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**ARIPO**





## SECTION 1: REGION OVERVIEW

### 1.1 GENERAL INFORMATION

The African Regional Intellectual Property Organization (ARIPO) was established under the Lusaka Agreement that was adopted by a Diplomatic Conference held in Lusaka, Zambia, on 09 December 1976. ARIPO was mainly established to pool the resources of its Member States in industrial property matters to avoid duplication of financial and human resources. The objectives of the organisation are to:

- 1) promote the harmonisation and development of the industrial property laws, and matters related thereto, appropriate to the needs of its members and of the region as a whole;
- 2) foster the establishment of a close relationship between its members in matters relating to industrial property;
- 3) establish such common services or organs as may be necessary or desirable for the coordination, harmonisation and development of the industrial property activities affecting its members;
- 4) establish schemes for the training of staff in the administration of industrial property law;
- 5) organise conferences, seminars and other meetings on industrial property matters;
- 6) promote the exchange of ideas and experience, research and studies relating to industrial property matters;
- 7) promote and evolve a common view and approach of its members on industrial property matters;
- 8) assist its members, as appropriate, in the acquisition and development of technology relating to industrial property matters;
- 9) do all such other things as may be desirable for the achievement of these objectives.

Membership to ARIPO is open to Member States of the Economic Commission for Africa (UNECA) or the African Union (AU). As of 14 July 2022, ARIPO currently has 22 Member States, namely Botswana, Cape Verde, Eswatini, Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mauritius, Mozambique, Namibia, Rwanda, São Tomé and Príncipe, Seychelles, Sierra Leone, Somalia, Sudan, Tanzania, Uganda, Zambia and Zimbabwe.



## 1.2 INTERNATIONAL IP AGREEMENTS AND CONVENTIONS

ARIPO as an organisation is not party to any international intellectual property (IP) agreements and conventions. The organisation's legal processes require the active involvement of national regulatory processes of Member States. This means that any membership to international IP agreements and conventions is addressed at the individual Member State level.

## 1.3 REGIONAL AGREEMENTS

ARIPO as an organisation is not party to any regional agreements.

## 1.4 LEGAL FRAMEWORK OF IP PROTECTION AVAILABLE IN ARIPO

ARIPO administers the following Protocols or IP legislation on behalf of its Member States:

- 1) the Harare Protocol on Patents and Industrial Designs
- 2) Banjul Protocol on Trade Marks
- 3) Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore
- 4) Arusha Protocol for the Protection of New Varieties of Plants
- 5) Kampala Protocol on Voluntary Registration of Copyright and Related Rights

The above protocols can be accessed here: <https://www.aripo.org/protocols/>

Member States have retained their national IP legislation and applications may still be filed through national intellectual property offices.

## 1.5 IP REGISTRATION ROUTES

IP protection in ARIPO can be secured at two levels: national and regional.

### **National**

As indicated in Subsection 1.4 above, Member States have retained their national IP legislation and applications may still be filed through national IP offices.

### **Regional**

IP filing can also be carried out at ARIPO. Since ARIPO uses the designation system, applicants should designate/indicate their countries of interest in their applications.





It is therefore possible to file for trade marks, patents, utility models, industrial designs, traditional knowledge & expressions of folklore, plant varieties and copyright either nationally through Member States' IP offices or regionally, through ARIPO.

## International

ARIPO is not a party to any international IP registration route. This means that any membership to international IP registration systems is addressed at the individual Member State level. Member States should ratify any relevant treaties.

**Choosing a suitable registration route:** trade marks, patents, utility models and industrial designs.

A **national** route is suitable when IP protection is required in the Member State only.

A **regional** route through ARIPO is suitable when multi-state protection of the abovementioned IP rights is required.

Currently, 20 countries can be designated for patents, utility models and industrial designs – Botswana, Eswatini, Gambia, Ghana, Kenya, Liberia, Lesotho, Malawi, Mozambique, Namibia, Rwanda, São Tomé and Príncipe, Seychelles, Sierra Leone, Sudan, Tanzania, Uganda, Zambia and Zimbabwe.

For trade marks, 12 countries can be designated – Botswana, Eswatini, Gambia, Lesotho, Liberia, Malawi, Mozambique, Namibia, São Tomé and Príncipe, Uganda, Tanzania and Zimbabwe.

## Useful information

### Professional representation

Foreign applicants whose principal place of business is outside ARIPO Member States must appoint a local agent (this is optional for local applicants). ARIPO accepts signed powers of attorney without any need for legalisation or notarisisation. Scanned copies sent to ARIPO by email are sufficient. However, some IP service providers may request originals to be sent to them in the event that they are requested by the ARIPO Director General in accordance with the rules. A list of ARIPO representatives (by country) is available at: <https://www.aripo.org/ip-agents/>.

### Trade marks

The ARIPO trade mark system's multiclass and state designation system closely resembles the Madrid system for international registration of trade marks.

Member States should amend their laws to recognise both ARIPO and Madrid trade marks which, as a result, are given the same legal protection as national-route trade marks.

ARIPO is not a signatory to the Nice Agreement although it uses the Nice Classification. Classifications based on the latest edition of the Nice Classification at the time of filing of an application are accepted.

## SECTION 2: OVERVIEW OF IP ENFORCEMENT

Enforcement of IP rights in the ARIPO region is unique in that the regional body does not directly enforce IP rights amongst its Member States. As such, the organisation relies on each Member State to domestically enforce IP rights under its local laws.

Right holders should enforce their IP rights according to the local regulations and procedures of each Member State.

## SECTION 3: TYPES OF AVAILABLE IP PROTECTION

### 3.1 TRADE MARKS

All applications for registration of trade marks should be filed either directly with the ARIPO Office or with the IP Office of a Member State by the applicant or their duly authorised representative.

#### Benefits of registering a trade mark

- A registered trade mark gives the owner exclusive rights to use it to market their goods and services. It gives the owner protection against others using the same, or a similar, mark without authorisation.
- In the long term, a well-maintained trade mark can build the owner's brand and become an asset to their organisation. This can enable them to expand their business by licensing it to others, franchising or obtaining finance.

#### 3.1.1 Who can register a trade mark?

A natural person, a company or any other entity can apply to register a trade mark. However, a person who does not have their place of business in an ARIPO Member State will need to appoint a professional representative.

#### 3.1.2 What are the registration requirements?

A trade mark application must contain the following:

- The full name, nationality and address of the applicant;
- a completed application for registration of a trade mark (form M1);
- a designation of one or more Member States;
- a list of the goods and/or services for which protection is sought, based on the current Nice Classification;





- representation of the trade mark as prescribed;
- a certified copy of the priority document, if priority is claimed;
- a signed power of attorney if the applicant is represented – notarisation is not required;
- a declaration of the actual use of the mark or a declaration of intention to use the mark;
- the prescribed application fees.

### 3.1.3 What qualifies for registration?

A trade mark is any sign, name, word, device, brand, heading, level signature, letters or numbers, or combination of these. Consumers can rely on trade marks to help them distinguish between different goods and/or services in the marketplace and to help them identify brands they are loyal to. An organisation's logo and slogan, a T-shirt brand, a family symbol, the name of an event or festival are some of the things that can be registered as trade marks.

### 3.1.4 What cannot be registered?

What cannot be registered is determined at Member State level according to the country's trade mark laws. For example, a trade mark cannot be registered if it:

- is incapable of distinguishing the goods or services for which protection is sought;
- contains false indications, is deceptive or is likely to deceive or mislead the public;
- is contrary to law, public order or morality;
- is likely to cause confusion with an earlier registered trade mark or pending application;
- constitutes a name or likeness of individuals without the authorisation of such individuals;
- contains a depiction of the head of state of any foreign state, in any colour or style;
- contains a likeness to a specific armorial bearing, flag or emblem;
- contains a title or abbreviation of any international intergovernmental organisation;
- comprises or contains the Olympic symbol;
- may serve in trade to designate the kind, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the service, or other characteristics of the goods or service;
- comprises a mark, sign or indication that has become customary in the current language or in the bona fide and established practices of the trade in respect of the goods or services for which protection is sought;



- consists exclusively of:
  - the shape that results from the nature of the goods themselves,
  - the shape of goods that is necessary to obtain a technical result, or
  - the shape that gives substantial inherent value to the goods.

### 3.1.5 Where can I file an application?

ARIPO trade mark applications can be filed in person, electronically, by mail or fax at

- ARIPO headquarters in Zimbabwe, or at
- IP Offices of the ARIPO Member States.

### 3.1.6 How much does it cost?

#### **Government (official) fees**

The fee schedule is published on the ARIPO website. Both local and foreign applicants may pay these fees in United States Dollars (USD). Application forms are available at <http://eservice.aripo.org/pif/pfd/PIFEFormList.do> and information on fees is available at <https://www.aripo.org/fee-schedules/>.

#### **Professional fees**

Professional fees vary so it is advisable to obtain comparative quotes from at least three ARIPO-accredited professionals. A list is available at <https://www.aripo.org/ip-agents/>.

#### **Likely overall registration costs**

An applicant can expect the cost of registering a trade mark to be approximately as shown in the following table (in USD), unless objections and/or other special circumstances that may increase the costs apply.





Description of Process/Service	ARIPO Official Fees (USD)
Application fees	Paper filing - 100 Online filing - 80
Designation fees for one mark in one class per country/ designated state	50
<i>Each additional class per country/designated state</i>	10
Registration fees for one mark in one class per country/ designated state	100
<i>Each additional class per country/designated state</i>	50
Renewal fees for one mark in one class per country/ designated state	100
<i>Each additional class per country/designated state</i>	50

### 3.1.7 How long does registration take?

The trade mark registration process takes 15-18 months from the filing date to completion, assuming that there are no unusual delays and no oppositions. This includes an opposition period of 3 months.

### 3.1.8 What is the duration of protection?

Protection lasts for 10 years from the filing date, and is renewable for periods of 10 years.

## 3.2 PATENTS

### ARIPO patent registrations

ARIPO patents can be registered in ARIPO and they have the same effect as national patents in the respective Member States.

All ARIPO Member States, except Mauritius and Somalia, can be designated in an ARIPO patent application. ARIPO's designation system allows an applicant to choose one, some, or all of the remaining 20 Member States in a patent application. It is, therefore, also possible to file an ARIPO patent application in which any of the 20 Member States is designated to achieve national patent protection but through a regional registration system.

### Choosing between an ARIPO or a national patent registration

The decision about whether to register a patent in ARIPO through the national route is usually guided by the following considerations.

- **Whether substantive examination is required or not:** most ARIPO Member States do not conduct substantive examination for patents, if substantive examination is required then the





ARIPO route is recommended. If substantive examination is not required, it will be significantly faster to obtain a patent grant from a Member State patent office, most of which only conduct formality examinations.

- **Whether patent protection is required in one country only or in multiple jurisdictions:** applicants will usually opt for the ARIPO route if multiple-jurisdiction protection is required.
- **Cost-effectiveness:** ARIPO's centralised regional patent registration system is usually considered to be more cost-effective than a national patent registration approach.

### Choosing between registration routes

Most patent applications for ARIPO are registered through ARIPO because it allows applicants to designate more than one Member State. It is more cost-effective to file a single application in ARIPO to gain patent coverage in two or more ARIPO Member States.

### Choosing a patent filing route

ARIPO patent applications can be filed in person, electronically, by mail or fax at ARIPO headquarters in Zimbabwe. Applications can also be filed via IP Offices of the ARIPO Member States.

### ARIPO patents

An ARIPO patent will, in each of the Member States in which it has been granted or registered, have the effect of, and be subject to, the same conditions as a national patent granted by that Member State.

#### 3.2.1 Who can register a patent?

An inventor or a successor in title can apply to register a patent.

#### 3.2.2 What are the registration requirements?

A patent application must contain the following:

- a request on the prescribed form;
- a description;
- one or more claims;
- drawings, if any;
- an abstract;
- the applicant's details including full name, nationality, legal status and physical address;





- a designation of one or more Member States in respect of which the patent is requested to be granted;
- the Deed of Assignment, if the applicant is not the inventor;
- a certified copy of the priority document, if priority is claimed;
- the prescribed application fees;
- sequence listing if the patent application contains the disclosure of one or more nucleotide and/or amino acid sequences.

### 3.2.3 What qualifies for registration?

Any inventions in all fields of technology, provided that they are new, involve an inventive step and are susceptible to industrial application, can be registered.

A patentable invention must therefore meet the following requirements:

- **novelty**, which must be absolute novelty in that the invention must be a new characteristic that is not known in the body of existing knowledge in its technical field. It must not be anticipated by prior art;
- **inventive step**, which means that, having regard to prior art, the invention is not obvious to a person skilled in the art;
- **susceptible to industrial applicability**, in that it can be used in any kind of industry, including agriculture; and be a
- **patentable invention under national patent law.**

The following will not be considered as inventions within the meaning of ARIPO inventions:

- discoveries, scientific theories and mathematical methods;
- aesthetic creations;
- schemes, rules and methods for performing mental acts, playing games and doing business, and computer programs;
- presentations of information.

### 3.2.4 What cannot be registered?

What cannot be registered is determined at Member State level according to the country's patent laws. According to ARIPO's Harare Protocol, ARIPO patents will not be granted in respect of:



- inventions where the commercial exploitation would be contrary to 'ordre public' or morality; such exploitation will not be deemed to be contrary merely because it is prohibited by law or regulation in some or all of the Contracting States;
- plant or animal varieties or essentially biological processes for the production of plants or animals; this provision will not apply to microbiological processes or the products thereof;
- 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 will not apply to products, in particular substances or compositions, for use in any of these methods.

### 3.2.5 Where can I file an application?

ARIPO patent applications can be filed at:

- ARIPO headquarters in Zimbabwe; or
- IP Offices of the ARIPO Member States.

**Patent** applications filed at Industrial Property Offices of Member States should clearly indicate that they are regional applications through ARIPO. Applications filed through ARIPO can be filed electronically, by email, registered mail, fax, by courier or in person. Online ARIPO application fees have a 20 % discount to encourage online filings.

### 3.2.6 How much does it cost?

Registration fees consist partly of government (official) fees and partly of professional fees, as indicated below.

#### **Government (official) fees**

The fee schedule is published on the ARIPO website. Both local and foreign applicants may pay these fees in United States Dollars (USD). Application forms are available at <http://eservice.aripo.org/pif/pfd/PIFFormList.do> and information on fees is available at <https://www.aripo.org/fee-schedules/>.

#### **Professional fees**

Professional fees vary so it is advisable to obtain comparative quotes from at least three ARIPO-accredited professionals. A list is available at <https://www.aripo.org/ip-agents/>.





### ARIPO patent registration fees

Fees must be paid through ARIPO and in USD if an applicant chooses to register a patent for ARIPO using the ARIPO route. ARIPO's fees are reviewed regularly. The latest fees are available at <https://www.aripo.org/fee-schedules/>.

Fees that are required at the stage of filing an application as follows:

Type of Fee	ARIPO Fees USD
Application fee, regardless of the number of states designated in the application	232 - online filing 290 - paper filing
State designation fee	85 per state (multiplied by the number of designated states)
Mandatory annuity fee: for PCT-based applications, the first ARIPO annuity fee will usually be due and must be paid with the application fee	50 per state (multiplied by the number of designated states)
Total fees, assuming only one country is designated and payment of first annuity fee	367
Total fees, assuming all 20 Harare Protocol states are designated and payment of first annuity fee	2 932

### Note on professional fees

Professional fees vary depending on several factors, such as the level of experience of the professional concerned and the time spent on a task, amongst others.

It is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available at <https://www.aripo.org/ip-agents/>.

### 3.2.7 How long does registration take?

ARIPO patent applications are substantively examined by ARIPO and take 24-36 months on average to complete registration, if there are no objections.

### 3.2.8 What is the duration of protection?

Protection lasts 20 years from the filing date, subject to the payment of annual maintenance fees.

### 3.2.9 When are renewal fees paid?

Renewal fees are payable up to the 19th year. Before payment, it is advisable to confirm the amount of the fees on the ARIPO website as the official fees may change. The latest fees are available through this link: <https://www.aripo.org/fee-schedules/>.



**ARIPO fees are payable per designated state/country.**

The following ARIPO renewal fees are currently applicable:

Annuity Year	ARIPO Fee (USD)
Annuity 1st year	50
Annuity 2nd year	70
Annuity 3rd year	90
Annuity 4th year	110
Annuity 5th year	130
Annuity 6th year	150
Annuity 7th year	170
Annuity 8th year	190
Annuity 9th year	210
Annuity 10th year	230
Annuity 11th year	250
Annuity 12th year	270
Annuity 13th year	290
Annuity 14th year	310
Annuity 15th year	330
Annuity 16th year	380
Annuity 17th year	430
Annuity 18th year	480
Annuity 19th year	530
Late renewal fees consist of two parts:	
i. <b>Surcharge</b> for late payment of annual maintenance fee	100
ii. <b>Penalty fee</b> for each month or fraction of a month for which the fees remain unpaid	50

### 3.3 UTILITY MODELS

In some jurisdictions, utility models are referred to as ‘petty patents’ because they are similar to patents but require less stringent conditions for registration and are registered for a shorter term than a conventional patent.





## **ARIPO utility model registrations**

An ARIPO utility model will, in each of the Member States in which it has been granted or registered, have the effect of, and be subject to the same conditions as a national utility model granted by that Member State.

All ARIPO Member States, except Mauritius and Somalia, can be designated in an ARIPO utility model application. ARIPO's designation system allows an applicant to choose one, some, or all of the remaining 20 Member States in a utility model application. It is, therefore, also possible to file an ARIPO utility model application in which any of the 20 Member States is designated to achieve national utility model protection but through the ARIPO system. However, it is advisable to ensure that utility model protection is available in each state that is designated because it is doubtful that it would be possible to enforce rights in a designated state that does not actually provide utility model protection in its national laws.

### **3.3.1 Who can register a utility model?**

An inventor or successor in title can apply to register a utility model.

### **3.3.2 What are the registration requirements?**

A utility model application must contain the following:

- a request on the prescribed form;
- a description;
- one or more claims;
- drawings, if any;
- an abstract;
- the applicant's details including full name, nationality, legal status and physical address;
- a designation of one or more Member States in respect of which the utility model is requested to be granted;
- the Deed of Assignment, if the applicant is not the inventor;
- a certified copy of the priority document, if priority is claimed;
- the prescribed application fees.



### 3.3.3 What qualifies for registration?

Under ARIPO's Harare Protocol, a utility model means:

... any form, configuration or disposition of elements of some appliance, workings 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.

A utility model will be protected in ARIPO, provided that it is new and industrially applicable.

A utility model must meet the following requirements:

- **new** – it must not be anticipated by prior art within the jurisdiction of the Member States of the Protocol;
- **susceptible to industrial applicability**, in that it can be used in any kind of industry, including agriculture; and
- **registrable invention under applicable national law.**

The following will not be considered as inventions within the meaning of ARIPO inventions:

- discoveries, scientific theories and mathematical methods;
- aesthetic creations;
- schemes, rules and methods for performing mental acts, playing games and doing business, and computer programs;
- presentations of information.

The following inventions are not registrable in ARIPO:

- inventions contrary to public order or morality;
- plant or animal varieties or essentially biological processes for the production of plants or animals;
- inventions related to the treatment of humans or animals or to pharmaceutical inventions – these inventions are not patentable to avoid undue restrictions to access to medical care and medicines by people or animals in need.





### 3.3.4 What cannot be registered?

What cannot be registered is determined at Member State level according to the country's utility model laws. According to ARIPO's Harare Protocol, ARIPO utility models will not be granted in respect of:

- inventions the commercial exploitation of which would be contrary to 'ordre public' or morality; such exploitation will not be deemed to be contrary merely because it is prohibited by law or regulation in some or all of the Contracting States;
- plant or animal varieties or essentially biological processes for the production of plants or animals; this provision will not apply to microbiological processes or the products thereof;
- 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 will not apply to products, in particular substances or compositions, for use in any of these methods.

### 3.3.5 Where can I file an application?

ARIPO utility model applications can be filed at:

- ARIPO headquarters in Zimbabwe; or
- IP Offices of the ARIPO Member States.

Utility model applications filed at Industrial Property Offices of Member States should clearly indicate that they are regional applications through ARIPO. Applications filed through ARIPO can be filed electronically, by email, registered mail, fax, by courier or in person. Online ARIPO application fees have a 20 % discount to encourage online filings.

If an applicant wishes to obtain a utility model instead of a patent in ARIPO on the basis of an international application, this must be indicated in the international application when filed.

### Choosing between an ARIPO or a national utility model registration

The decision about whether to register a utility model in ARIPO through the regional/national route is usually guided by the following considerations:

- **cost:** it may be more cost-effective to proceed through the national route if protection is required in a single Member State only;
- **whether utility model protection is required in multiple jurisdictions:** applicants will usually opt for the ARIPO route if multiple-jurisdiction protection is required;
- **duration of protection:** the duration of protection of a national utility model registration varies in different Member States (less than 10 years in some Member States), whereas it is 10 years for an ARIPO-registered utility model; this difference may influence preference for the ARIPO registration route.





Most utility model applications are registered through ARIPO because it allows applicants to designate more than one Member State in a utility model application. It is more cost effective to file a single application in ARIPO to gain utility model coverage in two or more ARIPO Member States.

### 3.3.6 How much does it cost?

Registration fees consist partly of government (official) fees and partly of professional fees, as indicated below.

#### Government (official) fees

The fee schedule is published on the ARIPO website. Both local and foreign applicants may pay these fees in United States Dollars (USD). Application forms are available at <http://eservice.aripo.org/pif/pfd/PIFEFormList.do> and information on fees is available at <https://www.aripo.org/fee-schedules/>.

#### Professional fees

Professional fees vary so it is advisable to obtain comparative quotes from at least three ARIPO-accredited professionals. A list is available at <https://www.aripo.org/ip-agents/>.

#### ARIPO utility model registration fees

Fees must be paid through ARIPO if an applicant chooses to register a utility model in ARIPO. ARIPO's fees are reviewed regularly. The latest fees are available at <https://www.aripo.org/fee-schedules/>.

Application fees consist of three components, as follows:

Type of Fee	ARIPO Fees (USD)
Application fee, regardless of the number of states designated in the application	80 - online filing 100 - paper filing
State designation fees	20 per state (multiplied by the number of designated states)
Total fees, <b>assuming only one country is designated</b> and payment of 1st annuity fee	120
Total fees, <b>assuming all 20 Harare Protocol Member States are designated</b> and payment of 1st annuity fee	880





### Note on professional fees

Professional fees vary depending on several factors, such as the level of experience of the professional concerned and the time spent on a task, amongst others.

It is advisable to obtain comparative quotes from at least three ARIPO-accredited professionals. A list is available at <https://www.aripo.org/ip-agents/>.

### 3.3.7 How long does registration take?

ARIPO utility model applications are substantively examined and take longer than Member State utility model applications to get registered. These applications can take 24-36 months to complete the process, assuming that only minimal official actions are needed and there are no objections.

### 3.3.8 What is the duration of protection?

ARIPO-registered utility models are protected for 10 years from the filing date.

### 3.3.9 When are renewal fees paid?

#### ARIPO-route filed ARIPO utility models

Renewal fees are payable up to the 10th year. Before payment, it is advisable to confirm the amount of the fees on the ARIPO website as the official fees may change. The latest fees are available at <https://www.aripo.org/fee-schedules/>.

ARIPO fees are payable per **designated state**.

The following ARIPO renewal fees are currently applicable:

Annuity Year	ARIPO Fees (USD)
1	20
2	25
3	30
4	35
5	40
6	45
7	50
Each year thereafter	10
Late renewal fees consist of two parts:	
i. <b>Surcharge</b> for late payment of annual maintenance fee	30
ii. <b>Penalty fee</b> for every month or fraction of a month for which the fees remain unpaid	5



### 3.4. INDUSTRIAL DESIGNS

#### ARIPO industrial design registrations

Industrial designs can be applied in ARIPO in the following ways.

##### National

- At IP Offices of Member States.

##### Regional

- In person, electronically, by mail or fax at ARIPO headquarters in Zimbabwe.

An ARIPO industrial design will, in each of the Member States in which it has been granted or registered, have the effect of, and be subject to the same conditions as a national design granted by that Member State.

All ARIPO Member States, except Mauritius and Somalia, can be designated in an ARIPO industrial design application. ARIPO's designation system allows an applicant to choose one, some, or all of the remaining 20 Member States in an industrial design application. It is therefore also possible to file an ARIPO industrial design application in which any of the 20 Member States is designated to achieve national industrial design protection but through the ARIPO system.

However, it is advisable to ensure that industrial design protection is available in each state that is designated because it is doubtful that it would be possible to enforce rights in a designated state that does not actually provide industrial design protection in its national laws. Tanzania is one such state.

##### International

#### Industrial designs: Hague Agreement

ARIPO is not a party to any international IP registration route. This means that any membership to international IP registration systems is addressed at the individual Member State level. Member States should ratify any relevant treaties.

#### Choosing between a national or regional industrial design registration for ARIPO

The decision about whether to register a design in ARIPO through the national or ARIPO route is usually guided by the following considerations.

- **Whether design protection is required in one country only or in multiple jurisdictions:** applicants will usually opt for the ARIPO route if multiple-jurisdiction protection is required.
- **Cost-effectiveness:** ARIPO's centralised regional design registration system is usually considered to be more cost-effective than a national design registration approach.





- **Time-effectiveness:** Most ARIPO Member States do not receive sufficient design applications to justify staff training and deployment into industrial design sections of the national IP Offices. As a result, in comparison to ARIPO, national offices tend to be considerably slower to process design applications. Time is usually of the essence to proprietors because designs are often short-lived. As a result, time-conscious applicants usually tend to prefer to register their designs through the ARIPO route rather than the national route.

## Examination and novelty of designs for ARIPO

ARIPO carries out a formal examination of designs, but Member States are given the opportunity to carry out a substantive examination if their national laws require it.

### 3.4.1 Who can register an industrial design?

Applications may be filed by the applicant (who can be an inventor or his/her assignee) or by the authorized representative of the applicant (attorney, agent, or legal practitioner) who has the right to represent the applicant before an industrial property office of any of the Harare Protocol contracting states. Representation is mandatory for applicants who are not resident or whose principal place of business is not situated in a contracting state.

### 3.4.2 What are the registration requirements?

An industrial design application must contain the following:

- fully completed request for registration of the design form (Form 28);
- a reproduction of the industrial designs to be registered;
- a designation of the contracting states in respect of which protection of the industrial design is sought;
- fees payment or an undertaking to pay fees within 21 days.

### 3.4.3 What qualifies for registration?

An industrial design is the ornamental aesthetic aspect of a useful article that makes an article attractive and appealing, therefore adding commercial value to the product and increasing marketability. Protection of the design ensures that the person or entity that has registered the design is assured an exclusive right against unauthorized copying or imitation by third parties.



### 3.4.4 What cannot be registered?

What cannot be registered is determined at Member State level according to the country's industrial design laws. According to ARIPO's Harare Protocol, ARIPO industrial will not be granted in respect of:

- inventions the commercial exploitation of which would be contrary to 'ordre public' or morality; such exploitation will not be deemed to be contrary merely because it is prohibited by law or regulation in some or all of the Contracting States;
- plant or animal varieties or essentially biological processes for the production of plants or animals; this provision will not apply to microbiological processes or the products thereof;
- 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 will not apply to products, in particular substances or compositions, for use in any of these methods.

### 3.4.5 Where can I file an application?

ARIPO industrial design applications can be filed in person, electronically, by mail or fax at:

- ARIPO headquarters in Zimbabwe; or
- Industrial Property Offices of the ARIPO Member States – ARIPO design applications should clearly indicate that they are regional applications, through ARIPO.

### 3.4.6 How much does it cost?

Registration fees consist partly of government (official) fees and partly of professional fees, as indicated below.

#### **Government (official) fees**

The fee schedule is published on the ARIPO website. Both local and foreign applicants may pay these fees in United States Dollars (USD). Application forms are available at <http://eservice.aripo.org/pif/pfd/PIFEFormList.do> and information on fees is available at <https://www.aripo.org/fee-schedules/>.

#### **Professional fees**

Professional fees vary so it is advisable to obtain comparative quotes from at least three ARIPO-accredited professionals. A list is available at <https://www.aripo.org/ip-agents/>.





### Likely overall registration costs for an ARIPO industrial design

These fees are paid through ARIPO. ARIPO's fees are reviewed regularly. The latest fees are available at <https://www.aripo.org/fee-schedules/>.

Application fees, are as follows:

Type of Fee	ARIPO Fees (USD)
Application fees, regardless of the number of states designated in an application	40
State designation fees	10 per state (multiplied by the number of designated states)
Total fees, <b>assuming that only one country is designated</b> in the application	50
Total fees, <b>assuming that all 20 Harare Protocol states are designated</b> in the application	230

#### Note on professional fees

Professional fees vary and it is advisable to obtain comparative quotes from at least three ARIPO-accredited professionals. A list is available at <https://www.aripo.org/ip-agents/>.

#### 3.4.7 How long does registration take?

Applications usually take 8-12 months to complete registration. This includes a period of 6 months for states to examine and decide whether a design will have legal effect in their territories after ARIPO has issued them with a notice of intention to register a design.

#### 3.4.8 What is the duration of protection?

ARIPO-route design registrations are valid for 15 years, with no possibility of extension, except for designated Member States with a shorter term of protection. The registration will expire at the end of the term of protection provided for under the design laws of that Member State.

#### 3.4.9 When are renewal fees paid?

Renewal fees are payable within 6 months before the registration period expires. Late payment of the renewal fees is possible within a grace period of 6 months after the due date.



### ARIPO-registered design renewal fees

Before payment, it is advisable to confirm the amount of the fees on the ARIPO website as the official fees may change. The latest fees are available at <https://www.aripo.org/fee-schedules/>.

ARIPO fees are payable **per designated state**. The following ARIPO renewal fees are currently applicable:

Annuity Year	ARIPO Fees (USD)
1	10
2	12
3	14
4	16
5	18
6	20
7	24
8	28
9	32
10	36
11	42
12	48
13	54
14	60
Late renewal fees consist of two parts:	
<b>i. Surcharge</b> for late payment of annual maintenance fee	15
<b>ii. Penalty fee</b> for each month or fraction of a month for which the fees remain unpaid	2

### Professional services renewal fees

These are usually payable as a flat-rate fee per annuity payment, regardless of the number of designated states. It is advisable to compare the fees of different IP agents.

## 3.5. GEOGRAPHICAL INDICATIONS (GIS)

### About GIs in ARIPO

Currently, there is no regional or international registration system through which GIs can be registered for ARIPO.





### 3.6. LAYOUT DESIGNS OF INTEGRATED CIRCUITS

#### About layout designs of integrated circuits in ARIPO

Currently, there is no regional registration system through which layout designs can be registered for ARIPO.

### 3.7. TRADITIONAL KNOWLEDGE

#### About traditional knowledge in ARIPO

Traditional knowledge and expressions of folklore are protected under the Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore of 2010. ARIPO provides a regional framework for the registration of traditional knowledge in ARIPO Member States but the registration system has to date been significantly underutilised, with no applications recorded. Only 9 Member States have so far acceded to the Protocol.

#### 3.7.1 Who can register?

The holders of traditional knowledge, namely the indigenous or local communities, and recognised individuals within **ARIPO Member States** communities, who create, preserve and transmit knowledge in a traditional and intergenerational context.

#### 3.7.2 What qualifies for registration?

**Traditional knowledge:** any knowledge originating from a local or traditional community in **ARIPO Member States** that is the result of intellectual activity and insight in a traditional context, including know-how, skills, innovations, practices and learning, where the knowledge is embodied in the traditional lifestyle of a community, or contained in the codified knowledge systems passed on from one generation to another, can be registered. The term should not be limited to a specific technical field, and may include agricultural, environmental or medical knowledge, and knowledge associated with genetic resources.

Protection will be extended to traditional knowledge that is:

- generated, preserved and transmitted in a traditional and intergenerational context;
- distinctively associated with a local or traditional community; and
- integral to the cultural identity of a local or traditional community that is recognised as holding the knowledge through a form of custodianship, guardianship or collective and cultural ownership or responsibility – such a relationship may be established formally or informally by customary practices, laws or protocols.





**Expressions of folklore** are any forms, tangible or intangible, in which traditional culture and knowledge are expressed, appear or are manifested, and comprise the following forms of expressions or combinations thereof:

- verbal expressions, such as, but not limited to, stories, epics, legends, poetry, riddles and other narratives; words, signs, names, and symbols;
- musical expressions, such as, but not limited to, songs and instrumental music;
- expressions by movement, such as, but not limited to, dances, plays, rituals and other performances; whether or not reduced to a material form; and
- tangible expressions, such as productions of art, in particular, drawings, designs, paintings (including body-painting), carvings, sculptures, pottery, terracotta, mosaic, woodwork, metalware, jewellery, basketry, needlework, textiles, glassware, carpets, costumes; handicrafts; musical instruments; and architectural forms.

Protection will be extended to expressions of folklore, whatever the mode or form of their expression, that are:

- the products of creative and cumulative intellectual activity, such as collective creativity or individual creativity where the identity of the individual is unknown; and
- characteristic of a community's cultural identity and traditional heritage and maintained, used or developed by such community in accordance with the customary laws and practices of that community.

### 3.7.3 What are the registration requirements?

#### **Traditional knowledge:**

An application for registration of traditional knowledge must be made on ARIPO Form T1 according to the regulations.

The application must contain:

- a) the name and address of the applicant;
- b) the name of the Member State of which the applicant is a national;
- c) a request for the registration;
- d) the purpose for which the registration is sought;
- e) the economic, social, scientific, technical, environmental, or any other benefits that are likely to accrue to the owners of the traditional knowledge or to the relevant indigenous or local community; and
- f) the proposed mechanism for equitable sharing of benefits arising from the exploitation of the traditional knowledge.





**The application must designate the Contracting State that possesses or shares the traditional knowledge.**

Protection of traditional knowledge will not be subject to any formality.

In the interest of transparency, evidence and the preservation of traditional knowledge, relevant national competent authorities of Contracting States and the ARIPO Office may maintain registers or other records of the knowledge, where appropriate and subject to relevant policies, laws and procedures, and the needs and aspirations of the traditional knowledge holders concerned.

**Expressions of folklore**

An application for registration of traditional knowledge must be made on ARIPO Form F1 according to the regulations.

The application must contain:

- a) the name and address of the applicant;
- b) the name of the Member State of which the applicant is a national;
- c) a request for the registration;
- d) the purpose for which the registration is sought;
- e) the economic, social, scientific, technical, environmental, or any other benefits that are likely to accrue to the owners of the expressions of folklore or to the relevant local or traditional community; and
- f) the proposed mechanism for equitable sharing of benefits arising from the exploitation of the expressions of folklore.

**The application must designate the Contracting State or communities that possess or share the expressions of folklore.**

The protection of expressions of folklore will not be subject to any formality.

For the purposes of evidence, measures for the protection of expressions of folklore may require that certain categories of the expressions for which protection is sought, particularly those with special cultural or spiritual value or significance or those that are sacred in character, be notified to the appropriate authority.

**3.7.4 What cannot be registered?**

Traditional knowledge and expressions of folklore cannot be registered if its subject matter does not fall within the definitions of the Protocol.



### 3.7.5 Where can I file an application?

An application for registration must be submitted to ARIPO or the Relevant National Competent Authority in Member States.

### 3.7.6 How much does it cost?

Registration fees consist partly of government (official) fees and partly of professional fees, as indicated below.

#### Government (official) fees

The fee schedule is published on the ARIPO website. Both local and foreign applicants may pay these fees in United States Dollars (USD). Application forms are available at <http://eservice.aripo.org/pif/pfd/PIFEFormList.do> and information on fees is available at <https://www.aripo.org/fee-schedules/>.

#### Professional fees

Professional fees vary so it is advisable to obtain comparative quotes from at least three ARIPO-accredited professionals. A list is available at <https://www.aripo.org/ip-agents/>.

#### Likely overall registration costs

An applicant(s) can expect the cost of registration to be approximately as shown in the following tables (in USD), unless objections and other special circumstances that may increase the costs apply.

#### Traditional Knowledge

Type of Fee	ARIPO Fees (USD)
Application Fees	50
Registration and publication fees	50

#### Expressions of Folklore

Type of Fee	ARIPO Fees (USD)
Application Fees	50
Registration and publication fees	50





### 3.7.7 How long does registration take?

Unless there are unusual delays, an application for the registration of traditional knowledge or expressions of folklore takes 6-12 months from the filing date of the application to completion.

### 3.7.8 What is the duration of protection?

Traditional knowledge in general will be protected for as long as the knowledge fulfils the protection criteria referred to under section **3.7.2**. The duration of protection of **traditional knowledge** for an individual is 25 years following the exploitation of knowledge beyond its traditional context by the individual. The protection is not renewable.

**Expressions of folklore** will be protected for as long as the expressions of folklore fulfil the protection criteria set out in section **3.7.2**.

## 3.8. COPYRIGHT AND NEIGHBOURING RIGHTS

### About Copyright and neighbouring rights in ARIPO

The Kampala Protocol on Voluntary Registration of Copyright and Related Rights was adopted in August 2021. This Protocol governs the Contracting States in the voluntary registration and notification of copyright and related rights.

Although the general rule in Member States is that copyright protection exists upon creation, ARIPO saw the need for cooperation among the Contracting States to ensure sustainable development of copyright and related rights through a coordinated and concerted approach.

The objectives of this Protocol are to:

- establish, manage, facilitate and coordinate a system for voluntary registration and notification of copyright and related rights;
- uphold common principles regarding voluntary registration and notification of copyright and related rights;
- provide copyright holders means of presumption to authorship or ownership of rights; and
- ensure that creative industries contribute to the socio-economic development of countries.



### 3.8.1 Can I register?

Copyright exists automatically when any original work is created in one of the categories that is protected by copyright laws of most countries and according to the Berne Convention. ARIPO's Kampala Protocol's main objective is to establish, manage, facilitate and coordinate a system for voluntary registration and notification of copyright and related rights for its Member States.

The author or the owner of, or other person interested in the copyright or related rights in, any work or production may make an application to the national competent authority in their country or ARIPO for registration of particulars of the work or production in the database.

**The implementing regulations of the above Protocol are yet to be established.**

#### **Links to legislation:**

ARIPO Protocols:

<https://www.aripo.org/protocols/>.

ARIPO Member States Laws:

<https://www.aripo.org/member-states-laws/>.

#### **Links to institutions:**

ARIPO – African Regional Intellectual Property Organization: <https://www.aripo.org/>.



