



INTRODUCTION TO THE ARIPO PATENT SYSTEM AND PROCEDURES

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Making better use of Intellectual Property for business competitiveness and development in Africa



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Overview of ARIPO



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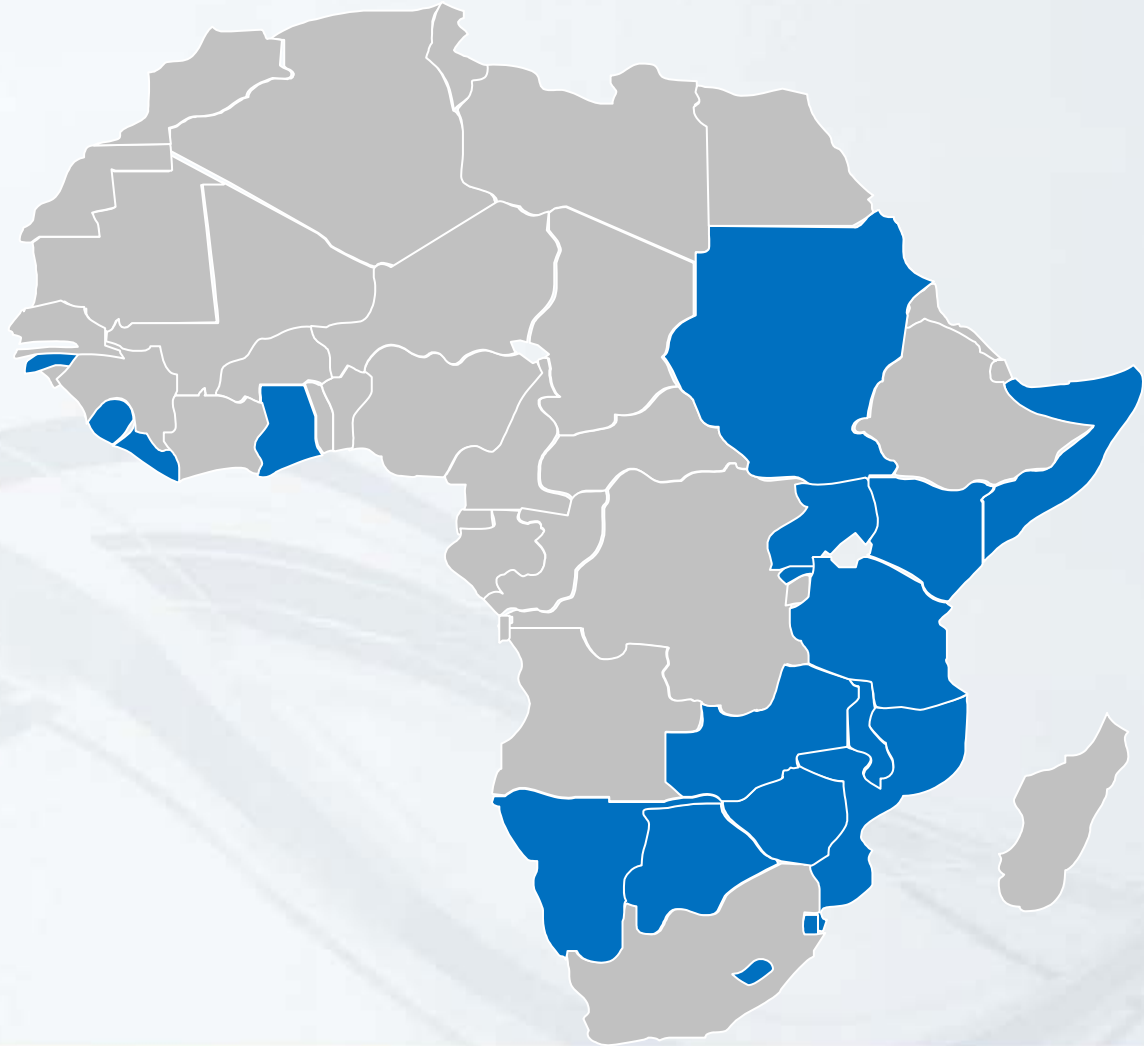
I. The Organization

- **ARIPO**: African Regional Intellectual Property Organization
- Established: December 9, 1976 (as ESARIPO)
- Instrument of creation: Lusaka Agreement (in Zambia)
- Name change to ARIPO(Industrial Property): December 1985
- Name change to ARIPO(Intellectual Property): August 2002
- Member States (19): Botswana, Ghana, Kenya, Lesotho, Liberia, Malawi, Mozambique, Namibia, Rwanda, Sao Tome & Principe, Sierra Leone, Somalia, Sudan, Swaziland, The Gambia, Uganda, United Republic of Tanzania, Zambia and Zimbabwe



II. Membership of The Organization (1)

- Botswana
- Gambia
- Ghana
- Kenya
- Liberia
- Lesotho
- Malawi
- Mozambique
- Namibia
- Rwanda
- Sao Tome & Principe
- Sierra Leone
- Somalia
- Sudan
- Swaziland
- Tanzania
- Uganda
- Zambia
- Zimbabwe



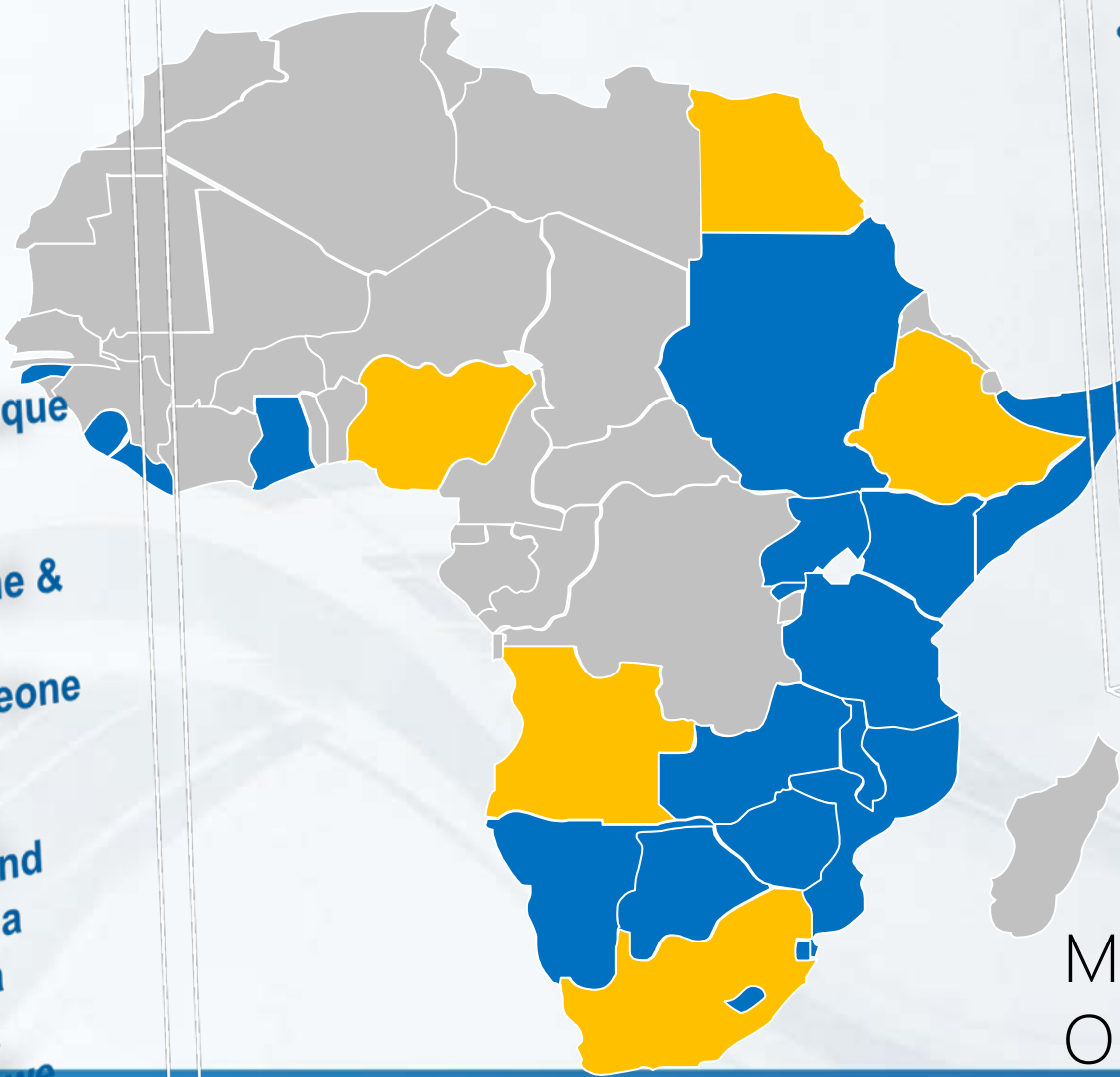
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
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II. Membership of The Organization (2)

- Botswana
- Gambia
- Ghana
- Kenya
- Liberia
- Lesotho
- Malawi
- Mozambique
- Namibia
- Rwanda
- Sao Tome & Principe
- Sierra Leone
- Somalia
- Sudan
- Swaziland
- Tanzania
- Uganda
- Zambia

- Angola
 - Burundi
 - Egypt
 - Eritrea
 - Ethiopia
 - Mauritius
 - Nigeria
 - Seychelles
 - South Africa
- = 9



Member States 
 Observer States 



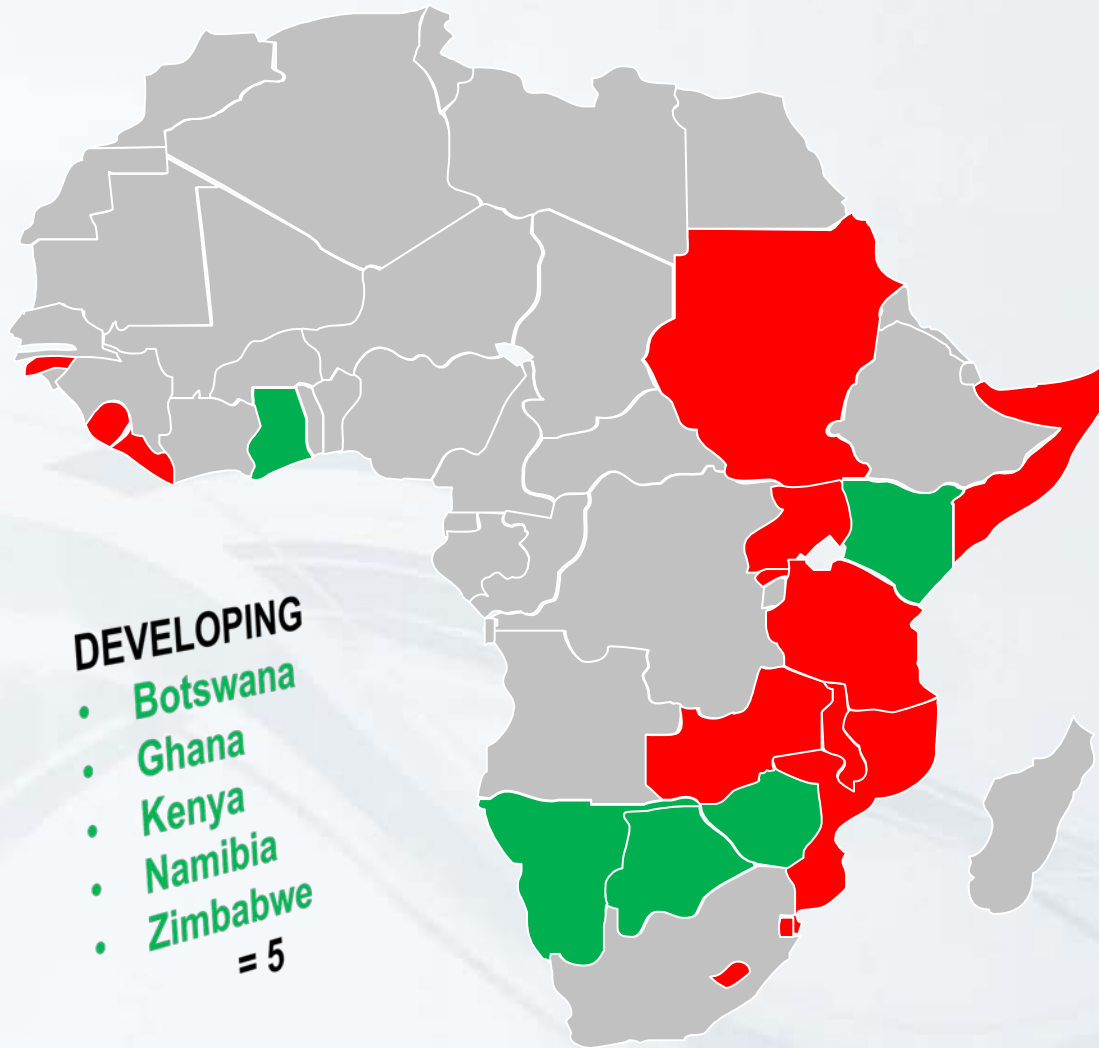
Zimbabwe
= 19

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III. ARIPO MEMBER STATES POSITION IN THE GLOBAL MARKET

- **LEAST DEV'D**
- Liberia
- Lesotho
- Malawi
- Mozambique
- Rwanda
- Sao Tome & Principe
- Sierra Leone
- Somalia
- Sudan
- Swaziland
- Tanzania
- Uganda
- Zambia = 14

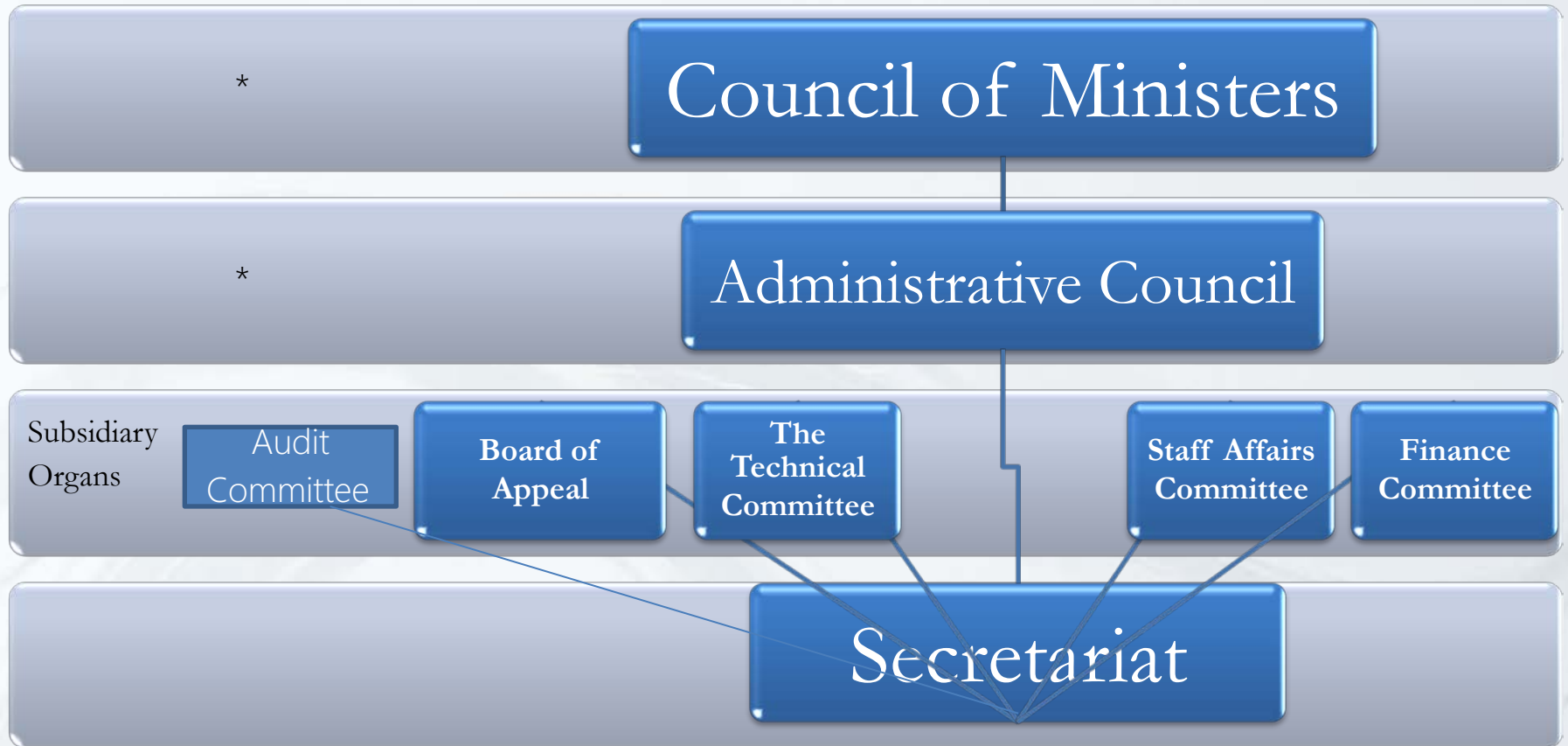
- **DEVELOPING**
- Botswana
- Ghana
- Kenya
- Namibia
- Zimbabwe = 5



LDCs 
DCs 



IV. ARIPO Organs



V. Objectives of the Organization

Purpose:

Pooling of resources together for promotion, development and harmonization of IP laws and policies.

Objectives:

- Promotion, harmonization and development of IP;
- Establish common services and organs for IP coordination; development and harmonization;
- Establish IP training schemes;
- Organize conferences, seminars and meetings on IP;
- Promote exchange of ideas and research on IP;
- Promote a common view and approach in dealing with IP matters;
- Support members in acquisition of IP based technologies;
- Development of Copyright systems for the economic benefit of its member states.



VI. ARIPO MANDATE

Patents and Utility Models

Industrial Designs

Trademarks

TK and folklore

Harare Protocol (1982)

Harare Protocol (1982)

Banjul Protocol (1993)

Swakopmund Protocol (2010)

Copyright

Access and Benefit Sharing

Geographical Indications

Plant Variety Protection

VIII Session Council
Min – 2002, Malawi

Draft Guidelines for ABS

Regional Framework?

Arusha Protocol (2015)



The Harare Protocol



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The Harare Protocol

- **Adopted in 1982 (entered into force in 1984)**
- **Empowers ARIPO to grant patents and register utility models and industrial designs on behalf of Member States**
- **Duration of rights:**
 - **Patents - 20 years;**
 - **Industrial designs – 10 years;**
 - **Utility models – 10 years**
- **Membership: All member States of ARIPO (except Somalia)**

32 years
of Harare
Protocol!





ARIPO Member States Party to the Harare Protocol

- Botswana
 - Gambia
 - Ghana
 - Kenya
 - Liberia
 - Lesotho
 - Malawi
 - Mozambique
 - Namibia
 - Rwanda
 - Sao Tome & Principe
 - Sierra Leone
 - Sudan
 - Swaziland
 - Tanzania
 - Uganda
 - Zambia
 - Zimbabwe
- = 18**



The link between the Harare Protocol and the PCT



- **Harare Protocol linked to the PCT in 1994**
- **18 member States of ARIPO are members of the PCT**
- **Any applicant filing a PCT application automatically designates ARIPO (member States)**
- **ARIPO Office acts as a receiving office under the PCT**
- **ARIPO Office may be elected in any PCT application**

95% of ARIPO applications come through PCT!



The Harare Protocol and the Budapest Treaty



- **Harare Protocol incorporates the provisions of the Budapest Treaty** on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure
- In particular cases of patent applications relating to inventions involving microorganisms, a deposit of biological material must be made in a recognized institution
- **Such applications should contain the name of the depository institution, date when the culture was deposited and reference number**
- **Deposited culture shall be available to third parties from the date of publication of the ARIPO application**



The ARIPO Patent & Utility Model Procedure



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The Patent Procedure

**FILING AND FORMALITY
EXAMINATION**

Payment of:

- **Filing and designation fees,**
- **Yearly maintenance fee for applications**

**SEARCH & SUBSTANTIVE
EXAMINATION**

Processing Period:

- **Patents – 27 months (average)**

**GRANT, RECORDAL AND
PUBLICATION**

**PAYMENT OF
ANNUITIES**



Filing of ARIPO Applications

- Three possible ways of filling an ARIPO application (patent, utility model & industrial design):
 - **directly with ARIPO or**
 - **with the industrial property office of a Contracting State**
 - **entry into national phase under the PCT**
- Who can file?
 - **the applicant or**
 - **an agent acting on behalf of the applicant**



Filing Date Requirements

- Filing date accorded, if there is:
 - **a duly filled ARIPO Request Form No. 3**
 - **something which on the face of it appears like a description and**
 - **one or more claims**



Formality Examination

- Formality requirements:
 - **duly filled request (ARIPO Form No. 3)**
 - **description; one or more claims; one or more drawings (where applicable); and an abstract**
 - **designation of at least one Contracting State**
 - **declaration of priority (where applicable)**
 - **representative or agent (where applicable)**
 - **payment of the prescribed fees**



Publication of ARIPO Applications

- Applications published promptly after the expiry of 18 months from the filing date or, if priority is claimed, from the priority date



Substantive examination for ARIPO Patent Applications

- Carried out to determine whether the invention meets patentability requirements
- Patentability requirements:
 - **novelty**
 - **inventive step (non-obvious) and**
 - **industrial applicability**
- Other matters considered:
 - **unity of invention, public order and morality, sufficiency of disclosure**



Search, Search Report and Examination

- Search carried out to establish prior art (published patents and or non-patent literature)
- Prior art? According to the HP, prior art is
 - **anything made available to the public anywhere in the world by means of written disclosure, oral or by use or exhibition provided that such making available occurred before the date of filing of the application or before the priority date claimed (absolute novelty)**
- Search report established after conclusion of the search
- Cited prior art used to evaluate novelty and inventive step



A Sample Search Report

C. DOCUMENTS CONSIDERED TO BE RELEVANT		
Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	JP 50-14535 B (NCR CORPORATION) 28 May 1975 (28.05.75), column 4, lines 3 to 27	7-9, 11
X	GB 392415 A (JONES) 18 May 1933 (18.05.33) Fig. 1	1-3
Y	page 3, lines 5-7	4, 10
A	Fig. 5, support 36	11-12
X	GB 2174500 A (STC) 5 November 1986 (05.11.86) page 1, lines 5-15, 22-34, 46-80; Fig. 1	1-3
Y		4
A	US 4322752 A (BIXTY) 30 March 1982 (30.03.82) claim 1	1
A	GREEN, J.P. Integrated Circuit and Electronic Compass. IBM Technical Disclosure Bulletin, October 1975, Vol. 17, No. 6, pages 1344 and 1345	1-5

Symbols indicating which aspect of patentability the document cited is relevant to (for example, novelty, inventive step, etc.)

Documents relevant in the determination of whether or not your invention may be patentable

The claim numbers in your application to which the document is relevant



Decision to Reject

- Notification of non-compliance with substantive requirements and invitation to submit observations and/or amend the application (ARIPO Form No. 18 issued to the applicant).
- The applicant has:
 - **to respond within 6 months from the date of notification**
 - **the option of converting his application into a national patent application or into an ARIPO utility model application**



Decision to Grant

- Notification of decision to grant (ARIPO Form No. 21) issued to:
 - **Applicant and**
 - **designated State(s)**
- Designated State(s) has 6 months to respond
- Applicant invited to pay grant and publication fees



Grant; Recordal & Publication of Patents

- Patent granted after payment of grant and publication fees
- Patent recorded in the ARIPO Patent Register
- Patent published in the ARIPO Journal
- Patent has effect in all designated states
- Patent valid for 20 years
- Once granted, patent subject to the national law of designated state





PATENTS (TOP 10)

APPLICATIONS
(1984 – 2014)

APPLICANTS
(1984 – 2014)

Country of Origin	Nr. of Applications Applications
United States of America	2400
United Kingdom	768
South Africa	660
Germany	467
France	450
India	344
Switzerland	320
Australia	315
China	188
Canada	162

APPLICANT	COUNTRY OF ORIGIN	NR. OF FILES
Pfizer Inc.	USA	294
Pfizer Products Inc.	USA	272
Smithkline Beecham P.L.C.	United Kingdom	124
Glaxo Group Limited	United Kingdom	105
Smithkline Beecham Corporation	USA	99
Les Laboratoires Servier	France	85
Boehringer Ingelheim International GmbH	Germany	75
BASF Aktiengesellschaft	Germany	71
Janssen Pharmaceutica N.V.	Belgium	67
Tencent Technology (Shenzhen) Company Limited	China	65



PATENT APPLICATIONS (1984 – 2014)

IPC CLASSIFICATION



CLASS	DESCRIPTION	NR. OF APPL.
C	Chemistry; Metallurgy	3 349
A	Human Necessities	1 796
F	Mechanical engineering; lighting; heating; weapons; blasting	648
B	Performing operations; transporting	639
G	Physics	547
H	Electricity	502
E	Fixed constructions	443
D	Textiles; paper	58



The Utility Model Procedure

FILING AND FORMAL EXAMINATION

Payment of:

- Filing and designation fees,
- Yearly maintenance fees for application

SUBSTANTIVE EXAMINATION (novelty and industrial applicability only)

Processing Period:

- On average 12 months

REGISTRATION AND PUBLICATION

PAYMENT OF ANNUITIES (valid for ten years)



The Utility Model Procedure

- Procedures and requirements similar to those for patents
- However, in substantive examination:
 - **only novelty and industrial applicability requirements are evaluated (no inventive step evaluation)**
 - **novelty [local novelty (not absolute novelty as in patents)]**
- Protection period – 10 years
- Subject to national laws once registered



Board of Appeal

- Main function of the Board:
 - **to consider and decide any appeal by the applicant where the office refuses his application; and**
 - **to review any final administrative decision of the Office in relation to the implementation of the Protocols;**
- Consists of 5 members who are IP experts (two of whom must be examiners)
- Members of the Board are appointed by the Administrative Council for a period of two years
- They must be citizens of the member states
- The decisions of the Board of Appeal are final.



ARIPO Fees

- Fees set out in the Schedule of fees and are quoted in USD
- Types of fees include:
 - **Application fees;**
 - **Designation fees;**
 - **Annual Maintenance fees;**
 - **Grant & Publication fees;**
 - **Any other fees as requested.**



Fees

- Local residents can lodge fees in equivalent local currency with national office
- Fees distributed between ARIPO and the contracting States as follows:
 - **5% of application fee due to contracting state which received the application and 95% to ARIPO**
 - **50% of designation fee due to each designated state and 50% to ARIPO**
 - **50% of annual maintenance fee due to each designated state and 50% to ARIPO**





African Regional Intellectual Property Organization

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mail@aripo.org

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competitiveness and development in Africa**