

ARIPO's EXPERIENCE ON THE PROTECTION OF TRADITIONAL KNOWLEDGE, FOLKLORE AND GENETIC RESOURCES

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<http://www.aripo.org>

OUTLINE OF PRESENTATION

- **DEVELOPMENT OF POLICY AND LEGAL FRAMEWORK**
- **SWAKOPMUND PROTOCOL ON TK AND FOLKLORE AND IMPLEMENTATION STRATEGY**
- **NATIONAL EFFORTS IN TK, GR AND FOLKLORE PROTECTION AND UTILIZATION**
- **THE WAY FORWARD**

ARIPO MANDATE ON GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE – 2002

LEGISLATIVE
DEVELOPMENT
Regional Level
National level

DOCUMENTATION
OF TK AND
FOLKLORE

CAPACITY
BUILDING AND
AWARENESS
CREATION

2003-2008



2005-2009



on-going

TK PRESERVATION AND UTILIZATION

RATIONALE FOR DEVELOPING THE ARIPO SWAKOPMUND PROTOCOL

- To provide a legal framework that empowers TK holders to utilize their resources for socio-economic development
- To prevent misappropriation and prevent illicit grant of patents
- Need to address trans-boundary TK /folklore in Africa
- Provide a model for national legislative development and as an African position framework for the IGC Process

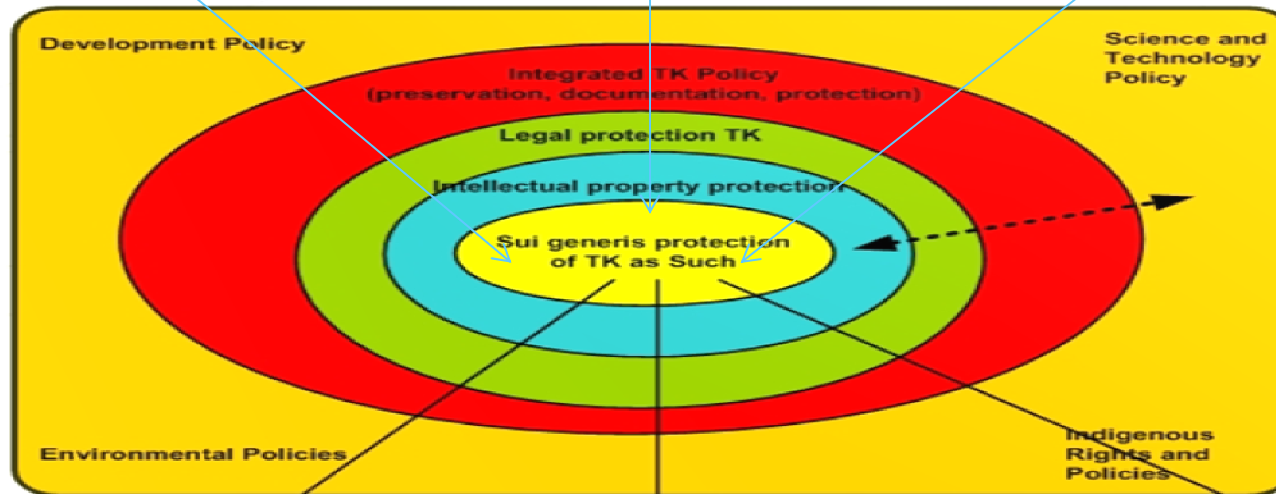
ARIPO POLICY FRAMEWORK FOR TK PROTECTION

June 2004

Traditional governance and legal systems

Nature and Characteristics of the knowledge

Inadequacy of the conventional IP system



Core Principles

- Principle of holistic recognition
- Principle of equity
- Principle of prior informed consent
- Principle of moral and economic right
- Principle of fair competition
- Principle of ordre public and morality
- Principle of safeguarding and promoting customary uses

Guiding Principles

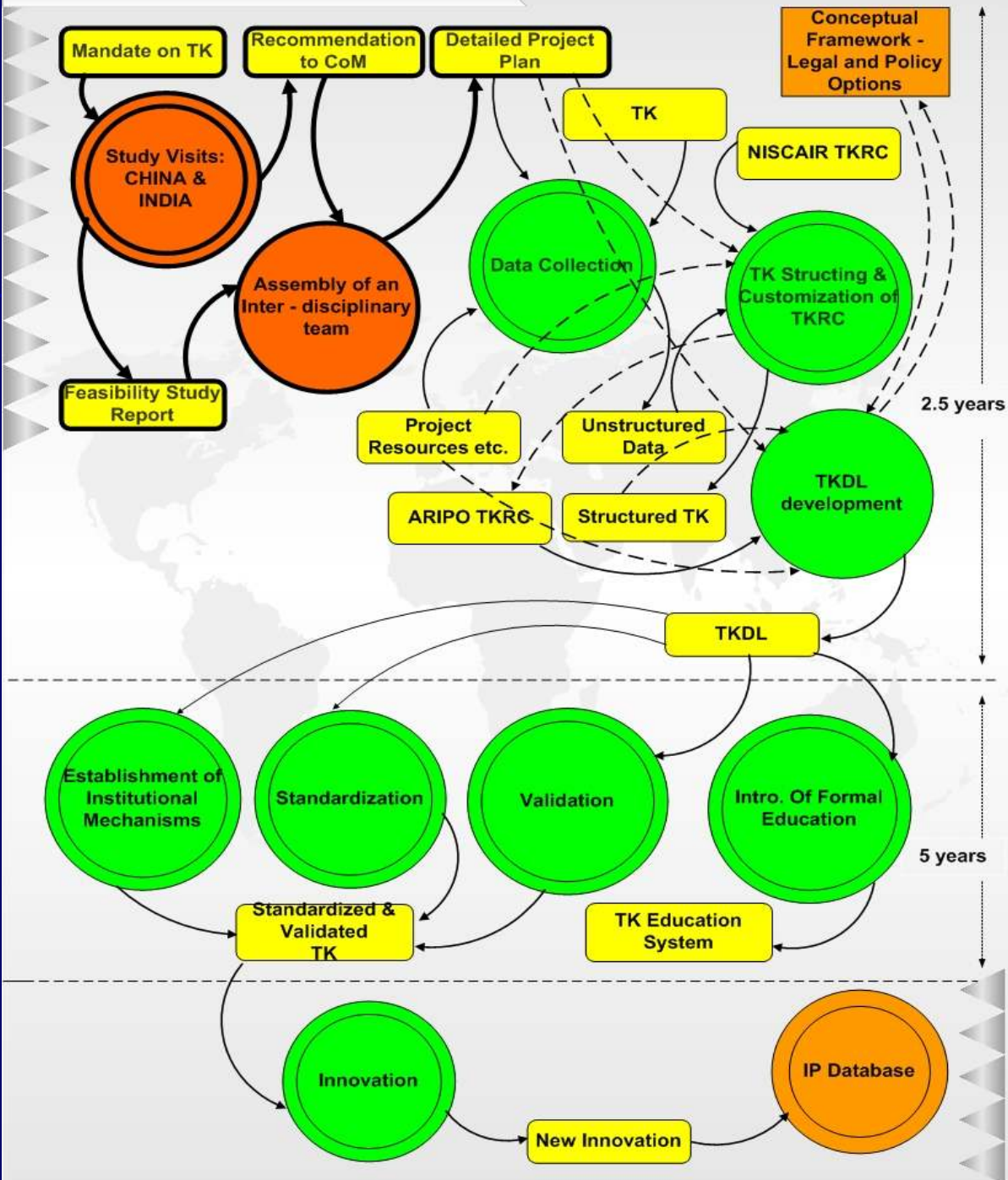
- Promotion of Individual Innovation and Creative works derived from creative works
- No one-size-fit all approach
- Full participation of all stakeholders in protection mechanisms
- Promotion of International and regional cooperation for benefit sharing

Institutional Mechanisms

- Developing strategies for awareness campaign
- Repackaging technological information for innovation promotion
- Developing educational programs for TK holders and stakeholders
- Offering tailor-made courses at the Regional Training Centre for targeted stakeholders

ARIPO IMPLEMENTATION ROAD MAP

04 June 2004



ARIPO POLICY AND LEGAL FRAMEWORK ON ABS

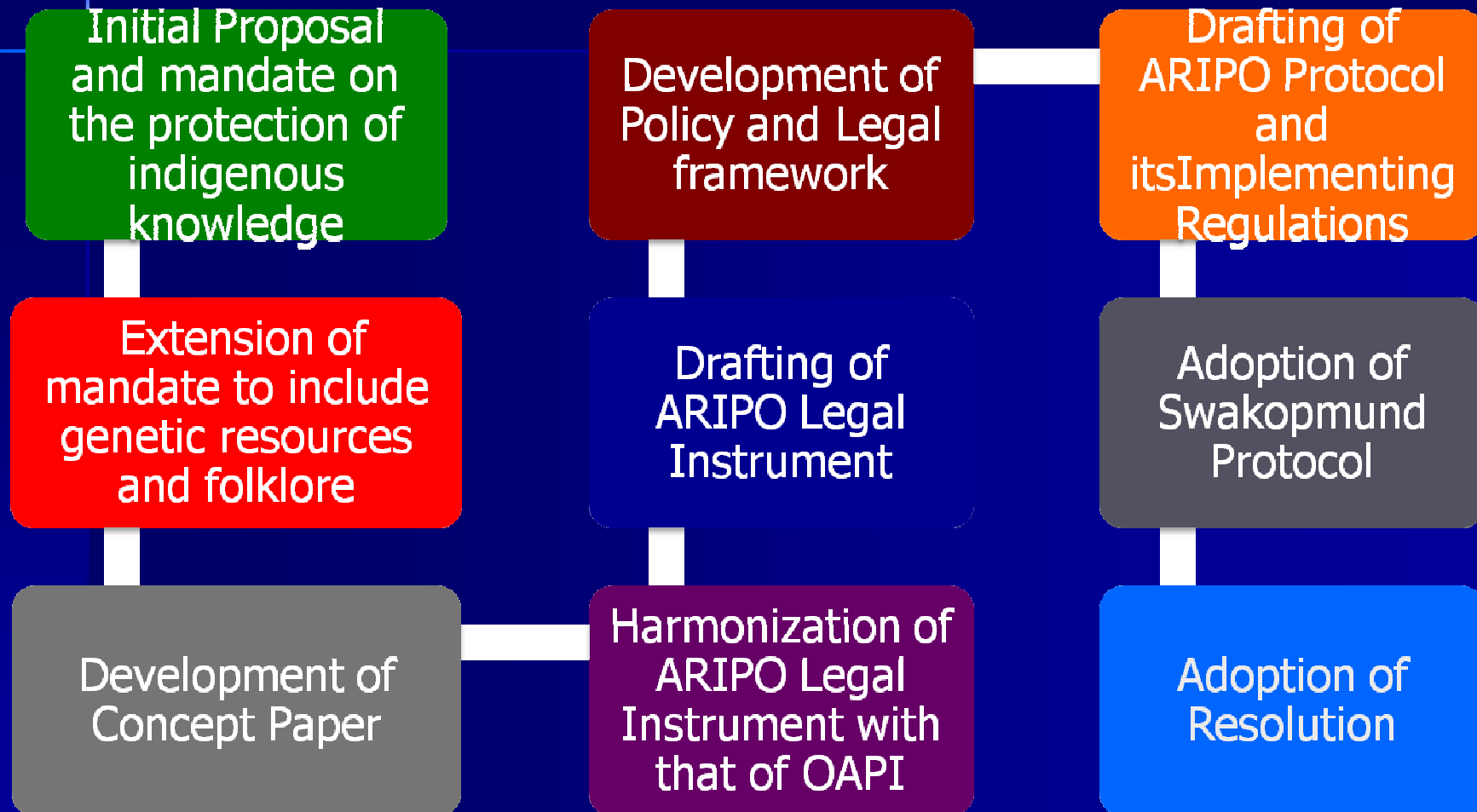
- Development of regional policy and legal framework for ABS for implementation by the Member States of the Organization
 - *Objectives and Principles*
 - *Policy options and strategies*
 - *Institutional Structures*
- Linkage of such initiative with those of CBD, FAO, UPOV and other International and regional organizations



DEVELOPMENT AND ADOPTION OF ARIPO SWAKOPMUND PROTOCOL ON TRADITIONAL KNOWLEDGE AND EXPRESSIONS OF FOLKLORE



A DECADE OF LEGISLATIVE DEVELOPMENT



CORE ELEMENTS OF THE PROTOCOL

- Defines TK, Folklore and beneficiaries (includes recognized individuals)
- Provides positive or exclusive rights for holders
- Provide scope of protection and eligibility conditions
- Provides for the protection of trans-boundary TK and Folklore
- Does not require formalities and protects TK/Folklore in perpetuity
- Provides for PIC and MAT (including IP clauses)

CORE ELEMENTS OF THE PROTOCOL

- Establishes registration system at national and regional levels
- Establishes National Competent Authorities for implementation of the Protocol
- Provides for Dispute Settlement Mechanisms
- Recognizes Customary Laws and Protocols
- States that “authorization to access protected TK associated with GR shall not imply authorization to the GR derived from

ACHIEVEMENTS

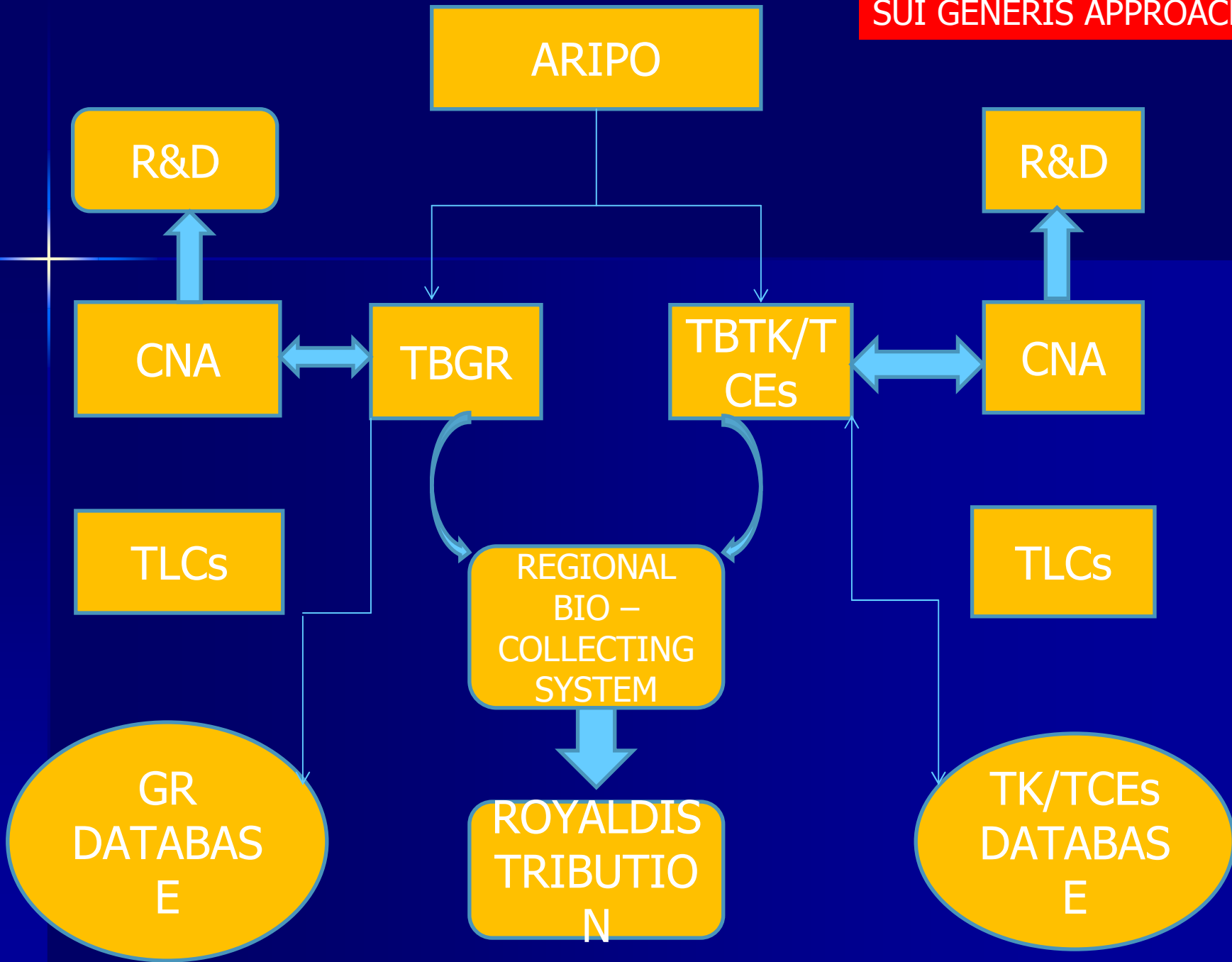
- ADOPTION OF THE SWAKOPMUND PROTOCOL
- ADOPTION OF THE IMPLEMENTING REGULATIONS
- PREPARATION OF EXPLANATORY GUIDE TO THE PROTOCOL AND REGULATIONS
- TRANSLATION OF THE PROTOCOL INTO FRENCH, PORTUGUESE AND ARABIC
- PUBLICATIONS OF MATERIALS

LEGAL INSTRUMENTS FOR THE IMPLEMENTATION OF THE MANDATE ON TK AND FOLKLORE



*STRATEGIES FOR IMPLEMENTING THE
SWAKOPMUND PROTOCOL*

SUI GENERIS APPROACH



NEXT STEPS

- Ratification/Accession to the Protocol
 - High level Missions
- Development of national policies and legislations using the Protocol as a model
 - IP offices to kick-start the process
- Establishment of Competent National Authorities/Appropriate Authorities
 - Council of Ministers to initiate the process
- Awareness creation and capacity building
 - ARIPO to modalities for awareness creation among TK holders

- Identification and development of projects to empower knowledge holders and community development
- Swakopmund Protocol and Outcome of the IGC process and Nagoya Protocol
- Recruitment of one Professional Staff to deal with TK matters

NATIONAL EFFORTS

- POLICY AND LEGISLATIVE DEVELOPMENT – Kenya, Zambia, Zimbabwe, Sudan, Mozambique, Botswana, Namibia, Rwanda, Tanzania,
- ESTABLISHED R&D INSTITUTIONS – Ghana, Swaziland, Zimbabwe, Botswana, Kenya
- ACADEMIC PROGRAMMES ON TK – Ghana, Zimbabwe
- VALUE ADDITION AND TK UTILIZATION – Ghana, Lesotho, Gambia, Kenya, Zimbabwe, Swaziland
- IP PROTECTION OF TK AND FOLKLORE – Ghana, Lesotho, Zimbabwe,
- DOCUMENTATION INITIATIVES ?

OUR CORPORATE DELIVERABLES

TK, GR & Folklore

- Establishment of National Competent Authorities
- Recordal of National TK, Folklore
- Registration of trans-boundary TK and Folklore
- PIC, MAT and Benefit sharing
- Licensing Agreements
- Dispute Settlements

ABS/GR

ABS guidelines developed
PIC, MAT and Benefit Sharing
Inventorization of useful plants

Implementation of
ARIPO's mandate on TK,
GR and Folklore

PLANT VARIETY PROTECTION

To protect new varieties of plants

TKDL

Codification of oral TK
Prior Art Search Tool
Framework for innovation and value addition
Standardization and validation
Knowledge transfer

THE WAY FORWARD

- Support for the establishment and implementation of national policy and legal frameworks
- The need to build institutional structures to promote the value addition of the resources
- The IGC inertia and urgent need for international legal instruments

***Thank You For
Listening!***



ARIPO's EXPERIENCE IN THE USE OF CONVENTIONAL IP SYSTEM FOR PROTECTION OF TRADITIONAL KNOWLEDGE, FOLKLORE AND GENETIC RESOURCES

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OUTLINE OF PRESENTATION

- BRIEF INTRODUCTION OF ARIPO AND ITS ACTIVITIES
- STRATEGIES FOR USING IP SYTEM FOR THE PROTECTION OF TK, GR AND FOLKLORE
- NEXT STEPS

ARIPO LEGAL INSTRUMENTS

LUSAKA AGREEMENT

Adopted 1976

**DEVELOPMENT AND
HARMONIZATION OF IP
LAWS**

**TO PROMOTE AND EVOLVE
COMMON VIEWS AND
APPROACH ON IP MATTERS**

**TO FOSTER CLOSE
COOPERATION AMONG THE
MEMBER STATES**

**FACILITATE TECHNOLOGY
TRANSFER AND
DEVELOPMENT OF
APPROPRIATE TECHNOLOGY**

**UNDERTAKE CAPACITY
BUILDING, AWARENESS
CREATION AND RESEARCH
STUDIES**

**TO PROMOTE THE
DEVELOPMENT OF
COPYRIGHT , GENETIC
RESOURCES, TK**

AND FOLKLORE

HARARE PROTOCOL

Adopted 1982

**TO REGISTER AND
ADMINISTER THE
FOLLOWING IP
TITLES –;**

PATENTS

UTILITY MODELS

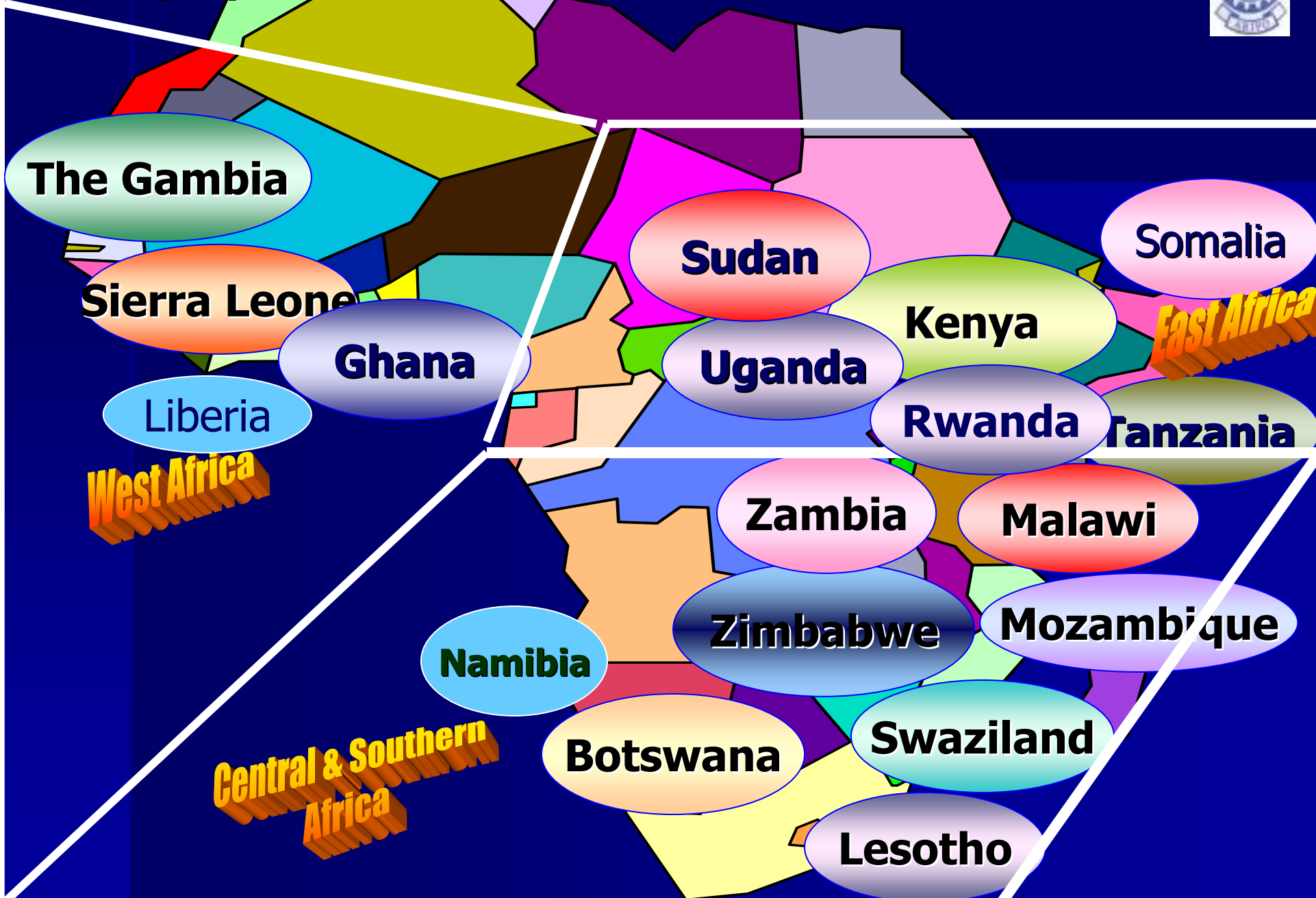
**INDUSTRIAL
DESIGNS**

BANJUL PROTOCOL

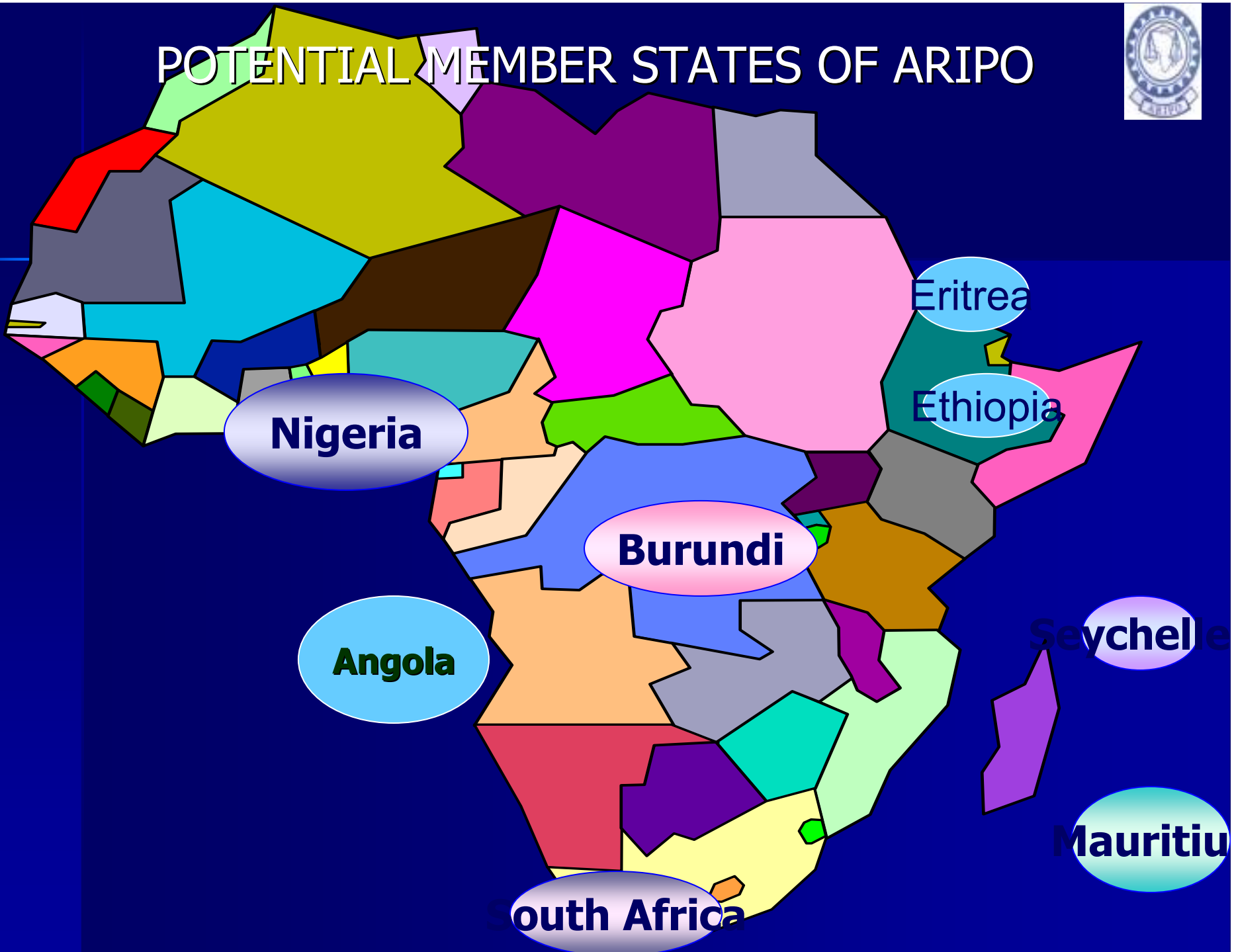
Adopted 1993

**TO REGISTER
AND
ADMINISTER
TRADMARKS
AND SERVICE
MARKS**

Geographical Distribution of Member States of ARII



POTENTIAL MEMBER STATES OF ARIPO



Nigeria

Angola

South Africa

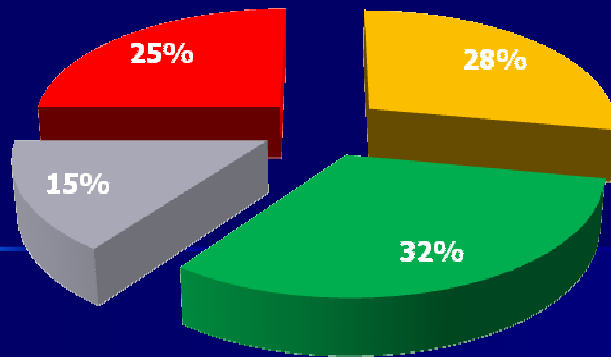
Burundi

Eritrea

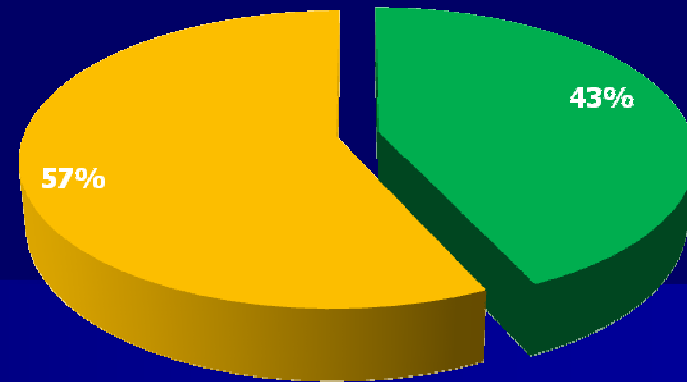
Ethiopia

Seychelle

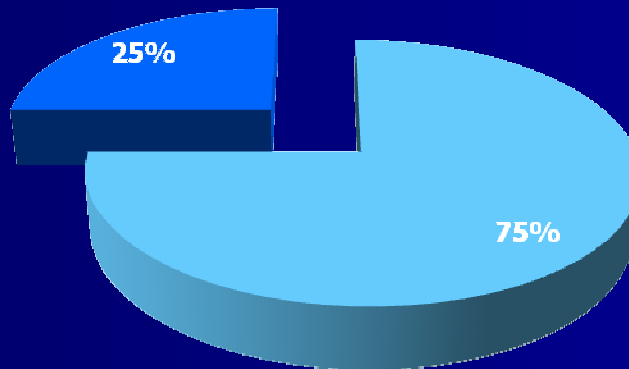
Mauritius



ARIPO ARIPO POT M/S OAPI REST

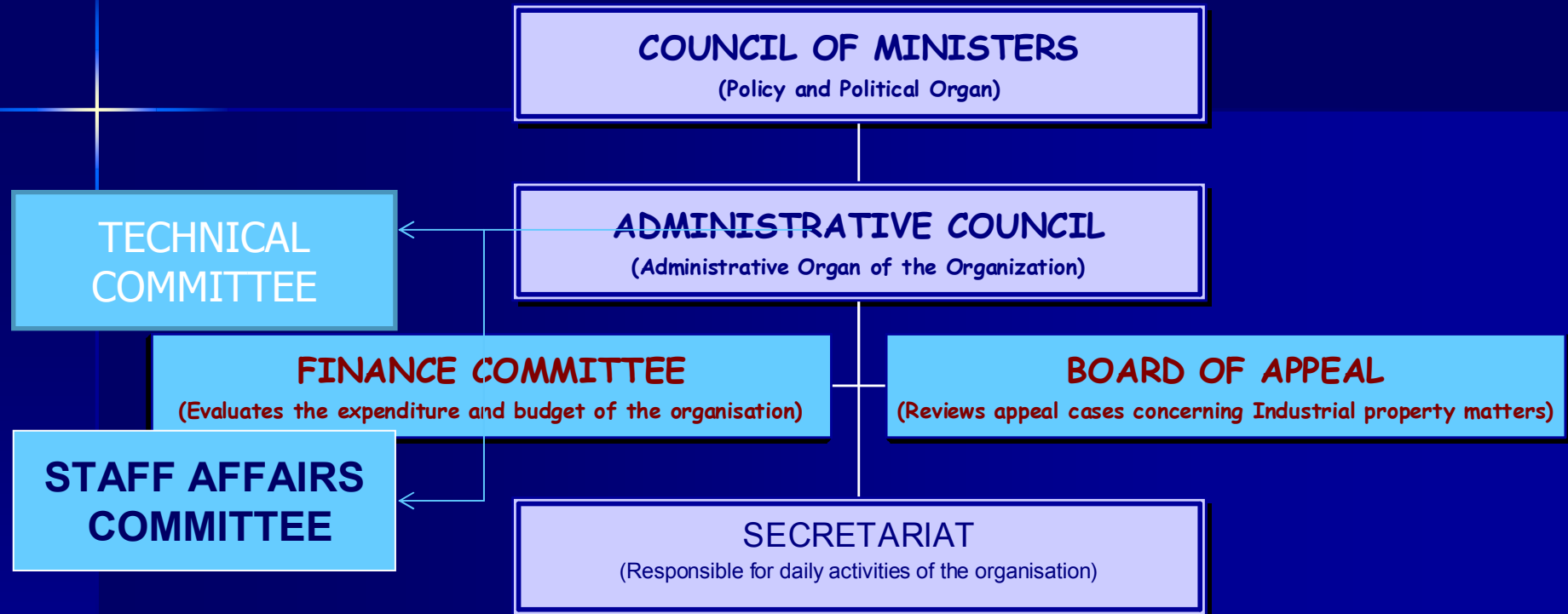


OAPI & ARIPO REST



ARIPO/OAPI/POT M/S REST

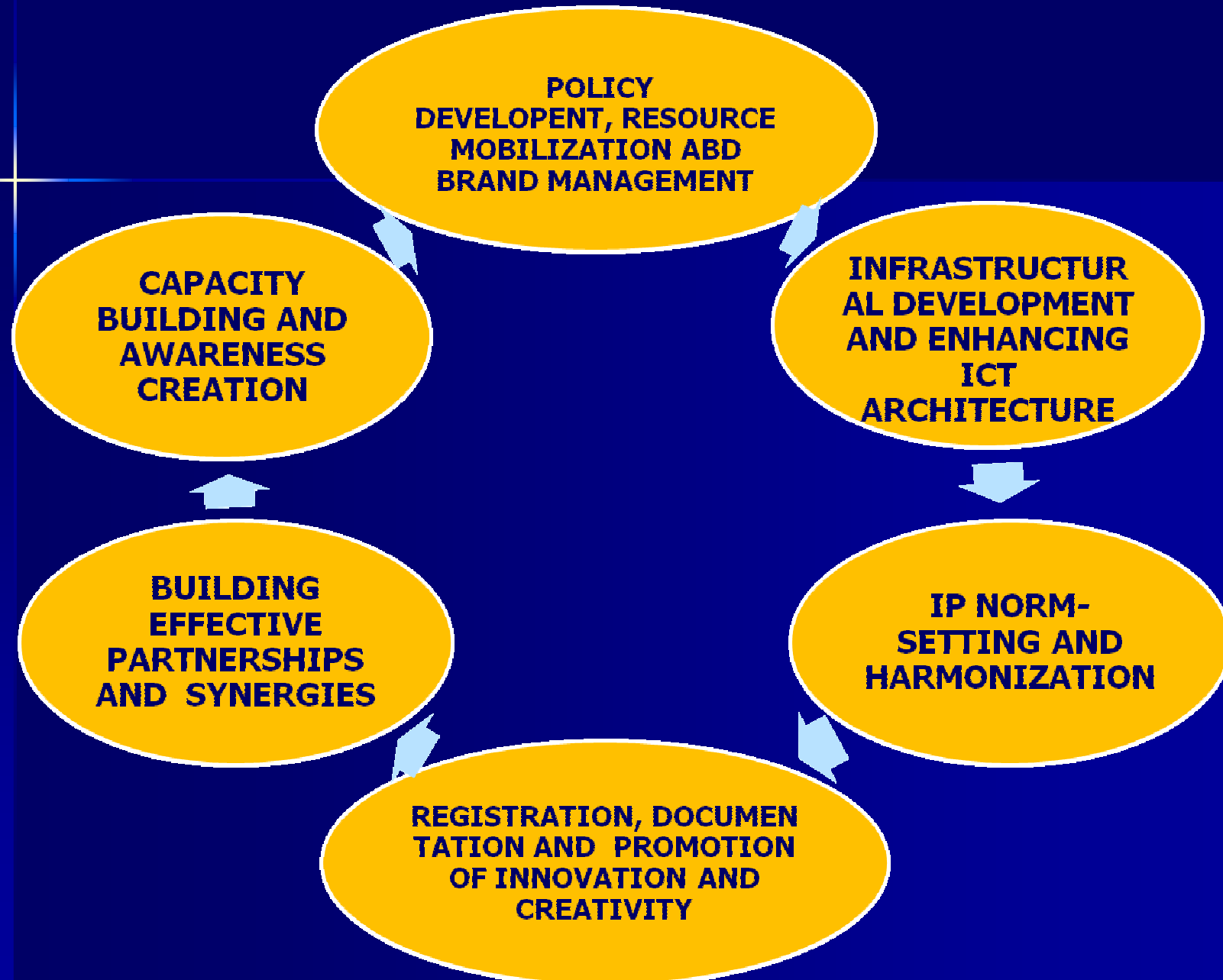
ORGANS OF ARIPO



- Ministers responsible for IP matters – IP High Level Forum for Decision Making on Policy Issues;
- Administrative Council – Forum for IP Experts to determine development of IP;
- Committees and Board of Appeal – for specialized functions ;

Secretariat – day to day operations of the Organization on IP matters

ARIPO STRATEGIC GOALS



CAPACITY BUILDING PROGRAMMES OF THE ARIPO ACADEMY

CUSTOMISED TRAINING PROGRAMMES

- Plant Variety Protection
- Industrial Property issues
- Copyright
- Biodiversity
- TK and Folklore
- Enforcement
- IP and SMEs
- IP and Public Health

- Governmentt Officials
- Private Sector
- Judiciary
- Universities , R&D institutions
- SMEs

ACADEMIC PROGRAMMES

- Joint WIPO-ARIPO-Africa University Masters in IP Programme (one of the modoles is on Plant Variety Protoection)
- Have introduced DL 205

- Planning to launch 2 MIP programmes in East and Wstt Africa

- Will soon establish Ph D programme at the Africa University

E-LEARNING

Developing e-learning facilities to launch e-learning programmes

*STRATEGIES FOR USING
CONVENTIONAL IP SYSTEM FOR THE
PROTECTION OF TK, FOLKLORE AND
GR*

CONVENTIONAL IP APPROACH

Traditional Medicine

Practice of TM

Products of TM

Copyright

Trademarks

Codified

Non-Codified and Innovation

Not sold PTM

Sold PTM

Patents ID, UM

Secrecy Regime

Regulations for the Protection of TM Products

Next steps

- Amended the Harare Protocol to take into account TK
- Come up with a comprehensive TM elements that can be protected under the existing IP system
- Exploring ways of encouraging TK holders to use Trademarks, industrial designs, patents, utility models and GIs to protect aspects of TK
- Undertaking documentation of undisclosed TK for positive protection

***Thank You For
Listening!***



THE HEADQUARTERS OF ARIPO

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