

**“LATEST DEVELOPMENTS IN THE AFRICAN
REGIONAL INTELLECTUAL PROPERTY
ORGANIZATION (ARIPO): DRAFT ARIPO
REGIONAL FRAMEWORK ON PLANT
VARIETY PROTECTION”**

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Contents

- **Introduction to ARIPO**
- **Preparatory work for the development of the Draft Regional Framework on PVP**
- **Road-map for the development of the Draft Regional Framework on PVP**
- **Legal provisions**
- **Policy options**
- **Relationship of the Draft Regional Framework on PVP with National PVP Systems**
- **Way forward**

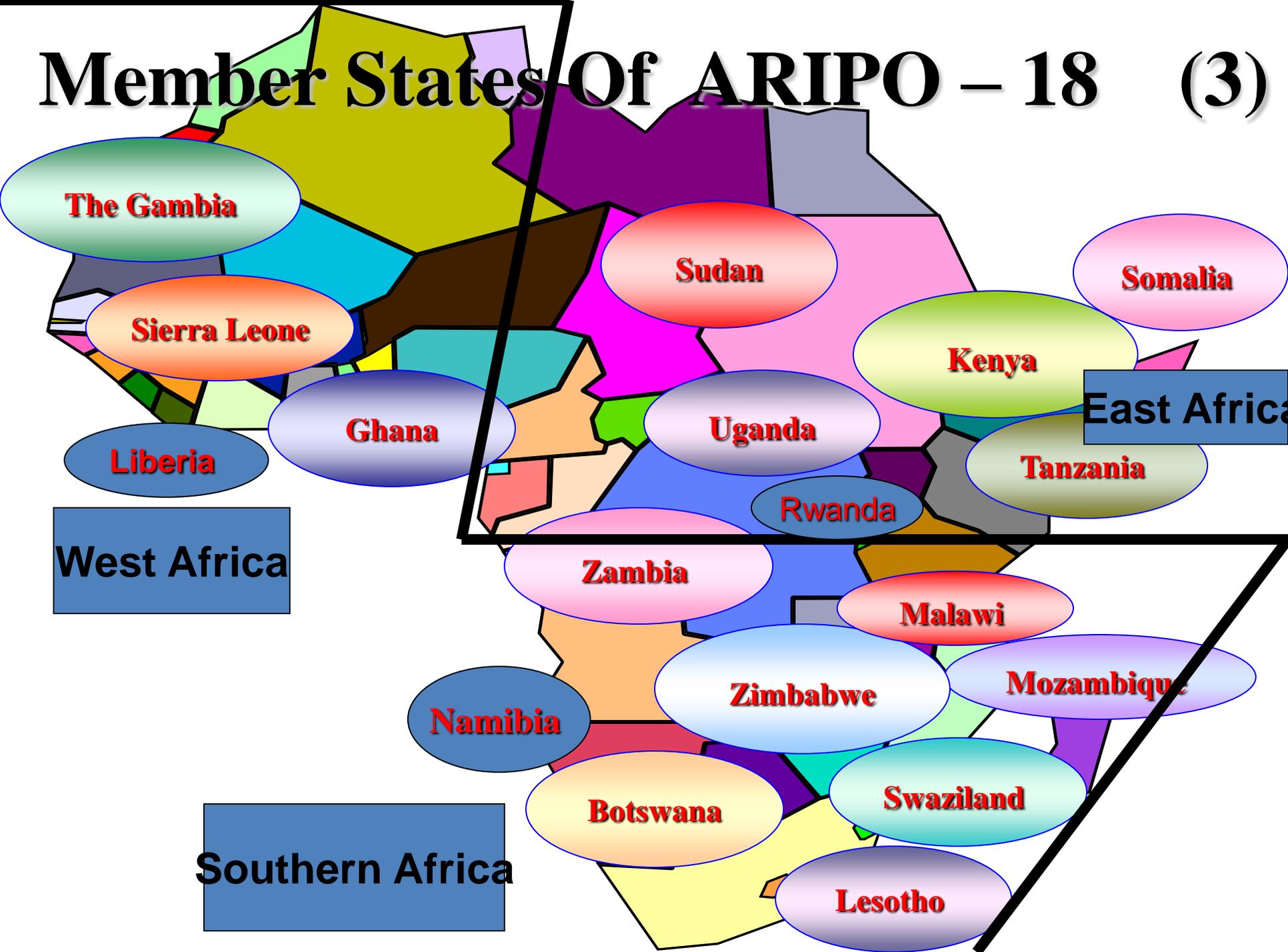
Introduction – ARIPO (1)

- **Historical background:**
 - **ARIPO is an Inter - governmental Organization**
 - **Established under the Lusaka Agreement, signed on December 9, 1976**
 - **Was initially known as the “English Speaking African Regional Industrial Property Organization (ESARIPO)”**
 - **Name was later changed from ESARIPO to the African Regional Industrial Property Organization (ARIPO)**
 - **On acquiring mandate on Copyright and Related Rights the name changed to the current name, the African Regional Intellectual Property Organization (ARIPO)**
 - **ARIPO is based in No. 11 Natal Road, Harare, Zimbabwe**

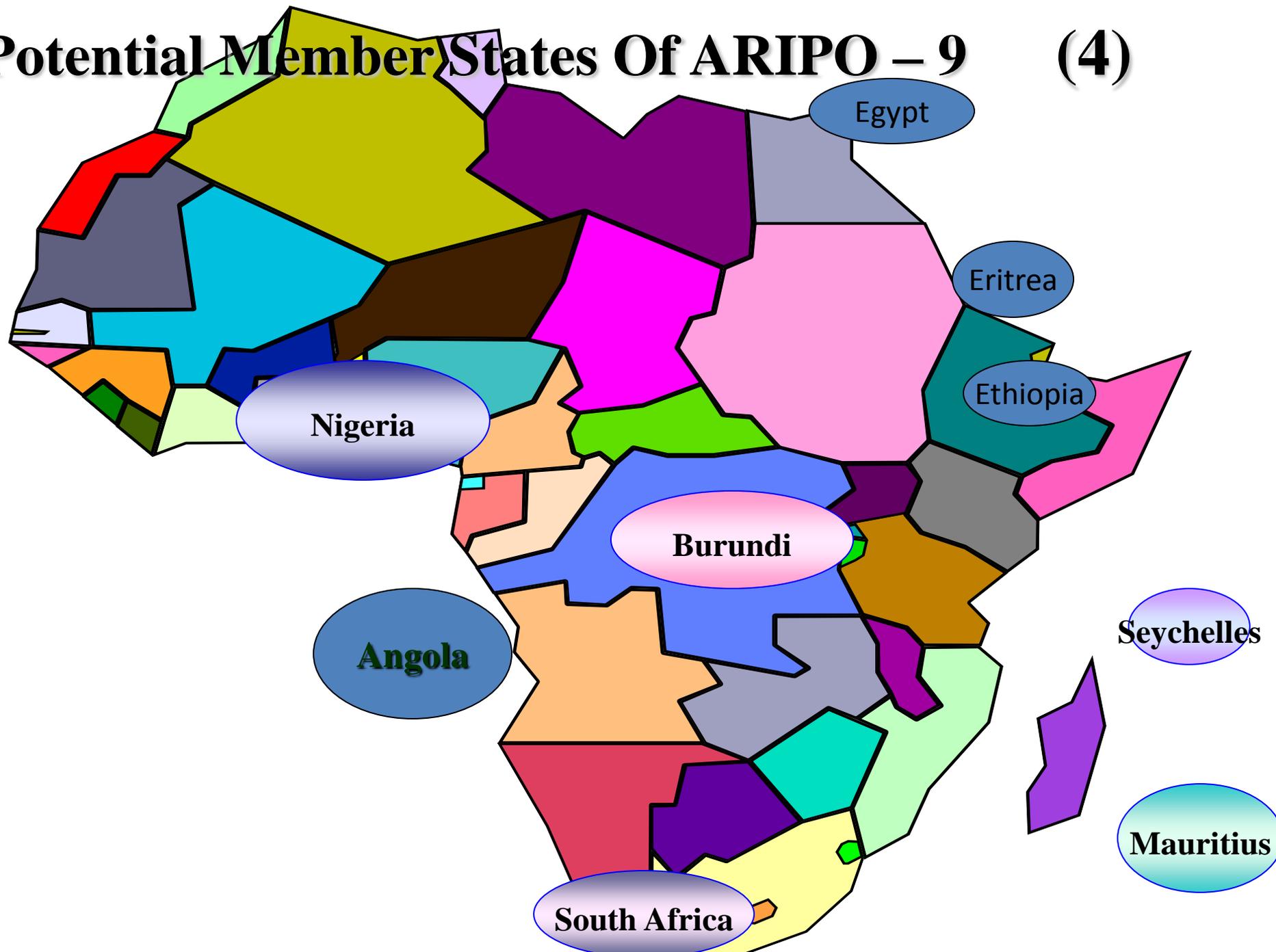
Introduction – ARIPO (2)

- **Member and Potential member states:**
- **Member states**
 - Currently, eighteen (18) member states spread across East, West and Southern Africa
- **Potential member states**
 - Currently, nine (9) potential member states

Member States Of ARIPO – 18 (3)



Potential Member States Of ARIPO – 9 (4)



Introduction – ARIPO (5)

- Organs of ARIPO:
- Council of Ministers
- Administrative Council
- The Secretariat and
- The Board of Appeal

Introduction – ARIPO (6)

- **ARIPO's Mandate: - Mandate covers three main areas including:**
- **Industrial Property Rights;**
 - **Patents; Utility models; Industrial designs and Marks**
 - **Geographical indications (GI's)**
- **Copyright and related rights; and**
- **Traditional knowledge (TK), expressions of folklore (EoF) and genetic resources (GR)**

Introduction – ARIPO (7)

- **ARIPO Protocols:**
- **The Harare Protocol for Patents, Industrial Designs and Utility Models. All member States except Somalia are party to the Protocol. The Protocol is linked to the Patent Cooperation Treaty (PCT)**
- **The Banjul Protocol for Marks. 9 member States (BW, LR, NA, SW, TZ, UG and ZW) are party to the Protocol**
- **The Swakopmud Protocol for Traditional Knowledge and Expressions of Folklore. 5 member states (BW, MW, NA, RW and ZW) party to the Protocol. The Protocol not yet in force**

Introduction – ARIPO (8)

- **Legal Frameworks Under Consideration:**
- **Access and Benefit Sharing Mechanism under the Nagoya Protocol**
- **Regional Plant Variety Protection framework**

(9)

- **Draft ARIPO Regional Framework for the Protection of New Varieties of Plants**

Preparatory Work for the ARIPO PVP Framework (10)

- **November, 2009 – the Council of Ministers approved proposals for ARIPO to develop policy and legal framework to form the basis for the development of an ARIPO protocol on the protection of new varieties of plants**
- **2010 – ARIPO requested for technical assistance from UPOV in the preparation of policy and legislative framework.**

Preparatory Work for the ARIPO PVP Framework (11)

- **July, 2011 – ARIPO in cooperation with UPOV convened a regional workshop to review and provide comments and suggestions on the UPOV draft regional framework on PVP and the ARIPO draft policy on PVP.**
- **Comments and suggestions emanating from the workshop were incorporated in the draft framework**
- **September, 2011 – ARIPO's Technical Committee reviewed the draft policy and framework**

Preparatory Work for the ARIPO PVP Framework (12)

- **November, 2011 – Draft framework submitted to the Administrative Council for its consideration. The Council approved the drafts for submission to the Council of Ministers**
- **December, 2011 - The Thirteenth Session of the Council of Ministers adopted the Draft Regional Framework as work in progress**
- **January, 2012 - ARIPO prepared a road-map to guide the development of the PVP framework**

Road –map (13)

- **February to April, 2012 – Draft framework submitted to all member states and other stakeholders for review**
- **June, 2012 – Expert review meeting held at ARIPO. Experts drawn from 5 member states (GH, KE, TZ, ZM, ZW) and cooperating partners (UPOV, CPVO, AFSTA, OAPI).**
- **September, 2012 – Draft further reviewed by the ARIPO Technical Committee**
- **November, 2012 - Consideration of the revised framework by the Thirty – sixth Session of the Administrative Council**

Road –map (14)

- **January - August, 2013 – organization of national and regional consultations**
- **November, 2013 – adoption of the final text and decision on possible Diplomatic Conference by the Fourteenth Session of the Council of Ministers**
- **December, 2013 to January, 2014 - Formulation of the framework into draft Protocol and drafting of the Implementing Regulations**

Road –map (15)

- **February, 2014 – Submission of the draft Protocol to member states for review**
- **March, 2014 - Submission of the draft Protocol to UPOV Council for examination on conformity with the 1991 Act of the UPOV Convention**
- **March to July, 2014 - Development of the institutional framework for the implementation of the Protocol**

Road –map (16)

- **August, 2014 - Diplomatic Conference**
- **November, 2014 - Adoption of the institutional framework and implementing regulations by the Administrative Council of ARIPO**

Provisions (17)

- **The draft regional framework sets out provisions relevant for:**
 - **the protection of new varieties;**
 - **the measures for conducting examination of varieties;**
 - **scope of breeders' rights;**
 - **measures regulating commerce;**
 - **variety denomination and nullity; and cancellation of breeders' rights**

Provisions (18)

- **The regional framework provides for the definition of “territory” which requires policy decision by the Council of Ministers**
- **ARIPO sought clarification from UPOV on the available options that may be adopted with respect to what would entail “ARIPO territory”**
- **UPOV advised on three policy options**

Policy options (19)

- Option (i):
- Is where “the territory of ARIPO means that any application filed and granted under the regional instrument with the ARIPO shall be automatically valid in all member states of the Organization”

Policy options (20)

- Option (ii):
- Is where “the territory of ARIPO means that any application filed and granted under the regional instrument shall be automatically valid in all contracting states (those ARIPO member states that will accede to the regional PVP System)”

Policy options (21)

- **Option (iii):**
- **Is where “an application for a breeders’ right shall designate the contracting state to the regional instrument for which the breeders’ right is requested to be granted”**
- **Under specific reasons, a designated state is entitled to make a written communication to ARIPO if a breeders’ right is granted by ARIPO, that the breeders’ right shall have no effect in the designated states territory. This option being consistent with the current ARIPO Protocols**

Relationship between the proposed Regional framework and National PVP Systems (22)

- **Co-existence - the regional framework is not intended to replace or even harmonise national systems, but rather to exist alongside them as an alternative**
- **ARIPO will receive applications directly or through the National Authorities**
- **DUS testing may be designated, by ARIPO, to the National Competent Authority of the member state**
- **Sharing of fees mechanism between ARIPO and the National Authorities**

Conclusion (23)

- **ARIPO is an Inter – governmental organization with the mandate on intellectual property including Plant Variety Protection**
- **The ARIPO Draft Regional Framework on PVP is developed on the basis of the 1991 Act of the UPOV Convention**
- **It is predicted that the Regional PVP system will offer a lot of benefits to the breeders as well as the farmers**
- **The draft framework can be accessed from the ARIPO website; www.aripo.org**

Way Forward

(24)

- **Implementation of the road-map, taking into account comments and suggestions from all stakeholders including the civil society**
- **Broad consultation is, therefore, key in realising the regional PVP framework**
- **ARIPO undertakes to consult as widely as possible**
- **Interested parties could contact the Director General, ARIPO on fsantos@aripo.org**

Thank You

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