



REPUBLIC OF SOUTH AFRICA



Regional Seminar for Certain African Countries on the Implementation and Use of Several Patent-Related Flexibilities

***Topic 7: Flexibilities Related to the Definition of Patentable
Subject Matter***

**Durban, South Africa
January 29 to 31, 2013**



REGIONAL SEMINAR FOR CERTAIN AFRICAN COUNTRIES ON THE IMPLEMENTATION AND USE OF SEVERAL PATENT-RELATED

FLEXIBILITIES **TOPIC 7: *FLEXIBILITIES RELATED TO THE DEFINITION OF PATENTABLE SUBJECT MATTER***

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*Durban, South Africa
January 29 to 31, 2013*

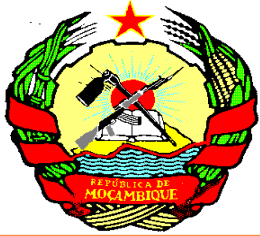


MOZAMBICAN INDUSTRIAL PROPERTY CODE, ART. 24; 30 & TRIPS, ART. 27



Industrial Property Code	TRIPs Agreement
<p>1. An invention shall be patentable if it is new, if it involves an inventive activity and if it is capable of industrial application.</p>	<p>1. subject to the provisions of paragraphs 2 and 3 patents shall be available for any <u>inventions</u>, whether products or processes, in all field of technology, provided that they are new, involve an inventive step and are capable of industrial application</p>
<p>2.The following are excluded from patent protection: a) That which is contrary to morality, <i>bonos mores</i>, <i>public safety</i>, <i>public order and public health</i>;</p>	<p>2. Members may exclude from patentability inventions that a contrary to <u>ordre public or morality...</u></p>





MOZAMBICAN INDUSTRIAL PROPERTY CODE, ART. 24; 30 & TRIPS, ART. 27



Industrial Property Code

2. The following are excluded from patent protection:

b) All or part of living beings, although microbiological processes and products obtained from such processes are patentable.....

g) Methods of surgical, therapeutic or diagnostic treatment applicable to the human body or animals, although the products, substances or compositions used in any of such methods shall be patentable;

TRIPs Agreement

3. Members may also exclude from patentability:

a) Diagnostic, therapeutic and surgical methods (human or animals)

b) Plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes.



PATENTABLE SUBJECT MATTER- MOZAMBICAN INDUSTRIAL PROPERTY CODE, ART. 24; 30 & TRIPS, ART. 9



Industrial Property Code

The following shall not be considered inventions for the purposes of this diploma:

- a) Scientific theories and mathematical methods;
- b) Discoveries aimed at making known or revealing something which already exists naturally, notwithstanding that it was heretofore unknown to man;
- c) Systems, plans, rules and methods for the performance of purely intellectual activities, playing games or economic activities;
- d) Computer programs;
- e) Aesthetic creations and artistic or literary works;
- f) Presentation of information;
- h) Substances, materials, mixtures, elements or products of any type resulting from atomic nuclear transformation, as well as the modification of their physical and chemical properties and the respective processes for obtaining or modifying them.

TRIPs Agreement

Art. 9 (2) Copyright protection shall extend to expressions and not to ideas, procedures, methods of operation or mathematical concepts as such.

Art. 10 computer programs, whether in source or object code, shall be protected as literary works under the Berne Convention (1971)





Patentable Subject Matter- Mozambican Industrial Property Code, Art. 24



An invention shall be patentable if it is new, if it involves an inventive activity and if it is capable of industrial application.

Requirements of patentability

- Novelty
- Inventive Step
- Industrial Application



Patentable Subject Matter- Mozambican Industrial Property Code, Art 30



- 1. The following shall not be considered as invention:
 - a) Scientific theories and mathematical methods;
 - b) Discoveries aimed at making known or revealing something which already exists naturally, notwithstanding that it was heretofore unknown to man;
 - c) Systems, plans, rules and methods for the performance of purely intellectual activities, playing games or economic activities;



Patentable Subject Matter- Mozambican Industrial Property Code, Art 30



Not Considered as inventions (cont.):

d) Computer programs;

e) Aesthetic creations and artistic or literary works;

f) Presentation of information;



Protected under copyright law



Patentable Subject Matter- Mozambican Industrial Property Code, Art 30



Not considered as inventions (Cont.):

g) Methods of surgical, therapeutic or diagnostic treatment applicable to the human body or animals, although the products, substances or compositions used in any of such methods shall be patentable;

h) Substances, materials, mixtures, elements or products of any type resulting from atomic nuclear transformation, as well as the modification of their physical and chemical properties and the respective processes for obtaining or modifying them.



Patentable Subject Matter- Mozambican Industrial Property Code, Art 30



2.The following are excluded from patent protection:

a)That which is contrary to morality, *public order and public health*;

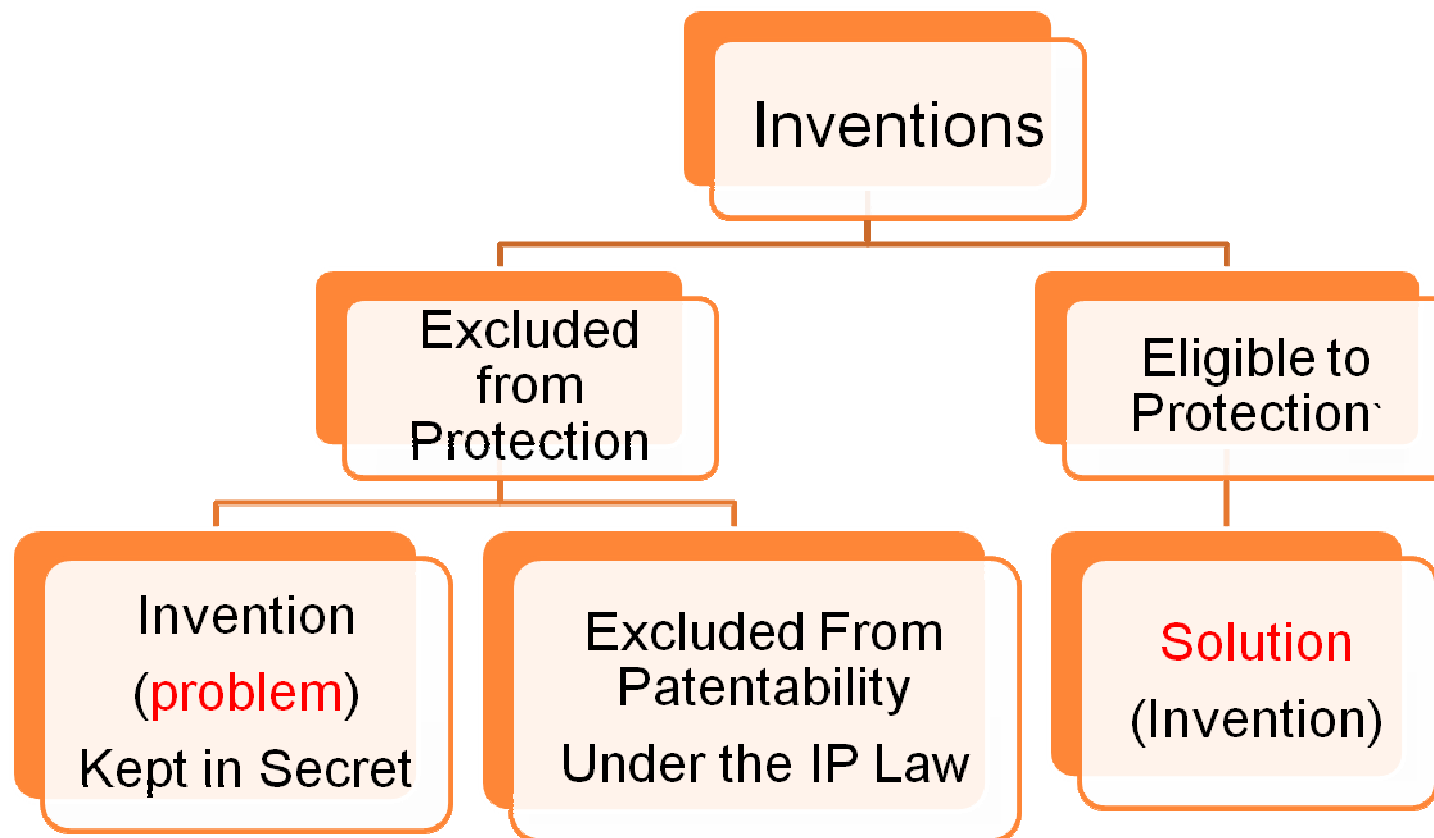
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Access to Genetic Resources and Benefit Share-ABS
Nagoya Protocol & Decree 19/2007



ETHICAL LIMITS TO PATENTABILITY





Thank you!

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