ARIPO’s EXPERIENCE ON THE PROTECTION OF TRADITIONAL KNOWLEDGE, FOLKLORE AND GENETIC RESOURCES

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http://www.aripo.org
OUTLINE OF PRESENTATION

- DEVELOPMENT OF POLICY AND LEGAL FRAMEWORK
- SWAKOPMUND PROTOCOL ON TK AND FOLKLORE AND IMPLEMENTATION STRATEGY
- NATIONAL EFFORTS IN TK, GR AND FOLKLORE PROTECTION AND UTILIZATION
- THE WAY FORWARD
To provide a legal framework that empowers TK holders to utilize their resources for socio-economic development

To prevent misappropriation and prevent illicit grant of patents

Need to address trans-boundary TK /folklore in Africa

Provide a model for national legislative development and as an African position framework for the IGC Process
Traditional governance and legal systems

Nature and Characteristics of the knowledge

Inadequacy of the conventional IP system
ARIPO POLICY AND LEGAL FRAMEWORK ON ABS

- Development of regional policy and legal framework for ABS for implementation by the Member States of the Organization
  - Objectives and Principles
  - Policy options and strategies
  - Institutional Structures

- Linkage of such initiative with those of CBD, FAO, UPOV and other International and regional organizations
DEVELOPMENT AND ADOPTION OF ARIPO SWAKOPMUND PROTOCOL ON TRADITIONAL KNOWLEDGE AND EXPRESSIONS OF FOLKLORE
A DECADE OF LEGISLATIVE DEVELOPMENT

- Initial Proposal and mandate on the protection of indigenous knowledge
- Development of Policy and Legal framework
- Drafting of ARIPO Protocol and its Implementing Regulations
- Extension of mandate to include genetic resources and folklore
- Drafting of ARIPO Legal Instrument
- Adoption of Swakopmund Protocol
- Development of Concept Paper
- Harmonization of ARIPO Legal Instrument with that of OAPI
- Adoption of Resolution
CORE ELEMENTS OF THE PROTOCOL

- Defines TK, Folklore and beneficiaries (includes recognized individuals)
- Provides positive or exclusive rights for holders
- Provide scope of protection and eligibility conditions
- Provides for the protection of trans-boundary TK and Folklore
- Does not require formalities and protects TK/Folklore in perpetuity
- Provides for PIC and MAT (including IP clauses)
CORE ELEMENTS OF THE PROTOCOL

- Establishes registration system at national and regional levels
- Establishes National Competent Authorities for implementation of the Protocol
- Provides for Dispute Settlement Mechanisms
- Recognizes Customary Laws and Protocols
- States that “authorization to access protected TK associated with GR shall not imply authorization to the GR derived from
ACHIEVEMENTS ...........
- ADOPTION OF THE SWAKOPMUND PROTOCOL
- ADOPTION OF THE IMPLEMENTING REGULATIONS
- PREPARATION OF EXPLANATORY GUIDE TO THE PROTOCOL AND REGULATIONS
- TRANSLATION OF THE PROTOCOL INTO FRENCH, PORTUGUESE AND ARABIC
- PUBLICATIONS OF MATERIALS
LEGAL INSTRUMENTS FOR THE IMPLEMENTATION OF THE MANDATE ON TK AND FOLKLORE
STRATEGIES FOR IMPLEMENTING THE SWAKOPMUND PROTOCOL
ARIPO

R&D

CNA

TBGR

TBTK/TCEs

R&D

CNA

TLCs

TLCs

GR DATABASE

REGIONAL BIO – COLLECTING SYSTEM

ROYALDIS TRIBUTION

TK/TCEs DATABASE

SUI GENERIS APPROACH
NEXT STEPS

- Ratification/Accession to the Protocol
  - High level Missions

- Development of national policies and legislations using the Protocol as a model
  - IP offices to kick-start the process

- Establishment of Competent National Authorities/Appropriate Authorities
  - Council of Ministers to initiate the process

- Awareness creation and capacity building
  - ARIPO to modalities for awareness creation among TK holders
- Identification and development of projects to empower knowledge holders and community development

- Swakopmund Protocol and Outcome of the IGC process and Nagoya Protocol

- Recruitment of one Professional Staff to deal with TK matters
NATIONAL EFFORTS

- POLICY AND LEGISLATIVE DEVELOPMENT – Kenya, Zambia, Zimbabwe, Sudan, Mozambique, Botswana, Namibia, Rwanda, Tanzania,
- ESTABLISHED R&D INSTITUTIONS – Ghana, Swaziland, Zimbabwe, Botswana, Kenya
- ACADEMIC PROGRAMMES ON TK – Ghana, Zimbabwe
- VALUE ADDITION AND TK UTILIZATION – Ghana, Lesotho, Gambia, Kenya, Zimbabwe, Swaziland
- IP PROTECTION OF TK AND FOLKLORE – Ghana, Lesotho, Zimbabwe,
- DOCUMENTATION INITIATIVES ?
OUR CORPORATE DELIVERABLES

TK, GR & Folklore
- Establishment of National Competent Authorities
- Recordal of National TK, Folklore
- Registration of trans-boundary TK and Folklore
- PIC, MAT and Benefit sharing
- Licensing Agreements
- Dispute Settlements

ABS/GR
ABS guidelines developed
PIC, MAT and Benefit Sharing
Inventorization of useful plants

PLANT VARIETY PROTECTION
To protect new varieties of plants

Implementation of ARIPLO’s mandate on TK, GR and Folklore

TKDL
Codification of oral TK
Prior Art Search Tool
Framework for innovation and value addition
Standardization and validation
Knowledge transfer
THE WAY FORWARD

- Support for the establishment and implementation of national policy and legal frameworks

- The need to build institutional structures to promote the value addition of the resources

- The IGC inertia and urgent need for international legal instruments
Thank You For Listening!
ARIPO’s EXPERIENCE IN THE USE OF CONVENTIONAL IP SYSTEM FOR PROTECTION OF TRADITIONAL KNOWLEDGE, FOLKLORE AND GENETIC RESOURCES

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OUTLINE OF PRESENTATION

- BRIEF INTRODUCTION OF ARIPO AND ITS ACTIVITIES

- STRATEGIES FOR USING IP SYSTEM FOR THE PROTECTION OF TK, GR AND FOLKLORE

- NEXT STEPS
ARIPO LEGAL INSTRUMENTS

LUSAKA AGREEMENT
Adopted 1976

- Development and harmonization of IP laws
- To promote and evolve common views and approach on IP matters
- To foster close cooperation among the member states
- To facilitate technology transfer and development of appropriate technology
- To undertake capacity building, awareness creation and research studies
- To promote the development of copyright, genetic resources, TK and folklore

HARARE PROTOCOL
Adopted 1982

- To register and administer the following IP titles —;
  - Patents
  - Utility models
  - Industrial designs

BANJUL PROTOCOL
Adopted 1993

- To register and administer trademarks and service marks
Geographical Distribution of Member States of ARIPO

Member States:
- Botswana
- Kenya
- Mozambique
- Somalia
- The Gambia
- Lesotho
- Sierra Leone
- Swaziland
- Tanzania
- Ghana
- Zimbabwe
- Malawi
- Zambia
- Sudan
- Uganda
- Rwanda
- Tanzania
- Namibia
- Liberia
- Somalia
- Sudan
- East Africa
- West Africa
- Central & Southern Africa
ORGANS OF ARIPO

COUNCIL OF MINISTERS
(Policy and Political Organ)

ADMINISTRATIVE COUNCIL
(Administrative Organ of the Organization)

FINANCE COMMITTEE
(Evaluates the expenditure and budget of the organisation)

BOARD OF APPEAL
(Reviews appeal cases concerning Industrial property matters)

SECRETARIAT
(Responsible for daily activities of the organisation)

STAFF AFFAIRS COMMITTEE

TECHNICAL COMMITTEE

- Ministers responsible for IP matters – IP High Level Forum for Decision Making on Policy Issues;
- Administrative Council – Forum for IP Experts to determine development of IP;
- Committees and Board of Appeal – for specialized functions;
- Secretariat – day to day operations of the Organisation on IP matters.
ARIPO STRATEGIC GOALS

- Policy Development, Resource Mobilization and Brand Management
- Structural Development and Enhancing ICT Architecture
- Building Effective Partnerships and Synergies
- IP Norm-Setting and Harmonization
- Registration, Documentation and Promotion of Innovation and Creativity
- Capacity Building and Awareness Creation
CUSTOMISED TRAINING PROGRAMMES
- Plant Variety Protection
- Industrial Property issues
- Copyright
- Biodiversity
- TK and Folklore
- Enforcement
- IP and SMEs
- IP and Public Health

- Governmentt Officials
- Private Sector
- Judiciary
- Universities, R&D institutions
- SMEs

ACADEMIC PROGRAMMES
- Joint WIPO-ARIPO-Africa University Masters in IP Programme (one of the modules is on Plant Variety Protection)
  - Have introduced DL 205

- Planning to launch 2 MIP programmes in East and West Africa

- Will soon establish Ph D programme at the Africa University

E-LEARNING
Developing e-learning facilities to launch e-learning programmes
STRATEGIES FOR USING CONVENTIONAL IP SYSTEM FOR THE PROTECTION OF TK, FOLKLORE AND GR
Traditional Medicine

Practice of TM

Products of TM

Copyright

Trademarks

Codified

Non-Codified and Innovation

Not sold PTM

Sold PTM

Patents ID, UM

Secrecy Regime

Regulations for the Protection of TM Products

CONVENTIONAL IP APPROACH
Next steps

■ Amended the Harare Protocol to take into account TK

■ Come up with a comprehensive TM elements that can be protected under the existing IP system

■ Exploring ways of encouraging TK holders to use Trademarks, industrial designs, patents, utility models and GIs to protect aspects of TK

■ Undertaking documentation of undisclosed TK for positive protection
Thank You For Listening!
THE HEADQUARTERS OF ARIPO

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