



Administrative Instructions

Harare Protocol

**Administrative Instructions
under the Regulations for
Implementing the Protocol on Patents
and Industrial Designs
within the Framework of the
African Regional Intellectual Property
Organization (ARIPO)**

ARIPO Office
Harare, Zimbabwe
2020

Administrative Instructions-Harare Protocol

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The Administrative Instructions are established by the Director General of the African Regional Intellectual Property Organization (ARIPO) in accordance with Rule 2 (5) of the Regulations.

More detailed guidance on examination shall be provided in the Guidelines for Examination at the ARIPO Office.

PRELIMINARY

Short Title and Date of Operation

1. These Administrative Instructions may be cited as the Administrative Instructions, 1984, and shall come into operation on April 25, 1984.

Interpretation

2. In these Administrative Instructions:
 - i. "*Protocol*" means the Protocol on Patents, Industrial Designs and Utility Models Within the Framework of the African Regional Intellectual Property Organization (ARIPO);
 - ii. "*Section*" refers to the specific Section of the Protocol;
 - iii. "*Regulations*" means the Regulations made under the Protocol;
 - iv. "*Rule*" refers to the specified Rule of the Regulations;
 - v. "*Instruction*" refers to the specified Instruction of these Administrative Instructions;
 - vi. "*ARIPO Office*" means the Office of the African Regional Intellectual Property Organization;
 - vii. "*Receiving Office*" means the office of the Contracting State with which the application is filed; and
 - viii. "*Director General*" means the Director General of the ARIPO Office;
 - ix. "*Designated State*" means a State designated, in accordance with Rule 5(1)(f), in an application.

Fees

3. The fees to be paid in respect of any matters arising under the Protocol, the Regulations or these Administrative Instructions shall be those specified in the Schedule of Fees annexed to and forming part of the Regulations and in Schedule I of these Administrative Instructions.

Forms

4. (1) The forms referred to in these Administrative Instructions are those set out in Schedule II hereto.
(2) Copies of the printed forms shall be furnished free of charge by the ARIPO Office and by the industrial property offices of the Contracting States or shall be obtained from the ARIPO website or from any other electronic media.

REGISTERS

Request for alteration of names and addresses and for correction of errors

5. (1) A request, by the owner of a patent, a registered industrial design, or utility model, for the alteration of a name or address entered in the Patents, Industrial Designs or Utility Model Register in respect of his patent, industrial design or utility model or a request for the correction of an error in the said Registers or in any document filed at the ARIPO Office in connection with a registration shall be made on ARIPO Form No. 1, together with the payment of the prescribed fee.
(2) Before acting on such a request, the Director General may require such justifications as he thinks fit and, if satisfied, shall alter or correct the relevant Register or document accordingly.
(3) Notification for alteration of names and addresses and for correction of errors shall be done according to Instruction 76.

Inspection; copies of extracts

6. (1) The Patents, Industrial Designs and Utility Model Registers or entries or reproduction of entries therein shall be made available for consultation by the public between the hours of 8:00 a.m. and 16:30 p.m. on working days or from the ARIPO website or any other electronic media.
(2) Any person may obtain copies of extracts therefrom or from the files, in accordance with Rule 3, by making a request therefor on ARIPO Form No. 2, together with the payment of the prescribed fee.

ARIPO OFFICE

Hours of business

7. The ARIPO Office shall be open for the transaction of any business, other than that provided for in Instruction 6 (1), between the hours of 8:00 a.m. and 16.30 p.m.

DOCUMENTS

Directions as to furnishing of documents, etc.

8. At any stage of any proceedings before the ARIPO Office, the Director General may direct that such documents, information or evidence as he may require shall be furnished within such period as he may fix.

Corrections and rectifications

9. Any document filed in any proceedings before the ARIPO Office may, if the Director General thinks fit, be corrected or altered, and any irregularity in procedure in or before the ARIPO Office may be rectified on such terms as he may direct.

Translations

10. (1) Where any document or part of a document which is in a language other than English is filed at the ARIPO Office or sent to the Director General in pursuance of the Protocol, the Regulations or these Administrative Instructions, it shall be accompanied by a translation into English of the document or that part thereof, verified to the satisfaction of the Director General as corresponding to the original text.
(2) Subject to Rule 5 (2) and Rule 8 (5), any application, document or part thereof will be deemed not to have been filed until any required translation is also filed.

Printing and sale of documents

11. The Director General may arrange for the printing and sale of copies of descriptions and other documents in the ARIPO Office and of indexes to and abridgements or abstracts of such documents or the documents could be obtained online where applicable.

Signatures by partnerships, companies and associations

12. (1) A document purporting to be signed for or on behalf of a partnership shall contain the names of all the partners in full and shall be signed on behalf of the partnership, or by any other person who satisfies the Director General that he is authorized to sign the document. A document purporting to be signed for or on behalf of a body corporate shall be signed by a director or by the secretary or other principal officer of the body corporate, or by any other person who satisfies the Director General that he is authorized to sign the document. A document purporting to be signed for or on behalf of an association of persons may be signed by any person who satisfies the Director General that he is duly authorized.
- (2) The Director General may, whenever he deems it necessary, request evidence of authorisation to sign.

TIME LIMITS

Alteration of time limits

13. (1) For the purposes of Rule 15*ter*; the times or periods prescribed by the Regulations and these Administrative Instructions for doing any act or taking any proceeding thereunder may be extended by the Director General if he thinks fit, upon such terms as he may direct and such extension may be granted although the time or period for doing such act or taking such proceeding has already expired.
- (2) Where the time for doing anything under the Protocol, the Regulations or these Administrative Instructions expires on a day on which the Office is closed, that time shall be extended to the next following day on which the Office is open for business.
- (3) Where the submission or filing of a document is subject to a time limit, it shall be deemed to be filed or submitted on the date on which it is received by the ARIPO Office. However, where the interested party satisfies the Director General that the document was mailed at least 21 days prior to the expiry of the time limit, the Director General shall extend the time limit accordingly. In proving such mailing, it shall be sufficient to prove that the letter containing such document was properly addressed and sent by registered or electronic mail.
- (4) Request and grant of extension of time limits shall be done according to Instructions 77.
- (5) Request for re-establishment of rights in accordance with Rule 24 shall be done in writing.

TRANSMISSION OF DOCUMENTS TO AND FROM ARIPO OFFICE

Filing of applications by delivery by hand or by postal services

14. (1) ARIPO patent applications may be filed with ARIPO by delivery by hand or by postal services.
- (2) ARIPO patent applications (with the exception of divisional applications), may also be filed by delivery by hand or by postal services at the industrial property office of a Contracting State if the national law of that State so allows.

Filing of applications by fax

- (3) (i) Applications may also be filed by fax with ARIPO or with the industrial property offices of those Contracting States which so permit.
- (ii) Where a document transmitted using such technical means is illegible or incomplete, the document is to be treated as not having been received to the extent that it is illegible or that the attempted transmission failed and the sender must be notified as soon as possible.
- (iii) If an ARIPO patent application is filed by fax, a written confirmation is required only where the documents are of inferior quality. In this case, the ARIPO will invite the applicant to supply such documents within a period of 2 months. If the applicant fails to comply with this invitation in due time, the ARIPO patent application will be refused.

Filing of applications by means of electronic communication

- (4) (i) ARIPO patent applications may be filed with the ARIPO in electronic form either online or on electronic data carriers. Documents making up an ARIPO patent application in electronic form must be prepared using the ARIPO forms available on the ARIPO Online Filing platform and in the prescribed format. Other documents may also be filed electronically in proceedings under the ARIPO.
- (ii) ARIPO patent applications may also be filed in electronic form with the competent national authorities of those Contracting States which so permit.

APPLICATION FOR GRANT OF PATENT OR REGISTRATION OF A UTILITY MODEL

Naming of inventor

15. The inventor shall be named as such in the patent or utility model, unless, at any time during the pendency of the application, he addresses to the Director General a special written declaration signed by him, indicating that he wishes not to be so named; however, any promise or undertaking by the inventor made to any person to the effect that he will make such a declaration shall be without legal effect.

Request for grant of patent or registration of utility model

16. The request for the grant of a patent or registration of a utility model shall be made on ARIPO Form No. 3.

Applicant's name

17. For purposes of Rule 5 (5) (c), "family name" shall mean surname and "given name(s)" shall mean first name(s).

Indication of nationality and residence

18. (i) The applicant's nationality shall be indicated by the name of the State of which he is a national; legal entities shall indicate the name of the State under whose laws they are constituted.

(ii) The applicant's residence shall be indicated by the name of the State of which he is a resident.

Appointment of representative

19. The appointment of a representative shall be made on ARIPO Form No. 4, to be filed together with the application or with the ARIPO Office, as prescribed in Rule 10; if the appointment is not thus made or if the representative does not have the right to represent applicants before the Receiving Office, any procedural steps other than the filing of the application taken by the representative shall be deemed not to have been taken.

Designation of States

20. The Contracting States for which the grant of the patent or registration of a utility model is requested shall be designated in the request by their names in accordance with Rule 5(1)(f)).

Unity of invention

21. The application shall, in accordance with Rule 7(5) and 7(6) relate to one invention only or to a group of inventions so linked as to form a single general inventive concept. [In this regard, see also Instruction 22 (5), (6) and (7).]

Claims

22. (1) The claims shall be clear and concise and be fully supported by the description in accordance with Rule 7(1). The description and the drawings may be used to interpret the claims.
- (2) Any claim submitted after the filing date of the application and which is not identified with the claims previously appearing in the application shall, at the choice of the applicant, be submitted either as an amended claim or as a new claim.
- (3) The deletion of any claim previously appearing in the application shall be made by indicating the number of the previous claim followed by the word “cancelled”.
- (4) Where the application contains drawings, the technical features mentioned in the claims shall preferably be followed by the reference signs relating to such features. When used, the reference signs shall be placed between parentheses. If inclusion of reference signs does not particularly facilitate quicker understanding of a claim, it should not be made.
- (5) In accordance with Rule 7(7), instruction 21 shall be construed as permitting, in particular, either of the following two possibilities:
-

(i) in addition to an independent claim for a given product, the inclusion in the same application of one independent claim for one process specially adapted for the manufacture of the said product, and the inclusion in the same application of one independent claim for one use of the said product; or

(ii) in addition to an independent claim for a given process, the inclusion in the same application of one independent claim for one apparatus or means specifically designed for carrying out the said process.

(6) Subject to Instruction 21, it shall be permitted to include in the same application two or more independent claims of the same category which cannot readily be covered by a single generic claim.

(7) Subject to Instruction 21, it shall be permitted to include in the same application a reasonable number of dependent claims, claiming specific forms of the invention claimed in an independent claim.

Drawings

23. (1) Drawings shall be required when they are necessary for the understanding of the invention in accordance with Rule 5(1)(d).

(2) Flow sheets and diagrams are considered drawings.

Abstract

24. (1) The abstract shall merely serve the purpose of technical information; in particular, it shall not be taken into account for the purpose of interpreting the scope of protection.

(2) The abstract shall be so drafted that it can efficiently serve as a scanning tool for purposes of searching in the particular art.

(3) The abstract shall consist of the following:

(i) a summary of the disclosure as contained in the description, the claims, and any drawings, indicating the technical

field to which the invention pertains and drafted in a way which allows the 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; and

(ii) where applicable, the chemical formula which, among all the formulae contained in the application, best characterises the invention.

(4) The abstract shall be as concise as the disclosure permits (preferably 50 to 150 words).

(5) The abstract shall not contain statements on the alleged merits or value of the invention or on its speculative application.

(6) Each main technical feature mentioned in the abstract and illustrated by a drawing in the application shall be followed by a reference sign, placed between parentheses.

Measures, terminology and signs

25. (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.

Number of copies and physical requirements

26. (1) Subject to Instruction 29 (2), the application and any accompanying statements or documents to be filed with the Receiving Office shall be filed in two copies (except where the application is

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filed electronically) and those to be filed with the ARIPO Office shall be filed in one copy, but the Director General may require the applicant to supply additional copies.

(2) All elements of the application (i.e. the request, the description, the claims, the drawings and the abstract) shall be so presented as to admit of direct reproduction by photography, electrostatic processes, photo offset and microfilming.

(3) Only one side of each sheet contained in the application shall be used.

(4) All elements of the application shall be on paper which is flexible, strong, white, smooth, non-shiny and durable.

(5) The size of the sheets shall be A4 (29.7cm x 21cm), although the Director General may accept sheets of other sizes.

(6) 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) side margin adjacent to the binding: | 25 mm |
| (iv) other side margin: | 20 mm |
| (v) bottom margin: | 20 mm |

(7) (a) All sheets shall be numbered at the top of the sheet, in the middle, in consecutive Arabic numerals.

(b) In effecting the sequential numbering of the sheets, the elements of the application shall be placed in the following order: the request, the description, the claims, the abstract, 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.

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(d) It is strongly recommended to number every fifth line of each sheet of the description, and of each sheet of claims. The numbers should appear in the right half of the left margin.

(8) 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.

(9) The typing shall be 1½-spaced.

(10) 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 color, satisfying the requirements specified in Administrative Instruction 26 (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.

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

Amendment of application or patent

27. (1) The applicant may amend the application in accordance with Section 3(10)(g) or Rule 18(3), provided that the amendment shall not go beyond the disclosure in the initial application.

(2) The amendments shall normally be done by submitting missing documents or by filing replacement pages. Where replacement pages are filed, the applicant should, in the interest of procedural efficiency, identify clearly all amendments made, and indicate on which passages of the original application these amendments are based.

(3) The applicant may amend the patent in accordance with Rule 21bis, provided that the amendment shall not go beyond the disclosure in the initial patent.

Division of application

28. (1) (a) The applicant may, in accordance with Rule 18bis, divide the application into two or more applications (the applications derived from the initial application to be referred to as

“divisional applications”), provided that each divisional application shall not go beyond the disclosure in the initial application.

(b) Any divisional application shall contain a reference to the initial application.

(2) (a) Each divisional application shall be entitled to the filing date and, where appropriate, the priority date of the initial application.

(b) If the applicant wishes a divisional application to benefit from any priority claimed for the initial application, the divisional application must contain a request to that effect. In such a case, the declaration of priority and the documents furnished in accordance with Rule 8 for the initial application shall be deemed to relate also to the divisional application.

(c) Where the priorities of two or more earlier applications were claimed for the initial application, a divisional application may benefit only from the priority or priorities that are applicable to it.

(3) (a) Divisional applications shall be filed directly with the ARIPO Office together with the payment of the prescribed fees referred to in Rule 11 (1).

(b) Where the applicant is a national of the Contracting State in which the initial application was filed, the divisional application may be accompanied by an undertaking signed by the applicant that he will effect payment to the respective Receiving Office within a period of 21 days from the date the divisional application is filed with the ARIPO Office; in such a case, the Receiving Office may accept payment of the prescribed fees in local currency equivalent, at the prevailing official rate of exchange, to the said amount of such fees.

Declaration of priority

29. (1) In addition to the information required by Rule 8, the declaration of priority may indicate the symbol of the International Patent Classification which has been allocated to the

earlier application, unless such a symbol has not been allocated to the earlier application or had not yet been allocated at the time of filing the declaration, in which case the applicant may state this fact in the said declaration.

(2) Unless the Director General requests otherwise, the earlier application and any translation thereof shall be filed in one copy which, when filed with the Receiving Office, shall be transmitted to the ARIPO Office in accordance with Rule 13 (v).

DISTRIBUTION OF FEES

Request by Contracting State for remittance of fees due

30. The request by a Contracting State for remittance of fees under Rule 12 shall be made to the ARIPO Office on ARIPO Form No. 5.

TRANSMITTAL OF APPLICATION BY RECEIVING OFFICE

Verification by Receiving Office that application fulfils certain requirements

31. (1) If the Receiving Office finds that the requirements of Rule 11 have not been fulfilled, it shall notify the applicant on ARIPO Form No. 6 and the application shall not be transmitted, pursuant to Rule 13, until the said requirements have been fulfilled; for purposes of Rule 11 (1), fees to which applications are subject shall include both the application fee and the designation fee per country designated.
- (2) If the Receiving Office finds that the application on the face of it does not fulfil the requirements of Rule 5 (1) (a), (b) and (c), as required by Rule 13, or does not comply with Instruction 26 (1), it shall invite the applicant, on ARIPO Form No. 7, to file the required correction, together with the payment of the prescribed fee.

(3) The applicant shall have 2 months from the date of the said invitation to comply therewith or to request the Receiving Office nonetheless to transmit all documents making up the application to the ARIPO Office. If the applicant complies with the said invitation, the Receiving Office shall indicate the date of receipt of the required correction on any relevant documents and on ARIPO Form No. 3; if the applicant does not comply with the said invitation but requests the Receiving Office nonetheless to transmit all documents making up the application to the ARIPO Office, the Receiving Office shall do so, indicating this fact on ARIPO Form No. 9; if the applicant does not comply with the said invitation and does not make such a request, the Receiving Office shall treat the application as if it had not been filed.

Allotment of application number by Receiving Office

32. The number referred to in Rule 13 (iii) shall consist of the two-letter country code for the Receiving Office, set out in Schedule III to these Administrative Instructions, a slant, the letters AP, a slant, the letter P (UM for utility model application), a slant, and the number allotted internally by the Receiving Office.

Acknowledgement by Receiving Office of receipt of application

33. The acknowledgement of receipt of the application referred to in Rule 13 (iv) shall be made on ARIPO Form No. 8.

Transmittal of application to the ARIPO Office

34. (1) The time for transmitting all documents making up the application as required by Rule 13 shall be not more than 14 days from the date on which all such documents were received by the Receiving Office; if the applicant is notified, pursuant to Instruction 31 (1), of non-compliance with Rule 11 (2), then that time shall be not more than 7 days from the date on which Rule 11 (2) is complied with; if the applicant was invited to file any corrections pursuant to Instruction 31 (2), then that time shall be not more than 14 days from the date on which any required correction or request for transmittal of documents was received by the said office.

(2) Subject to Instruction 29 (2), the documents making up the application shall be transmitted (in three copies) under cover of ARIPO Form No. 9; the Receiving Office shall retain one copy of the application and of any accompanying documents filed with it.

(3) The Receiving Office shall notify the applicant of the said transmittal on ARIPO Form No. 10.

Filing of subsequent documents

35. (1) Any document submitted by the applicant after the transmittal of the application to the ARIPO Office shall be filed directly with the ARIPO Office.

(2) Instruction 26 (1) shall apply to any such document which forms part of the application.

FILING DATE

Allotment of application number by ARIPO Office and the according and notification of filing date

36. (1) Upon receiving the application, the ARIPO Office shall:

(i) mark, on each document making up the application, the application number, consisting of the letters AP, slant, the letter P (UM for utility model application), slant, the last two numbers of the year in which such papers were received, slant, and a five-digit number allotted in sequential order corresponding to the order in which applications are received;

(ii) confirm that the application, on the face of it, fulfils the requirements of Rule 5 (1) (a), (b) and (c); if it finds that it does, it shall accord the filing date; if it finds that it does not, it shall invite the applicant, on ARIPO Form No. 11, to file the required correction, together with the payment of the prescribed fee.

(2) The applicant shall have 2 months from the date of the said invitation to comply therewith. If the applicant complies with the said invitation, the ARIPO Office shall indicate the date of receipt

of the required correction on any relevant documents and on ARIPO Form No. 3; otherwise, it shall treat the application as if it had not been filed.

(3) The notification required by Rule 14 (2) shall be made on ARIPO Form No. 12.

(4) The application number allotted under paragraph (1) (i) hereof shall be quoted in all subsequent communications concerning the application.

EXAMINATION AS TO FORMAL REQUIREMENTS

Formal requirements

37. For purposes of the examination as to formal requirements under Rule 15 (1), the ARIPO Office shall also examine whether the application complies with Instructions 16 to 20, 26 and 29; as regards Rules 6, 7 and 8, it shall examine only whether the application contains the items required thereunder and, as regards these latter Rules and Rule 5 (1), whether it complies with the physical requirements with respect thereto.

Invitation to correct application

38. (1) The invitation to correct the application, as provided in Rule 15 (2), shall be made on ARIPO Form No. 11, and the filing of the correction requested shall be subject to the payment of the prescribed fee.

(2) The late payment of the prescribed fees shall be subject to the payment of the prescribed surcharge.

(3) Where the designation fees paid are not sufficient to cover all the States designated in the application, the amount paid shall be applied in respect of the States designated in the order in which they are designated and to the extent to which they are covered by the fee paid; the late payment in full of a designation fee shall be subject to the payment of the prescribed surcharge.

Missing drawings

39. Where the application refers to drawings which in fact are not included in the application, the ARIPO Office shall invite the applicant to furnish the missing drawings as provided in Rule 15 (2); if the applicant fails to furnish such drawings as requested, any reference to the said drawings will be treated as non-existent.

Missing abstract

40. For purposes of Rule 15 (2), where no abstract is provided, the ARIPO Office shall invite the applicant to correct the deficiency either by providing an abstract or by paying the prescribed fee for the preparation of the abstract by the ARIPO Office itself.

Notification of compliance with formal requirements

41. The notification that the application complies with the prescribed formal requirements, as required by Section 3 (2) (c), shall be made on ARIPO Form No. 13, to the industrial property office of each Designated State and to the applicant.

Decision refusing application on grounds of non-compliance with formal requirements

42. (1) Any decision refusing the application on grounds of non-compliance with the prescribed formal requirements shall be in writing and shall state the reasons for the rejection.
- (2) The ARIPO Office shall notify the applicant of such a decision on ARIPO Form No. 14.

Request to reconsider decision refusing application on grounds of non-compliance with formal requirements

43. (1) The request that the ARIPO Office reconsider its decision, as provided in Rule 15 (3), shall be made on ARIPO Form No. 15.
- (2) If the applicant does not request the ARIPO Office to reconsider its decision or if the ARIPO Office refuses the application, notwithstanding such a request, it shall forthwith notify that fact, on ARIPO Form No. 14, to the Receiving Office, to the industrial property office of each Designated State notified pursuant to Rule 14 (2), and to the applicant.

Refusal of application not affecting filing date

44. Refusal of the application under Section 3 (2) (b) shall not affect its filing date which shall remain valid.

INFORMATION CONCERNING CORRESPONDING FOREIGN APPLICATIONS, PATENTS OR OTHER TITLES OF PROTECTION

Request for information

45. The request for information under Rule 16 shall be made on ARIPO Form No. 16.

Time for furnishing information

46. (1) The time limits to be specified for furnishing the information requested under Rule 16 shall not be less than 2 months or more than 6 months from the date such a request is made; upon a reasoned request by the applicant, the ARIPO Office may extend such time limit.
- (2) If the applicant replies that the requested documents are not yet available, the ARIPO Office may suspend the procedure for the examination of the application until such time as the documents are furnished.

WITHDRAWAL OF APPLICATION

Declaration of withdrawal or reduction of Designated States

47. (1) The written declaration of withdrawal or reduction of Designated States under Rule 17 shall be made on ARIPO Form No. 17, signed by the applicant or by all applicants if there are more than one.
- (2) Upon receipt of ARIPO Form No. 17, the ARIPO Office shall transmit a copy thereof to the Receiving Office and to the industrial property office of each Designated State.
- (3) The application fee and designation fee shall not be refunded if the application is withdrawn or if the number of designated states is reduced.

EXAMINATION AS TO SUBSTANCE

Request for examination; Request for expedited/ delayed examination; Examining authority

48. (1) The request for examination referred to in Rule 18(1) (a) shall be made on ARIPO Form No. 13A.
- (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 for expedited or delayed examination referred to in Rule 18(7) (a), 18(7) (b) and 18ter (3) shall be made on ARIPO Form No. 48, together with payment of the prescribed fee.
- (4) The authority referred to in Rule 18 (1) (d) shall be any authority which has concluded an agreement to this effect with ARIPO.
- (5) (a) The Office will communicate the examination results of the request referred to in Rule 18 (7) (a) and 18ter (3) (a), to the applicant, within a period of 3 months.
- (b) The 3 months period referred to in (a) above will be calculated from the date the applicant fulfills the requirements for expedited examination.

Search and examination report

49. (1) In order to establish the search and examination report referred to in Rule 18 (2), the examiner shall first conduct such search as in his opinion is reasonably practicable and necessary for him to identify the documents which he thinks will be needed to decide whether the invention for which a patent is sought is new and involves an inventive step.
- (2) On any such search, the examiner shall determine whether or not the search would serve any useful purpose with respect to the application as it is for the time being constituted, and;
- (a) if he determines that it would serve such a purpose in relation to the whole or part of the application, he shall proceed to conduct the search so far as it would serve such a purpose and shall report on the results of the search; and
- (b) if he determines that the search would not serve such a purpose in relation to the whole or part of the application, he shall report accordingly.

(3) Once a report is drawn up in accordance with paragraph (2), the examiner shall ascertain, to such extent as he considers necessary in view of any search carried out, whether the application complies with the requirements of the Protocol, the Regulations and the Administrative Instructions, in particular Section 3 (10), Rules 5 (1) (d) [i.e., whether any drawing which is necessary for the understanding of the claimed invention has been furnished], 6, 7 and 16, and Instructions 21, 22, 23, 25, 27, 28 and 46, and shall determine that question and report his determination with the conclusions of the examination.

Completion of examination as to substance and invitation to submit observations and amend application

50. (1) For purposes of Rule 18 (3) [*inter* for utility model], reference to Section 3 (3) shall include the Regulations and Administrative Instructions pertaining thereto, in particular those indicated in Instruction 49 (3), and submission of an “amended application” shall be understood to include a division of an application in accordance with Instruction 28.

(2) The notification and invitation under Rule 18 (3) shall be made on ARIPO Form No. 18 and shall be accompanied by a copy of the search and examination report.

(3) The ARIPO Office shall allow the applicant not less than 2 and not more than 6 months to submit observations and amend the application pursuant to Rule 18 (3).

(4) The request that the ARIPO Office reconsider the matter, as provided in Rule 18 (3), shall be made on ARIPO Form No. 19.

Refusal to grant patent or register utility model

51. (1) Where the applicant fails to respond to the invitation to submit observations and any amendments in accordance with Rule 18 (3) or where, despite the observations and any amendment submitted by the applicant, the ARIPO Office finds that the conditions referred to in Section 3 (3), Rule 18 (3) and Instruction 49 (3) are not fulfilled, it shall refuse to grant the patent by notifying the applicant on ARIPO Form No. 20, stating the reasons for the refusal.

(2) Where two or more applications for grant of patent or registration of utility model for the same invention, having the same filing or, where applicable, priority date, are filed by the same applicant, the ARIPO Office may on that ground refuse to grant a patent or register utility model in pursuance of more than one of the applications and shall notify the applicant accordingly on ARIPO Form No. 20.

(3) The request that the ARIPO Office reconsider its decision to refuse to grant the patent or register the utility model on grounds of non-compliance with substantive requirements, as provided in Section 3 (4), shall be made on ARIPO Form No. 19, within 2 months from the date of the notification of the refusal.

(4) If the applicant does not request the ARIPO Office to reconsider its decision or if the ARIPO Office refuses to grant the patent or register the utility model, notwithstanding such a request, it shall forthwith notify that fact, on ARIPO Form No. 20, to the Receiving Office, to the industrial property office of each Designated State notified pursuant to Section 3 (2) (c), and to the applicant.

Decision and notification to grant patent or register utility model

52. (1) The notification of the decision to grant the patent referred to in Section 3 (7) and Rule 18 (4) and utility model referred to in Rule 18*ter* shall be made on ARIPO Form No. 21. A copy of the application shall accompany ARIPO Form No. 21 when transmitted to the industrial property offices of Designated States.

(2) The time for paying the grant, registration and publication fee shall not be less than 2 and not more than 3 months from the date of the notification of the decision to grant the patent.

Communication by Designated State that patent or utility model shall have no effect in its territory

53. The communication referred to in Section 3 (6) and Rule 18 (5) shall be made on ARIPO Form No. 22.

CONVERSION INTO NATIONAL APPLICATION

Request for conversion into national application

54. (1) The request under Section 3 (8) and Rule 19 (1) shall be made on ARIPO Form No. 23 in the number of copies which shall be one plus the number of Designated States in which the application is requested to be treated as an application according to national law.
- (2) The ARIPO Office shall transmit, under cover of ARIPO Form No. 24, the copies of the application and all relevant documents, including a copy of the ARIPO Form No. 23 filed by the applicant, to the industrial property office of each Designated State specified by the applicant in the latter Form, as provided in Rule 19 (2). A copy of one of the ARIPO Form No. 24 thus transmitted shall also be sent to the applicant, without the accompanying documents.

GRANT, RECORDAL AND PUBLICATION OF PATENT OR REGISTRATION OF UTILITY MODEL

Contents and numbering of patent or utility model

55. (1) The patent or utility model shall contain the information indicated in Rule 20 (2), in addition to the number of the application with respect to which the patent was granted or utility model registered, the date of publication of the ARIPO patent or utility model, the documents or references cited of the prior art, the description, the claims and any drawings.
- (2) The patent or utility model shall be granted or registered on ARIPO Form No. 25.
- (3) The ARIPO Office shall allot to each patent it grants or utility model it registers a number (i.e., publication number of the patent or registration number of the utility model) in the sequential order of grant or registration.

Name of inventor

56. The name and address of the inventor shall be included in the patent or utility model and in the publication of a reference to its grant or registration, except where the inventor, pursuant to Instruction 15, has asked not to be so named.

Certificate of grant or registration

57. The Certificate of Grant of a patent or registration of a utility model shall be issued on ARIPO Form No. 26.

Notification of amendments by applicant(s)

58. Notification of amendments by applicant according to Section 3 (10)(g) and Rule 18(3) shall be made on ARIPO Form No. 27.

PAYMENT OF ANNUAL MAINTENANCE FEES

Receipt of payment

59. The ARIPO Office shall furnish or send to the applicant or the patent or utility model owner a receipt of payment of the prescribed annual maintenance fee within 2 weeks from the date payment is received.

APPLICATION AND PROCEDURE FOR REGISTRATION OF INDUSTRIAL DESIGN

Request for registration

60. (1) The request for registration of an industrial design shall be made on ARIPO Form No. 28.
- (2) The Contracting States for which the registration of an industrial design is requested shall be designated in the request by their names.

Number and size of reproduction

61. (1) The application shall be accompanied by the following:
- (a) if the industrial design is two-dimensional, by a graphic reproduction;
 - (b) if the industrial design is three-dimensional, by a graphic reproduction, of each of the different sides of the industrial design.
- (2) The Director General may require the applicant to supply additional reproductions or brief description of the design where required.
- (3) No graphic reproduction, drawing or tracing of the industrial design shall exceed 10 centimetres x 20 centimetres. Such reproductions, drawings or tracings, shall be mounted on strong white paper of A4 size, although the Director General may accept paper of other sizes. Graphic reproductions may be in colour. Drawings and tracings shall be in black ink.

Application of provisions relating to industrial design applications

62. Instructions 15, 17, 18, 19, 20, 25 (1) (5) and (6), 26 and 29 (2) shall apply, mutatis Mutandis, to applications for registration of industrial designs.

Transmittal of application

63. Rule 13 and Instructions 31 to 35 shall apply, mutatis mutandis, to the transmittal of an application for the registration of an industrial design, except that in the case of an industrial design the Receiving Office shall verify that the application on the face of it fulfils the requirements of Section 4 (1) (i) and (ii), the invitation to file the required correction shall be made on ARIPO Form No. 29, the letter “P” in the number to be marked on each document making up the application shall be replaced by the letter “D”, the documents making up the application shall be transmitted under cover of ARIPO Form No. 30, and the Receiving Office shall notify the applicant of the said transmittal on ARIPO Form No. 31.

Allotment of application number

64. Instruction 36 (1) (i) shall apply, mutatis mutandis, to the allotment of an application number by the ARIPO Office to an application for the registration of an industrial design, except that the letter “P” shall be replaced by the letter “D”.

Filing date

65. Rule 14 and Instruction 36 shall apply, mutatis mutandis, to the according of a filing date to an application for the registration of an industrial design, except that, for such purposes, the application on the face of it must fulfil the requirements of Section 4 (1) (i) and (ii), the invitation to file the required correction shall be made on ARIPO Form No. 32, and the notification to the applicant and the industrial property office of each Designated State shall be made on ARIPO Form No. 33.

Examination as to formal requirements

66. (1) Rule 15 (1) and (2) and Instruction 38 shall apply, mutatis mutandis, to the examination of an application for the registration of an industrial design, except that, for such purposes, the ARIPO Office shall examine whether the application is in compliance with Section 4 (1), Rules 5 (2) to (5) (except paragraph (4) (a) (i) and (iii), 8, 9, 10 and 11), to the extent relevant, and Instructions 60 to 62 and the invitation to correct the application shall be made on ARIPO Form No. 32.

(2) The notification that the application complies with the prescribed formal requirements shall be made to the industrial property office of each Designated State and to the applicant on ARIPO Form No. 34, requesting the applicant to make payment of the registration and publication fee within the period it shall specify, which shall not be more than 3 months from the date of the said notification. A copy of the application shall accompany ARIPO Form No. 34 when transmitted to the industrial property offices of Designated States.

(3) Instruction 42 shall apply, mutatis mutandis, in the event the application is refused under Section 4 (2) (b), except that the notification of refusal shall be made, on ARIPO Form No. 35, to the applicant, to the Receiving Office and to the industrial property office of each Designated State notified pursuant to Instruction 65.

(4) Instruction 44 shall apply, mutatis mutandis, in the event an application is refused under Section 3 (2) (b) by the ARIPO Office to an application for the registration of an industrial design.

Withdrawal of application or reduction of designated States

67. Rule 17 and Instruction 47 shall apply, mutatis mutandis, to the withdrawal or reduction of designated states of an application for the registration of an industrial design, except that the declaration of withdrawal or reduction of designated states shall be made on ARIPO Form No. 36.

Communication that registration shall have no effect in territory of designated State

68. The communication referred to in Section 4 (3) shall be made on ARIPO Form No. 37.

Request for conversion of application into national application

69. Rule 19 and Instruction 54 shall apply, mutatis mutandis, to the request for conversion of an application for the registration of an industrial design into a national application, except that the request under Section 4 (5) shall be made on ARIPO Form No. 38.

Registration and publication

70. (1) After the expiration of the period of 6 months provided for in Section 4 (3) and subject to the payment of the registration and publication fee, the ARIPO Office shall, in accordance with Section 4 (4):

- (i) record in the Industrial Designs Register the reproduction of the industrial design, together with the particulars indicated in paragraph (2);
- (ii) publish in the ARIPO Journal a reference to the registration;
- (iii) issue to the applicant a Certificate of Registration of the industrial design;
- (iv) transmit to each Designated State for which the industrial design is registered a copy of the Certificate of Registration.

(2) In addition to the indications specified in Rule 20 (2) (a) to (h), which shall apply, *mutatis mutandis*, the publication of the reference to the registration in the ARIPO Journal shall include the reproduction of the industrial design and the Contracting States for which the industrial design is registered.

(3) In addition and subject to paragraph (4) hereof, Rule 20 (3) shall apply, *mutatis mutandis*, as regards the contents of the Certificate of Registration which shall be issued on ARIPO Form No. 39 and shall be accompanied by a copy of the reproduction of the industrial design.

(4) The name and address of the creator shall be included in the Certificate of Registration, except where the creator, pursuant to Instruction 15, *mutatis mutandis*, has asked not to be so named.

Fees

71. Rule 21 and Instructions 59 shall apply, *mutatis mutandis*, to industrial designs.

LICENCES, ASSIGNMENTS, TRANSMISSIONS AND OTHER SIMILAR RIGHTS

Notification by Designated State of registration of licence, assignment, transmission or other similar rights

72. Notification under Rule 22 (3) shall be made on ARIPO Form No. 40.

Registration of assignment, transmission or other form of transfer

73. (1) Application under Rule 22 (5) to register an assignment, transmission or other form of transfer pertaining to a patent or an industrial design, granted, registered or applied for under the Protocol, shall be made on ARIPO Form No. 41, together with the payment of the prescribed fee, by the person becoming entitled by assignment, transmission or other form of transfer to the patent, the application for grant of the patent, the registered industrial design or the application for the registration of the industrial design (i.e., the new applicant or owner); it shall be signed, in the case of an assignment, by or on behalf of the parties to the transfer and, in the case of a transmission, only by or on behalf of the new applicant or owner.

(2) Such application shall be accompanied by documents proving, to the satisfaction of the ARIPO Office, the change of ownership.

Publication of assignment, transmission or other form of transfer

74. The ARIPO Office shall publish, in the ARIPO Journal, a reference to the registration, made under Rule 22 (4) and (5), of the assignment, transmission or other form of transfer in respect of a patent granted or a registered industrial design.

Registration of licence

75. Application under Rule 22 (5) to register a licence or other similar right pertaining to a patent, utility model or an industrial design, granted, registered or applied for under the Protocol, shall be made by the licensor on ARIPO Form No. 42, together with the payment of the prescribed fee and documents evidencing the licence or other similar rights, and shall be signed by or on behalf of the licensor.

**Notification of recordal of licences/assignments/Correction of errors/
Change of applicant details**

76. Notification of recordal of licences/assignments/correction of errors or change of applicant details according to Rule 22(5), Instructions 5(1) and 73 shall be made on ARIPO Form No. 43.

Request and grant of extension of time limits

77. Request for extension of time limits according to instruction 13 shall be made on ARIPO Form No. 44 whereas grant of extension of time limit shall be made on ARIPO Form No. 45.

MISCELLANEOUS

Communications

78. Subject to Rule [22] (1), any communications by or with the ARIPO Office in relation to any matters arising under the Protocol, the Regulations or these Administrative Instructions shall be effected by registered airmail or by personal delivery or by any electronic means.

Form of payment of fees

79. Rule 11 shall apply, *mutatis mutandis*, to the form of payment of any fees due under the Protocol, the Regulations or these Administrative Instructions.

**SCHEDULES I:
FEES**

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PATENTS

Kind of Fees	Amount (US Dollars or, where Rule 11 (3)(a) applies, the equivalent)
1. Application fee:	
(a) Paper filing	290
(b) Electronic filing (including 20% reduction)	232
2. Designation fee per designated State	85
3. Examination report fee	300
4. Search report fee	300
5. Publication or republication fee	350
6. Surcharge for each additional page from 31 to 100 pages	20
Additional pages fee from 101 and each subsequent page thereafter	30
7. Surcharge for each additional claim after 10 claims	50
8. Grant fee	350
9. Annual maintenance fee in respect of each designated State:	
1st anniversary (2nd year from filing date)	50
2nd anniversary	70
3rd anniversary	90
4th anniversary	110
5th anniversary	130
6th anniversary	150
7th anniversary	170
8th anniversary	190

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9th anniversary	210
10th anniversary	230
11th anniversary	250
12th anniversary	270
13th anniversary	290
14th anniversary	310
15th anniversary	330
For each year thereafter an additional US \$50 per designated country	
10. Surcharge for late payment of annual maintenance fee and for every month or fraction thereof that the fee remains unpaid	100 50
11. Correction of errors:	
Typographical errors (1st error)	20
Any other typographic error [s] thereafter**	50
Non-typographical corrections	100
12. Consultation of registers	10
13. Request for copies of extracts from register or from files: per page	5
14. Certified copy of ARIPO patent application or granted patent up to 30 pages	100
From page 31 and any subsequent page thereafter	5
15. Request for priority document of ARIPO patent/application	100
16. Transmittal fees for an international application filed with the ARIPO Office as the Receiving Office under the Patent Cooperation	50
17. Preparation of abstract	100
18. Conversion to a national patent application to ARIPO application	100
19. Conversion of an ARIPO patent application to a national application	100

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20. Conversion of an ARIPO patent application to a utility model application	100
21. Conversion to an ARIPO utility model application to a ARIPO patent application	300
22. Registration of assignments, transmissions, alteration of	
23. Request for any extension	100 per request
2nd Request for the extension of the same case	200 for 2nd request
3rd Request for the extension of the same case	400 for 3rd request
Further requests for the extension of the same case	400 per request
24. Search request fee (Status, Validity, Freedom to	
25. Change of representatives	100
26. Request for replacement of lost or destroyed certificate	100
27. Restoration of rights:	
Filing PCT application in regional phase after 31 months	100
Lapsed application due to non-observance of time limits	100
And for every month or fraction thereof that the fee remains unpaid	50
28. Request for limitation/post grant amendment	300
29. Voluntary amendment of claims, description and drawings	200
30. Fee for expedited / delayed examination	700

** Applies to all other typographical errors after the first

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UTILITY MODELS

Kind of Fees	Amount (US Dollars or, where Rule 11 (3)(a) applies, the equivalent)
1. Application fee:	
(a) Paper filing	100
(b) Electronic filing (including 20% reduction)	80
2. Designation fee (per country)	20
3. Registration and publication fee	50
4. Republication fee	20
5. Maintenance fees (per designated State):	
1st year	20
2nd year	25
3rd year	30
4th year	35
5th year	40
6th year	45
7th year	50
For each year thereafter	10
6. Surcharge for late payment of annual maintenance fees	30
For every month or fraction thereof that the fees remain unpaid	5
7. Certified copy per page	2
and for every page in excess of 10 pages	1
8. Request for priority document	20
9. Consultation of register	2
and for every page in excess of 10 pages	1

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10. Correction of errors:	
The first error	20
All additional errors	30
Non-typographic corrections	30
11. Certified copy of an entry of the Register	20
12. Conversion to national application	50
13. Conversion of an ARIPO utility model application to a national application	300
14. Registration of assignments, transmissions, alteration of registered particulars, reduction of states, etc.	30
US \$1 for every page in excess of 10 pages	
15. Request for any extension	10/ extension
16. Status search fee	10
17. Change of representative	50
18. Request for replacement of lost or destroyed certificate	50

**SCHEDULE II:
LIST OF FORMS**

Administrative Instructions-Harare Protocol

Form No.	Title:
1	Request for alteration of name or address or for correction of error
2	Request for copies of extracts from register or from files
3	Request for grant of patent, registration of industrial design or utility model
4	Appointment of representative (power of attorney)
5	Request by contracting state for remittance of fees
6	Notification by receiving office of non-compliance with application fee payment requirements
7	Invitation by receiving office to correct application
8	Acknowledgement by receiving office of receipt of application
9	Transmittal by receiving office to ARIPO Office of application
10	Notification by receiving office of transmittal of application
11	Invitation by ARIPO Office to correct application
12	Notification of filing date
13	Notification of compliance with formal requirements
13A	Request for examination of the patent application
14	Notification of decision refusing application on grounds of non-compliance with formal requirements
15	Request to reconsider decision refusing application on grounds of non-compliance with formal requirements
16	Request by ARIPO Office for information concerning corresponding foreign applications, patents or other titles of protection
17	Declaration of withdrawal of application or reduction of designated states
18	Notification of non-compliance with substantive requirements and invitation to submit observations and/or amended application
19	Request to reconsider decision that substantive requirements have not been complied with

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- 20 Notification of decision refusing to grant or registration
- 21 Notification of decision to grant or register
- 22 Communication by designated state that patent or utility model shall have no effect in its territory
- 23 Request for conversion of application into national application
- 24 Transmittal by ARIPO Office of application and documents to designated state upon request for conversion into national application
- 25 ARIPO patent
- 26 Certificate of grant of patent
- 27 Notification of amendments by applicant
- 28 Request for registration of industrial design
- 29 Invitation by receiving office to correct application for registration of industrial design
- 30 Transmittal by receiving office to ARIPO Office of application for registration of industrial design
- 31 Notification by receiving office of transmittal of application for registration of industrial design
- 32 Invitation by ARIPO Office to correct application for registration of industrial design
- 33 Notification of filing date of application for registration of industrial design
- 34 Notification that application for registration of industrial design complies with formal requirements
- 35 Notification of decision refusing application for registration of industrial design on grounds of non-compliance with formal requirements
- 36 Declaration of withdrawal or reduction of designated states of application for registration of industrial design
- 37 Communication by designated state that registration of industrial design shall have no effect in its territory
- 38 Request for conversion of application for registration of industrial design into national application

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- 39 Certificate of registration of industrial design
- 40 Notification by designated state of registration of licence, assignment, transmission or other similar right pertaining to patent or industrial design, granted, registered or applied for under Protocol
- 41 Application to register assignment, transmission or other form of transfer
- 42 Application to register licence or other similar right
- 43 Notice of recordal of licences/assignments/correctional of errors/applicant details
- 44 Request for extension of time limits
- 45 Grant of extension of time limits
- 46 Notification of withdrawal of application; reduction of Designated States in relation to an application for a patent or an application for registration of a utility model or of an industrial design
- 47 Acknowledgement of receipt
- 48 Request for expedited/delayed examination of patent or utility model application

**SCHEDULE III:
COUNTRY OR ORGANIZATION CODE**

Administrative Instructions-Harare Protocol

Country/ Organization	Code	Country/ Organization	Code
African Regional Intellectual Property Organization (ARIPO)	AP	Sierra Leone	SL
Botswana	BW	Somalia	SO
The Gambia	GM	São Tomé & Príncipe	ST
Ghana	GH	Swaziland	SZ
Kenya	KE	Tanzania, United	TZ
Lesotho	LS	Uganda	UG
Liberia	LR	Zambia	ZM
Malawi	MW	Zimbabwe	ZW
Mozambique	MZ		
Namibia	NA		
Rwanda	RW		
Sudan	SD		

