

ADOPTED AMENDMENTS TO THE REGULATIONS UNDER
THE HARARE PROTOCOL ON PATENTS AND
INDUSTRIAL DESIGNS

REGULATIONS

CHAPTER 1
GENERAL PROVISIONS

Rule 1
Interpretation

- (a) "Administrative Instructions" means the Administrative Instructions established by the Director General of the ARIPO Office in accordance with Rule 105.
- (b) "Depository institution" means an institution which at all relevant times
- (i) carries out the functions of receiving, accepting and storing microorganisms and the furnishing of samples thereof; and
 - (ii) conducts its affairs in so far as they relate to the carrying out of those functions in an objective and impartial manner;
- (c) "Examination Guidelines" means the Guidelines for the Examination of ARIPO applications established by the Director General of the ARIPO Office in accordance with Rule 105.

Rule 2
Language of proceedings

The official language of proceedings before the Office shall be English.

Rule 3
Requirements for filing documents

(1) In official actions before the Office, documents may be filed by electronic communication, hand delivery, or by postal services.

(2) Where the Protocol provides that a document shall be signed, the signature may be electronic, handwritten or by other appropriate means permitted by the Office.

Rule 4

Filing of translations and certification of translations

(1) Where the ARIPO applications and any other document forming part of the application is filed in a language other than English, the applicant shall file a translation into English within 2 months from the date of submission.

(2) The translation referred to in paragraph 1 shall be certified as a true record of the original.

(3) Where a translation referred to in paragraph 2 is not filed within the prescribed period under paragraph 1, the application shall be deemed withdrawn.

(4) Where a document, other than the documents making up the ARIPO patent application, is not filed in English, or where a required translation is not filed within 2 months, the document shall be deemed not to have been filed.

(5) Paragraphs 3 and 4 shall not apply to a priority document and the certificate of exhibition.

Rule 5

Legal authenticity of the translation of the ARIPO patent application

The Office shall assume, for the purpose of determining whether the subject matter of the ARIPO patent application or ARIPO patent extends beyond the content of the application as filed, that the translation filed in Rule 4 is in conformity with the original text of the application unless evidence is provided to the contrary.

CHAPTER 2
PROCEDURE WHERE THE APPLICANT IS NOT ENTITLED

Rule 6
Stay of proceedings

- (1) The grant proceeding shall stay where a third party provides evidence that proceedings have been instituted against the applicant seeking a decision within the meaning of Section 17(1) unless the third party communicates to the Office in writing their consent to the continuation of such proceedings.
- (2) Notwithstanding paragraph 1, the proceedings for the grant shall not be stayed before the publication of the ARIPO patent application.
- (3) Where evidence is provided indicating that a final decision within the meaning of Section 17(1) has been taken, the Office shall inform the applicant and any other party that the proceedings for grant shall be resumed from the date stated in the communication.
- (4) Where the decision made under paragraph 3 is in favour of the third party, the proceedings may resume upon expiration of 3 months after the decision has become final unless the third party requests the resumption.
- (5) The stay of proceedings shall cause an interruption to any time limits that are running at the date of the stay of proceedings, except for the payment of maintenance fees.
- (6) The time limit referred to in paragraph 5 that has not yet expired, shall begin from the date the proceedings are resumed. The time limit to run after such resumption shall not be less than 1 month.

Rule 7
Filing of a new ARIPO patent application by the entitled person

- (1) Where the person adjudged by a final decision to be entitled to the grant of the ARIPO patent files a new ARIPO patent application under Section 17(1)(b), the original application shall be deemed to be withdrawn on the date of filing the new application for the Contracting States designated therein in which the decision has been taken or recognised.
- (2) The application fee and designated fee shall be paid within 14 days of filing the new application. Where the fees are not paid in due time, the application shall be deemed withdrawn.

CHAPTER 3 NAMING OF THE INVENTOR

Rule 8

Naming of the inventor

- (1) The request for grant of an ARIPO patent shall state the name, country and place of residence of the inventor.
- (2) Where the applicant is not the inventor or is not the sole inventor, the applicant shall be required to submit a statement indicating the right to the ARIPO patent application, bearing the signature of the inventor.
- (3) The Office shall not verify the accuracy of the naming of the inventor.
- (4) Where the naming of the inventor has not been made, the Office shall invite the applicant to name the inventor within 16 months from the date of filing of the application or, if priority is claimed, of the date of priority. Where the applicant fails to name the inventor within the specified period, the application shall be refused.
- (5) Where, in a divisional application or a new application under Section 17(1)(b), the designation of the inventor has not been made, the Office shall invite the applicant to make the designation within a period 3 months from the date of receipt of the application.

Rule 9

Publication of the name of the inventor

- (1) The name of the inventor shall be mentioned in the published ARIPO patent application unless the inventor waives the right to be mentioned and informs the Office in writing.
- (2) Where a third party provides evidence to the Office of a final decision determining that the applicant or proprietor of an ARIPO patent is required to name the third party as an inventor, paragraph 1 shall apply.

Rule 10

Rectification of the name(s) of the inventor

Incorrect naming of an inventor shall be rectified upon request and only with the consent of the wrongly named person, and where a third party files such a request, the consent of the applicant for or proprietor of the patent Rule 8 shall apply mutatis mutandis.

Rule 11
Subsequent naming of the inventor

- (1) Where the naming of the inventor has not been made in accordance with Rule 9, the Office shall refuse the ARIPO patent application unless the naming is made within 16 months of the date of filing of the application or, if priority is claimed, of the date of priority.

- (2) The period referred to in paragraph 1 shall be deemed to have been observed if the information is communicated before the publication of the ARIPO patent application.

CHAPTER 4
REGISTRATION OF ASSIGNMENTS, LICENCES AND OTHER RIGHTS

Rule 12

Registration of assignments, licences and other rights

- (1) The Office shall register an assignment, a licence or other similar rights pertaining to an ARIPO patent or ARIPO patent application at the request of an interested party and upon production of signed documents providing evidence that the transfer has taken place.
- (2) The industrial property offices of the Designated States of which the national laws provide for the registration of licences, assignments and other similar rights pertaining to patents shall, upon registering such rights, promptly provide the Office with particulars of such registration for the Office to record.
- (3) The request for registration of assignment, licences and other similar rights shall be deemed not to have been fulfilled until the prescribed fee has been paid.
- (4) Subject to paragraph 3, the Office may reject the request in the event of failure to comply with the requirements under paragraph 1.
- (5) The registration referred to in paragraph 1 shall be cancelled upon request by an interested party on payment of the prescribed fee.
- (6) The request shall be supported by signed 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.
- (7) The request for cancellation may be rejected only if these conditions are not fulfilled.

CHAPTER 5

BIOTECHNOLOGICAL INVENTIONS

Rule 13 General and Definitions

(1) For purposes of ARIPO patent applications, patents concerning biotechnological inventions and these Regulations-

(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 inventions” 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;

(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 unchanged;

(f) “process for the production of plants or animals” means essentially biological if it consists entirely of natural phenomena such as crossing or selection.

Rule 14
Patentable Biotechnological Inventions

(1) Biotechnological inventions shall be patentable where they concern:-

- (a) 'biological material' which is isolated from its natural environment or produced by means of a technical process even if it previously occurred in nature;
- (b) 'plants or animals' provided that the technical feasibility of the invention is not confined to a particular plant or animal variety;
- (c) 'a microbiological or other technical process,' or a product obtained by means of such a process other than a plant or animal variety.

Rule 15
Exceptions to Patentability of Biotechnological Inventions

(1) Subject to Section 9(1)(a), an ARIPO patent shall not be granted in respect of biotechnological inventions which, in particular, concern the following-

- (a) processes for cloning human beings;
- (b) processes for modifying the germ line genetic identity of human beings;
- (c) uses of human embryos for industrial or commercial purposes;
- (d) 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;
- (e) 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;
- (f) a single plant and its reproductive material including seed 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;
- (g) inventions that do not possess practical applicability, that is, cannot easily be reproduced; and

(h) 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.

(2) Subject to Section 9(1)(b), an ARIPO patent shall not be granted in respect of plants or animals exclusively obtained by means of an essentially biological process.

Rule 16

Requirements of ARIPO Patent Applications Relating to Nucleotide and Amino Acid Sequences

(1) Where an ARIPO patent application discloses nucleotide or amino acid sequences, the description shall contain a sequence listing conforming to the WIPO Standard ST.26.

(2) A sequence listing filed after the filing date shall not form part of the description.

(3) Where the applicant has not filed a sequence listing complying with the requirements under paragraph 1, the Office shall invite the applicant to furnish such a sequence listing and pay late furnishing fee within two months from the date such invitation, failure to which the application shall be deemed withdrawn.

Rule 17

Deposit of Biological Material

(1) Where the invention concerns biological material which is not available to the public at the date of filing the application and 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, the application shall be regarded as disclosing the invention only if-

(a) not later than the date of filing of the application, a sample biological material has been deposited with an international depositary institution on the same terms as those prescribed in the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure;

(b) the application as filed gives such relevant information as is available to the applicant on the characteristics of the biological material;

(c) the name of the depository institution, the date of which the biological material was deposited, and the accession number of the deposited biological material are stated in the application; and

(d) the biological material has been deposited by a person other than the applicant, the name and address of the depositor are stated in the application, and a document is submitted to the Office providing evidence that the depositor has authorised the applicant to refer to and make available to the public in accordance with Rule 19, the deposited biological material in the application.

(2) Where the information specified under paragraph 1(c) and (d) above is not contained in the application as filed, it shall be submitted to the Office-

(a) within 16 months after the date of filing of the application or, if priority is claimed, after the priority date;

(b) before the date of submission of a request under Section 43(1)(b); or

(c) within 1 month after the Office has communicated to the applicant that the Office has received a request by a person for information and inspection of the application under Section 52 (2).

(3) The submission of information specified in paragraph 1(b) shall constitute the unreserved and irrevocable consent of the applicant to the deposited biological material being made available to the public in accordance with Rule 18.

Rule 18

Availability of Biological Material to Expert

(1) Before the date of publication of the ARIPO patent application, the applicant may inform the Office that until the publication of the grant of the patent or where applicable, until the date on which the application has been refused, withdrawn or deemed to be withdrawn, the availability of the biological material referred to in Rule 19 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 under paragraph 1-

(a) a 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) a natural person recognised as an expert by the Director General of the ARIPO Office.

(3) A nomination made under paragraph 1, shall be accompanied by an undertaking from the expert vis-à-vis the applicant similar to that specified in Rule 19(1).

(4) For purposes of this section, the requester shall be regarded as a third party.

Rule 19
Availability of Biological Material

- (1) The deposited biological material under Rule 17 shall be available upon request to any person from the date of publication of an ARIPO patent application and to any person having the right to inspect the files under Section 52(2) prior to that date.
- (2) The availability of biological material to an expert under Rule 18, shall be effected by the issue of a sample of the biological material to the requester only where the requester has undertaken vis-à-vis the applicant or the proprietor of the patent—
 - (a) not to make the deposited biological material or any biological material derived therefrom available to any third party before the application has been refused, withdrawn or deemed to be withdrawn or, where a patent is granted, before the expiry of the patent;
 - (b) to use the deposited biological material or any biological material 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 biological material under a compulsory licence.
- (3) For the purposes of paragraph 1 a derived biological material shall mean any biological material which still exhibits those characteristics of the deposited biological material which are essential to the carrying out of the invention.
- (4) The undertaking referred to in paragraph 1 shall not impede a deposit of a derived biological material necessary for the patent procedure.
- (5) The request provided for in paragraph 1 shall be made to the Office in writing and upon payment of the request fee.
- (6) The Office shall certify that an ARIPO patent application referring to the deposit of the biological material has been filed and that the requester or the expert nominated by him under Rule 18 is entitled to the issue of a sample of the biological material.
- (7) The Office shall transmit the request, together with the certification provided for in paragraph 5 to the depository institution and to the applicant or the proprietor.
- (8) The Office shall publish in the ARIPO Journal the list of depository institutions recognised for the purposes of Rules 17, 19 and 20.

Rule 20
New Deposit of a Biological Material

If a biological material deposited in accordance with Rule 17 ceases to be available from the institution with which it was deposited because the biological material is no longer viable or for any other reason the depository institution is unable to supply samples, an interruption in availability shall be deemed not to have occurred if a new deposit of the biological material is made with a recognised depository institution on the same terms as those prescribed in the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure of 28 April 1977 and if a copy of the receipt of the new deposit issued by the depository institution is forwarded to the Office within four months from the date of the new deposit stating the number of the ARIPO patent application or the ARIPO patent.

CHAPTER 6
FILING OF THE ARIPO PATENT APPLICATION

Rule 21

Filing of an ARIPO Patent Application

(1) An ARIPO patent application shall be filed with either the Office or the industrial property office of any Contracting State.

(2) Where the application is filed with the Contracting State, the State shall:

(a) verify that the application fulfils the requirements of Section 31(1)(a), (b) and (c);

(b) verify that the undertaking with respect to fees has been submitted or that the fees have been paid and a receipt issued;

(c) mark the documents making up the application with the actual date of receipt, and issue without delay a receipt to the applicant, including at least the receiving office number and date stamp receipt of the documents;

(d) The number referred to in paragraph 2 shall consist of the two-letter country code for the Receiving Office, set out in WIPO Standard ST.3, a slant, the letters AP, a slant, the letter P, a slant, and the number allotted internally by the Receiving Office; and

(e) Issue an acknowledgement of receipt of the application to the applicant's representative.

(3) The ARIPO application and any accompanying documents to be filed with the Receiving Office shall be filed in two copies (except where the application is filed electronically), and those to be filed with the Office shall be filed in one copy, however, the Office may require the applicant to supply additional copies.

Rule 22

Filing ARIPO Divisional Application

(1) The applicant may file a divisional application relating to any pending earlier ARIPO patent application.

(2) A divisional application shall be filed in the official language of the Office.

(3) The divisional application shall be filed directly with the Office.

Rule 23
Electronic Filing of Patent applications

- (1) Patent applications may be filed in electronic form or by electronic means in accordance with the Administrative Instructions provided that the Office or any Contracting States shall permit the filing of applications on paper.
- (2) Documents making up an ARIPO patent application in electronic form shall be prepared using the ARIPO forms available on the ARIPO Online Filing platform and in the prescribed format in accordance with the Administrative Instructions.
- (3) No Contracting State shall be obliged to receive or process ARIPO patent applications filed in electronic form or by electronic means unless the Contracting State has notified the Office that it is prepared to do so in compliance with the applicable provisions of the Administrative Instructions.
- (4) No Contracting State which has given the Office a notification under paragraph 3 may refuse to process an application filed in electronic form or by electronic means which complies with the applicable requirements under the Administrative Instructions.

Rule 24
Transmittal of ARIPO Patent Application

- (1) Where the application is filed with the industrial property office of a Contracting State and meets the requirement of Rule 21(2), it shall, within 14 days, transmit all documents making up the application to the Office.
- (2) The Receiving Office shall notify the applicant of the said transmittal of the application.

Rule 25
Application Fee; Designation Fees

- (1) The application is subject to the payment of the application fee as prescribed in the Fee Schedule.
- (2) The designation of a Contracting State is subject to the payment of the designation fee as prescribed in the Fee Schedule.
- (3) If the fees referred to in paragraphs 1 and 2 are not paid within 14 days from the date on which the application is filed with the Office or the Industrial Property Office of the Contracting State, the application shall be deemed withdrawn.

Rule 26
Filing Date

(1) The 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 fulfils the requirements of Section 31 (1) (a), (b) and (c).

(2) 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 fulfil the requirements referred to in paragraph 1, the Office shall accord as the filing date the date on which the application fulfilled the requirements.

(3) Where the application does not comply with the requirements referred to in paragraph 1, the Office shall invite the applicant to comply with the requirements within 1 month.

Rule 27
Patent classification

The Office shall use the classification referred to in Article 1 of the Strasbourg Agreement concerning the International Patent Classification of 24 March 1971, hereinafter referred to as the international classification.

CHAPTER 7
PROVISIONS GOVERNING THE APPLICATION

Rule 28
Request for grant

(1) The request for grant of a patent shall be made on a duly completed form, which shall be obtainable from the Office, ARIPO website or from any other electronic media and from the industrial property offices of Contracting States.

(2) The request, which shall be signed by the applicant or representative, and shall contain-

(a) a petition for grant of ARIPO patent;

(b) the title of the invention, which shall be short (preferably from two to seven words) and precise;

(c) the name, physical or postal address (including, where applicable, email address and telephone number) and nationality of the applicant, where the name of natural persons shall be indicated by the person's family name followed by their given name(s) whereas the 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 correspondence delivery at the indicated address; they shall in any case comprise all the relevant administrative units, including the house number, if any; and the State in which his residence or principal place of business is located;

(d) the name, address and place of business of the applicant's representative (particulars as in paragraph c);

(e) where the applicant is the inventor, an indication to that effect and, if not, the name and address of the inventor accompanied by a statement specifying the basis of the applicant's right to the patent;

(f) where applicable, a declaration of priority of an earlier application and indicating the date on which and the country in or for which the earlier application was filed;

(g) where appropriate, an indication that the application constitutes a divisional application and the number of the earlier ARIPO patent application;

(h) list of the documents accompanying the request. The list shall indicate the total number of sheets constituting the application and the number of sheets of each element of the application (request, description, claims, drawings, abstract);

(i) whether applicable, 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; and

(j) the number of the most illustrative drawing which the applicant suggests should accompany the abstract when the abstract is published.

(3) Where there is more than one applicant, the request shall preferably contain the appointment of one applicant as a common representative.

Rule 29 Content of the description

(1) The description shall:–

(a) 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 the technical problem, even if not expressly stated as such, and its solution 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, due to the nature of the invention, a different manner or order would result in a better understanding and a more concise presentation.

Rule 30
Form and content of claims

(1) The claims shall define the matter for which protection is sought in terms of the technical features of the invention.

(2) 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.

(3) 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.

(4) 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."

(5) 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.

(6) Any claim which includes all the features of one or more other claims (claim in dependent form, hereinafter referred to as "dependent claim") shall do so by a reference, if possible at the beginning, to the other claim or claims and shall then state the additional features claimed. Any dependent claim which refers to more than one other claim ("multiple dependent claim") shall refer to such claims in the alternative only. Multiple dependent claims shall not serve as a basis for any other multiple dependent claims.

(7) Any claim stating the essential features of an invention may be followed by one or more claims concerning particular embodiments of that invention.

(8) Claims shall be grouped in the most logical manner to facilitate comprehension of the scope of protection being sought.

(9) Without prejudice to Section 34, an ARIPO patent application may contain more than one independent claim in the same category (product, process, apparatus or use) only if the subject matter of the application involves one of the following-

(a) a plurality of interrelated products;

(b) different uses of a product or apparatus; or

(c) alternative solutions to a particular problem, where it is inappropriate to cover these alternatives by a single claim.

(10) Where the ARIPO patent application contains drawings including reference signs, the technical features specified in the claims shall preferably be followed by the reference signs relating to these features, placed in parentheses. The reference signs shall not be construed as limiting the claim.

Rule 31
Form and Content of Abstract; Missing Abstract

- (1) The abstract shall consist of the following-
 - (a) a summary of the disclosure as contained in the description, the claims, and any drawings; the summary shall indicate the technical field to which the invention pertains and shall be drafted in a way which allows a clear understanding of the technical problem, the gist of the solution of that problem through the invention, and the principal use or uses of the invention;
 - (b) where applicable, the chemical formula which, among all the formulae contained in the international application, best characterizes the invention.
- (2) The abstract shall be as concise as the disclosure permits, preferably 50 to 150 words if it is in English or when translated into English.
- (3) The abstract shall not contain statements on the alleged merits or value of the claimed invention or its speculative application.
- (4) Each main technical feature mentioned in the abstract and illustrated by a drawing in the ARIPO application shall be followed by a reference sign placed between parentheses.
- (5) Where no abstract is provided, the Office shall invite the applicant to either provide an abstract or pay the prescribed fee for the preparation of the abstract by the Office. If the applicant fails to comply within two months, the application shall be deemed withdrawn.

Rule 32
Presentation of the application documents

- (1) The documents making up the application shall be so presented as to admit electronic and direct reproduction.
- (2) Only one side of each sheet contained in the application shall be used.
- (3) Where the document(s) making the application is on paper, the paper shall be flexible, strong, white, smooth, non-shiny, durable, and free from cracks, creases, and folds.
- (4) The size of the electronic or paper pages shall be A4 (29.7cm x 21cm. Subject to paragraphs 13 and 14, each sheet shall be used with its short sides at the top and bottom (upright position).
- (5) (a) The minimum margins of sheets shall be as follows:
 - (i) upper margin of each page, except the first page: 20 mm
 - (ii) upper margin of the first page: 30 mm

- (iii) left side margin adjacent to the binding: 25 mm
- (iv) right side margin: 20 mm
- (v) bottom margin: 20 mm

(b) The recommended maximum for the margins quoted above is as follows:

- (i) upper margin of each page: 4 cm
- (ii) left side margin adjacent to the binding: 4 cm
- (iii) right side margin: 3 cm
- (iv) bottom margin: 3 cm

(6)(a) All sheets shall be numbered in consecutive Arabic numerals and centred at the top or bottom of the sheet but shall not be placed in the margin.

(b) In effecting the arrangements of the sheets, the documents making up the application shall be placed in the following order: the request, the description, the claims, the abstract, and the drawings.

(c) The sequential numbering of the sheets shall be effected by using three separate series of numbering, the first series applying to the request only and commencing with the first sheet of the request, the second series commencing with the first sheet of the description and continuing through the claims until the last sheet of the abstract, and the third series being applicable to the sheets of the drawings only and commencing with the first sheet of the drawings.

(d) Each of the documents making up the application shall commence on a new sheet. The sheets shall be connected in such a way that they can easily be turned over, separated and joined together again.

(e) It is strongly recommended that every fifth line of each sheet of the description and of each sheet of claims be numbered. The numbers should appear in the right half of the left margin.

(7) The text matter of the application shall be typed. Graphic symbols, chemical or mathematical formulae and certain characters, if necessary, may be handwritten or drawn.

(8) The typing shall be 1½-spaced.

(9) All text matter shall be in characters the capital letters of which are not less than 0.28 cm high, and shall be in a dark, indelible colour, satisfying the requirements specified in paragraph 2, provided that any text matter in the request may be in characters the capital letters of which are not less than 0.21 cm high.

(10) Drawings shall be executed in durable, black, sufficiently dense and dark, uniformly thick and well-defined lines and strokes without colouring.

(11) Elements of the same figure shall be proportional to one another, unless a difference in proportion is indispensable for the clarity of the figure.

(12) Reference signs not mentioned in the description and claims shall not appear in the drawings, and vice versa. Reference signs to features shall be consistent throughout the application.

(13) Where the figures are not arranged in an upright position, they shall be presented sideways with the top of the figures at the left side of the sheet. The different figures shall be numbered consecutively in Arabic numerals, independently of the numbering of the sheets.

(14) (a) The request for grant of an ARIPO patent, the description, the claims, and the abstract shall not contain drawings.

(b) The description, claims, and abstract may contain chemical or mathematical formulae or tables. The claims may contain tables only if their subject matter makes the use of tables desirable.

(c) Tables and chemical or mathematical formulae may be placed sideways on the sheet if they cannot be presented satisfactorily in an upright position. Tables or chemical or mathematical formulae presented sideways shall be placed so that the tops of the tables or formulae are at the lefthand side of the sheet.

15 (a) The drawings shall not contain text matter, except a single word or words, when absolutely indispensable, such as "water," "steam," "open," "closed," "section on AB," and, in the case of electric circuits and block schematic or flow sheet diagrams, a few short catchwords indispensable for understanding.

(b) Any words used shall be so placed that, if translated, they may be pasted over without interfering with any lines of the drawings.

Rule 33

Measures, terminology and signs

(1) Units of weights and measures shall be expressed in terms of the metric system.

(2) Temperatures shall be expressed in degrees centigrade (Celsius).

(3) Density shall be expressed in metric units.

(4) For indications of heat, energy, light, sound, and magnetism, as well as for mathematical formulae and electrical units, the rules of international practice shall be observed; for chemical formulae, the symbols, atomic weights, and molecular formulae, in general use, shall be employed.

(5) In general, only such technical terms, signs and symbols should be used as are generally accepted in the art.

(6) The terminology and the signs shall be consistent throughout the application.

Rule 34
Documents filed subsequently

Rules 29 to 33 shall apply to documents replacing documents making up the ARIPO patent application.

Rule 35
Missing parts of the description or missing drawings

(1) Where the examination referred to in Section 41(1), and Rule 41 reveal that parts of the description, or drawings referred to in the description or in the claims, appear to be missing, the Office shall invite the applicant to file the missing parts within 2 months.

(2) If missing part of the description or drawings is not filed within the period referred to in paragraph 1, the office shall proceed with examination based on the application as originally filed.

CHAPTER 8
MAINTENANCE FEES

Rule 36

Payment of maintenance fees

- (1) The amount of annual maintenance fees payable under Section 21 (1) shall be as prescribed in the Schedule of Fees.
- (2) Maintenance fees already due in respect of an earlier application (“mother” application) at the date on which a divisional application is filed shall also be paid for the divisional application and shall be due on its filing.
- (3) The annual maintenance fees shall be payable on or before each anniversary of the date of filing of the application and shall be paid in advance to the Office.
- (4) The surcharge on late payment of the annual maintenance fee shall be payable as prescribe in the fee schedule.
- (5) Subject to the payment of the prescribed surcharge, a grace period of 6 months shall be allowed for the payment of the annual maintenance fee. While the annual maintenance fee and accrued surcharges remain unpaid, no Office action shall be taken on the application or patent.
- (6) If an annual maintenance fee is not paid in accordance with this Rule, the application or the patent shall lapse.
- (7) Maintenance fees already due in respect of an earlier application at the date on which a divisional application is filed shall also be paid for the divisional application and shall be due on its filing.
- (8) Maintenance fees shall be paid within 4 months of filing the divisional application failing which the fees shall incur surcharges.
- (9) If an ARIPO patent application has been refused or deemed to be withdrawn as a result of non-observance of a time limit, and if the applicant’s rights are restored under Section 55, a maintenance fee which-
 - (a) would have fallen due under paragraph 1 in the period starting on the date on which the loss of rights occurred, up to and including the date of the notification of the decision restored the rights, shall be due on that latter date; and
 - (b) on the date on which the loss of rights has occurred, was already due but the period provided for in paragraph 4 has not yet expired, may still be paid within 6 months from the date of the notification of the decision restored the rights provided that the surcharge fee pursuant to paragraph 4 is also paid within that period.
- (10) The Office shall publish a notification of lapsed patent or withdrawn application in the ARIPO Journal.

CHAPTER 9 PRIORITY

Rule 37 Declaration of Priority

(1) The declaration of priority referred to in Section 39(1), shall indicate-

(a) the date of the earlier application;

(b) the application number of the earlier application(s) subject to paragraph 2;

(c) 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

(d) where the earlier application is a regional or an international application, the office with which it was filed.

(2) The declaration of priority shall preferably be made on filing the ARIPO patent application or may still be made within 16 months from the earliest priority date claimed.

(3) Where, at the time of filing the declaration referred to in paragraph 1, the application number of the earlier application is not known, the application number shall be furnished within 3 months from the date on which the application containing the declaration was filed.

(4) The applicant may correct the declaration of priority within 16 months from the earliest priority date claimed, or, where the correction would cause a change in the earliest priority date claimed, within 16 months from the corrected earliest priority date, whichever 16-month period expires first, provided that such a correction may be submitted before the expiry of 4 months from the date of filing accorded to the ARIPO patent application.

(5) If the requirements under this Rule have not been complied with, the declaration shall be disregarded, and the applicant shall be informed accordingly.

Rule 38 Priority documents

(1) Where the priority declaration is made on filing, the applicant shall, within a period of 3 months from the filing of the application containing the declaration, furnish a copy of the earlier application(s), certified as a correct record by the office with which it was filed.

(2) Where the priority declaration is made after filing, the applicant shall furnish a copy of the earlier application(s) within 16 months of the earliest priority date, certified as a correct record by the office with which it was filed.

(3) Where the earlier application is in a language other than English, the applicant shall, within a period of 6 months from the filing of the application containing the declaration, furnish an English translation.

(4) If the translation of a previous application is not filed in due time, the right of priority shall be disregarded, and the applicant shall be informed accordingly.

Rule 39

Issuing priority documents by the Office

On request, the Office shall issue a certified copy of the ARIPO patent application under the conditions determined by the Office, including the form of the priority document and the fee to be paid.

Rule 40

Certificate of exhibition

The applicant shall file the certificate referred to in Section 11(2) within 4 months of filing the ARIPO patent application, which-

(a) is issued at the exhibition by the authority responsible for the exhibition;

(b) state that the invention was displayed at the exhibition;

(c) state the date of the disclosure of the invention at the exhibition; and

(d) is accompanied by an identification of the invention as duly authenticated by the authority responsible for exhibition .

CHAPTER 10
EXAMINATION FOR FILING AND FORMAL REQUIREMENTS

Rule 41
Examination on filing

- (1) Upon receiving the application, the Office shall examine it for compliance with the requirements of Section 31(1) (a) to (c).
- (2) Where the Office finds that the application does not comply with the requirements referred to in paragraph 1, it shall invite the applicant to correct the application within 1 month.
- (3) Where the applicant fails to comply with the invitation referred to in paragraph 2, the application shall be deemed withdrawn.
- (4) Where the application complies with the requirements referred to in paragraph 1, the Office shall accord the filing date.
- (5) The Office shall notify the applicant and the industrial property office of each Designated State of the filing date of the application.

Rule 42
Erroneously filed application documents or parts

- (1) Where an application or documents forming part of an application is erroneously filed under Rule 21, the applicant may, within 2 months-
 - (a) withdraw the application or the document forming part of the application; or
 - (b) file the correct application or document forming part of the application.
- (2) Where the correct application referred to in paragraph 1(b) is filed within the period referred to in paragraph 1-
 - (a) the correct application documents shall be included in the application; and
 - (b) the erroneously filed application documents shall be deemed not to have been filed.

Rule 43
Examination as to Formal Requirements

- (1) Where an ARIPO patent application has been accorded a filing date, the Office shall examine the application for compliance with the requirements of Sections 19(1), 31 and 32 and Rules 4, 8(1), 8(2), 16, 25, 28, 32, 37 and 38 have been satisfied.
- (2) Where the application does not comply with the requirements referred to in paragraph 1, the Office shall invite the applicant to correct the application within 1 month, subject to the payment of a correction fee as provided for in the schedule of fees.
- (3) If the applicant fails to comply with the invitation referred to in paragraph 2, the application shall be deemed withdrawn.

CHAPTER 11
REQUEST FOR SUBSTANTIVE EXAMINATION;
PUBLICATION

Rule 44

Request for substantive examination

- (1) For the purposes of the request under Section 45(1) of the Protocol, the applicant may, through a duly completed Form 13A, request substantive examination of the patent application up to 3 years from the date of filing or priority date if claimed. If more than one priority is claimed from the earliest priority date.
- (2) For divisional applications, the time limit for filing the request for examination shall be 6 months from the date of lodging of the divisional application.
- (3) The request shall be deemed to have been filed when the request for examination fee, including surcharges for additional pages and claims if any, has been paid. Where no request is made within the specified period under paragraph 1, the application shall be deemed withdrawn.
- (4) No extension of time limit in respect of the request for examination shall be permitted.

Rule 45

Request for accelerated or delayed examination

- (1) The applicant may, upon request made through a duly completed form, cause the Office to have an application that complies with the formal requirements to be examined in a preferential manner adhering to a modified timeframe as follows-
 - (a) expedited examination of an application so as to have a decision made on its suitability for grant within a period specified in the Administrative Instructions from the time of making the request; subject to—
 - (i) the application being for a single invention and/or the applicant agreeing to the examination division conclusively examining the application by considering only the first identified invention;
 - (ii) the applicant undertaking to respond immediately to any clarifications sought by the examining division;
 - (iii) the application not being withdrawn and then reinstated before conclusion of examination;
- and

(iv) a search report, based on acceptable minimum documentation conducted on claims corresponding to the claims either of the same scope as or narrower in scope than the claims in the ARIPO application file, is availed to the Office,

(b) delayed commencement of examination for up to 1 year provided:-

(i) a written explanation satisfactory to the Office has been submitted with the request; and

(ii) the application is not deemed withdrawn due to non-payment of annual maintenance fees,

(c) the Office shall acknowledge a request to modify the examination timeline as in paragraphs 1(a) and 1(b) above and provide direction upon receipt of such a request to-

(i) direct the applicant to remit the requisite fees for such modification of timeline;

(ii) confirm in writing that the Office concurs with the applicant's request of a modified examination timeline since the application relates to one of the fields of green technologies; or

(iii) indicate that such modification in the examination timeframe is not possible with an outline of the reasons, and

(d) the request shall not be considered made unless the prescribed fee is paid.

Rule 46

Surcharges for Additional Pages-and Claims

(1) Surcharge for additional pages is payable for ARIPO patent applications which comprise more than 30 pages. The surcharge is calculated according to the number of pages as provided for in the Schedule of Fees.

(2) Where the surcharge for additional pages is not paid within the period specified under paragraph 5 the application shall be deemed to be withdrawn.

(3) The surcharge for additional pages is calculated on the basis of the pages of the description, claims, drawings and abstract. The pages forming part of a sequence listing within the meaning of Rule 16 (1) shall not be counted, provided the sequence listing does not form part of the description.

(4) Where formal deficiencies in the documents making up the ARIPO patent application need to be corrected, the number of pages complying with the requirements stipulated under Rule 31 shall be the basis for calculation of the surcharge for additional pages.

(5) An ARIPO patent application comprising more than 10 claims shall, in respect of the eleventh and each subsequent claim, incur payment of surcharges for additional claims as prescribe in the Schedule of Fees.

(6) Where the surcharge for additional claim(s) is not paid within the period specified under paragraph 5, the claim(s) concerned shall be deemed to be withdrawn.

(7) The surcharges for additional pages and claims shall be paid on or before filing of the request for substantive examination.

(8) Where an amendment is filed after payment of the surcharges for additional pages and claims introduce more claims or pages than those paid for, the surcharges for the newly introduced claims or pages shall be payable on submission of the amendment.

Rule 47

Content of the publication of the ARIPO patent application

(1) The publication of the ARIPO patent application shall contain the description, the claims, the abstract and the drawings if any, as filed.

(2) The designated Contracting State(s) shall be indicated in the published application.

CHAPTER 12

SEARCH AND SUBSTANTIVE EXAMINATION

Rule 48

Content of the ARIPO search report

- (1) The ARIPO search report shall mention those documents available to the Office at the time of drawing up the report, which may be taken into consideration in deciding whether the invention to which the ARIPO patent application relates is new and involves an inventive step.
- (2) Each citation shall be referred to the claims to which it relates. Where appropriate, relevant parts of the documents cited shall be identified.
- (3) The ARIPO search report shall distinguish between cited documents published before the date of priority claimed, between such date of priority and the date of filing, and on or after the date of filing.
- (4) Any document which refers to an oral disclosure, a use or any other means of disclosure which took place before the date of filing of the ARIPO patent application shall be mentioned in the search report, together with an indication of the date of publication, if any, of the document and the date of the non-written disclosure.
- (6) The ARIPO search report shall contain the classification of the subject-matter of the patent application in accordance with the international patent classification.

Rule 49

Unity of invention

- (1) Where a group of inventions is claimed in an ARIPO patent application, the requirement of unity of invention under Section 34 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those features which define a contribution which each of the claimed inventions considered as a whole makes over the prior art.
- (2) The determination of whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim.
- (3) Where the Office considers that the ARIPO patent application does not comply with the requirement of unity of invention, it shall draw up search and examination reports on those parts of the application which relate to the invention, or the group of inventions first mentioned

in the claims and invite the applicant to limit the application to the invention first mentioned in the claims. The remaining invention(s) can be filed as divisional applications.

Rule 50

Examination procedure

(1) For the purposes of the examination under Section 45(1) of the Protocol, the Office may transmit the application together with all relevant documents to an authority specified in the Administrative Instructions.

(2) Search and substantive examination reports shall be established by the Office or by the authority referred to in paragraph 1 and shall contain the conclusions of the substantive examination of the application.

(3) Where taking due account of the search and substantive examination reports referred to in paragraph 2, the Office reaches the conclusion that the requirements of the Protocol are not fulfilled, it shall-

(a) notify the applicant, together with a copy of the search and substantive examination reports upon which the decision is based; and

(b) invite the applicant to submit, within 4 months, a request for reconsideration together with observations and, where applicable, to amend the description, claims and drawings in accordance with Section 47.

Rule 51

Observations by third parties

(1) Following publication of the ARIPO patent application, any person may submit observations concerning the patentability of the invention.

(2) The observations referred to in paragraph 1 may be considered if they are made in respect to novelty, inventive step, claim clarity, sufficiency of disclosure, patentability of subject matter and unallowable amendments.

(3) The observations shall include a statement of the grounds on which they are based.

(4) Documentary evidence, particularly publications submitted in support of the arguments, may be filed in any language. However, the Office may request that a translation into English be filed within a period specified in the request; otherwise, the evidence will be disregarded.

(5) The person filing the observations shall not become a party to the proceedings before the Office.

(6) The observations shall be filed, preferably electronically, using electronic means such as email and the web interface provided by the Office.

(7) The Office may send an acknowledgement of the receipt of the observations (if these were not filed anonymously). However, the Office shall not specifically inform the third party of any further action it takes in response to the observations beyond subsequent published office actions, such as the publication of the grant.

(8) The Office shall make every effort to issue the next office action to communicate such observations to the applicant for or proprietor of the patent, provided the observations are substantiated.

(9) If the observations question the patentability of the invention in whole or in part, they must be taken into account in any proceedings pending before the Office until such proceedings have been terminated. If the observations relate to alleged prior art available other than from a document, e.g., from use, this is taken into account only if the alleged facts either are not disputed by the applicant or proprietor or are established beyond a reasonable doubt.

(10) Observations received after the decision to grant/refuse the application shall be included in the file without taking note of their content.

(11) Where an observation was filed during the international phase, ARIPO as designated/elected Office will consider its content upon entry into the Regional phase once this becomes available.

Rule 52

Information on prior art

(1) The applicant shall, at the request of the Office, and within 3 months from the request furnish it with-

(a) the date and number of any application for a patent or other title of protection filed 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 Office; and

(b) the following documents relating to one of the foreign applications referred to in paragraph-

(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; and
 - (iv) 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 paragraph 1(a).
- (2) The documents furnished under this Rule shall merely facilitate the evaluation of the novelty and inventive step of the invention claimed in the application being processed by the Office or in the patent granted on the basis of that application.
- (3) The applicant shall have the right to submit comments on the documents furnished under this Rule.

Rule 53
Decision to Grant a Patent

- (1) Where the Office, taking due account of the search and examination reports, decides to grant the patent pursuant to Section 46, it shall notify the applicant and each Designated State together with copies of the search and examination reports upon which the decision is based.
- (2) Where, after the notification referred to in paragraph 1, the applicant requests to make reasoned amendments or corrections to the description, claims or drawings not recommended by the Office or amendments are based on un-examined claims, the application shall be re-examined upon payment of the prescribed fee. If the fee is not paid within 2 months, the application shall be considered withdrawn.
- (3) The applicant shall make payment of the grant and publication fees, within 4 months from the date of the notification, failure to which, the application shall be deemed to be withdrawn.
- (4) Upon receiving the notification referred to in paragraph 1 the Designated State may, within 4 months, make a written communication referred to in Section 46(2) to the Office.
- (5) Where a Designated State makes communication referred to in Section 46(2)(b), the applicant may respond by providing amendments and/or arguments referred to in Section 46(3), within 2 months of the date of notification.
- (6) Where an applicant submits amendments and/or arguments referred to in Section 46(4), the Designated State shall respond within 2 months of receipt of the communication.
- (7) The Office shall promptly transmit the communication referred to in paragraphs 4 to 6.

CHAPTER 13
AMENDMENTS AND CORRECTIONS

Rule 54

Amendment of Name, Address, or Correction of Errors

- (1) The Applicant may initiate an amendment of a name, address or correction of a linguistic error of transcription or any mistake in any document filed with the Office at any time on request and subject to payment of the prescribed fee.
- (2) Where the request referred to in paragraph 1 concerns the description, claims or drawings, the correction must be obvious in the sense that it is immediately evident that nothing else would have been intended than what is offered as the correction.
- (3) A request referred to in paragraph 1 shall not be considered made until the prescribed fee has been paid.

Rule 55

Amendment of the ARIPO patent application

- (1) Together with any comments, corrections or amendments made in response to communications by the Office under Rule 47(3)(b), the applicant may amend the description, claims or drawings of his own volition with each response to an Office action that raises objections or requirements for corrections.
- (2) Amendments may only be incorporated in the application through a written examination report consenting to such amendments by the Office.
- (3) When filing amendments, the applicant shall identify and indicate the basis for the amendments in the disclosure as originally filed.
- (4) Where amendments do not comply with the requirements referred to in paragraph 3, the Office shall invite the applicant to correct the deficiencies within 2 months, failing which the application shall be deemed withdrawn.
- (5) Amended claims may not relate to unsearched subject matter, which does not combine with the originally claimed invention or group of inventions to form a single general inventive concept, provided that the introduction of unsearched and/or unexamined claims shall be allowable subject to payment of new search and examination fees as prescribed in Schedule of Fees.

Rule 56

Different claims, descriptions and drawings for different States

Where a Designating State objects to the inclusion of any part of an ARIPO patent specification proposed for grant as unacceptable under the National Law, and the Applicant responds by excluding such parts from protection in the designating State, the ARIPO patent may, for such State or States, contain claims and, where appropriate, a description and drawings which are different from those for the other Designated States

CHAPTER 14
GRANT AND PUBLICATION OF PATENT

Rule 57
Grant of ARIPO Patent

Upon the expiry of 4 months provided for under Rule 53(4) and subject to payment of the grant and publication fee in accordance with Rule 53(3), the Office shall-

- (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; and
- (e) transmit to each Designated State for which the patent is granted a copy of the certificate and a copy of the patent.

Rule 58
Publication of ARIPO Patent

(1) The publication of a reference to the ARIPO patent grant in the ARIPO Journal shall include the following-

- (a) the patent number;
- (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 (where necessary);
- (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 or registration of the utility model;
- (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; and
- (l) the Designated States for which the patent is granted.

(2) The publication of the ARIPO patent shall contain the description, the claims, the abstract and the drawings, if any, as granted.

Rule 59
Certificate of an ARIPO patent

- (1) The Office shall issue to the proprietor of the patent a certificate for an ARIPO patent as soon as the patent has been granted.

- (2) The certificate of grant, which shall be signed by the Director General of the Office, shall contain—
 - (a) the patent number;
 - (b) the name and address of the owner of the patent;
 - (c) the filing date and the 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 Designated States for which the patent is granted; and
 - (g) any other condition(s) of grant.

CHAPTER 15
POST-GRANT AMENDMENT

Rule 60

Request for Post-Grant Amendment

(1) The request for post-grant amendment of an ARIPO patent shall be filed in writing and shall contain-

(a) particulars of the proprietor of the ARIPO patent making the request as prescribed in Rule 28(2)(c) and an indication of the Designated States for which the requester is the proprietor of the patent;

(b) the patent number, whose limitation is requested;

(c) the complete version of the amended claims and, as the case may be, of the amended description and drawings; and

(d) where the requester has appointed a representative, particulars of the representative as prescribed in Rule 28(2)(d)

(2) Post-grant amendments shall only be considered if they limit the scope of protection of the patent.

Rule 61

Decision on the Request for Post-Grant Amendment

(1) Where a request for post-grant amendment is allowable, the Office shall communicate and invite the applicant to pay the re-publication fee within 2 months from the date of notification.

(2) Where the request complies with the requirements under paragraph 1, the Office shall accept the amendments.

(3) Where the request does not comply with the requirements under paragraph 1, or if the request is not allowable, the Office shall reject the request.

CHAPTER 16 NOTIFICATIONS

Rule 62

General provisions on notifications

- (1) A communication by a Designated State pursuant to the Protocol shall be made on its behalf by its industrial property office.
- (2) Communications between the Office and the Industrial Property Offices of Contracting States on matters relating to the Protocol and Regulations shall be effected by registered mail or any safe electronic means of communication.
- (3) Communications between the 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 paragraph 2.
- (4) The Office shall notify those concerned of decisions and of any notice or other communication from which a time limit is reckoned, or of which those concerned must be notified under the Protocol.
- (5) Any notification to be made by the Office shall take the form of the original document, a copy thereof certified by or bearing the seal of the Office, a computer print-out bearing such seal or an electronic document containing such seal or otherwise certified.
- (6) Where a document has been sent to the addressee, the document shall be deemed to have been received on the date established by the Office as the date of receipt.

Rule 63

Transmittal of notification by the Office

- (1) Notification may be effected by means of electronic communication as determined by the Office and under the conditions prescribed in the Administrative Instructions.
- (2) Any document in non-electronic format shall only be made available at the request of the applicant subject to payment of the fee prescribed in these regulations. The applicant shall arrange the collection of the document by courier.
- (3) Where the address of the addressee cannot be established, notification shall be effected by public notice. The Office shall determine how the public notice is to be given and the period of which the public shall be deemed to have been notified.

CHAPTER 17
TIME LIMITS; RESTORATION OF RIGHTS;
FURTHER PROCESSING

Rule 64
Calculation of Time limits

(1) Time limits shall be in terms of full years, months, weeks, or days and shall start counting on the day following the day on which the relevant event occurred, the event being either a procedural step or the expiry of another time limit.

(2) Where a time limit is expressed in a certain number of years, it shall expire in the relevant subsequent year in the same month and on the same day on which the said event occurred. If the relevant subsequent month has no day with the same number, the period shall expire on the last day of that month.

(3) When a time limit is expressed in a certain number of months, it shall expire in the relevant subsequent month on the same date on which the said event occurred. If the relevant subsequent month has no date with the same number, the period shall expire on the last day of that month.

(4) When a time limit is expressed as a certain number of weeks, it shall expire in the relevant subsequent week on the day having the same name as the day on which the said event occurred.

Rule 65
Extension of time limits

(1) Before the expiration of the time limit the Office may extend a time limit upon request by the applicant or the proprietor if the request complies with the relevant requirements of the rules.

(2) Under an exceptional occurrence such as a pandemic, a natural disaster, war, civil disorder or a general breakdown in any means of electronic communication, the Office may, upon request by the applicant or the proprietor, extend a time limit after the expiration of the time limit.

(3) Where more than one request for extension of time limits are requested in one request Form, each request shall be subject to the payment of the prescribed fee.

(4) An extension of time limit shall not exceed 3 months.

(5) Where the time limit expires on a day on which the Office is not open for business, the time limit shall be extended to the next working day.

(6) Where any time limit in these Regulations is not observed, the ARIPO patent or application shall be lapsed or deemed withdrawn respectively.

Rule 66

Restoration of rights; Further processing

(1) Any request for restoration of rights under Section 55 shall be filed in writing within 2 months of the removal of the cause of non-compliance with the time limit but at the latest within one year of the expiry of the time limit that was not complied with.

(2) Notwithstanding paragraph 1, the request for restoration of rights in respect of any of the time limits specified in Section 38(1) shall be filed within 2 months of the expiry of that time limit.

(3) The request for restoration of rights shall not be deemed to have been filed until the prescribed fee has been paid.

(4) The request shall state the grounds on which it is based and shall set out the facts on which it relies. The omitted act shall be completed within the relevant period for filing the request according to paragraph 1.

(5) Further processing of applications shall commence once a request for restoration of rights has been accepted.

CHAPTER 18
INFORMATION TO THE PUBLIC

Rule 67

Entries in the ARIPO Patent Register

(1) The ARIPO Patent Register shall contain the following entries-

- (a) the name and address of the applicant or proprietor(s);
- (b) the name and address of the representative of the applicant;
- (c) patent application number;
- (d) the date of filing 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;
- (e) the title of the invention;
- (f) any change in the ownership of the application and any reference to a licence contract appearing in the file of the application;
- (g) the classification symbols assigned to the application;
- (h) the Contracting State(s) designated;
- (i) the family name, given name(s) and country and place of residence of the inventor(s), unless the inventor has waived the right to be mentioned;
- (j) the priority date, State and application number of the previous application(s);
- (k) for a division of the application, the numbers of all the divisional applications;
- (l) the date of publication of the application;
- (m) the date of filing of the request for examination;
- (n) the date on which the application is refused, withdrawn or deemed to be withdrawn;
- (o) the date of publication of the grant of the patent;
- (p) the date of lapse of the patent in a Contracting State;
- (q) the dates of stay and resumption of proceedings in the cases referred to in Rule 6;
- (r) the date of restoration of rights;
- (t) the filing of a request for conversion;
- (u) the date and purport of the decision on the request for limitation of the patent; and
- (v) the date and purport of the decision of the Board of Appeal.

(2) The Office may decide that entries other than those referred to in paragraph 1 shall be made in the Patent Register.

Rule 68

Parts of the file excluded from inspection

(1) The parts of the file excluded from inspection under Section 52(4), shall be-

- (a) the documents relating to the exclusion of or objections to members of the Board of Appeal;
- (b) draft decisions and notices, and all other documents used for the preparation of decisions and notices, which are not communicated to the parties;
- (c) the naming of the inventor, where the right to be mentioned has been waived in accordance with Rule 9(1); and
- (d) any other document excluded from inspection by the Office on the ground that such inspection would not serve the purpose of informing the public.

(2) Where an application is withdrawn before publication, the file relating to it may be inspected only with the written permission of the person who withdrew the application, and paragraph 1(b) shall not apply.

Rule 69

Inspection of files

(1) Inspection of the files of ARIPO patent applications and patents shall either be of the original document, copies thereof, or technical storage means.

(2) The Office shall determine all file inspection arrangements, including the circumstances in which an administrative fee is payable.

Rule 70

Communication of information contained in the files

Subject to the restrictions under Section 52(4), and in Rule 68, the Office may, upon request, communicate information concerning any file relating to an ARIPO patent application or an ARIPO patent.

Rule 71

Constitution, maintenance and preservation of files

(1) The Office shall constitute, maintain and preserve files relating to all ARIPO patent applications and patents in electronic form.

- (2) Documents incorporated in an electronic file shall be considered to be originals.
- (3) The initial version of documents filed on paper or a data carrier may only be destroyed after at least five years from the date the document was incorporated in the electronic file.
- (4) Any files shall be preserved for at least five years from the end of the year in which-
- (a) the application is refused or withdrawn or is deemed to be withdrawn;
 - (b) the patent lapses in the last of the Designated States.

CHAPTER 19
REPRESENTATION;
REQUEST FOR CONVERSION

Rule 72

Appointment of representative

- (1) Where a request for grant of an ARIPO patent contains more than one applicant and does not indicate a common representative, the first applicant named in the request shall be deemed to be the common representative.
- (2) Where one of the applicants is obliged to appoint a representative, the appointed representative shall be deemed the common representative.
- (3) Where the ARIPO patent application is transferred to more than one person, and such persons have not appointed a common representative, paragraphs 1 and 2 shall apply mutatis mutandis. Where a common representative has not been identified, the Office shall, within 2 months, invite the applicant to appoint a common representative.
- (4) Where the invitation referred to under paragraph 3 is not complied with, the application shall be deemed withdrawn.
- (5) Where the applicant changes the appointed representative or appoints another representative apart from the representative on record to conduct a specific action with the Office, such representative shall be allowed only upon submission of a power of attorney and subject to payment of the prescribed fee.
- (6) Where a representative has been appointed, notifications shall be addressed to that representative.

Rule 73

Authorizations

- (1) The authorization of the applicant's representative shall be evidenced by a power of attorney issued and signed by the applicant, which shall be filed within 2 months after filing the application.
- (2) Where a representative fails to submit the authorization referred to in paragraph 1, the Office shall invite the applicant to comply within 1 month, failing which the application shall be deemed withdrawn.
- (3) The authorization may cover one or more ARIPO patent applications or ARIPO patents.

(4) Where the authorization referred to in paragraph 3 covers prior application(s), it shall be subject to the payment of the prescribed fee.

Rule 74

Filing and transmission of the request for conversion

(1) The request for conversion referred to in Section 53 shall be filed within 3 months from the date of the refusal by the Office and shall specify the Designated States in which the procedure for the grant of a national patent is desired.

(2) The Office shall transmit the request together with copies of the application and all relevant documents to the industrial property offices of the Designated States.

CHAPTER 20
INTERNATIONAL APPLICATIONS UNDER
THE PATENT COOPERATION TREATY (PCT)

Rule 75
ARIPO as a receiving Office

- (1) The Office shall be competent to act as a receiving Office within the meaning of the Patent Cooperation Treaty if the applicant is a resident or a national of a Contracting State to this Protocol and the Patent Cooperation Treaty. If the applicant chooses the Office as a receiving Office, the international application shall be filed directly with the Office.
- (2) Where the Office acts as a receiving Office under the Patent Cooperation Treaty, the international application shall be filed in English.
- (3) Where an international application is filed with the Office as receiving Office under Section 57, the transmittal fee referred to in Rule 14 of the Regulations under the Patent Cooperation Treaty shall be paid within 1 month from the filing of the application.
- (4) 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.

Rule 76
ARIPO as a designated or elected Office; Requirements for entry into the ARIPO Regional Phase

- (1) In respect of an international application under Section 58, the applicant shall perform the following acts within 31 months from the date of filing of the application or, where priority has been claimed, from the priority date-
- (a) furnish an English translation of the international application to the 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 Office-
- (i) the application fee;
- (ii) the designation fee per country designated; and
- (iii) subject to Section 56(3) 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;

(d) specify the application documents, as originally filed or as amended, on which the ARIPO grant procedure is to be based; and

(e) file, where applicable, a certificate of exhibition referred to in Rule 40.

(2) In respect of an international application, the applicant shall file the request for examination as provided for in Section 45(1) and Rule 44.

(3) For the purpose of Rule 47(5), an international search report established for an international application for which the Office acts as designated Office under Article 2(xiii) of the Patent Cooperation Treaty shall be taken into consideration.

(4) For the purpose of Rule 47(5), an international preliminary examination report established for an international application for which the Office acts as elected Office under Article 2(xiv) of the Patent Cooperation Treaty shall be taken into consideration.

(5) Where the translation referred to in paragraph 1(a), or the request for examination referred to in paragraph 2 is not filed in due time, or where the filing fees referred to in paragraph 1(b) are not paid in due time, the ARIPO patent application shall be deemed to be withdrawn.

CHAPTER 21
REGULATION FOR UTILITY MODEL

Rule 77

Applicability of Regulations Relating to Patent

The Rules relating to patent applications, particularly Rules 1 to 43, 45 to 49, and 51 to 74, shall apply mutatis mutandis to utility models or utility model applications.

Rule 78

Examination as to Substance

(1) For purposes of the examination under Section 63(1) of the Protocol, the Office may transmit the application together with all relevant documents to an authority specified in the Administrative Instructions.

(2) The Rules relating to patent applications, particularly Rule 50(5) and (6) shall apply mutatis mutandis.

CHAPTER 22
REGULATION FOR INDUSTRIAL DESIGN

Rule 79

Applicability of Regulations Relating to Patents

The Rules relating to patent applications, particularly Rules 1 to 12, 21, 23 to 25, 28, 32 to 34, 36 to 40, 42, 54, and 62 to 74, shall apply mutatis mutandis to industrial designs or applications thereunder, as the case may be.

Rule 80

Filing Date

(1) The 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 fulfils the requirements of Section 69(1)(a) and (b).

(2) 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 fulfil the requirements referred to in paragraph 1, the Office shall accord as the filing date the date on which the application fulfilled the requirements.

(3) Where the application does not comply with the requirements referred to in paragraph 1, the Office shall invite the applicant to comply with the requirements within 2 months.

(4) The Office shall notify the applicant and the Industrial Property Office of each Designated State of the filing date of the application.

Rule 81

Industrial Design Classification

The Office shall use the classification adopted by the Locarno Agreement establishing an International Classification for Industrial Design (as revised from time to time) referred to as the Locarno classification.

Rule 82

Statement of Novelty

For the purpose of Section 69(1)(c), the applicant shall furnish a statement of novelty within 2 months from the filing date.

Rule 83
Payment of Maintenance Fees

- (1) The annual maintenance fees payable under Section 21(1) shall be as prescribed in the Schedule of Fees.
- (2) The Rules relating to patent applications, particularly Rule 36(3) to (6), (9) and (10) shall apply *mutatis mutandis*.

Rule 84
Examination on Filing

- (1) Upon receiving the application, the Office shall examine it for compliance with the requirements of Section 69(1)(a) and (b).
- (2) Where the Office finds that the application does not comply with paragraph 1, it shall invite the applicant to correct the application within a period of 2 months.
- (3) If the applicant fails to comply with the invitation referred to in paragraph 2, the application shall be deemed withdrawn.
- (4) Where the application fulfils the requirements of paragraph 1, the Office shall accord the filing date.
- (5) The Office shall notify the applicant and the industrial property office of each Designated State of the filing date of the application.

Rule 85
Examination as to Formal Requirements

- (1) Where an ARIPO industrial design application has been accorded a filing date, the Office shall examine the application for compliance with the requirements of Sections 19(1), 32 and 69; and Rules 4, 8(1), 8(2), 25, 28, 32, 37 and 38 have been satisfied.
- (2) The Rules relating to patent applications, particularly Rule 43(2) and (3) shall apply *mutatis mutandis*.

Rule 86
Examination as to Substance

- (1) For the purpose of the examination referred to under Section 72, each Designated State may, within 4 months from the receipt of the notification referred to in Section 72(2), make a written communication of the outcome of the substantive examination to the Office.

(2) The Rules relating to patent applications, particularly Rule 5(5) to (7), shall apply mutatis mutandis.

Rule 87

Publication of ARIPO Industrial Design Application

(1) The Office shall publish a notice of an application to register an industrial design in the ARIPO Industrial Property Journal.

(2) The publication shall contain the bibliographic data and reproduction of the design as filed.

(3) The designated Contracting State(s) shall be indicated in the published application.

Rule 88

Decision to Register Industrial Design

(1) Where the Office, taking into account the examination referred to in Rule 86, decide to register an industrial design pursuant to Section 73, it shall notify the applicant together with the copy of the communication upon which the decision is based.

(2) The applicant shall make payment of the registration and publication fees within 1 month from the expiration of the period referred to in Rule 86(1), failure to which the application shall application shall lapse.

Rule 89

Registration of ARIPO Industrial Design

(1) Upon the expiry of 4 months provided for under Rule 86, and subject to payment of the registration and publication fee in accordance with Rule 88(2), the Office shall-

(a) register the industrial design;

(b) publish in the ARIPO Journal a reference to the registration;

(c) record the registration in the Industrial Design Register;

(d) issue to the applicant a certificate of the registration of the industrial design and a copy of the industrial design; and

(e) transmit to each Designated State for which the industrial design is registered a copy of the certificate and a copy of the industrial design.

Rule 90
Publication of ARIPO Industrial Design

(1) The publication of a reference to the registration in the ARIPO Journal shall include the following-

- (a) the number of the industrial design;
- (b) the name and address of the owner of the industrial design;
- (c) the name and address of the originator or creator;
- (d) the name and address of the applicant's representative, where applicable;
- (e) the filing date of the application;
- (f) where 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 registration of the industrial design;
- (h) the title of the industrial design;
- (i) the most illustrative reproduction of the industrial design;
- (j) the symbol of the International Classification; and
- (k) the Contracting States for which the industrial design is registered.

Rule 91
Certificate for an ARIPO Industrial Design

(1) The Certificate of Registration, which shall be signed by the Director General of the Office, shall contain

- (a) the number of the industrial design;
- (b) the name and address of the owner of the industrial design;
- (c) the filing date and priority date, if any, of the application;
- (d) the effective date of the registration of the industrial design;
- (e) the title of the industrial design; and
- (f) the Contracting States for which industrial design is registered.

CHAPTER 23
REGULATIONS RELATING TO PAYMENT OF FEES

Rule 92

Fees provided for in the Protocol and the Regulations

The fees to be paid to the Office under Section 4, in respect of any matters arising under the Protocol and these Regulations, shall be those specified in the Schedule of Fees, annexed to these Regulations and forming part of the Regulations.

Rule 93

The Due Date for Fees

Fees in respect of which the due date is not specified in the Protocol and these Regulations shall be due on the date of receipt of the request for the service incurring the fee concerned.

Rule 94

Payment of fees

- (1) The fees due to the Office shall be paid in U.S. dollars directly to the Office.
- (2) Notwithstanding paragraph 1, where the applicant is a national of the Contracting State in which the application is filed, the industrial property office concerned may-
 - (a) accept payment of application and designation fees, as prescribed in the Schedule of Fees; and
 - (b) request the Office to debit its account in ARIPO with the amount of such fees.
- (3) Notwithstanding paragraph 1, where the applicant or agent has a Funds Held Account with the Office, the applicant may make payment using the funds held.
- (4) The ARIPO Office shall issue a receipt for payment of any prescribed fee.

Rule 95

Particulars concerning payments

- (1) Every payment shall indicate, where applicable, the following particulars-
 - (a) application number, reference number or title;
 - (b) agent or applicant name;
 - (c) name of fee;

(d) the specific amount paid; and

(e) payment method.

(2) Where the payment is to be made through bank transfer, the applicant shall provide proof of payment with the particulars referred to in paragraph 1.

(3) Where the payment is to be made through fund held, the applicant shall provide the instruction to the Office for payment with the particulars referred to in paragraph 1.

(4) Where the purpose of the payment cannot immediately be established by the Office, the payment shall be considered to be made on the date on which the purpose of the payment is established.

Rule 96

The date of payment

(1) Where the payment is made through a bank, the date on which any payment shall be considered to have been made to the Office shall be the date on which the paid amount is reflected in a bank account held by the Office.

(2) Where payment is made using funds held, the date on which any payment shall be considered to have been made to the Office shall be the date on which the instruction was received.

(3) Where payment is made through the Contracting States to ARIPO, the date on which any payment shall be considered to have been made to the Office shall be considered the date the Office received instruction from the Contracting State.

Rule 97

Insufficiency of the amount paid

(1) A payment shall be deemed to have been made only if the full amount of the fee has been paid before the due date.

(2) Where the fee is not paid in full, the Office shall issue a receipt notifying the applicant about the insufficiency.

(3) Where the outstanding fees referred to in paragraph 1 are not paid on the due date, the surcharge prescribed under the Schedule of Fee shall apply.

CHAPTER 24
APPEAL AND APPEAL PROCEDURE

Rule 98

Notice of appeal and statement of grounds

- (1) An person intending to appeal to the Board from a decision of the Office shall, within 90 days of the date of the decision of the Office, subject to the payment of the prescribed fee, file with the Secretary of the Board a notice of appeal.
- (2) The notice of appeal shall contain-
 - (a) the name and the address of the appellant;
 - (b) the decision impugned; and
 - (c) the grounds of appeal.
- (3) The appellant shall send a copy of the notice of appeal to the Director General.

Rule 99

Grounds of Appeal

- (1) The grounds of appeal shall set out concisely and under distinct heads the grounds upon which the appellant intends to rely at the hearing of the appeal.
- (2) An appeal which does not disclose clear and reasonable ground(s) shall not be permitted.
- (3) The appellant shall not rely on any ground of appeal not stated in the notice of appeal.

Rule 100

Application for extension of time to appeal

- (1) The applicant may request for an extension of time to appeal before the expiry of the time limit referred to in Rule 98(1), subject to the payment of the prescribed fee.
- (2) The application for an extension of time to appeal shall be supported by an affidavit setting out the reasons for the application.
- (3) The application, accompanied by supporting documents, shall be filed with the Secretary of the Board, and a copy shall be served on the Director General.

Rule 101
Evidence

- (1) The evidence used on appeal shall be the same as that used before the Office, and no fresh evidence shall be given except with the leave of the Board.
- (2) The Board may subpoena any person to give expert evidence at any stage of the appeal.

Rule 102
Withdrawal of Appeal

- (1) An appellant may, at any time before the hearing, withdraw an appeal by giving notice to the Secretary of the Board.
- (2) Upon such notice being given, the appeal shall be deemed to have been withdrawn.

Rule 103
Frivolous or vexatious appeals

Where it appears to the Board that a notice of appeal discloses grounds of appeal which are frivolous or vexatious and that the appeal can be determined without a hearing, the Board may, without hearing, dismiss the appeal.

Rule 104
Representation before the Board

- (1) An appellant may be represented before the Board by an attorney, agent or legal practitioner who has the right to represent applicants before the industrial property office of any contracting state of the Harare Protocol.
- (2) Where the appellant's ordinary residence or principal place of business is not situated in any Contracting State of the Harare Protocol the applicant shall be represented.

CHAPTER 25
FINAL PROVISIONS

Rule 105

Administrative Instruction; Examination Guidelines

The Director General shall establish Administrative Instructions and Guidelines for the Examination of ARIPO applications, which provide details and guidance regarding the application of these Regulations and shall not conflict with the provisions of the Protocol and these Regulations.

Rule 106

Amendment to the Regulation

- (1) These Regulations may be amended at the instance of the ARIPO Director General or any member of the Contracting State during the Administrative Council session.
- (2) The adoption of the amendments these regulations shall be by a single majority of the Contracting States.
- (3) The Administrative Council shall determine the date of entry into force of the amendments.