



ARIPO

*African Regional Intellectual
Property Organization*

WORKSHOP ON THE PROMOTION OF ARIPO PROTOCOLS

Processing of Applications under the Harare Protocol

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Fostering Creativity and Innovation for Economic Growth and Development in Africa

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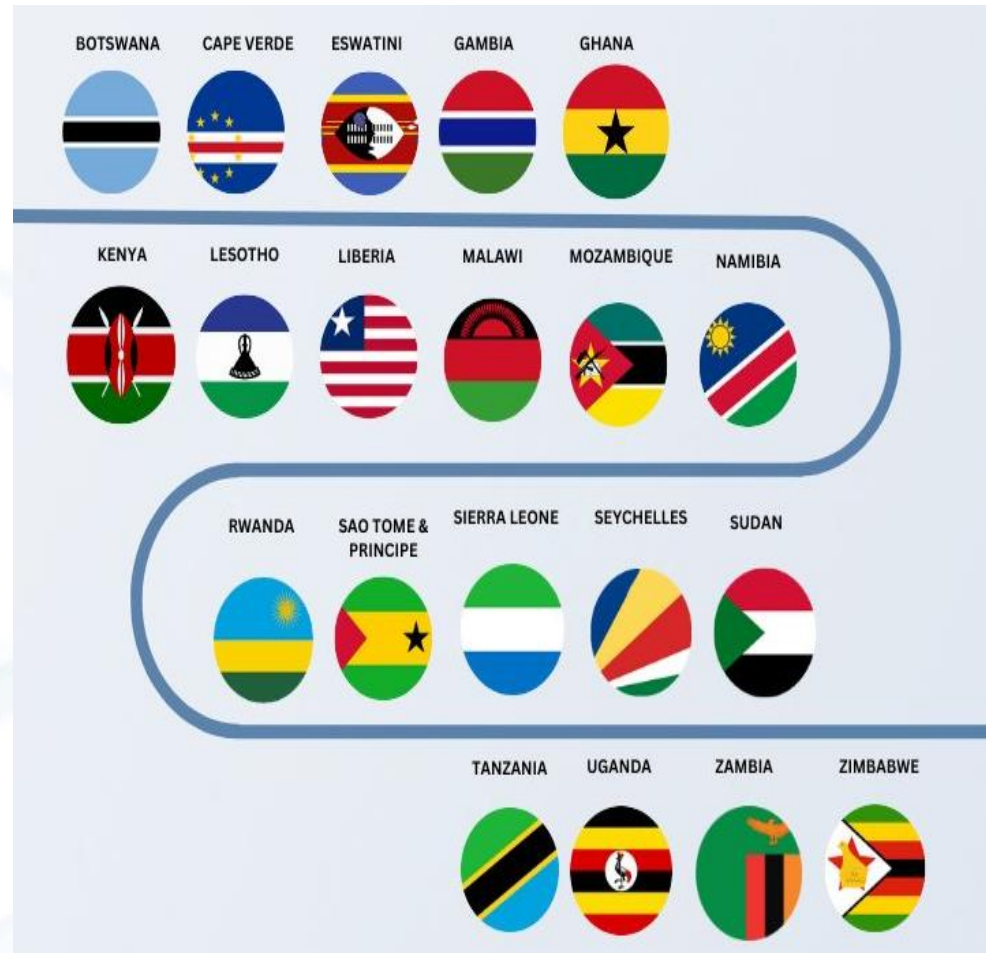
Focus: Filing Application; Formality Examination; Substantive Examination; Grant/Registration



The Harare Protocol

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

CONTRACTING STATES - 20



Processing of Application

- **Main Stakeholder are:**

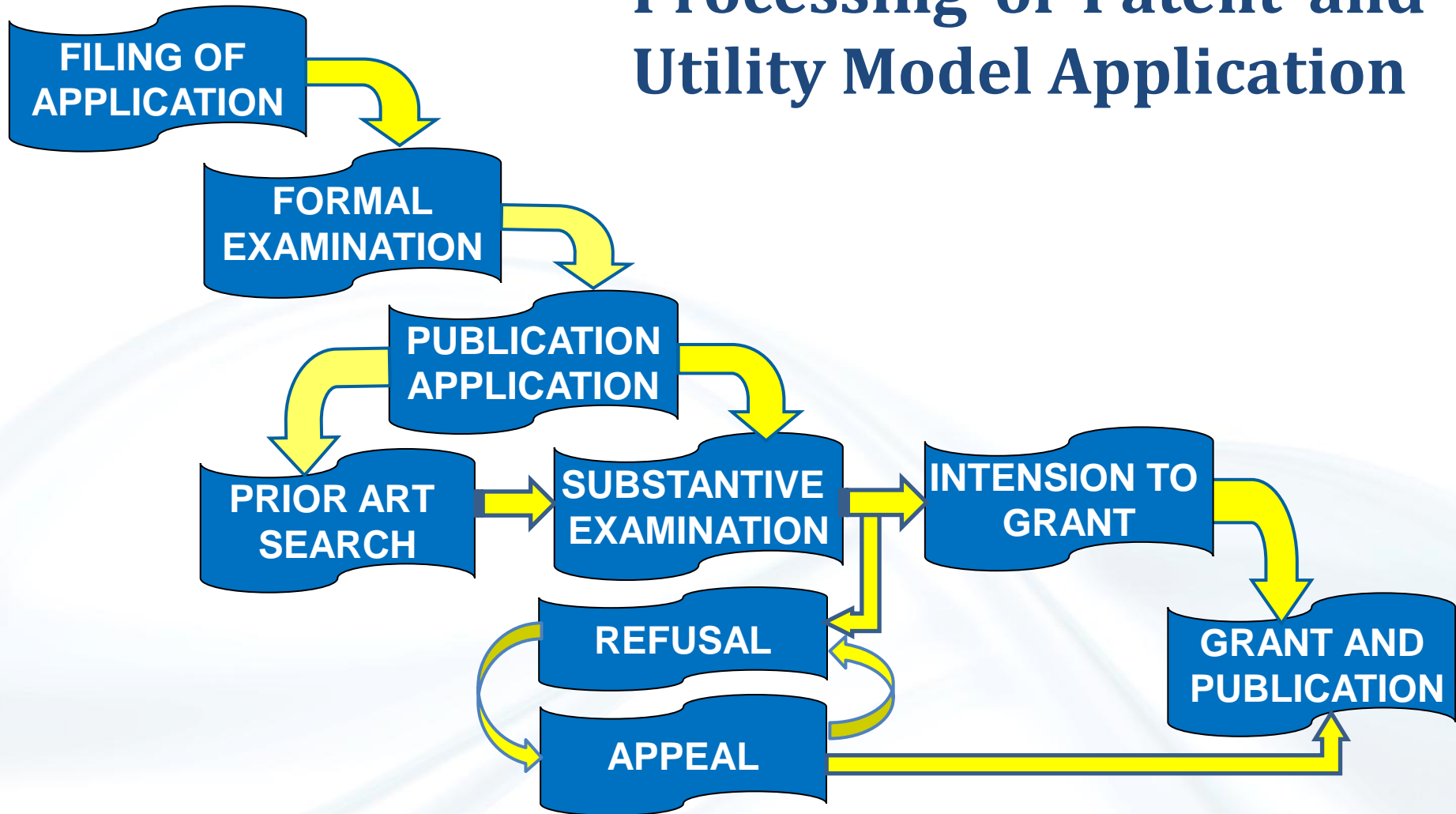
1. Applicant/Representative;
2. The ARIPO Secretariat; and
3. The National IP Office (Filing or Designation)

- **Section 1(3) of the Harare Protocol**

“The ARIPO patents... shall in each of the Contracting State for which it is granted..., have the effect of, and subjected to the same condition as a National patent granted... by that State”.



Processing of Patent and Utility Model Application



Filing Application - *Sec. 2*

Who can Apply:

- Applicant
 - Individuals from Contracting States
 - Private or Public Entities
- Authorized Representative

Where to File:

- National IP Office (Receiving offices)
- Direct to ARIPO

Mode of Filing:

- Post, e-mail, fax, courier, depositing at ARIPO, **online filing**



Content of Application - **Sec. 3(1)**

Patents application contains:

- ✓ a request Form – **ARIPO Form 3**
- ✓ a description of the **invention**
- ✓ **claim(s)**
- ✓ drawing(s)/ sequence listing - when necessary
- ✓ an abstract
- ✓ designate the **contracting State(s)**
- ✓ be subject to the payment of prescribe **fees**



Filing Date Allocation – *Rule 14*

- Minimum Requirements for allocation of filing dates are:
 - 1) a request (Form 3)
 - 2) a description
 - 3) one or more claims
- If the application meets these requirements – a notification of filing date (**Form 12**) issued to the Applicant and each designated state
- If not -Applicant is invited (**Form 11**) to comply within 2 months



Formality Examination

Formality Requirements - *Sec.3(1); Rule 5*

- ✓ a request Form (Form 3)
- ✓ a description
- ✓ one or more claims
- ✓ one or more drawing or sequence listing - *when necessary*
- ✓ Abstract
- ✓ a designation of at least one state
- ✓ English translation (if application was filled in language other than English)
- ✓ payment of application and designation fees or an undertaking to pay the fees within 21 days
- ✓ Physical requirements must be acceptable
- ✓ Priority document (if priority claimed)



Formality Examination

Formality Requirements - *Sec.3(1); Rule 5*

- ✓ Power of attorney (Form 4) - *if applicant is not resident*
- ✓ Deed of assignment – *if the applicant is not the inventor*
- If the application meets these requirements – a notification of filing date (Form 13) issued to the Applicant and each designated State.
- If not -Applicant is invited (Form 14) to comply within **2 months**



Substantive Examination – *Sec 3(3); R.18*

➤ **Sec.3(3) HP:**

- Provided that the Office shall, **on request**, undertake, or arrange for, the substantive examination of the patent application

➤ **Substantive examination undertaken when:**

- ✓ patent application has met formality requirements;
- ✓ Request for examination has been made (**Form 13A**);
- ✓ Search and examination fee has been paid



Outcome of Substantive Examination

- Notification of non-compliance with substantive requirements and invite the applicant to submit observations and/or amended application – **Form 18**
 - Form 18 accompanied by search and substantive examination reports
- The applicant has:
 - to respond within **6 months** from the date of notification.
 - the option of converting his application into a national patent application or into an ARIPO utility model application



Outcome of Substantive Examination

- Notification of compliance and decision to grant patent
 - **Form 21**
- Notification issued and sent to:
 - the **applicant; and**
 - each **designated State(s)**
- Form 21 is accompanied by search and examination reports
- Applicant invited to pay grant and publication fees within 3 months
- Designated States has **6 months** to respond



Grant and Publication

- **After expiry of the 6 months** and subject to the payment of the grant and publication fees the Office grant and publishes the patent.
- Form 25 issued – ARIPO Patent



Conversion of the patent application

- Patent application can be converted to Utility Model
 - At any time before the grant or refusal of a patent, an applicant for a patent,
 - upon payment of the fee,
 - shall be accorded the filing date of the initial application.



Maintenance/Renewal Requirement

- On each anniversary of the filing of the application, the applicant is required to pay the annual **maintenance fees**.
- If an annual maintenance fee is not paid in, the application shall be deemed to have been **withdrawn** or the patent shall **lapse**.
- The lapsed patent or withdrawal of application will be published in the ARIPO Journal.



Processing of Industrial Design Application



Content of Application - *Sec. 4(1), R.9*

- Industrial Designs application shall contain:
 - ✓ contain a request for registration (**Form 28**);
 - ✓ Contain a reproduction of the design;
 - ✓ designate the contracting State(s)
 - ✓ payment of the prescribed fees

Minimum Requirements for Allocation of Filing Date

(Rule 14 & Rule 10)

- 1) a request Form (**Form 28**)
 - 2) a reproduction of the industrial designs
 - 3) a designation of at least one state
- If the application meets these requirements – a notification of filing date (**Form 33**) issued to the Applicant and each designated state
 - If not -Applicant is invited (**Form 32**) to comply within 2 months



Formality Examination

- ✓ a request Form (Form 28)
- ✓ a reproduction of the industrial designs
- ✓ a designation of at least one state
- ✓ payment of the application and designation fees
- ✓ English translation (if application was filled in language other than English)
- ✓ Priority document (if priority claimed)
- ✓ Power of attorney (Form 4) - if applicant is not resident
 - If the application meets these requirements – a notification of compliance with formal requirements (Form 34) issued to the Applicant and each designated state
 - If not -Applicant is invited (Form 35) to comply within 2 months



Substantive Examination – *S.4; R.18quater*

- The substantive examination for industrial design is undertaken by each designated states
- After the application meet formal requirement, ARIPO notify each designated States
- Each designated State has **6 months** to undertakes substantive examination and notifies ARIPO, whether the design meets or does not meet the requirements for registration.
- If application does not comply with National Law - Applicant can appeals within national Office



Substantive Examination - *S.4; R.18quater*

- If designated State communicates that an industrial design shall have no effect in its territory, the applicant may respond, within 3 months, by providing amendments and/or arguments in relation to the communication
- Where an applicant submits amendments and/or arguments, the designated State shall respond within 3 months
- If the designated State refuses the application notwithstanding the applicant's amendments and/or arguments, the applicant may, within 3 months, request that the application be treated, as application according to the national law of that State.



Registration and Publication – *R.20bis*

- ✓ After the expiry of the **six (6) months**, ARIPO registers and publishes the design
- ✓ Form 39 - certificate of registration of industrial design, issued



Some Benefit of the Harare Protocol

- Simple, cost effective and user friendly.
- Centralized processing, grant and renewal
- More efficient and streamlined procedures
- ARIPO Conducts Substantive Examination and grant stronger patents
- Effective and appropriate tool for increasing foreign direct investment





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