



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

## ARIPO and the Patent System

**SAID H. RAMADHAN**  
*SENIOR PATENT EXAMINER*

**Gaborone, Botswana**  
**September 10-12, 2019**



*Fostering Creativity and Innovation for Economic Growth and Development in Africa*

# OUTLINE

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



*Fostering Creativity and Innovation for Economic Growth and Development in Africa*





# Introduction – ARIPO

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



*Fostering Creativity and Innovation for Economic Growth and Development in Africa*

# MEMBER STATES

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



- The current ARIPO has 19 Member States



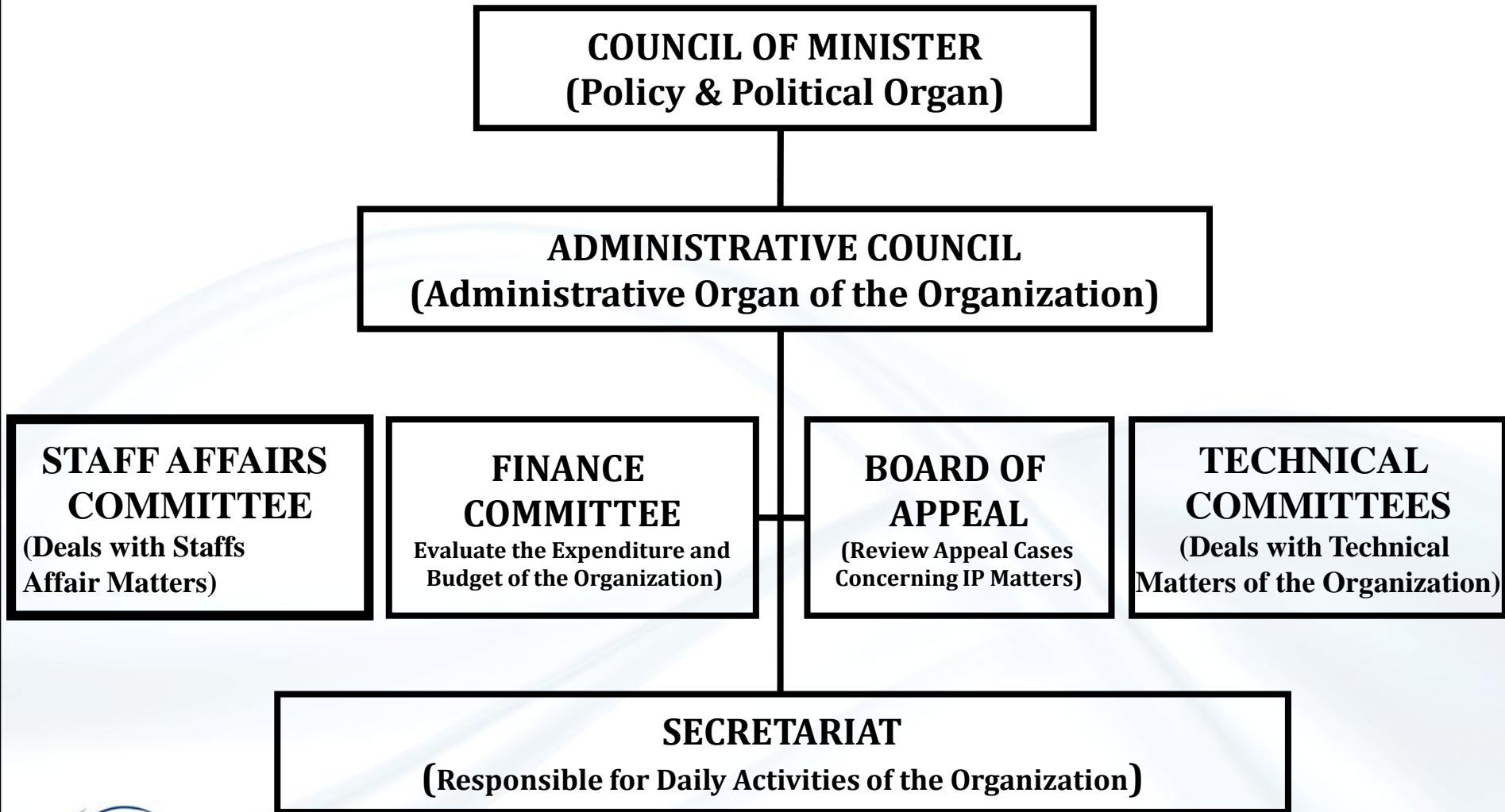
*Fostering Creativity and Innovation for Economic Growth and Development in Africa*

# WHY ARIPO WAS ESTABLISHED

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



# ORGANS OF ARIPO



*Fostering Creativity and Innovation for Economic Growth and Development in Africa*

# Substantive Activities

**Grant patents &  
register utility models**

**Harare Protocol (1982)**

**Register industrial  
designs**

**Harare Protocol (1982)**

**Register marks**

**Banjul Protocol (1993)**

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

**Swakopmund Protocol (2010)**

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

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

**Access and Benefit  
Sharing**

**Guidelines for ABS**

**Register geographical  
indications**

**Regional Framework?**

**Plant Variety  
Protection**

**Arusha Protocol (2015)**

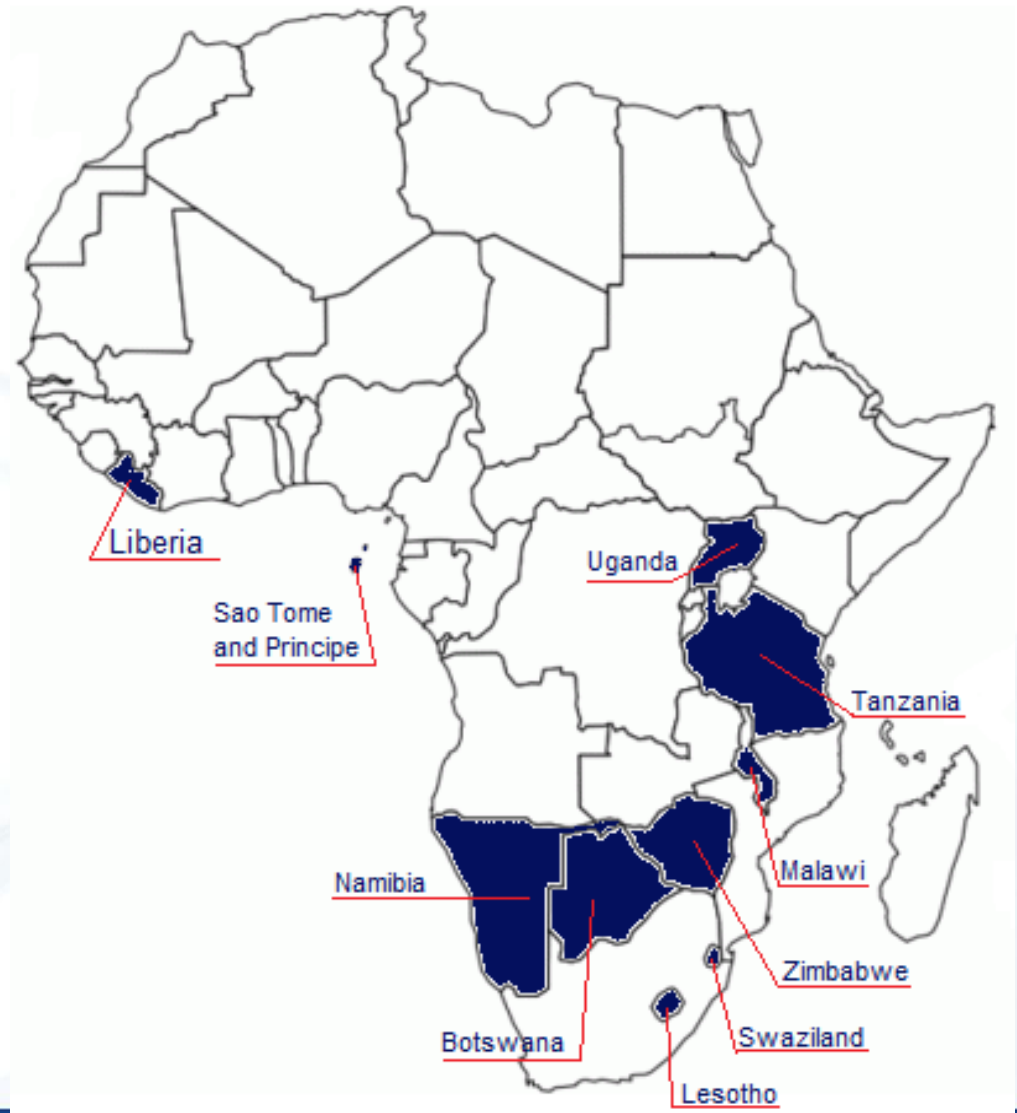


*Fostering Creativity and Innovation for Economic Growth and Development in Africa*



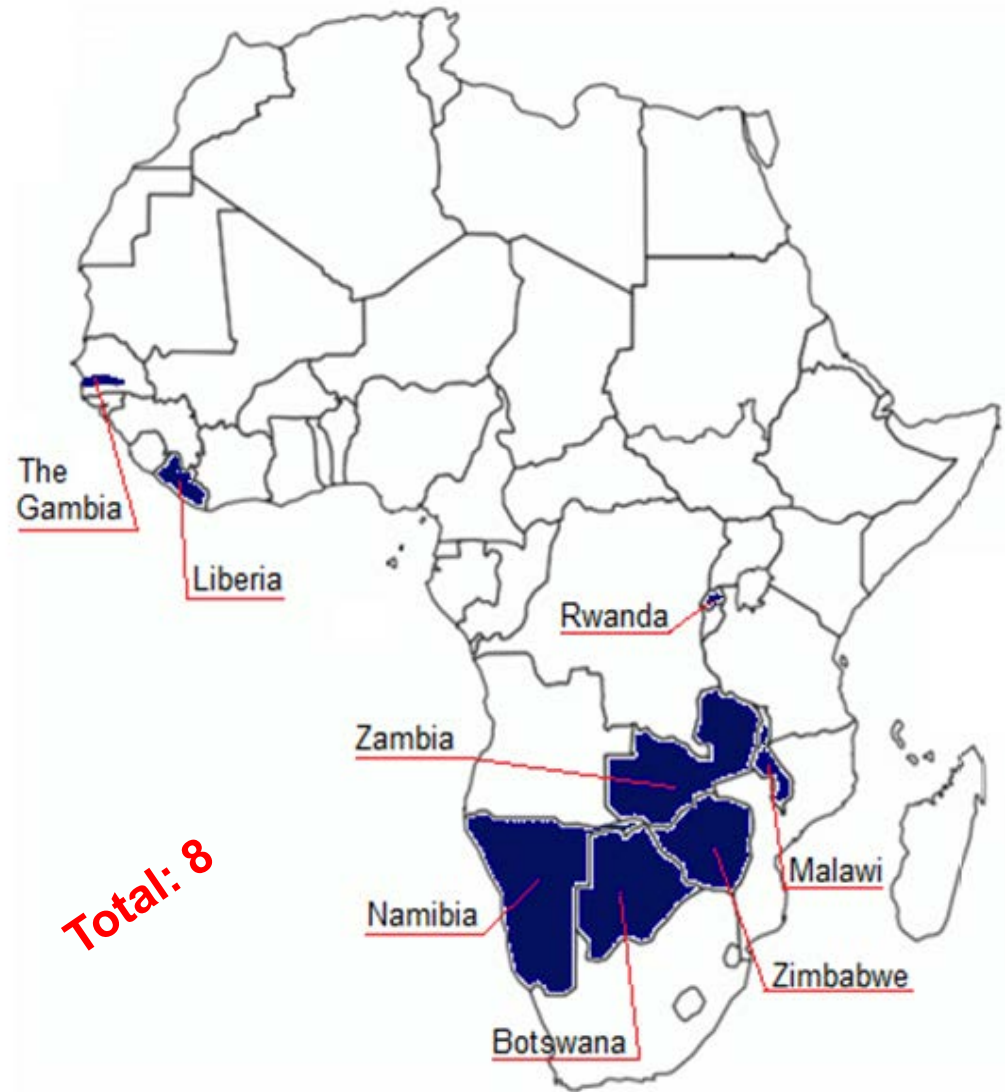
# The Banjul Protocol

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



# Swakopmund Protocol

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



# Arusha Protocol

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



# The ARIPO Patent System

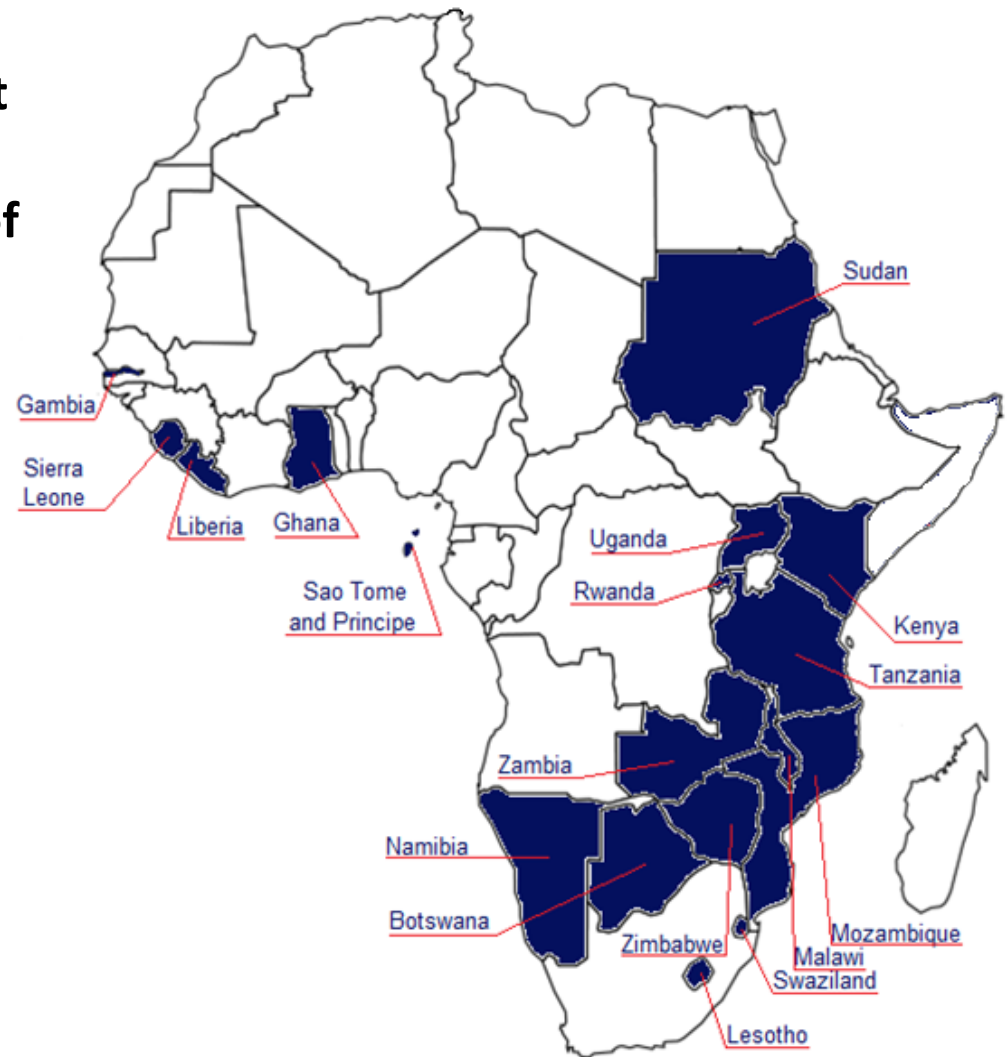
- **Legal framework:**
  - **The Harare Protocol (HP) on Patents and Industrial Designs**
  - **Regulations for Implementing the Protocol on Patents and Industrial Designs within the framework of ARIPO**
  - **Administrative Instructions under the HP**
  - **Guidelines for Examination at ARIPO (published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





# The Harare Protocol

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



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

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

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

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

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

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



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

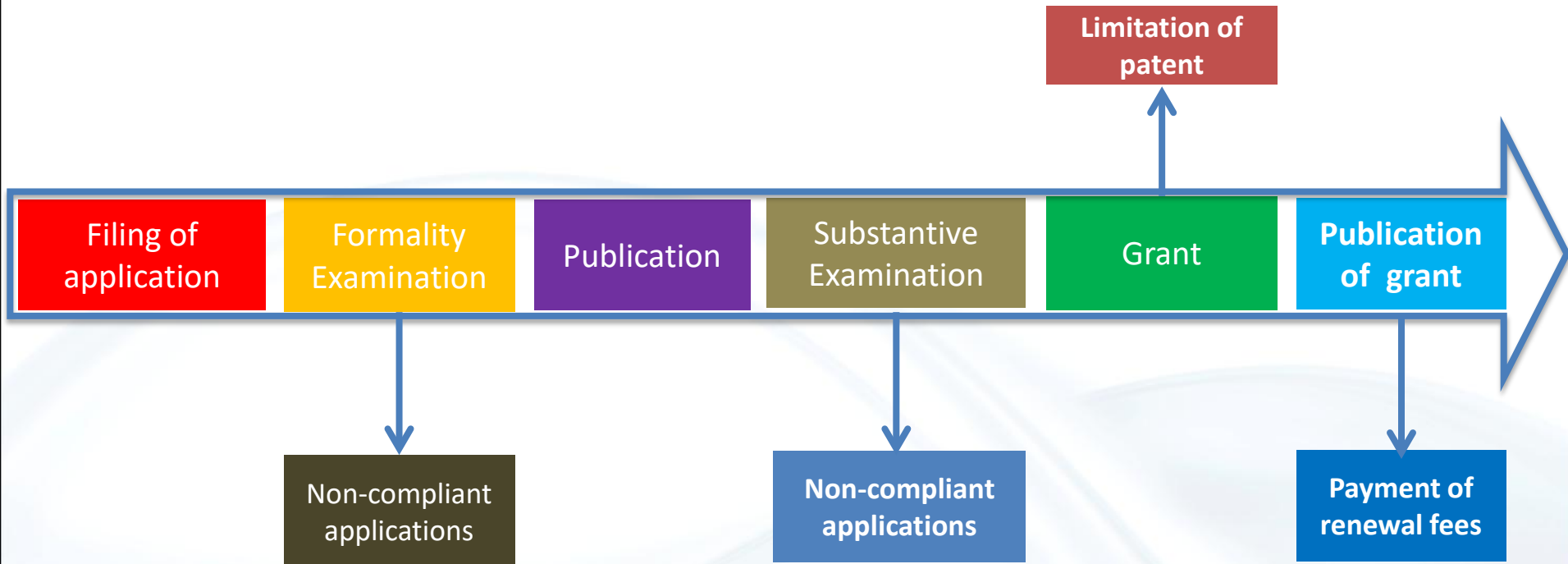
- The following shall not be regarded as inventions :
  - i. discoveries, scientific theories and mathematical methods
  - ii. aesthetic creations
  - iii. schemes, rules and methods for performing mental acts, playing games or doing business, and programs for computers
  - iv. presentation of information

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

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



# Basic ARIPO Processing Procedure



# Benefits of the ARIPO Patent System

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



*Fostering Creativity and Innovation for Economic Growth and Development in Africa*





## **African Regional Intellectual Property Organization**

- ▶ Address: 11 Natal Road, Belgravia,  
Harare, Zimbabwe
- ▶ Tel: **+263 4 794 065 /6/8/54/74**
- ▶ Fax: **+263 4 794 072**
- ▶ Email: **sramadhan@aripo.org**
- ▶ **mail@aripo.org**
- ▶ Website: **www.aripo.org**