



Regional Seminar on the Patent Cooperation Treaty (PCT) for Selected African Countries

ARIPO and the Patent System

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Fostering Creativity and Innovation for Economic Growth and Development in Africa

OUTLINE

- Introduction to ARIPO
- The ARIPO Patent System
- Benefits of the ARIPO Patent System





Introduction – ARIPO

- **ARIPO: The African Regional Intellectual Property Organization**
- **It was established under the Lusaka Agreement on December 9, 1976 as English Speaking African Regional Industrial Property Organization [ESARIPO]**
- **In December 1985, the name changed from ESARIPO to African Regional Industrial Property Organization [ARIPO]**
- **In 2002, upon acquisition of the mandate on Copyright and Related Rights the name changed from the African Regional Industrial Property Organization [ARIPO] to the African Regional Intellectual Property Organization [ARIPO]**



MEMBER STATES

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



- The current ARIPO has 19 Member States



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WHY ARIPO WAS ESTABLISHED

- To promote the harmonization and development of the IP laws;
- To establish common services and organs may be necessary for coordination, development and harmonization of IP;
- To develop of IP systems for the economic benefit of its member states;
- To establish IP training schemes; organizing conferences, seminars and meetings on IP;
- To promote exchange of ideas and research on IP;
- Etc..



ORGANS OF ARIPO

COUNCIL OF MINISTER
(Policy & Political Organ)

ADMINISTRATIVE COUNCIL
(Administrative Organ of the Organization)

**STAFF AFFAIRS
COMMITTEE**
(Deals with Staffs
Affair Matters)

**FINANCE
COMMITTEE**
Evaluate the Expenditure and
Budget of the Organization)

**BOARD OF
APPEAL**
(Review Appeal Cases
Concerning IP Matters)

**TECHNICAL
COMMITTEES**
(Deals with Technical
Matters of the Organization)

SECRETARIAT
(Responsible for Daily Activities of the Organization)



Substantive Activities

**Grant patents &
register utility models**

Harare Protocol (1982)

**Register industrial
designs**

Harare Protocol (1982)

Register marks

Banjul Protocol (1993)

**Register traditional
knowledge (TK) and
expressions folklore
(EoF)**

Swakopmund Protocol (2010)

**Coordinate and
facilitate policy on
Copyright & Related
Rights**

**VIII Session Council
Min – 2002, Malawi**

**Access and Benefit
Sharing**

Guidelines for ABS

**Register geographical
indications**

Regional Framework?

**Plant Variety
Protection**

Arusha Protocol (2015)



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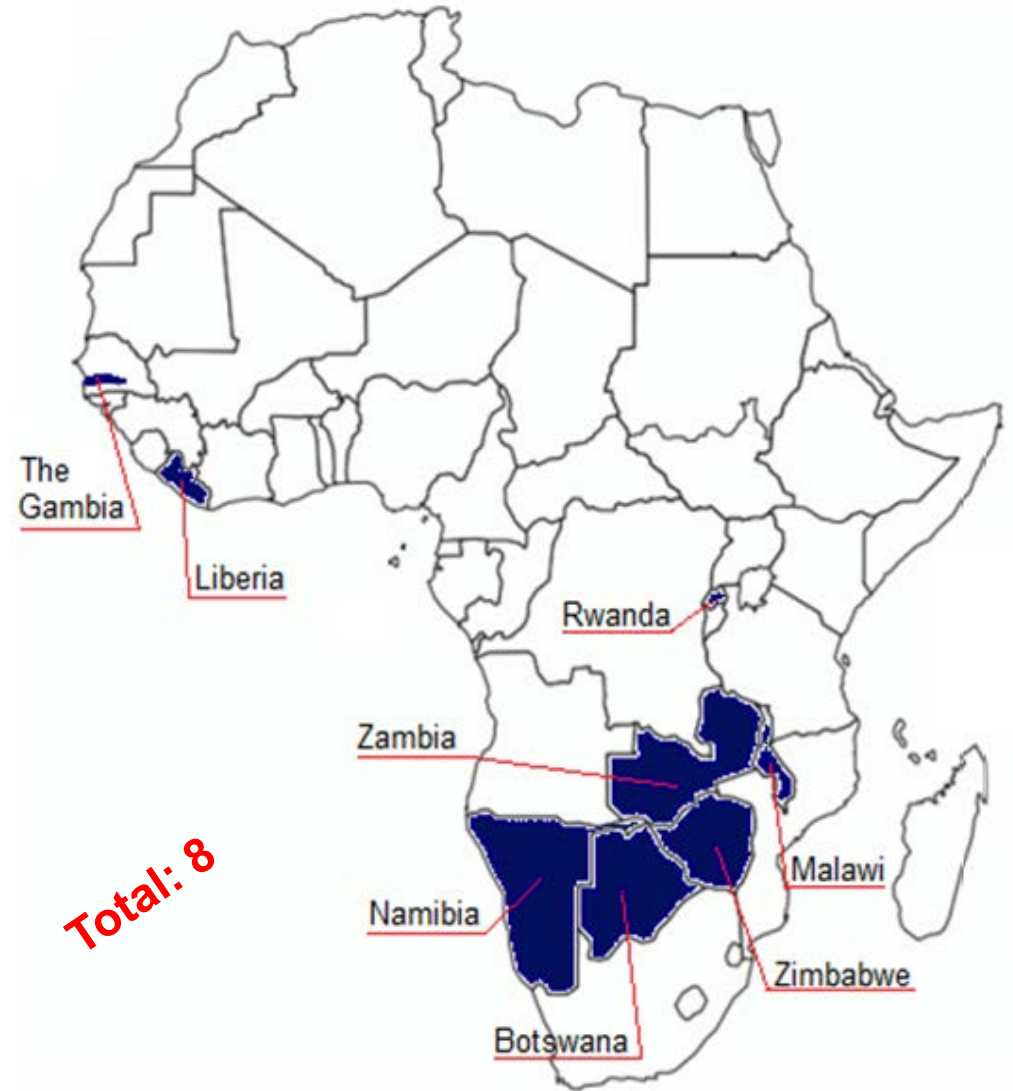
The Banjul Protocol

- Empowers ARIPO to register Trademarks on behalf of the member states
- Adopted in 1993 in Banjul, The Gambia.
- Entered into force in 1994.
- 10 States party to the Protocol
- Duration of rights:
 - *Renewable every - 10 year*



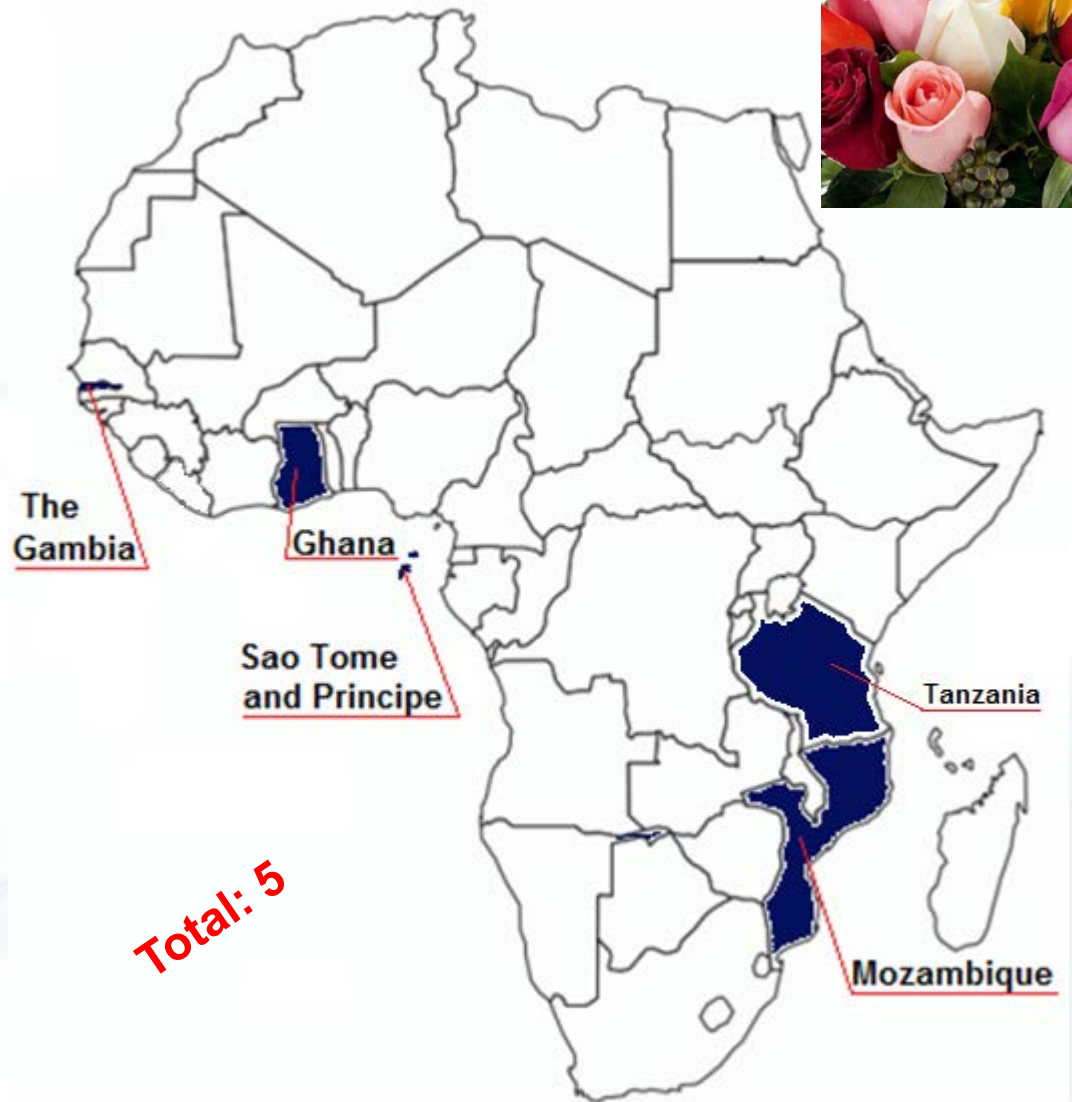
Swakopmund Protocol

- **Swakopmund Protocol for Traditional Knowledge and Express of Folklore**
 - **Adopted in 2010 in Swakopmund, Namibia.**
 - **Entered into force in 2015.**
 - **8 States party to the Protocol**



Arusha Protocol

- **Arusha Protocol for the Protection of New Varieties of Plants**
 - **Adopted in 2015 in Arusha, United Republic of Tanzania**
 - **Is not entered into force**
 - **5 States have signed the Protocol**



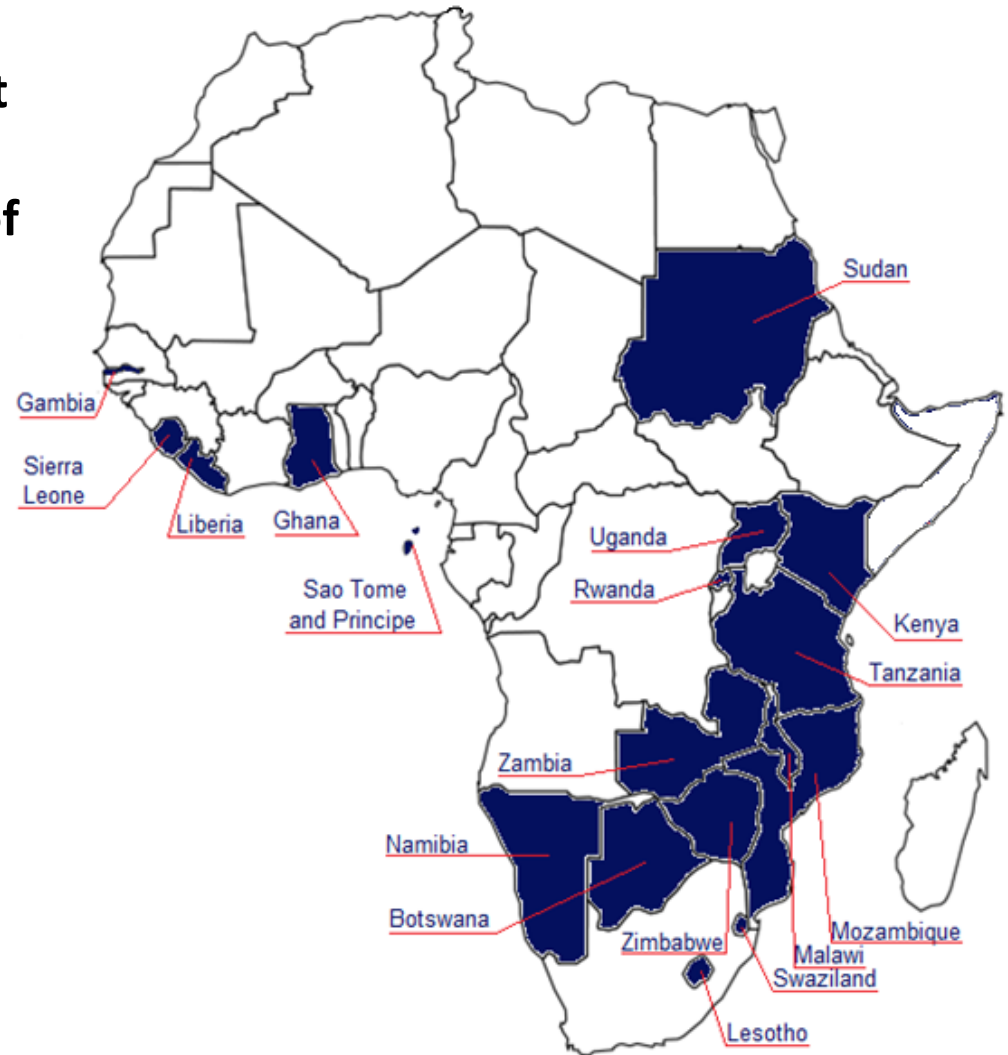
The ARIPO Patent System

- **Legal framework:**
 - **The Harare Protocol (HP) on Patents and Industrial Designs**
 - **Regulations for Implementing the Protocol on Patents and Industrial Designs within the framework of ARIPO**
 - **Administrative Instructions under the HP**
 - **Guidelines for Examination at ARIPO (published 2018)**



The Harare Protocol

- Empowers ARIPO to grant patent and register utility Model and industrial design and on behalf of the contracting states
- Adopted in 1982 in Harare, Zimbabwe
- Entered into force in 1984
- 18 States party to the Protocol
- Duration of rights:
 - Patents - 20 years
 - Industrial Designs – 10 years
 - Utility Models – 10 years



The link between the HP and the PCT – *Sec. 3bis*

- HP linked to the PCT in 1994
- 18 member States of ARIPO (AP) are PCT contracting states
- Any applicant filing a PCT application automatically designates AP (18 member States)
- AP acts as a receiving office (RO) under the PCT
- AP may be elected in any PCT application
- **95% of ARIPO applications come through PCT!**



The HP and Budapest Treaty - (Sec. 3(1))

- A deposit of **biological material** must be made in a recognized institution in the case of inventions involving micro-organisms
- Applications should contain name of Institution, date when the **biological material** was deposited and reference number
- **Biological material** shall be available to third parties from the date of publication of the ARIPO application
- ARIPO publishes the list of depository institutions;

Patentable Subject Matter - *Sec. 3(10)(a)*

- Patents shall be granted for any **inventions**, in **all fields of technology**, provided that they are:
 - New
 - Involve an inventive step and
 - Are susceptible of industrial application



Non Patentable Subject Matter – *Sec. 3(10)(h)*

- The following shall not be regarded as inventions :
 - i. discoveries, scientific theories and mathematical methods
 - ii. aesthetic creations
 - iii. schemes, rules and methods for performing mental acts, playing games or doing business, and programs for computers
 - iv. presentation of information

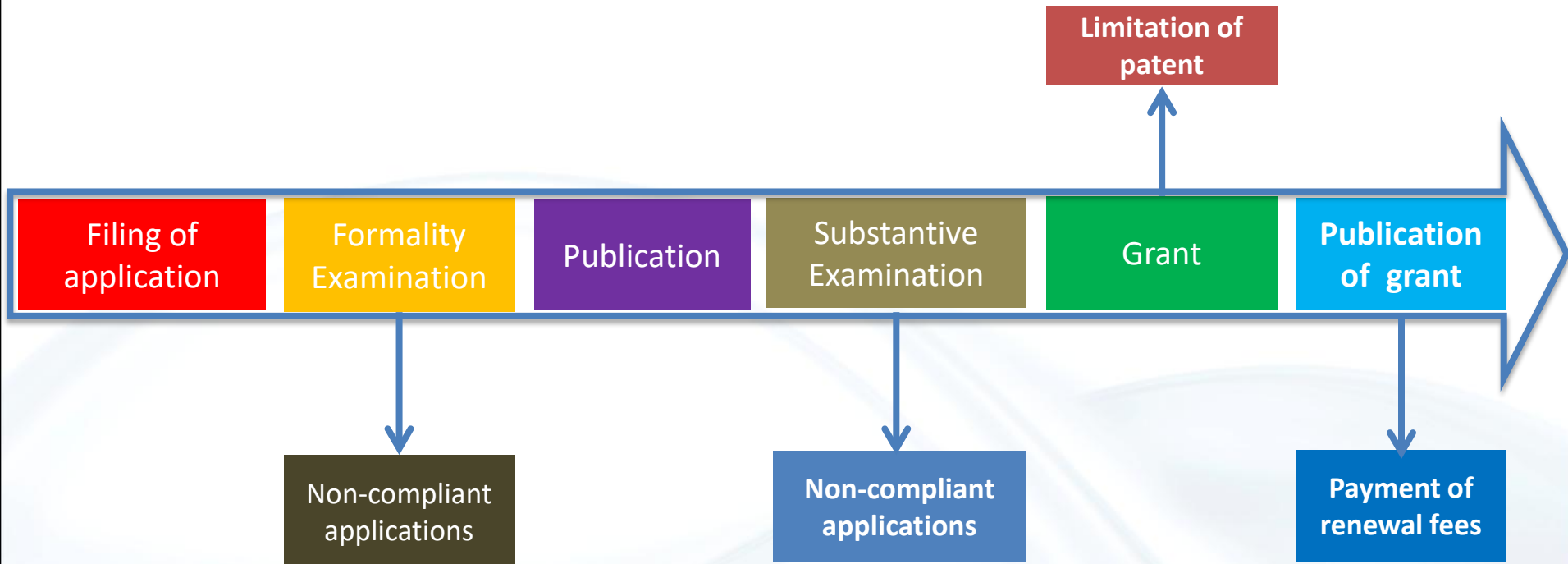


Exclusions from Patentability – *Sec. 3(10)(j)*

- Patents shall not be granted in respect of:
 - i. inventions the commercial exploitation of which would be contrary to "ordre public" or morality; such exploitation shall not be deemed to be so contrary merely because it is prohibited by law or regulation in some or all of the Contracting States
 - ii. plant or animal varieties or essentially biological processes for the production of plants or animals; this provision shall not apply to microbiological processes or the products thereof
 - iii. methods for treatment of the human or animal body by surgery or therapy and diagnostic methods practised on the human or animal body; this provision shall not apply to products, in particular substances or compositions, for use in any of these methods



Basic ARIPO Processing Procedure



Benefits of the ARIPO Patent System

- **Single application resulting in patent protection in 18 member states**
- **Single filing language**
- **Cost effective**
- **Simplified procedures**
- **Substantive examination resulting in strong patent**
- **Single agent as opposed to multiple agents**
- **Availability of restoration of rights and limitation**
- **Centralized renewals**





African Regional Intellectual Property Organization

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