

TOPIC: Situation of Plant Breeders' Rights in Africa



manuel ackey
Intellectual Property Development Executive

Overview

- Development of PVP system at ARIPO
- Harmonization of ARIPO-OAPI systems
- Next steps



...Our Establishment and Membership – open to all AU member States

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

= 19



Fostering Creativity and Innovation for Economic Growth and Development in Africa

.....Our Mission



**IP
Advocacy
and
Norm
Setting**

**Providing
Premier
IP
Services**

**Capacity
building
and
awareness
creation**

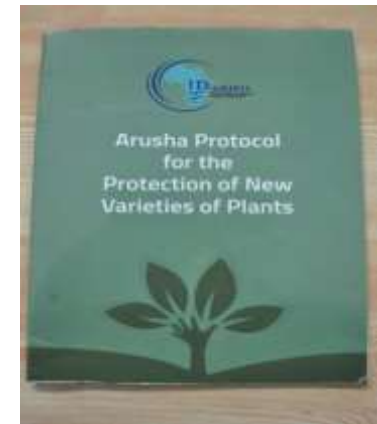
**Development
of ICT Tools
for IP business
processes**

**Enhancing
the IP
Ecosystem**



Fostering Creativity and Innovation for Economic Growth and Development in Africa

Registration of IP Rights – ARIPO route



Patents

**Utility
Models**

**Industrial
Designs**

Trademarks

**Traditional
knowledge
and
Folklore**

**New Varieties
of Plants**



Fostering Creativity and Innovation for Economic Growth and Development in Africa

The Mandate for the regional PVP system



Ministerial decision for ARIPO to develop Regional Framework on Plant Variety Protection

Taking into account initiatives from ARIPO Member States, UPOV and other relevant international and regional organizations



Undertook National Consultations (Zimbabwe, Tanzania, Ghana, Malawi, Uganda and Mozambique) and Regional/International Studies and Field visits (CPV), UPOV, GNIS, OAPI, RECs



Situational Analysis Report and development of Policy and Legal Framework. This was further reformulated into a Protocol through our normative processes



Adoption of the Arusha Protocol and Draft Regulations

- The Arusha Protocol was adopted on July 6, 2015 at Arusha, Tanzania.

Diplomatic conference

Resolution

- Called on Member States to develop Implementing Regulations and Ratify the Protocol
- Called on Member States, Cooperating Partners and Other Stakeholders to provide financial and material support for the effective implementation of the Protocol;

- Ghana
- Gambia
- Mozambique
- Sao Tome and Principe
- Tanzania

Signature opened to States from July 6 to December 31, 2015

Protocol will enter into force after ratification/accession by 4 States



Fostering Creativity and Innovation for Economic Growth and Development in Africa

Key Provisions of the Arusha Protocol and Conformity to the UPOV 1991 Convention

Key Provisions	UPOV Convention	Arusha Protocol
Territory in relation to IGOs	Unitary system	Designation system
Conditions for the grant of Breeder's right	x	x
Application for the grant of Breeder's right	x	x
Scope of Breeder's right	x	x
Exceptions to the Breeders right	x	x
Duration of the Breeder's right	x	x
Variety denomination	x	x
Nullity and Cancellation of the Breeders right	x	x



Establishing the PBR system – Draft Regulations

The Draft Regulations will be reviewed by the Technical Committee on Plant Variety Protection and submit it to the Forty-first Session of the Administrative Council in Malawi, Nov. 2017 for consideration and adoption.

The Regulations provides for;

- List of Agricultural Crops with historical practice of farm-saved seeds
- Accreditation of Examination Offices for conducting DUS Testing and purchase of test results
- Technical Questionnaire and Test Guidelines
- Audit Schemes for the evaluation of Examination Offices
- Forms for filing and processing of applications
- Proposed Fees
- Distribution of Fees
- Appeals



Proposed Fees

Type of Charges	Fees (USD)
Application for grant of plant breeders' rights	450
Transmittal Fee	50
Application for surrender of grant	50
Application for opportunity to make representations	150
Technical evaluation of a variety (DUS)	800
Grant of plant breeders' rights certificate	250
Duplicate copy of the register or other document	1 per page
Annual fees for maintenance of grant	300
Purchase of a report from a testing authority of another country	320
Replacement of lost or destroyed certificate	50
Claim of priority from a preceding application	50
Change of an approved denomination	100
Surcharge of late payment	100
Transfer/ Assignment Fee	50
Fees for Objection	250
Extension of Time Limits	50
Designation fee per Designated state	100
Certified Copies	10
Correction of errors	10 for the first 25 errors and 2.50 for subsequent errors
Change of an agent or representative	50



Strengthening of national systems – working with Partners (UPOV, USPTO, GNIS etc.)

Membership to UPOV	UPOV compliant PBR Laws in place	Sui generis PBR Laws in Place	Initiated the development of PBR Laws	PBR systems in place
Kenya	Zimbabwe (UPOV 1978)	Zambia	Ghana	Kenya
Tanzania		Mozambique	Botswana	Tanzania
			Rwanda	Zambia
			Sierra Leone	Zimbabwe
			Namibia	

Undertaken Roving Seminars and High Level Missions to sensitize member States in Ghana, Mozambique, Rwanda, Botswana, Namibia, Sierra Leone & Uganda between 2014-16

Partnering with GNIS and other Stakeholders to organize sensitization workshops in 3 ARIPO Member States in 2017

Harmonization of ARIPO and OAPI systems

- ARIPO and OAPI have initiated the process of harmonising their regional systems
- The 2 organizations met in Yaoundé, Cameroon and established a **Joint Commission** for the harmonization process
- From March 6-9, the second meeting of the **Joint Commission** was held in Harare, Zimbabwe and the following areas of harmonization were agreed upon:
 - ✓ Industrial Property Procedures
 - ✓ Copyright and related rights
 - ✓ **Plant Variety Protection**
 - ✓ Traditional Knowledge, Genetic Resources and Folklore
 - ✓ Capacity building



.....*Next Steps*

- Adoption of Regulations and finalization of business plan for the establishment of effective PVP system
- High Level Missions on ratification/accession to the Arusha Protocol by African States with support from Partners including AFSTA
- Engagement with RECs and other stakeholder Institutions on harmonization and integration
- Using the Arusha Protocol as a model for the development of national PVP systems and encouraging Countries to become member of UPOV





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: esackey@aripo.org
- ▶ mail@aripo.org
- ▶ **Website: www.aripo.org**