IAJ THIRD STUDY COMMISSION QUESTIONNAIRE

November 11 2012- November 15 2012 Washington DC, USA

MOZAMBIQUE

TOPIC 2012

The infringement of copyright and other intellectual property rights, especially through the use of the internet

In today’s world the internet is an indispensable source of information to mankind. It is simply unimaginable how the world existed without it. The internet has been an important force in creating the global village and without it we would surely be at a loss.

In 1987 and 2003 the Third Study Commission discussed several aspects of organized crime, such as new methods of investigation and the gathering of evidence, safeguarding of human rights and the protection of witnesses. At the annual meeting in 2011 the Third Study Commission looked into another aspect of organized crime under the title “Organizations: Identification, Seizure and Forfeiture”. The Third Study Commission explored different legislative responses to what is considered to be a serious issue that transcends national borders.

This year the US Patent and Trade Office will host the IAJ annual conference. The questionnaire will enable the Third Study Commission - in cooperation with the US Patent and Trade Office - to examine whether, and how, legal systems of member countries cope with cybercrime relating to copyright and other intellectual property rights. The purpose of the questionnaire is to explore the extent to which member countries have implemented legislation that deals with this subject, and whether such legislation is effective in addressing these offences.

QUESTIONNAIRE

Question 1

- Does your country have specific legislation dealing with:

1.1. The violation of copyrights?

Yes. (Law nº4/2001 of 27th February)

1.2. Other intellectual property rights?

Yes. (Law nº4/2001 of 27th February)

1.3. If so, could you specify to what extent?
The Law of Rights of Author (Law nº4/2001 of 27th February) protects the literary works, artistic, scientific and the rights of the respective authors, artists, interpreters or executors, producers of phonograms, and videograms and the originals of broadcasting.

**Do specific rules exist for criminal investigation?**

Who violate the consecrated in the Law of rights of author, is subject to respond civil and criminally. The cases considered criminal, are foreseen in the Law of the rights of author and in the Penal Code. This are investigated by the Criminal Investigation Police as auxiliary to the Public Ministry, and the rules of investigation, are the same as provided for the investigation of any crime established in the Penal Process Code.

**1.4. If not, is any such legislation under consideration?**

The Penal Process Code.

**Question 2**

- **Does your country have specific legislation dealing with:**

  **2.1. Trademark**

  No.

  **2.2. Patent**

  No.

  **2.3 If so, do these laws include specific punitive measures?**

  No.

  Does not apply.

**Question 3**

- **Does your country have specific legislation dealing with:**

  **3.1. The protection of copyrights based on the use of internet?**

  No.

**Question 4**

- **Does your country have specialized agencies to investigate and identify the violation of copyrights and other intellectual property rights, especially through the use of the internet?**

  No.
Question 5

5.1. To what extent does your country have jurisdiction over issues of, for instance, intellectual property theft?

As exists the Law that protects the intellectual property, the common Courts have to know about the matter at any time the cases are presented, but the cybernetic crimes have no legislation.

5.2 Should the principle of universality apply for specific types of cybercrime relating to the infringement of copyright and other intellectual property rights?

There is no Cybernetic crimes Legislation in Mozambique.

5.3. Is there a need to establish rules of international criminal law to regulate these aspects of cybercrime?

We have no information to answer this question.

5.4. Should there be an international authority to handle the violation of copyright and other intellectual property rights through the use of the internet?

We have no information to answer this question.

Question 6

6.1. Did your country sign and/or ratify international agreements or treaties relating to the violation of copyright and other intellectual property rights through the use of the internet?

We have no information to answer this question.

6.2 Does your country participate in any other form of international cooperation relating to this subject?

We have no information to answer this question.

Question 7

7.1. Is it your opinion that your country could and/or should be more active in dealing with this issue?

Yes.

Question 8
8.1. Is it your opinion that you could and/or should be more active in dealing with this issue as a judge?
Yes.

8.2. Do you have sufficient means – instruments and qualifications – to address the violation of copyright and other intellectual property rights through the use of the internet?
No.

8.3. Is addressing this issue in Court considered to be a specialisation?
No.

Question 9

Is there any other comment on the subject that you would like to make?
No.

The Presidency of the Third Study Commission looks forward to receiving your answers in a timely manner.

On behalf of the Commission,

Frans G. Bauduin – President,

March 2012.