



**AFRICAN REGIONAL INTELLECTUAL PROPERTY
ORGANIZATION (ARIPO)**

**PROTOCOL ON PATENTS AND INDUSTRIAL DESIGNS WITHIN
THE FRAMEWORK OF THE AFRICAN REGIONAL INTELLECTUAL
PROPERTY ORGANIZATION (ARIPO)**

(adopted on December 10, 1982, at Harare (Zimbabwe), and amended by the Administrative Council of ARIPO on December 11, 1987, April 27, 1994, November 28, 1997, May 26, 1998, November 26, 1999, November 30, 2001, November 21, 2003, November 24, 2006 and November 25, 2013)

and

**REGULATIONS FOR IMPLEMENTING THE PROTOCOL ON PATENTS
AND INDUSTRIAL DESIGNS WITHIN THE FRAMEWORK OF THE
AFRICAN REGIONAL INTELLECTUAL PROPERTY ORGANIZATION
(ARIPO)**

(text entered into force on April 25, 1984, and amended by the Administrative Council of ARIPO on April 27, 1994, November 27, 1998, November 24, 2000, November 21, 2003, November 24, 2006, November 30, 2011 and November 25, 2013)

Harare Protocol on Patents and Industrial Designs within the Framework of the African Regional Intellectual Property Organization (1982)

(Status as at January 1, 2012)

State	Date on which State became party to the Protocol
Botswana	May 6, 1985
The Gambia	January 16, 1986
Ghana	April 25, 1984
Kenya	October 24, 1984
Lesotho	October 23, 1987
Liberia	March 24, 2010
Malawi	April 25, 1984
Mozambique	May 8, 2000
Namibia	April 23, 2004
Rwanda	September 24, 2011
Sierra Leone	February 25, 1999
Sudan	April 25, 1984
Swaziland	March 17, 1988
Uganda	April 25, 1984
United Republic of Tanzania	September 1, 1999
Zambia	February 26, 1986
Zimbabwe	April 25, 1984

(No. of States: 17)

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Preamble

The Contracting States of this Protocol,

Having regard to the Agreement on the Creation of an African Regional Intellectual Property Organization (ARIPO) then known as the Industrial Property Organization for English-Speaking Africa, concluded in Lusaka (Zambia) on December 9, 1976, and in particular to its Article III(c), in accordance with which the objectives of the Organization include the establishment of such common services or organs as may be necessary or desirable for the co-ordination, harmonization and development of the intellectual property activities affecting its members,

Having regard to Article 19 of the Paris Convention for the Protection of Industrial Property signed in Paris on March 18, 1883, and revised on July 14, 1967, and a Regional Treaty within the meaning of Article 45, Paragraph 1, of the Patent Cooperation Treaty of June, 1970,

Desiring to strengthen co-operation between the States in respect of protection and exploitation of patents, utility models and industrial designs and to provide quality intellectual property services for the social, economic and technological development of Member States,

Desiring that such protection may be obtained in those States by a single procedure for the grant of patents, registration of utility models and of industrial designs and by the establishment of certain standard rules governing patents so granted and utility models and industrial designs so registered,

Considering the advantages to be gained by the pooling of resources in respect of intellectual property administration,

Hereby agree as follows:

Section I *General*

(1) The African Regional Intellectual Property Organization (ARIPO) is empowered to grant patents and to register utility models and industrial designs and to administer such patents, utility models and industrial designs on behalf of Contracting States in accordance with the provisions of the Protocol, through its Secretariat (hereinafter referred to as “the Office”).

(2) Patents granted or utility models and industrial designs registered by virtue of this Protocol shall respectively be called ARIPO patents, ARIPO utility models and ARIPO industrial designs.

(3) The ARIPO patent or ARIPO utility model or ARIPO industrial design shall in each of the Contracting States for which it is granted or registered, as the case may be, have the effect of, and be subject to the same conditions as, a national patent granted, or utility model and industrial design registered, by that State.

Section Ibis
Application to Contain one or More Designations of Contracting States

The grant of an ARIPO patent or the registration of an ARIPO utility model or an ARIPO industrial design may be requested for one or more of the Contracting States.

Section 2
Filing and Transmittal of Applications

(1) Applications for the grant of patents or the registration of utility models and industrial designs by the Office shall be filed by the authorized representative of the applicant or by the applicant with either the Office or, where the law of a Contracting State so permits, the industrial property office of a Contracting State.

(2) An application filed with the industrial property office of a Contracting State under the provisions of paragraph (1) of this Section shall have the same effect as if it had been filed on the same date at the Office.

(3) The provisions of paragraphs (1) and (2) of this Section shall not preclude the application of legislative provisions which, in any Contracting State—

- (a) govern inventions which, owing to the nature of their subject-matter, may not be communicated abroad without the prior authorization of the competent authority of that State, or
- (b) prescribe that each application is to be filed initially with the industrial property office of the Contracting State or make direct filing with another authority subject to prior authorization.

(4) An applicant may be represented by an attorney, agent or legal practitioner who has the right to represent applicants before the industrial property office of any Contracting State. Where—

- (a) an application is filed directly with the Office but the applicant's ordinary residence or principal place of business is not situated in the host country of the Office; or
- (b) an application is filed with the industrial property office of a Contracting State by an applicant whose ordinary residence or principal place of business is not situated in a Contracting State, the applicant shall be represented.

(5) Where the application is filed with the industrial property office of a Contracting State, such office shall within one month of receiving the application, transmit that application to the Office.

(6) Applications for an ARIPO patent, or for registration of an ARIPO utility model or an ARIPO industrial design, may be lodged in any language which must be translated into English within two months from the date of filing in accordance with Rule 5(2).

(7) Any person, or his successor in title, who has duly applied—

- (c) to any state party to the Paris Convention for the Protection of Industrial Property, or
- (d) to any member of the World Trade Organization,

for a patent, or for registration of a utility model or of an industrial design, shall enjoy for the purposes of filing for an ARIPO patent, or for registration of a utility model or of an industrial design, in respect of the same invention or design a right of priority during a period of 12 months (patents and utility models) and 6 months (industrial designs), from the date of filing the first application.

(8) Right of priority:

- (a) Every filing that is equivalent to a regular national filing under the national law of the State where it was due, under bilateral or multilateral agreement including this Protocol, shall be recognized as giving rise to a right of priority.
- (b) An applicant desiring to take advantage of the priority of the previous application shall file a declaration of priority and any other document required in accordance with the Implementing Regulations.
- (c) Multiple priorities may be claimed in respect of an ARIPO patent application or an ARIPO utility model application or an ARIPO industrial design application, notwithstanding that they originated in different countries. Where appropriate, multiple priorities may be claimed for one claim. Where multiple priorities are claimed, time limits which run from the date of priority shall run from the earliest date of priority.

(9) Definition of a patent application:

- (a) An ARIPO patent application shall relate to one invention only or to a group of inventions so linked that they form a single general inventive concept.
- (b) An ARIPO patent application must disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art.
- (c) The claims shall define the matter for which protection is sought. They shall be clear and concise and shall be supported by the description.
- (d) The abstract shall merely serve for use as a source of technical information; in particular not for the purposes of interpreting the scope of the protection sought.

Section 3 **Patents**

(1)(a) A patent application shall–

- (i) identify the applicant;
- (ii) contain, as prescribed, a description of the invention, a claim or claims, a drawing or drawings (where necessary) and an abstract;
- (iii) designate the Contracting States for which a patent is requested to be granted;
- (iv) be subject to the payment of the prescribed fees.

(b) Where the patent application describes or claims as an invention a micro-biological process on a product thereof, and requires for the performance of the invention the use of a micro-organism which is not available to the public on the filing date of the application and which cannot be made or obtained on the basis of the description in the application, the micro-organism shall before the acceptance of the application be dealt with in the manner prescribed in the Regulations.

(2)(a) The Office shall examine whether the formal and physical requirements for applications as laid down in the Implementing Regulations and the Administrative Instructions have been complied with and, if so, shall accord the appropriate filing date to the application.

(b) If the Office finds that the application does not comply with the formal and/or physical requirements, it shall notify the applicant accordingly, inviting him to comply with the requirements within the prescribed period. If the applicant does not comply with the requirements within the said period, the Office shall refuse the application.

(c) The Office shall notify each designated State of the fact that a patent application has been filed which complies with the prescribed formal requirements.

(3) The Office shall undertake, or arrange for, the substantive examination of the patent application. If it finds that the invention claimed in the application does not comply with the requirements of patentability referred to in Sub-section (10), it shall refuse the application.

(4) Where under–

- (a) sub-section (2)(b) or (3) of this Section,
- (b) any other protocol within the framework of ARIPO,

the Office refuses any application, the applicant may, within the prescribed period, request the Office to reconsider the matter.

(5) If after the Office has reconsidered the application, the Office is still of the view that the application should be refused, the applicant may lodge an appeal against the decision of the Office to the Board of Appeal established in terms of Section 4*bis* of the Protocol.

(6)(a) Before expiration of six months from the date of the notification referred to in Sub-section (7), a designated State may make a written communication to the Office that, if a patent is granted by the Office, that patent shall have no effect in its territory for the reason—

- (i) that the invention is not patentable in accordance with the provisions of this Protocol, or
- (ii) that, because of the nature of the invention, a patent cannot be registered or granted or has no effect under the national law of that State.

(b) If the Office decides to grant a patent, it shall notify the applicant and each designated State. Where the examination was based on a search report and examination report, a copy of the same shall be attached to the said notification. The designated State shall have 6 months within which to respond to the notification.

(7) After expiration of the said 6 months, the Office shall grant the patent, which shall have effect in those designated States which have not made the communication referred to in Sub-section (6). The Office shall publish the patent granted.

(8) If the Office refuses the application notwithstanding a request for reconsideration under Sub-section (4), the applicant may, within 3 months from being notified of such refusal, request that his application be treated, in any designated State, as an application according to the national law of that State.

(9) At any time before the grant or refusal of a patent, an applicant for a patent may, upon payment of the prescribed fees, convert the application into an application for a utility model, which shall be accorded the filing date of the initial application. An application may not be converted under this Sub-section more than once.

(10)(a) Inventions for which patents are granted by the Office shall be new, shall involve an inventive step and shall be industrially applicable.

(b) An invention shall be considered to be new if it is not anticipated by the prior art.

(c) Everything made available to the public anywhere in the world by means of a written disclosure (including drawings and other illustrations), an oral disclosure or by use or an exhibition, shall be considered prior art, provided that such publication occurred before the date of filing of the application or, if priority is claimed, before the priority date claimed in respect thereof and further provided that a disclosure of the invention at an official or officially recognized exhibition shall not be taken into consideration if it occurred not more than 6 months before the date of filing of the application or, if priority is claimed, before the priority date claimed in respect thereof.

(d) An official or officially recognized exhibition is an exhibition recognized by a State or falling within the terms of the Convention on international exhibitions.

(e) An invention shall be considered as involving an inventive step if, having regard to the prior art, it is not obvious to a person skilled in the art.

(f) An invention shall be considered as susceptible of industrial applicability if it can be made or utilized in any kind of industry including agriculture.

(g) An applicant for an ARIPO patent application shall be allowed at least one opportunity of amending the description, claims and drawings of his own volition. An ARIPO patent application or ARIPO patent may not be amended in such a way that it contains subject-matter which extends beyond the content of the initial application filed.

(11) On each anniversary of the filing of the application, the ARIPO Office shall collect the prescribed annual maintenance fees, part of which shall be distributed among the designated States concerned. The amount of the fees shall depend on the number of States in respect of which the application or patent is maintained. Provided it is maintained, a patent granted by the Office shall in each designated State have the same effect as a patent registered, granted or otherwise having effect under the applicable national law. The duration of the patent shall be 20 years from the filing date.

(12) A patent granted by the Office shall in each designated State be subject to provisions of the applicable national law on compulsory licences, forfeiture or the use of patented inventions in the public interest.

(13) An assignment of an ARIPO patent application shall be made in writing and shall require the signature of the parties to the agreement.

(14)(a) If two or more persons have made the same invention independent of each other, the right to an ARIPO patent therefor shall belong to a person whose patent application has the earliest date of filing, provided that the first application has been published.

(b) An ARIPO patent shall confer on its proprietor from the date on which the mention of its grant is published in the ARIPO Journal, in each Contracting State in respect of which it is granted, the same rights as would be conferred by a national patent granted in that State.

(c) An ARIPO patent application shall on the date of its publication provisionally confer upon the applicant the protection provided for in Section 3(14)(b) in the contracting states designated in the application. Any contracting state may prescribe that an ARIPO patent shall not confer such protection as specified in Section 3(14)(b).

(d) An infringement of any ARIPO patent shall be dealt with by the national law of the Contracting State.

(15)(a) An ARIPO divisional applications shall be filed directly with the ARIPO Office in accordance with the Administrative Instruction 28(1). It may be filed only in respect of a subject matter which does not extend beyond the scope of an earlier application as filed. In so far as this requirement is complied with, the divisional application shall be filed on the date of filing of the earlier application and shall enjoy the same right of priority.

(b) All Contracting States designated in the earlier application at the time of filing of an ARIPO divisional application shall be deemed to be designated in the divisional application.

(16) The extent of the protection conferred by an ARIPO patent or an ARIPO patent application shall be determined by the terms of the claims. Nevertheless, the description and drawings shall be used to interpret the claims.

(17) The Administrative Instructions shall specify the following:

- (i) the time limits which are to be observed in proceedings before the ARIPO Office but which are not fixed by this Protocol;
- (ii) the manner of computation of time limits and the conditions under which time limits may be extended;
- (iii) the minima and maxima for the time limits to be determined by the ARIPO Office.

Section 3bis
International Applications under the Patent Cooperation Treaty (PCT)

(1) In this Section–

“elected office” means an industrial property office of a Contracting State, or any other office or organization including the ARIPO Office acting for that industrial property office, which is elected by an applicant under Chapter II of the Patent Cooperation Treaty;

“international preliminary examination” shall be understood in the meaning evolved under the Patent Cooperation Treaty.

(2) An international application in which a Contracting State which is also bound by the Patent Cooperation Treaty is designated for the purposes of obtaining a patent under the provisions of this Protocol shall be considered to be an application for the grant of a patent under this Protocol. The provisions of the Patent Cooperation Treaty shall apply to such international application in addition to the provisions of this Protocol and the Regulations under this Protocol; in case of conflict, the provisions of the Patent Cooperation Treaty shall apply.

(3) The ARIPO Office may act as receiving Office under Article 2(xv) of the Patent Cooperation Treaty in relation to an international application filed by an applicant who is a resident or national of a Contracting State which is also bound by the Patent Cooperation Treaty.

(4) The ARIPO Office shall act as designated Office under Article 2(xiii) of the Patent Cooperation Treaty in relation to an international application referred to in Sub-section (2) of this section.

(5) The ARIPO Office shall act as elected Office under Article 2(xiv) of the Patent Cooperation Treaty in relation to an international application referred to in Sub-section (2) where a Contracting State is elected for the purposes of international preliminary examination under Article 31(4) of the Patent Cooperation Treaty.

(6) In relation to an international application referred to in Sub-section (2), without limiting the generality of that sub-section–

- (i) Sections 2 and 3(2) shall not apply;
- (ii) any annual maintenance fee which falls due under Section 3(11) need not be paid until the expiration of the applicable time limit under Article 22 or 39(1)(a) of the Patent Cooperation Treaty.

Section 3ter *Utility Models*

(1) In this Section, “utility model” means any form, configuration or disposition of elements of some appliance, working tools and implements as articles of everyday use, electrical and electronic circuitry, instrument, handicraft, mechanism or other object or any part thereof in so far as they are capable of contributing some benefit or new effect or saving in time, energy and labour or allowing a better or different functioning, use, processing or manufacture of the subject matter or that gives utility advantages, environmental benefit, and includes micro-organism or other self-replicable material, products of genetic resources, herbal as well as nutritional formulations which give new effects.

(2) A utility model shall be protected under the Protocol if it is new and industrially applicable.

(3) An application for registration of a utility model shall–

- (i) identify the applicant;
- (ii) contain, as prescribed, a description of the utility model, a claim or claims, a drawing or drawings or a model, and an abstract;
- (iii) designate the Contracting States for which the utility model is requested to be registered;
- (iv) be subject to payment of the prescribed fees.

(4)(a) The Office shall examine whether the formal requirements for applications have been complied with and shall, if so, accord the appropriate filing date to the application.

(b) If the Office finds that the application does not comply with the formal requirements, it shall notify the applicant accordingly, inviting him to comply with the requirements within the prescribed period. If the applicant does not comply with the requirements within the said period, the Office shall refuse the application.

(c) The Office shall notify each Designated State of the fact that an application for the registration of a utility model has been filed which complies with the prescribed formal requirements.

(5) The Office shall undertake, or arrange for, the substantive examination of the application for the utility model. If it finds that the application does not comply with the requirements for registration of a utility model referred to in Sub-section (2), it shall refuse the application.

(6) Where under–

- (a) Sub-section 4(b) or (5) of this section,
- (b) any other protocol within the framework of ARIPO,

the Office refuses any application, the applicant may, within the prescribed period, request the Office to reconsider the matter.

(7) If after the Office has reconsidered the application, the Office is still of the view that the application should be refused, the applicant may lodge an appeal against the decision of the Office to the Board of Appeal.

(8) Before expiration of 6 months from the date of the notification referred to in Sub-section 4(c), a designated State may make a written communication to the Office that, if a utility model is registered by the Office, that registration shall have no effect in its territory for the reason–

- (i) that the utility model is not registrable under the provisions of the Protocol, or
- (ii) that, because of the nature of the utility model, such utility model cannot be registered or has no effect under the national law of that State.

(9) If the Office refuses the application notwithstanding a request for reconsideration under Sub-section (7), the applicant may, within 3 months from being notified of such refusal, request that his application be treated, in any designated State, as an application according to the national law of that State.

(10) On each anniversary of the filing of the application, the Office shall collect the prescribed annual maintenance fees, part of which shall be distributed among designated States concerned. The amount of fees shall depend on the number of States in respect of which the application or registration is maintained. Provided that it is maintained, the registration of a utility model registered by the Office shall have a duration of 10 years from the filing date.

(11) At any time before the refusal of an application for, or the registration of, a utility model, an applicant for registration of a utility model may, upon payment of the prescribed fees, convert his application into a patent application, which shall be accorded the filing date of the initial application.

(12) A registration of a utility model registered by the Office shall in each designated State be subject to provisions of the applicable national law on compulsory licences, forfeiture or the use in the public interest of registered utility models.

Section 4
Industrial Designs

(1) An application for the registration of an industrial design filed shall—

- (i) identify the applicant;
- (ii) contain a reproduction of the industrial designs;
- (iii) designate the Contracting States for which the registration is requested to have effect;
- (iv) be subject to the payment of the prescribed fees.

(2)(a) The Office shall examine whether the formal requirements for applications have been complied with and, if so, shall accord the appropriate filing date to the application.

(b) If the Office finds that the application does not comply with the formal requirements, it shall notify the applicant accordingly, inviting him to comply with the requirements within the prescribed period. If the applicant does not comply with the requirements within the said period, the Office shall refuse the application.

(c) The Office shall notify each designated State of the fact that an application for the registration of an industrial design has been filed which complies with the prescribed formal requirements.

(3) Before expiration of 6 months from the date of the notification referred to in Sub-section (2)(c), each designated State may make a written communication to the Office that, if the industrial design is registered by the Office, that registration shall have no effect in its territory for the reason—

- (i) that the industrial design is not new,
- (ii) that, because of the nature of the industrial design, it cannot be registered or a registration has no effect under the national law of that State, or
- (iii) that, in the case of a textile design, it is the subject of a special register.

(4) After the expiration of the said six months, the Office shall effect the registration of the industrial design, which shall have effect in those designated States which have not made the communication referred to in Sub-section (3). The Office shall publish the registration.

(5) If the Office refuses the application, the applicant may, within 3 months from being notified of such refusal, request that his application be treated, in any designated State, as an application according to the national law of that State.

(6) On the anniversary of the filing of the application, the ARIPO Office shall collect the prescribed annual maintenance fees, part of which shall be distributed among the designated States concerned. The amount of the fees shall depend on the number of States in respect of which the application or registration is maintained. Provided that it is maintained, the registration of an industrial design effected by the Office shall in each designated State have the same effect as a registration effected or otherwise in force under the applicable national law. The duration of such a registration shall be 10 years from the filing date.

(7) An industrial design registered by the Office shall in each designated State be subject to the provisions of the applicable national law on compulsory licences or the use in the public interest of registered industrial designs.

Section 4bis
The Board of Appeal

(1) There is hereby established a Board to be known as the Board of Appeal (hereinafter referred to as “the Board”).

(2) The Board shall consist of 5 members who are experienced in intellectual property matters two of whom shall be patent examiners.

(3) At all sittings of the Board, at least one patent examiner shall be present.

(4) The members of the Board shall be appointed by the Administrative Council of the Organization—

(a) for a period of two years renewable once for another term of two years;

(b) from the Member States of the Organization; and

(c) on such other terms and conditions as the Council may determine.

(5) The functions of the Board are—

(a) to consider and decide on any appeal lodged by the applicant in terms of Section 3(5) of this Protocol;

(b) to review any final administrative decision of the Office in relation to the implementation of the provisions of this Protocol, the Banjul Protocol on Marks or any other protocol within the framework of ARIPO;

(c) to decide on any other matter related to or incidental to the exercise of the Board’s powers.

(6) Three members of the Board shall form a quorum.

(7) Decisions of the Board shall be final.

(8) The Board shall have power to make and adopt its own rules of procedure.

Section 5
Regulations

- (1) The Administrative Council of ARIPO shall make Regulations for the implementation of this Protocol and may amend them, where necessary.
- (2) The Regulations shall in particular relate to—
- (i) any administrative requirements, matters of procedure, or any details necessary for the implementation of the provisions of this Protocol and any relevant international treaties;
 - (ii) the fees to be charged by the Office and the details of the distribution of part of those fees among the Contracting States.

Section 6
Entry into Force and Final Provisions

- (1)(a) Any State which is a member of the Organization or any State to which membership of the Organization is open in accordance with Article IV(1) of the Agreement on the Creation of the African Regional Intellectual Property Organization may become party to this Protocol by—
- (i) signature followed by the deposit of an instrument of ratification, or
 - (ii) deposit of an instrument of accession.
- (b) Instruments of ratification or accession under this Protocol shall be deposited with the Government of the Republic of Zimbabwe.
- (c) This Protocol shall enter into force 3 months after 3 States have deposited their instruments of ratification or accession.
- (d) Any State which is not party to this Protocol upon its entry into force under Sub-section (1)(c) of this section shall become bound by this Protocol 3 months after the date on which such State deposits its instrument of ratification or accession.
- (2)(a) Ratification of, or accession to, this Protocol shall entail acceptance of the Agreement on the Creation of an African Regional Intellectual Property Organization.
- (b) The deposit of an instrument of ratification of, or accession to, this Protocol by a State which is not a party to the Agreement referred to in paragraph (a) of this sub-section shall have the effect that the said State shall become party to the said Agreement on the date on which it deposits its instrument of ratification of, or accession to, this Protocol.

(3)(a) Any Contracting State may denounce this Protocol by notification addressed to the Government of the Republic of Zimbabwe.

(b) Denunciation shall take effect 6 months after receipt of the said notification by the Government of the Republic of Zimbabwe. It shall not affect any patent application or application for the registration of an industrial design or of a utility model filed with the Office prior to the expiration of the said six-month period or any patent granted or registration of an industrial design or utility model effected upon such application.

(4)(a) This Protocol shall be signed in a single copy and shall be deposited with the Government of the Republic of Zimbabwe.

(b) The Government of the Republic of Zimbabwe shall transmit certified copies of this Protocol to the Contracting States, other States members of the African Regional Intellectual Property Organization and the States to which membership of the Organization is open in accordance with Article IV(1) of the Agreement on the Creation of an African Regional Intellectual Property Organization, the World Intellectual Property Organization and the United Nations Economic Commission for Africa.



**REGULATIONS FOR IMPLEMENTING THE PROTOCOL ON PATENTS
AND INDUSTRIAL DESIGNS WITHIN THE FRAMEWORK OF THE
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(Text entered into force on April 25, 1984, and amended by the Administrative Council of ARIPO on April 27, 1994, November 27, 1998, November 24, 2000, November 21, 2003, November 24, 2006 and November 30, 2011 and November 25, 2013)

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Schedule 1: Fees

Rule 1
Interpretation

"Administrative Instructions" means the Administrative Instructions established by the Director General of the ARIPO Office in accordance with Rule 2(5);

"application" means an application for the grant of a patent or for the registration of a utility model or of an industrial design, as the case may be, under the provisions of the Protocol;

"ARIPO Journal" means the Journal published by the ARIPO Office as required in Rule 2(4);

"ARIPO Office" means the Office, or ARIPO Secretariat, of the African Regional Intellectual Property Organization (ARIPO);

"Board of Appeal" means the Board of Appeal established under Section 4*bis* of the Protocol;

"Budapest Treaty" means the Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure done at Budapest in 1977;

"Contracting State" means any State that adheres to the Protocol;

"depository institution" means an institution which at all relevant times—

- (a) carries out the functions of receiving, accepting and storing micro-organisms and the furnishing of samples thereof; and
- (b) conducts its affairs in so far as they relate to the carrying out of those functions in an objective and impartial manner;

"designated State" means a State designated, in accordance with Rule 5(1)(f), in an application;

"Implementing Regulations" means, unless the context indicates otherwise, the Regulations for Implementing the Protocol on Patents and Industrial Designs Within the Framework of the African Regional Intellectual Property Organization (ARIPO);

"international application" means a patent application filed under the Patent Cooperation Treaty;

"international depository authority" means a depository institution which has acquired the status of international depository authority as provided for in Article 7 of the Budapest Treaty;

"Paris Convention" means the Paris Convention for the Protection of Industrial Property of March 20, 1883, as last revised;

"Patent Cooperation Treaty" means the Patent Cooperation Treaty done at Washington on June 19, 1970, including the Regulations and Administrative Instructions under the Treaty, as last revised;

"Protocol" means the Protocol on Patents and Industrial Designs Within the Framework of the African Regional Intellectual Property Organization (ARIPO) adopted at Harare, Zimbabwe, on December 10, 1982.

“Utility Model” shall have the meaning given in Section 3ter.

Rule 2
Registers; The Journal;
Administrative Instructions

(1) The ARIPO Office shall maintain a Patents Register, a Utility Models Register and an Industrial Designs Register in which shall be recorded, respectively, all patents granted and all utility models and industrial designs registered under the Protocol, and which shall contain the particulars the recording of which is provided for in these Regulations.

(2) The recording of a granted patent shall be effected, in the order of grant, by the insertion in the Patents Register of a copy of the patent.

(3) Any recording other than that of the granted patent shall be effected by recording, under the appropriate heading of a page in the Patents Register reserved for each patent, the fact or instrument to be recorded.

(4) The ARIPO Office shall publish a Journal in which it shall effect all the publications provided for in the Protocol and in these Regulations. The Journal shall be published at least quarterly.

(5)(a) The Director General of the ARIPO Office shall establish Administrative Instructions which shall deal with details in respect of the application of these Regulations and which shall not be in conflict with the provisions of the Protocol and these Regulations.

(b) The Administrative Instructions shall be modified by the Director General of the ARIPO Office upon the request of the ARIPO Administrative Council.

Rule 3
Inspection of Files

(1) Subject to paragraph (2), any person may, upon payment of the prescribed fee, consult the Registers or obtain copies of extracts therefrom.

(2)(a) The file relating to a patent application or an application for the registration of a utility model or industrial design may be inspected and extracts therefrom obtained before the grant of the patent or registration of the utility model only with the written permission of the applicant.

(b) Even before the grant of the patent or the registration of the utility model or industrial design, the ARIPO Office shall, on request, communicate the following bibliographic data:

- (i) the name and address of the applicant and the name and address of the agent;
- (ii) the number of the application;
- (iii) the filing date of the application and, if priority is claimed, the priority date, the number of the earlier application and the name of the State in which the earlier application was filed or, where the earlier application is a regional or international

application, the name of the State or States for which it was filed as well as the office with which it was filed;

- (iv) the title of the invention, utility model or industrial design;
- (v) any change in the ownership of the application and any reference to a licence contract appearing in the file of the application.

(c) Where an application is withdrawn in accordance with Rule 17, the file relating to it may be inspected only with the written permission of the person who withdrew the application, and paragraph (b) shall not apply.

(3) The inspection of files of the ARIPO Office by the Courts or authorities of Contracting States shall be by the provision of copies of the relevant documents or extracts of the relevant entries.

Rule 4 ***Patent Information Services***

The ARIPO Office shall provide, upon request, patent information services to users of patent information in Member States and potential Member States of ARIPO for the purpose of facilitating the adaptation, transfer and acquisition of appropriate technology, the development of local research and the creation of indigenous technology.

Rule 5 ***Form and Contents of Patent Application***

- (1) The application for a patent shall contain:
 - (a) a request;
 - (b) a description;
 - (c) one or more claims;
 - (d) one or more drawings (where necessary);
 - (e) an abstract; and
 - (f) a designation of the Contracting States in respect of which the patent is requested to be granted.

(2)(a) The application shall be in the English language and any document forming part of the application and which is in a language other than English shall be accompanied by an English translation and shall be certified by the applicant or the person having translated the application in a statement to that effect, that, to his knowledge, the translation is a correct record of the application.

(b) The Rules relating to Fees shall determine in particular the amount of the fees and the ways in which they are to be paid.

(3) The request shall be made on a printed form copies of which shall be obtainable from the ARIPO Office, ARIPO website or from any other electronic media and from the industrial property offices of Contracting States.

(4)(a) The printed form shall contain a list which, when filled in, will show–

- (i) the total number of sheets constituting the application and the number of the sheets of each element of the application (request, description, claims, drawings, abstract);
- (ii) whether or not the application as filed is accompanied by a power of attorney, a priority document, a receipt for the fee paid or an undertaking to pay the requisite fees, a statement justifying the applicant's right to the patent and any other document (to be specified in the check list);
- (iii) the number of the most illustrative drawing which the applicant suggests should accompany the abstract when the abstract is published.

(b) The list shall be filled in by the applicant, failing which the ARIPO Office shall fill it in and make the necessary annotations.

(5) The request, which shall be signed by the applicant, shall contain–

- (a) a petition which shall appear on the printed form;
- (b) the title of the invention which shall be short (preferably from two to seven words) and precise;
- (c) the name, address (including, where applicable, telegraphic and telex address and telephone and telex address and telephone number) and nationality of the applicant and the State in which his residence or principal place of business is located; names of natural persons shall be indicated by the person's family name and given name(s), the family name being indicated before the given name(s); names of legal entities shall be indicated by their official designations; addresses shall be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address; they shall in any case comprise all the relevant administrative units, including the house number, if any;
- (d) the name, address and place of business of the applicant's representative (particulars as in (c) above);
- (e) where the applicant is the inventor, a statement to that effect and, where he is not, the name and address of the inventor accompanied by a statement specifying the basis of the applicant's right to the patent; and
- (f) where applicable, a declaration of priority.

Rule 5bis
Electronic Filing of Patents, Industrial Designs and Utility Models

(1) Patent, industrial design and utility model applications may be filed and processed in electronic form or by electronic means in accordance with the Administrative Instructions provided that the ARIPO Office or any Member States' office shall permit the filing of applications on paper.

(2) These regulations shall apply *mutatis mutandis* to all applications filed in electronic form or by electronic means subject to any special provisions of the Administrative Instructions.

(3) The Administrative Instructions shall set out the provisions and requirements in the filing and processing of applications filed, in whole or in part in electronic form or by electronic means including, but not limited to, provisions and requirements in relation to acknowledgement of receipt, procedures relating to the according of a filing date, physical requirements and the consequences of non-compliance with those requirements, signature of documents, means of authentication of documents and of the identity of parties communicating with offices and applicants.

(4) No Member State shall be obliged to receive or process ARIPO patent applications filed in electronic form or by electronic means unless if the Member State has notified the ARIPO Office that it is prepared to do so in compliance with the applicable provisions of the Administrative Instructions.

(5) No Member State which has given the ARIPO Office a notification under paragraph (4) may refuse to process an application filed in electronic form or by electronic means which complies with the applicable requirements under the Administrative Instructions.

(6) Rule 5bis shall apply *mutatis mutandis* to other correspondence documents relating to all ARIPO applications.

Rule 6
Contents of the Description

(1) The description shall—

- (a) first state the title of the invention as appearing in the request;
- (b) specify the technical field to which the invention relates;
- (c) indicate the background art which, as far as known to the applicant, can be regarded as useful for the understanding, searching and examination of the invention, and, preferably, cite the documents reflecting such art;
- (d) disclose the invention in such terms that it can be understood, and state its advantageous effects, if any, with reference to the background art;
- (e) briefly describe the figures in the drawings, if any;
- (f) set forth at least the best mode contemplated by the applicant for carrying out the invention; this shall be done in terms of examples, where appropriate, and with reference to the drawings, if any; and

- (g) indicate explicitly, when it is not obvious from the description or nature of the invention, the way in which the invention is industrially applicable and the way in which it can be made and used, or, if it can only be used, the way in which it can be used.

(2) The manner and order specified in this Rule shall be followed except when, because of the nature of the invention, a different manner or a different order would result in a better understanding and a more concise presentation.

Rule 6bis
Patent Applications Relating to Micro-organisms

6bis. 1. Applications

(1) The description of an invention in an application for a patent which requires for its performance the use of a micro-organism—

- (a) which is not available to the public at the date of filing the application; and
- (b) which cannot be described in the application in such a manner as to enable the invention to be performed by a person skilled in the art shall be regarded as disclosing the invention only if—
 - (i) not later than the date of filing of the application, a culture of the micro-organism has been deposited with an international depositary institution; and
 - (ii) the name of the depositary institution, the date when the culture was deposited and file number of the deposit are given in the application, and, where a new deposit is made under paragraph *6bis.4* below, the applicant or proprietor makes a new deposit in accordance with that paragraph.

(2) Where the information specified under sub-paragraph (1)(b)(ii) above is not contained in the application as filed, it shall be submitted to the ARIPO Office,

- (a) before the end of the period of 16 months after the date of filing of the application or, if priority is claimed, after the priority date.
- (b) where the Office has received a request by any person for information and inspection of the application under Rule 3 of these Regulations, before the end of one month after the Office communicates to the applicant a notification of receipt of the request, whichever period is the earliest.

(3) The submission of information specified in subparagraph (1)(b)(ii) above shall constitute the unreserved and irrevocable consent of the applicant to the depositary institution with which a culture is from time to time deposited making the culture available on receipt of the certificate of the ARIPO Office authorizing the release to the person named therein as a person to whom the culture may be made available and who makes a valid request to depositary institution.

(4) The application for a patent referred to in paragraph (1) above shall mention any international agreement under which the micro-organism concerned is deposited.

6bis. 2. Availability of Culture

(1) The deposited culture shall be available upon request to any person from the date of publication of the ARIPO patent application and to any person having the right to inspect the files under Rule 3 prior to that date. Subject to the provisions of paragraph (3) of Rule *6bis. 3* below, such availability shall be effected by the issue of a sample of the micro-organism to the person making the request (hereafter called “the requester”) and the said issue shall be made only if the requester has undertaken vis-à-vis the applicant or the proprietor of the patent–

- (a) not to make the deposited culture or any culture derived therefrom available to any third party before the application has been refused or withdrawn or is deemed to be withdrawn or, if a patent is granted, before the expiry of the patent;
- (b) to use the deposited culture or any culture derived therefrom for experimental purposes only, until such time as the patent application is refused or withdrawn or is deemed to be withdrawn or on the publication of the grant of the patent. This provision shall not apply where the requester is using the culture under a compulsory licence.

(2) For the purposes of paragraph (1) above, a derived culture is deemed to be any culture of the micro-organism which still exhibits those characteristics of the deposited culture which are essential to the carrying out of the invention. The undertaking referred to in paragraph (1) shall not impede a deposit of a derived culture which is necessary for the purpose of patent procedure.

(3) The request provided for in paragraph (1) shall be made to the ARIPO Office on a form recognised by the ARIPO Office. The ARIPO Office shall certify on the said form that an ARIPO patent application referring to the deposit of the micro-organism has been filed and that the requester or the expert nominated by him is entitled to the issue of a sample of the micro-organism.

(4) The ARIPO Office shall transmit the request, together with the certification provided for in paragraph (3) above, to the depository institution as well as to the applicant or the proprietor of the patent.

(5) The Director General of the ARIPO Office shall publish in the Journal the list of depository institutions recognised for the purposes of this Rule.

6bis. 3. Availability of Culture to Experts

(1) Until the date of publication of the application, the applicant may inform the ARIPO Office that until the grant of the patent or until the date on which the application has been refused or withdrawn or is deemed to be withdrawn, the availability of the culture referred to in Rule *6bis.2* shall be effected only by the issue of a sample to an expert nominated by the requester.

(2) The following may be nominated as an expert:

- (a) any natural person provided that the requester furnishes evidence at the time of filing the request that the nomination has the approval of the applicant;
- (b) any natural person recognised as an expert by the Director General of the ARIPO Office.

(3) The nomination shall be accompanied by an undertaking from the expert vis-à-vis the applicant similar to that specified in Rule 6bis.2(1). In this instance the requester will be regarded as a third party.

6bis. 4. New Deposit of a Micro-organism

(1) If a micro-organism deposited in accordance with Rule 6bis.1 ceases to be available from the institution with which it was deposited because—

- (a) the micro-organism is no longer viable, or
- (b) for any other reason the depository institution is unable to supply samples, and if the micro-organism has not been transferred to another depository institution recognised for the purposes of Rule 6bis from which it continues to be available, an interruption in availability shall be deemed not to have occurred if a new deposit of the micro-organism originally deposited is made within a period of three months from the date on which the depositor was notified of the interruption by the depository institution and if a copy of the receipt of the deposit issued by the institution is forwarded to the ARIPO Office within four months from the date of the new deposit stating the number of the application or the ARIPO patent.

(2) In the case provided for in sub-paragraph (1)(a) above, the new deposit shall be made with the depository institution with which the original deposit was made; in the cases provided for in subparagraph (1)(b) above, it may be made with another depository institution recognised for the purposes of Rule 6bis.

(3) Where the institution with which the original deposit was made ceases to be recognised for the purposes of the application of Rule 6bis, either entirely or for the kind of micro-organisms to which the deposited micro-organism belongs, or where that institution discontinues, temporarily or definitively, the performance of its functions as regards deposited micro-organisms, and the notification referred to in paragraph (1) from the depository institution is not received within six months from the date of such event, the three months period referred to in paragraph (1) shall begin on the date on which this event is announced in the Journal of the ARIPO Office.

(4) Any new deposit shall be accompanied by a statement signed by the depositor alleging that the newly deposited micro-organism is the same as that originally deposited.

Rule 7
Contents of the Claims

(1) The claims shall define the matter for which protection is sought in terms of the technical features of the invention. They shall be clear and concise and be supported by the description. The number of the claims shall be reasonable, taking into account the nature of the invention, and, where there are several claims, they shall be numbered consecutively in Arabic numerals. Wherever appropriate, claims shall contain—

- (a) a statement indicating those technical features of the invention which are necessary for the definition of the latter but which, in combination, are part of the prior art; and
- (b) a characterizing portion - preceded by the words "characterized in that," "characterized by," "wherein the improvement comprises," or any other words to the same effect - stating concisely the technical features which, in combination with the features stated under (a), it is desired to protect.

(2) Claims shall not, except where absolutely necessary, rely, in respect of the technical features of the invention, on references to the description or drawings. In particular, they shall not rely on such references as: "as described in part ... of the description," or "as illustrated in figure ... of the drawings."

(3) Claims related to medical indications or use claims shall, for the purpose of examination, be drafted in accordance with the standard phrases provided below:

(a) Claims regarded as first medical indications

- (i) Pharmaceutical composition for the prophylaxis/treatment of Y(=disease) comprising X(=a drug/medicament).
- (ii) Pharmaceutical composition comprising X.
- (iii) Compound X for use as a drug/medicament for the treatment of Y.
- (iv) Use of X for the manufacture of a pharmaceutical composition (Note that the disease indication is not mentioned in the claim).
- (v) Compound X for use as an analgesic.
- (vi) Compound X for use in treating disease Y.
- (vii) Compound A containing X for use in treating disease Y (composition A may be genetically defined).
- (viii) Medicament containing compound X.
- (ix) Use of X for preparing a medicament.

(b) Claims regarded as second medical indications

- (i) Use of X for the manufacture/preparation of a medicament/pharmaceutical composition for the treatment of Y.
- (ii) Process for the preparation of a medicament for treating disease Y characterized in that compound X is used as the main active component of the medicament.

Rule 7bis
Guidelines on Transgenic Plants and Animals

7bis. 1. Definitions

For the purposes of these guidelines–

- (a) ‘biological material’ means any material containing genetic information and capable of reproducing itself or being reproduced in a biological system;
- (b) ‘microbiological process’ means any process involving or performed upon or resulting in microbiological material;
- (c) ‘biotechnological invention’ are inventions which concern a product consisting of or containing biological material or a process by means of which biological material is produced, processed or used;
- (d) ‘genetic engineering’ means the technology which manipulates gene recombination, cell fusion, etc. Inventions relating to genetic engineering include those of a gene or a DNA fragment, a vector, a recombinant vector, a transformant, a polypeptide or a protein, a fused cell, a monoclonal antibody, etc;
- (e) ‘plant variety’ means any plant grouping within a single botanical taxon of the lowest known rank, which grouping, irrespective of whether the conditions for the grant of a plant variety right are fully met, can be–
 - i defined by the expression of the characteristics that result from a given genotype or combination of genotypes,
 - ii distinguished from any other plant grouping by the expression of at least one of the said characteristics and,
 - iii considered as a unit with regard to its suitability for being propagated and changed;
- (f) a process for the production of plants or animals is essentially biological if it consists entirely of natural phenomena such as crossing or selection.

7bis. 2. Patentable Biotechnological Inventions

Biotechnological inventions shall be patentable if they concern–

- i ‘biological material’ which is isolated from its natural environment or produced by means of a technical process even if it previously occurred in nature,
- ii ‘plants or animals’ provided that the technical feasibility of the invention is not confined to a particular plant or animal variety,
- iii ‘a microbiological or other technical process,’ or a product obtained by means of such a process other than a plant or animal variety,
- iv any element isolated from the human body or otherwise produced by means of a technical process including the sequence or partial sequence of a gene, may constitute a patentable invention even if the structure of that element is identical of a natural element. The industrial application of a sequence or a partial sequence of a gene must be disclosed in the patent application.

7bis. 3. Exceptions to Patentability of Biotechnological Inventions

ARIPO patents shall not be granted in respect of biotechnological inventions which, in particular, concern the following:

- i processes for cloning human beings,
- ii processes for modifying the germ line genetic identity of human beings,
- iii uses of human embryos for industrial or commercial purposes,
- iv processes for modifying the genetic identity of animals which are likely to cause them suffering without any substantial medical benefit to man or animal, and also animals resulting from such processes,
- v an embryonic stem cell of an animal, an animal at the various stages of its formation and development such as a germ cell, a zoosperm, an embryo etc belong to the category of animal variety,
- vi a single plant and its reproductive material (such as seed, etc) which maintains its life by synthesizing carbohydrates and protein from the inorganic substances such as water, carbon dioxide and mineral salts and so on through photosynthesis belong to the category of plant variety,
- vii inventions that do not possess practical applicability, i.e. cannot easily be reproduced,
- viii the human body, at the various stages of its formation and development, and the simple discovery of one of its elements, including the sequence or partial sequence of a gene, cannot constitute patentable inventions.

Rule 8
Declaration of Priority

(1) The application may contain a declaration claiming, in respect of one or several designated States, the priority, as provided for in the Paris Convention, of one or more earlier national, regional or international applications filed by the applicant or his predecessor in title in or for any State party to the Paris Convention. The declaration shall indicate—

- (i) the date of the earlier application;
- (ii) the number of the earlier application, subject to paragraph (2);
- (iii) the name of the State in which the earlier application was filed or, where the earlier application is a regional or an international application, the name of the State or States for which it was filed; and
- (iv) where the earlier application is a regional or an international application, the office with which it was filed.

(2) Where, at the time of filing the declaration referred to in paragraph (1), the number of the earlier application is not known, that number shall be furnished within three months from the date on which the application containing the declaration was filed.

(3) The applicant may, at any time before the grant of the patent, amend the contents of the declaration.

(4) The applicant shall, within a period of three months from the filing of the application containing the declaration, furnish a copy of the earlier application, certified as correct by the office with which it was filed.

(5) Where the earlier application is in a language other than English, the applicant shall, within a period of six months from the filing of the application containing the declaration, furnish an English translation.

(6) If the requirements under this Rule have not been complied with, the declaration shall be disregarded.

Rule 9
Applications for the Registration of Industrial Designs

The Rules relating to patent applications shall, *mutatis mutandis*, apply to applications for the registration of industrial designs filed under Section 4 of the Protocol.

Rule 9bis
Applications for the Registration of Utility Models

The Rules relating to patent applications, particularly Rules 5 to 8 and 20 of these Regulations, shall, *mutatis mutandis*, apply to applications for the registration of utility models filed under Section 3ter of the Protocol.

Rule 10
Filing of Application;
Authorization of Representative

(1) Subject to Rule 11, any application may be filed with either the Office or the industrial property office of any Contracting State.

(2) The authorization of the applicant's representative shall be evidenced by a power of attorney issued and signed by the applicant and filed together with the application or filed within a period of two months after the filing of the application.

Rule 11
Fees to be Paid

(1) The fees to which applications are subject, and the amounts of such fees, shall be as set out in the Schedule of Fees which is annexed to these Regulations and forms part thereof, as well as in the Administrative Instructions.

(2) Subject to paragraph (3), fees shall be paid in U.S. dollars direct to the ARIPO Office or the application shall be accompanied by an undertaking signed by the applicant that he will effect payment to the ARIPO Office within a period of 21 days from the date on which the application is filed with the ARIPO Office or the industrial property office of a Contracting State.

(3)(a) Notwithstanding paragraph (2), where the applicant is a national of the Contracting State in which the application is filed, the industrial property office concerned may—

- (i) accept payment of the fees in local currency equivalent, at the prevailing official rate of exchange, to the prescribed fees; and
- (ii) request the ARIPO Office to debit its account in ARIPO with the amount of such fees.

(b) The ARIPO Office shall be bound by the decision taken by the industrial property office of a Contracting State concerning the applicability of this paragraph with regard to the nationality of the applicant.

Rule 12 ***Distribution of Fees***

(1) The distribution of fees between the ARIPO Office and Contracting States shall be as follows:

- (a) 5% of the application fees shall be due to the Contracting State in which the application is filed and 95% shall be due to the ARIPO Office;
- (b) 50% of the designation fee shall be due to each designated State and 50% shall be due to the ARIPO Office;
- (c) 50% of the annual maintenance fee shall be due to the designated State and 50% shall be due to the ARIPO Office.

(2) Fees due to Contracting States shall be held in their favour or, on request, transmitted to them by the ARIPO Office.

Rule 13 ***Transmittal of Application***

Where the application is filed with the industrial property office of a Contracting State, that office shall—

- (i) verify that the application on the face of it fulfills the requirements of Rule 5(1)(a), (b) and (c);
- (ii) verify that the undertaking with respect to fees has been submitted or that the fees have been paid and a receipt issued therefor;
- (iii) mark on each document making up the application the actual date of receipt, an appropriate number and its official stamp;
- (iv) issue to the applicant's representative an acknowledgement of receipt of the application; and
- (v) promptly transmit all documents making up the application to the ARIPO Office.

Rule 14
Filing Date

(1) The ARIPO Office shall accord as the filing date the date on which the application was received by the Office or the industrial property office of the Contracting State with which the application was filed, provided that the application on the face of it fulfills the requirements of Rule 5(1)(a), (b) and (c); if on the date on which the application was received by the Office or the industrial property office of the Contracting State it did not fulfill the requirements of Rule 5(1)(a), (b) and (c), the ARIPO Office shall accord as the filing date the date on which the application on the face of it fulfilled the requirements of Rule 5(1)(a), (b) and (c).

(2) The ARIPO Office shall notify the applicant and the industrial property office of each designated State of the filing date of the application.

Rule 15
Examination as to Formal Requirements

(1) Upon receiving the application, the ARIPO Office shall examine it for compliance with the requirements of Section 3(1) of the Protocol, Rules 5, 6, 7, 8, 10 and 11, and the Administrative Instructions, and ascertain whether the requisite fees have been paid.

(2) Where the ARIPO Office finds that the application does not comply with the said requirements, it shall invite the applicant to correct the application within a period of two months.

(3) If the applicant fails to comply with the invitation referred to in paragraph (2) and the ARIPO Office refuses the application under Section 3(2)(b) of the Protocol, a request by the applicant, pursuant to Section 3(4), that the ARIPO Office reconsider its decision may be submitted in writing within two months and shall state the applicant's grounds for requesting such reconsideration.

Rule 15bis
Time Limits

(1) The prescribed period referred to in Section 3(4) of the Protocol within which the applicant may request the Office to reconsider the matter shall be two months after the date of notification of the decision of the ARIPO Office that the application has been refused.

(2) The applicant may lodge an appeal against the decisions of the Office to the Board of Appeal within three months after the date of notification of the decision of the ARIPO Office.

Rule 16
Information Concerning Corresponding
Foreign Applications, Patents
or Other Titles of Protection

(1) The applicant shall, at the request of the ARIPO Office, and within the period specified in such request, furnish it with the date and number of any application for a patent or other title of protection filed by him with a national industrial property office or with a regional industrial property office ("foreign application") relating to the same or essentially the same invention as that claimed in the application being processed by the ARIPO Office.

(2)(a) The applicant shall, at the request of the ARIPO Office and within the period specified in such request, furnish it with the following documents relating to one of the foreign applications referred to in paragraph (1):

- (i) a copy of any communication received by the applicant concerning the results of any search or examination carried out in respect of the foreign application;
- (ii) a copy of the patent or other title of protection granted on the basis of the foreign application;
- (iii) a copy of any final decision rejecting the foreign application or refusing the grant requested in the foreign application.

(b) The applicant shall, at the request of the ARIPO Office, furnish it with a copy of any final decision invalidating the patent or other title of protection granted on the basis of the foreign application referred to in sub-paragraph (a).

(3) The applicant shall, at the request of the ARIPO Office, furnish it with the following documents relating to any foreign application other than the one referred to in paragraph (2):

- (i) a copy of any communication received by the applicant concerning the results of any search or examination carried out in respect of the foreign application and in which publications or other documents establishing prior art are mentioned;
- (ii) a copy of any final decision rejecting the foreign application or refusing the grant requested in the foreign application.

(4) The documents furnished under this Rule shall merely serve the purpose of facilitating the evaluation of the novelty and inventive step of the invention claimed in the application being processed by the ARIPO Office or in the patent granted on the basis of that application.

(5) The applicant shall have the right to submit comments on the documents furnished under this Rule.

Rule 17
Withdrawal of an Application or Reduction of the Number of Designated States

The applicant may withdraw an application or reduce the number of designated states at any time during its pendency by submitting a written declaration to the ARIPO Office.

Rule 18
Examination as to Substance

(1) For the purposes of the examination under Section 3(3) of the Protocol, the ARIPO Office may transmit the application together with all relevant documents to an authority specified in the Administrative Instructions.

(2) A search and examination report shall be established by the ARIPO Office or by the authority referred to in paragraph (1) and shall contain the conclusions of the examination of the application.

(3) Where, taking due account of the conclusions of the search and examination report referred to in paragraph (2), the ARIPO Office reaches the conclusion that any of the requirements referred to in Section 3(3) of the Protocol are not fulfilled, it shall notify the applicant accordingly and invite him to submit, within a specified period, his observations and, where applicable, an amended application together with a request in accordance with Section 3(4) of the Protocol that the matter be reconsidered.

(4) Where the ARIPO Office, taking due account of the search and examination report, decides to grant the patent pursuant to Section 3(7) of the Protocol, it shall, by a notification to which shall be attached a copy of the search and examination report upon which the decision is based, communicate the decision to the applicant, the industrial property office and be made available to the public in each designated State, and request the applicant to make payment of the grant and publication fee, within the period it shall specify.

(5) A communication by a designated State pursuant to Section 3(6) of the Protocol shall be made on its behalf by its industrial property office.

(6) Within two weeks of receiving any such communication, the ARIPO Office shall promptly transmit a copy thereof to the applicant.

Rule 18bis
Examination of Utility Models as to Substance

(1) Without derogating from the generality of Rule 18, no utility model may be protected if it has already been the subject of a patent for an invention or a registration of a utility model based on a prior application or application benefiting from an earlier priority.

(2) Novelty and industrial applicability within the Contracting States of the Protocol shall be applied with respect to utility models.

Rule 19
Request for Conversion into
a National Application

(1) A request by the applicant, pursuant to Section 3(8) or Section 3ter(9) of the Protocol, that the application be treated as an application under the national law of one or more of the designated States, may be filed within three months from the date of the refusal by the ARIPO Office of the request for reconsideration, and shall specify the designated States in which the procedure for the grant or registration of a national patent or utility model is desired.

(2) Within two weeks of receiving the request, the ARIPO Office shall transmit copies of the application, and all relevant documents, to the industrial property offices of the designated States specified by the applicant.

Rule 19bis
Publication of ARIPO Patent Applications

(1) An ARIPO patent application shall be published as soon as possible after the expiry of a period of 18 months from the date of filing or, if priority has been claimed, from the date of priority.

(2) For the purposes of Rule 19bis(1) in the case of applications claiming priority, the term of eighteen months shall be construed from the original filing date, and in the case of applications with two or more priority claims, the period shall be construed from the earliest priority dates.

Rule 20
Grant; Recordal and Publication

(1) Upon the expiry of the period of six months provided for in Section 3(6) and subject to payment of the grant and publication fee, the ARIPO Office shall in accordance with Section 3(7) of the Protocol—

- (a) grant the patent;
- (b) publish in the ARIPO Journal a reference to the grant;
- (c) record the patent in the Patents Register;
- (d) issue to the applicant a certificate of the grant of the patent and a copy of the patent;
- (e) transmit to each designated State for which the patent is granted a copy of the certificate and a copy of the patent.

(2) The publication of a reference to the grant in the ARIPO Journal shall include the following:

- (a) the number of the patent;
- (b) the name and address of the owner of the patent;
- (c) the name and address of the inventor;

- (d) the name and address of the applicant's representative;
 - (e) the filing date of the application;
 - (f) if priority has been claimed and the claim has been accepted, a statement of that priority, the priority date and the name of the country or countries in which or for which the earlier application was filed;
 - (g) the effective date of the grant of the patent;
 - (h) the title of the invention;
 - (i) the abstract;
 - (j) if there are drawings, the most illustrative drawing;
 - (k) the symbol of the International Patent Classification;
 - (l) the Contracting States for which the patent is granted.
- (3) The Certificate of Grant, which shall be signed by the Director General of the ARIPO Office, shall contain—
- (a) the number of the patent;
 - (b) the name and address of the owner of the patent;
 - (c) the filing date and priority date, if any, of the application;
 - (d) the effective date of the grant of the patent;
 - (e) the title of the invention;
 - (f) the Contracting States for which the patent is granted.

Rule 21
Payment of Annual Maintenance Fees

- (1) The amount of annual maintenance fees payable under Section 3(11) of the Protocol shall be as prescribed in the Schedule of Fees.
- (2) The annual maintenance fees shall fall due on the eve of each anniversary of the date of filing of the application and shall be paid in advance to the ARIPO Office.
- (3) Subject to the payment of the prescribed surcharge, a period of grace of six months shall be allowed for the payment of the annual maintenance fee.
- (4) If an annual maintenance fee is not paid in accordance with this Rule, the application shall be deemed to have been withdrawn or the patent shall lapse.
- (5) The ARIPO Office shall record each lapsed patent in the Patents Register and publish a notification of the lapse in the ARIPO Journal.

Rule 22
General Provisions

(1) Communications between the ARIPO Office and the industrial property offices of Contracting States on matters relating to the Protocol and regulations shall be effected direct by registered mail or any other safe electronic means of communication.

(2) Communications between the ARIPO Office and the Courts or other authorities of Contracting States on matters relating to the Protocol and these Regulations shall be effected through the intermediary of the industrial property office of the said States and shall be subject to Rule 22(1).

(3) The industrial property offices of designated States of which the national laws provide for the registration of licences, assignments and other similar rights pertaining to patents, utility models and industrial designs shall, upon registering such rights with respect to a patent or utility model or an industrial design granted, registered or applied for under the Protocol, promptly provide the ARIPO Office with particulars of such registrations.

(4) The ARIPO Office shall record in the Registers all notifications made under Rule 22(3).

(5) The ARIPO Office shall, in accordance with the procedure set out in the Administrative Instructions, register assignments, licences and other similar rights pertaining to patents or utility models or industrial designs granted, registered or applied for under the Protocol with respect to designated States of which the national laws do not provide for such registrations.

Rule 22bis

Registration of Assignments, Licences and Other Similar Rights

(1) Without derogating from the application of Rule 22(3) and (5), an assignment of a patent, industrial design or utility model granted or registered shall be registered in the Patents Register, Industrial Designs Register and Utility Models Register, as the case may be, at the application of any interested party and on production of documents satisfying the ARIPO Office that the transfer has taken place.

(2) The application for registration shall be deemed not to have been fulfilled until the prescribed fee has been paid. The ARIPO Office may reject the application only in the event of failure to comply with the conditions laid down in paragraph (1) of this Rule.

(3) The assignment shall have effect vis-à-vis the ARIPO Office only when and to the extent that the documents referred to in paragraph (1) have been produced before the Office.

(4) Paragraphs (1) to (3) of this Rule shall apply *mutatis mutandis* to the registration of a licence or other similar right.

(5) The registration referred to in paragraph (4) shall be cancelled upon application by any interested party on payment of a prescribed fee. Such application shall be supported either by documents establishing that the licence or other similar right has lapsed or by a declaration by which the licensee or proprietor of other similar right consents to the cancellation of the registration. The application for cancellation may be rejected only if these conditions are not fulfilled.

Rule 23

International Applications

(1) Where an international application is filed with the ARIPO Office as receiving Office under the Patent Cooperation Treaty–

- (a) the transmittal fee referred to in Rule 14 of the Regulations under that Treaty shall be as prescribed in the Schedule of Fees annexed to these Regulations;
- (b) the applicant may be represented by an attorney, agent or legal practitioner who has the right to represent applicants before the industrial property Office of a Contracting State which is also bound by the Patent Cooperation Treaty.

(2) Where, in an international application, a Contracting State which is also bound by the Patent Cooperation Treaty is designated for the purpose of obtaining a patent under the provisions of the Protocol, the applicant shall, within the time limit applicable under Article 22 or 39(1)(a) of the Patent Cooperation Treaty–

- (a) furnish an English translation of the international application to the ARIPO Office if the international application was published in a language other than English;
- (b) pay the following fees, as prescribed in the Schedule of Fees, to the ARIPO Office:
 - (i) the application fee;
 - (ii) the designation fee per country designated;
 - (iii) subject to Rule 21(4), the annual maintenance fees which have become due;
- (c) where the applicant's ordinary residence or principal place of business is not in a Contracting State which is also bound by the Patent Cooperation Treaty, appoint as his representative an attorney, agent or legal practitioner who has the right to represent applicants before the industrial property office of such a Contracting State.

(3) An international search report established for an international application for which the ARIPO Office acts as designated Office under Article 2(xiii) of the Patent Cooperation Treaty shall replace the search report referred to in Rule 18(2).

(4) An international preliminary examination report established for an international application for which the ARIPO Office acts as elected Office under Article 2(xiv) of the Patent Cooperation Treaty shall replace the examination report referred to in Rule 18(2).

SCHEDULE I

FEES

SCHEDULE OF FEES

PATENTS

Kind of Fees	Amount (US Dollars or, where Rule 11 (3)(a) applies, the equivalent)
1. Application fee	250
2. Designation fee per country designated	75
3. Examination Report fee ¹	250
4. Search Report fee ¹	250
5. Publication fee	300
6. Surcharge for each additional page after 30 pages	15
7. Surcharge for each additional claim after 10 claims	40
8. Grant fee	300
9. Annual maintenance fee in respect of each designated State	
1st anniversary (2 nd year from filing date)	40
2 nd anniversary	60
3 rd anniversary	80
4 th anniversary	100
5 th anniversary	120
6 th anniversary	140
7 th anniversary	160
8 th anniversary	180
9 th anniversary	200
10 th anniversary	220
11 th anniversary	240
12 th anniversary	260
13 th anniversary	280
14 th anniversary	300
15 th anniversary	320
For each year thereafter an additional US \$50 per designated country	
10. Surcharge for late payment of annual maintenance fee	100
and for every month or fraction thereof that the fee remains unpaid	50
11. Correction of errors:	

	the first error	50
	any additional error	20
12.	Consultation of Registers	10
13.	Request for copies of extracts from Register or from files: per page	5
14.	Certified copy of ARIPO patent application or granted patent, plus 5 per page of the certified copy	100
15.	Transmittal fees for an international application filed with the ARIPO Office as the Receiving Office under the Patent Cooperation Treaty (PCT)	50
16.	Preparation of abstract	100
17.	Conversion to a national patent application	100
18.	Conversion to an ARIPO utility model application	100
19.	Registration of assignments, transmissions, alteration of registered particulars, etc.	100
20.	Request for any extension	50

¹ Must be paid if the application has no corresponding substantive search or examination report.

UTILITY MODELS

Kind of Fees	Amount (US Dollars or, where Rule 11 (3)(a) applies, the equivalent)
1. Application fee	100
2. Designation fee (per country)	20
3. Registration and Publication fee	50
4. Maintenance fees (per Designated State):	
1 st year	20
2 nd year	25
3 rd year	30
4 th year	35
5 th year	40
6 th year	45
7 th year	50
For each year thereafter	10
5. Surcharge for late payment of annual maintenance fees	30
For every month or fraction thereof that the fees remain unpaid	5
6. Certified copy per page	2
and for every page in excess of 10 pages	1
7. Consultation of Register	2
and for every page in excess of 10 pages	1
8. Correction of errors:	
the first error	20
any additional errors	2.50
9. Certified copy of an entry of the Register	20
10. Conversion to national application	50
11. Registration of assignments, transmissions, alteration of registered particulars	30
US \$1 for every page in excess of 10 pages	

INDUSTRIAL DESIGNS

Kind of Fees	Amount (US Dollars or, where Rule 11 (3)(a) applies, the equivalent)
1. Application fee	50
2. Designation fee per country designated	10
3. Registration and publication fee	75
4. Annual maintenance fee in respect of each designated State	
1 st anniversary	10
2 nd anniversary	12
3 rd anniversary	14
4 th anniversary	16
5 th anniversary	18
6 th anniversary	20
7 th anniversary	24
8 th anniversary	28
9 th anniversary	32
10 th anniversary	36
5. Surcharge for late payment of annual maintenance fees:	15
For every month or fraction thereof that the fees remain unpaid	2
6. Certified copy per page	2
and for every page in excess of 10 pages	1
7. Consultation of the Register:	2
and for every page in excess of 10 pages	1
8. Correction of errors:	
the first error	10
any additional errors	2.50
9. Certified copy of an entry of the Register	10
10. Conversion to national application	50
11. Registration of assignments, transmissions, alteration of registered particulars, etc.	20
US \$1 for every page in excess of 10 pages	