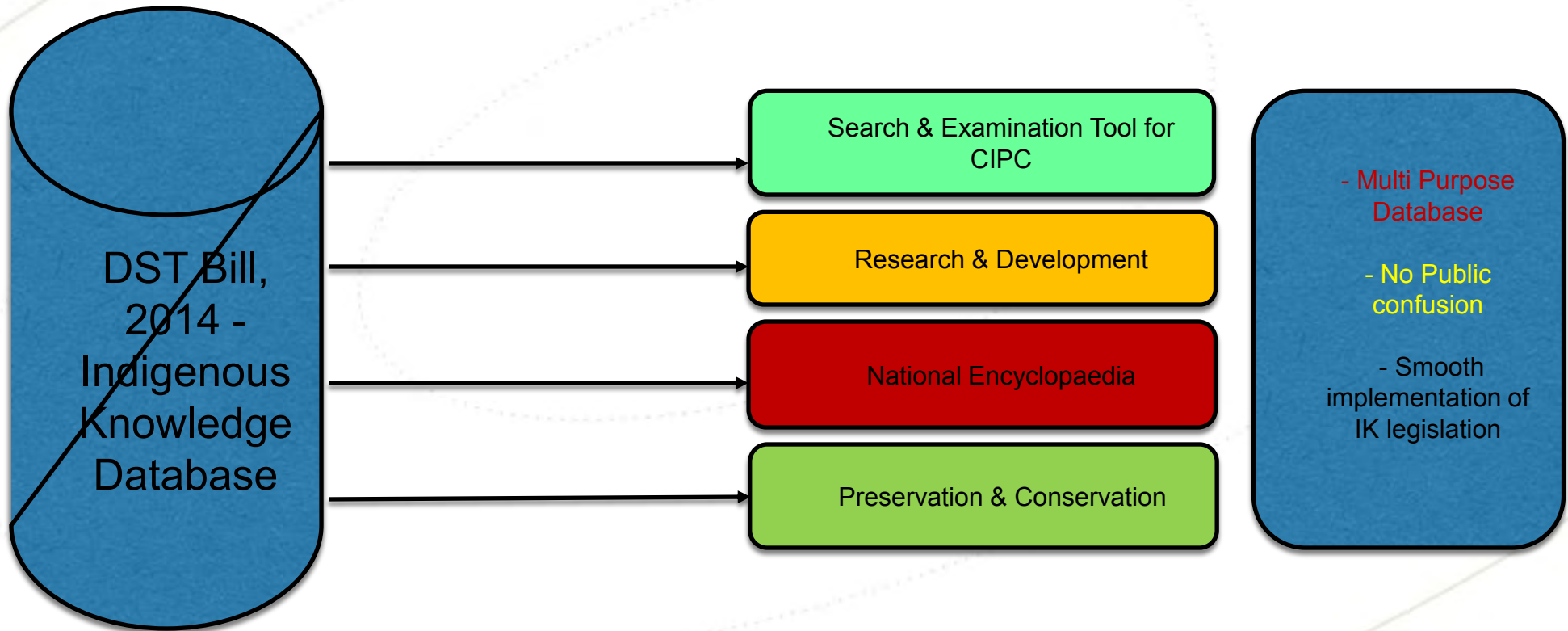
CIPC - Patent Amendment Act, 2005

- CIPC is currently implementing the Patent Amendment Act, 2005 which introduced Form P26
- The Form P26 requires applicant filing Patent with indigenous biological resource, indigenous knowledge and genetic resource to comply with the following:
 - Prior informed Consent
 - Disclosure of source of origin
 - Benefit sharing arrangement

CIPC- Patent Amendment Act, 2005

- In implementing the P26 FORM, CIPC did not develop a database for indigenous biological resource, indigenous knowledge and genetic resources
- The three requirements are declared legal requirements in the Patent Act for filing of patents with indigenous biological or genetic resource in accordance with Bio-Diversity Act, 2004
- Department of Environmental Affairs (DEA) is a key stakeholder in the implementation of this Patent Amendment Act and CIPC consults DEA when dealing with such patent applications

National Database



Implementation Approach

- Collaborate and work with DST
- Focus on registration of intellectual property having indigenous elements (derivative intellectual property) using the intellectual property system of protection – our area of mandate and expertise
- CIPC will adopt the same implementation approach for Patent Amendment Act, 2005
- To amend Cinematograph Film Act, 1977, Copyright Act, 1978, Trademarks Act, 1993 and Designs Act, 1993 to include three filing requirements (disclosure, prior consent and sharing arrangement)

Implementation Approach

- The recorded and preserved indigenous terms of cultural expressions in the DST Bill will be used as a point of reference for granting or refusing of designs, trademarks and films applications having indigenous knowledge elements
- CIPC's mandate will be limited to registration of derivative intellectual property and will not be involved in commercialization in the same manner as we are not involved in commercialization of any intellectual property right
- This implementation approach will have the effect of avoiding public confusion with regard to the mandate of the two spheres of government
- CIPC will have a separate identifiable register for all derivative intellectual property filings

Conclusion

- CIPC will collaborate with all government departments, institutions and agencies to ensure a simple workable indigenous knowledge system for South Africa
- The protection of indigenous knowledge remains a South African position at global forum such World Intellectual Property Organization (WIPO) and this domestic intervention is imperative

THANK YOU

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