



Swakopmund Protocol on the Protection of Traditional Knowledge & Expressions of Folklore

2019



ARIPO

Swakopmund, Namibia

2010

**SWAKOPMUND
PROTOCOL
ON THE PROTECTION
OF
TRADITIONAL
KNOWLEDGE AND
EXPRESSIONS OF
FOLKLORE**

**ARIPO
Swakopmund, Namibia
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**Swakopmund Protocol on the Protection of
Traditional Knowledge and Expressions of Folklore**

**Within the Framework of the
African Regional Intellectual
Property Organization (ARIPO)**

[adopted by the Diplomatic Conference of ARIPO at
Swakopmund (Namibia) on August 9, 2010, and amended on December 6, 2016]

and

**Regulations for Implementing
the Swakopmund Protocol on Traditional Knowledge
and Expressions of Folklore within the Framework of the
African Regional Intellectual
Property Organization (ARIPO)**

[text entered into force on May 11, 2015, and amended on December 6, 2016]

Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore within the Framework of the African Regional Intellectual Property Organization (ARIPO)

List of Contracting States

(Status as at January 1, 2019)

| <i>State</i> | <i>Date on which State became party to the Protocol</i> |
|--------------|---|
|--------------|---|

| | |
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| Botswana | March 28, 2012 |
| The Gambia | February 11, 2015 |
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| Malawi | December 20, 2012 |
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| Rwanda | July 16, 2012 |
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(No. of States: 8)

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PREAMBLE

We, the Contracting Parties,

Having adopted the Legal Instrument for the Protection of Traditional Knowledge and Expressions of Folklore at the Eleventh Session of the ARIPO Council of Ministers in Maseru, in the Kingdom of Lesotho, on November 23, 2007,

In accordance with the objectives of ARIPO generally and in particular Article III (c), which provides for the establishment of such common services or organs as may be necessary or desirable for the co-ordination, harmonization and development of the intellectual property activities affecting its member states;

Recognizing the intrinsic value of traditional knowledge, traditional cultures and folklore, including their social, cultural, spiritual, economic, intellectual, scientific, ecological, agricultural, medical, technological, commercial and educational value;

Convinced that traditional knowledge systems, traditional cultures and folklore are diverse frameworks of ongoing innovation, creativity and distinctive intellectual and creative life that benefit local and traditional communities and all humanity;

Mindful of the need to respect traditional knowledge systems, traditional cultures and folklore, as well as the dignity, cultural integrity and intellectual and spiritual values of traditional and local communities; to recognize and reward the contributions made by such communities to the conservation of the environment, to food security and sustainable agriculture, to the improvement in the health of populations, to the progress of science and technology, to the preservation and safeguarding of cultural heritage, to the development of artistic skills, and to enhancing a diversity of cultural contents and artistic expressions;

Convinced of the need to respect the continuing customary use, development, exchange and transmission of traditional knowledge and expressions of folklore by traditional and local communities, as well as the customary custodianship of traditional knowledge and expressions of folklore;

Concerned at the gradual disappearance, erosion, misuse, unlawful exploitation and misappropriation of traditional knowledge and expressions of folklore;

Recognizing the right of holders and custodians of traditional knowledge and expressions of folklore to effective and efficient protection against all acts of misuse, unlawful exploitation or misappropriation of their knowledge and expressions of folklore;

Desiring to preclude the grant and exercise of improper intellectual property rights in traditional knowledge, associated genetic resources and derivatives thereof, and in expressions of folklore and works and productions derived therefrom;

Recognizing the need to ensure and promote respect for traditional cultures in order to meet the needs of communities by empowering them;

Convinced of the need to enhance the diversity of cultural contents and artistic expressions in the interest of traditional and local communities, in particular, and for the benefit of humanity in general;

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Recognizing that protection must reflect the need to maintain an equitable balance between the rights and interests of those who develop, preserve and maintain traditional knowledge and expressions of folklore, and those who use and benefit from such knowledge and expressions of folklore;

Affirming the requirement to meet the needs of the holders and custodians of traditional knowledge and expressions of folklore, in particular by empowering them to exercise due control over their knowledge and expressions;

Desiring to encourage and reward authentic creativity and innovation resulting from traditional knowledge systems and expressions of folklore, and to promote innovation, creativity and the transfer of technology to the mutual benefit of society, holders and users of traditional knowledge and expressions of folklore;

Emphasizing that legal protection must be tailored to the specific characteristics of traditional knowledge and expressions of folklore, including their collective or community context, the intergenerational nature of their development, preservation and transmission, their link to a community's cultural and social identity, integrity, beliefs, spirituality and values, and their constantly evolving character within the community concerned;

Hereby establish this Protocol to be known as the Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore within the framework of the African Regional Intellectual Property Organization:

PART I: PRELIMINARY PROVISIONS

Section 1

Purpose of Protocol

- 1.1. The purpose of this Protocol is:
 - (a) to protect traditional knowledge holders against any infringement of their rights as recognized by this Protocol; and
 - (b) to protect expressions of folklore against misappropriation, misuse and unlawful exploitation beyond their traditional context.

- 1.2. This Protocol shall not be interpreted as limiting or tending to define the very diverse holistic conceptions of:
 - (a) traditional knowledge; or
 - (b) cultural and artistic expressions,in the traditional context.

- 1.3. This Protocol shall be interpreted and enforced taking into account the dynamic and evolving nature of traditional knowledge and the characteristic of traditional knowledge systems as frameworks of ongoing innovation.

Section 2

Definitions

- 2.1. In this Protocol,
 - “Appropriate authority” means a body or an agency authorized by the State which is party to this Protocol or entrusted with the responsibility to supervise and administer the provisions of this Protocol;
 - “ARIPO Office” means the Office of the African Regional Intellectual Property Organization (ARIPO);
 - “Contracting State” means any State that has become party to this Protocol in accordance with Section 27;
 - “Customary laws and practices” means customary laws, norms and practices of local and traditional communities recognized by the Contracting States;
 - “Community”, where the context so permits, includes indigenous or local community;
 - “Expressions of folklore” are any forms, whether tangible or intangible, in which traditional culture and knowledge are expressed, appear or are manifested, and comprise the following forms of expressions or combinations thereof:
 - i. verbal expressions, such as but not limited to stories, epics, legends, poetry, riddles and other narratives; words, signs, names, and symbols;
 - ii. musical expressions, such as but not limited to songs and instrumental music;
 - iii. expressions by movement, such as but not limited to dances, plays, rituals and other performances; whether or not reduced to a material form; and

- iv. tangible expressions, such as productions of art, in particular, drawings, designs, paintings (including body-painting), carvings, sculptures, pottery, terracotta, mosaic, woodwork, metal ware, jewelry, basketry, needlework, textiles, glassware, carpets, costumes; handicrafts; musical instruments; and architectural forms;

“Misappropriation” is the acquisition of genetic resources or traditional knowledge or expressions of folklore without the free prior informed consent of those who are authorised to give such consent to such acquisition;

“National competent authority” means the authority designated or established under section 3 of this Protocol;

“Prior Informed Consent” is the giving by the prospective user of complete and accurate information, and, based on that information, the prior acceptance by the concerned communities to use their traditional knowledge or expressions of folklore under the terms envisaged by sections 7.2 and 19.2 of this Protocol;

“Traditional knowledge” shall refer to any knowledge originating from a local or traditional community that is the result of intellectual activity and insight in a traditional context, including know-how, skills, innovations, practices and learning, where the knowledge is embodied in the traditional lifestyle of a community, or contained in the codified knowledge systems passed on from one generation to another. The term shall not be limited to a specific technical field, and may include agricultural, environmental or medical knowledge, and knowledge associated with genetic resources;

“Unauthorised use” is the acquisition of genetic resources and/or traditional knowledge and/or expressions of folklore without the consent of the national competent authority in accordance with national legislation.

2.2. The specific choice of terms to denote the protected subject matter falling under traditional knowledge and expressions of folklore may be determined at the national level of a Contracting State.

Section 3 ***National Competent Authority***

The Contracting States shall designate or establish a national competent authority which shall implement the provisions of this Protocol.

PART II: PROTECTION OF TRADITIONAL KNOWLEDGE

Section 4

Protection criteria for traditional knowledge

Protection shall be extended to traditional knowledge that is:

- (i) generated, preserved and transmitted in a traditional and intergenerational context;
- (ii) distinctively associated with a local or traditional community; and
- (iii) integral to the cultural identity of a local or traditional community that is recognized as holding the knowledge through a form of custodianship, guardianship or collective and cultural ownership or responsibility. Such a relationship may be established formally or informally by customary practices, laws or protocols.

Section 5

Formalities relating to protection of traditional knowledge

- 5.1. Protection of traditional knowledge shall not be subject to any formality.
- 5.2. In the interest of transparency, evidence and the preservation of traditional knowledge, relevant national competent authorities of Contracting States and ARIPO Office may maintain registers or other records of the knowledge, where appropriate and subject to relevant policies, laws and procedures, and the needs and aspirations of the traditional knowledge holders concerned.
- 5.3. The registers maintained under section 5.2 may be associated with specific forms of protection, and shall not compromise the status of hitherto undisclosed traditional knowledge or the interests of holders of traditional knowledge in relation to undisclosed elements of their knowledge.
- 5.4. Where two or more communities in the same or different countries share the same traditional knowledge, the relevant national competent authority of the Contracting States and ARIPO Office shall register the owners of the traditional knowledge and maintain relevant records.
- 5.5. Where traditional knowledge is distinctly associated with the cultural heritage of beneficiaries as defined in Section 6 of this Protocol or where traditional knowledge is held by individuals, the relevant national competent authority of the Contracting State and ARIPO Office shall register the owners of traditional knowledge and maintain relevant records.

Section 6

Beneficiaries of protection of traditional knowledge

The owners of the rights shall be the holders of traditional knowledge, namely the indigenous or local communities, and recognized individuals within such communities, who create, preserve and transmit knowledge in a traditional and intergenerational context in accordance with the provisions of section 4.

Section 7

Rights conferred to holders of traditional knowledge

- 7.1. This Protocol shall confer on the owners of rights referred to in section 6 the exclusive right to authorize the exploitation of their traditional knowledge.
- 7.2. In addition, owners shall have the right to prevent anyone from exploiting their traditional knowledge without their prior informed consent.
- 7.3. For the purposes of this Protocol, the term “exploitation” with reference to traditional knowledge shall refer to any of the following acts:
- (a) Where the traditional knowledge is a product:
 - (i) manufacturing, importing, exporting, offering for sale, selling or using beyond the traditional context the product;
 - (ii) being in possession of the product for the purposes of offering it for sale, selling it or using it beyond the traditional context;
 - (b) Where the traditional knowledge is a process:
 - (i) making use of the process beyond the traditional context;
 - (ii) carrying out the acts referred to under paragraph (a) of this subsection with respect to a product that is a direct result of the use of the process.
- 7.4. In addition to all other rights, remedies and action available to them, the owners shall have the right to institute legal proceedings against any person who carries out any of the acts mentioned in section 7.3 without the owner’s permission.

Section 8

Assignment and licensing

- 8.1. Owners of traditional knowledge shall have the right to assign and conclude licensing agreements; however, traditional knowledge belonging to an indigenous or local community may not be assigned.
- 8.2. All access, authorizations, assignments or licences granted in respect of protected traditional knowledge shall be granted in writing, otherwise they shall be of no force or effect.
- 8.3. A document drawn up for the purpose of section 8.2 shall be approved by the national competent authority, failing which the document shall be void.
- 8.4. The ARIPO Office shall keep a register of all licences and assignments granted under this section.

Section 9
Equitable benefit-sharing

- 9.1. The protection to be extended to traditional knowledge holders shall include the fair and equitable sharing of benefits arising from the commercial or industrial use of their knowledge, to be determined by mutual agreement between the parties.
- 9.2. The national competent authority shall, in the absence of such mutual agreement, mediate between the concerned parties with a view to arriving at an agreement on the fair and equitable sharing of benefits.
- 9.3. The right to equitable remuneration might extend to non-monetary benefits, such as contributions to community development, depending on the material needs and cultural preferences expressed by the indigenous or local communities themselves.

Section 10
Recognition of knowledge holders

Any person using traditional knowledge beyond its traditional context shall acknowledge its holders, indicate its source and, where possible, its origin, and use such knowledge in a manner that respects the cultural values of its holders.

Section 11
Exceptions and limitations applicable to protection of traditional knowledge

The protection of traditional knowledge under this Protocol shall not be prejudicial to the continued availability of traditional knowledge for the practice, exchange, use and transmission of the knowledge by its holders within the traditional context.

Section 12
Compulsory licence

- 12.1. Where protected traditional knowledge is not being sufficiently exploited by the rights holder, or where the holder of rights in traditional knowledge refuses to grant licences subject to reasonable commercial terms and conditions, a Contracting State may, in the interests of public security or public health, grant a compulsory licence in order to fulfil national needs.
- 12.2. In the absence of an agreement between the parties, an appropriate amount of compensation for the compulsory licence shall be fixed by a court of competent jurisdiction.

Section 13
Duration of protection of traditional knowledge

Traditional knowledge shall be protected for so long as the knowledge fulfils the protection criteria referred to under section 4, except that where traditional knowledge belongs exclusively to an individual, protection shall last for 25 years following the exploitation of knowledge beyond its traditional context by the individual.

Section 14

Administration and enforcement of protection of traditional knowledge

14.1. To ensure the effectiveness of the protection of traditional knowledge, the national competent authority and ARIPO Office acting on behalf of the Contracting States shall be entrusted with the tasks of awareness-raising, education, guidance, monitoring, registration, dispute resolution, enforcement and other activities related to the protection of traditional knowledge.

14.2. National competent authorities shall be entrusted, in particular, with the task of advising and assisting holders of protected traditional knowledge in defending their rights and instituting civil and criminal proceedings, where appropriate and when requested by them.

14.3. Where two or more communities in different countries share the same traditional knowledge, the ARIPO Office shall be responsible for raising awareness, education, guidance, monitoring, dispute resolution and other activities relating to the protection of traditional knowledge of those communities.

Section 15

Access to traditional knowledge associated with genetic resources

Authorization under this Protocol to access protected traditional knowledge associated with genetic resources shall not imply authorization to access the genetic resources derived from the traditional knowledge.

PART III: PROTECTION OF EXPRESSIONS OF FOLKLORE

Section 16

Protection criteria for expressions of folklore

Protection shall be extended to expressions of folklore, whatever the mode or form of their expression, which are:

- (a) the products of creative and cumulative intellectual activity, such as collective creativity or individual creativity where the identity of the individual is unknown; and
- (b) characteristic of a community's cultural identity and traditional heritage and maintained, used or developed by such community in accordance with the customary laws and practices of that community.

Section 17

Formalities relating to protection of expressions of folklore

17.1. The protection of expressions of folklore shall not be subject to any formality.

17.2. For the purposes of evidence, measures for the protection of expressions of folklore may require that certain categories of the expressions for which protection is sought, particularly those with special cultural or spiritual value or significance or those that are sacred in character, be notified to the appropriate authority.

17.3. The notification shall have a merely declaratory function and shall not in itself constitute rights, nor shall it involve or require the documentation, recording or public disclosure of the expressions of folklore concerned.

17.4. Where two or more communities in the same or different countries share the same expressions of folklore, the relevant national competent authorities of Contracting States and ARIPO Office shall register the owners of the rights in those expressions of folklore.

17.5. Where expression of folklore is distinctly associated with the cultural heritage of beneficiaries as defined in Section 18 of this Protocol or where expressions of folklore is held by individuals, the relevant National Competent Authority of the contracting state and ARIPO Office shall register the owners of expressions of folklore and maintain relevant records.

Section 18

Beneficiaries of protection of expressions of folklore

The owners of the rights in expressions of folklore shall be the indigenous or local communities:

- (a) to whom the custody and protection of the expressions of folklore are entrusted in accordance with the customary laws and practices of those communities; and
- (b) who maintain and use the expressions of folklore as a characteristic of their traditional cultural heritage.

Section 19

Protection of expressions of folklore against unlawful acts

19.1. Expressions of folklore shall be protected against all acts of misappropriation, misuse and unlawful exploitation.

19.2. In respect of expressions of folklore of particular cultural or spiritual value or significance to a community, the Contracting States shall provide adequate and effective legal and practical measures to ensure that the relevant community can prevent the following acts from taking place without its free and Prior Informed Consent:

- (a) in respect of such expressions of folklore other than words, signs, names and symbols:
 - i). the reproduction, publication, adaptation, broadcasting, public performance, communication to the public, distribution, rental, making available to the public and fixation (including by still photography) of the expressions of folklore or derivatives thereof;
 - ii). any use of the expressions of folklore or adaptation thereof which does not acknowledge in an appropriate way the community as the source of the expressions of folklore;
 - iii). any distortion, mutilation or other modification of, or other derogatory action, in relation to the expressions of folklore; and

iv). the acquisition or exercise of intellectual property rights over the expressions of folklore or adaptations thereof;

- (b) in respect of words, signs, names and symbols which are such expressions of folklore, any use of the expressions of folklore or derivatives thereof, or the acquisition or exercise of intellectual property rights over the expressions of folklore or derivatives thereof, which disparages, offends or falsely suggests a connection with the community concerned, or brings the community into contempt or disrepute.

19.3. In respect of the use and exploitation of other expressions of folklore, the Contracting States shall provide adequate and effective legal and practical measures to ensure that:

- (a) the relevant community is identified as the source of any work or other production adapted from the expressions of folklore;
- (b) any distortion, mutilation or other modification of, or other derogatory action in relation to expressions of folklore can be prevented and/or is subject to civil or criminal sanctions;
- (c) any false, confusing or misleading indications or allegations which, in relation to goods or services that refer to, draw upon or evoke the expressions of folklore of a community or suggest any endorsement by or linkage with that community, can be prevented and/or is subject to civil or criminal sanctions; and
- (d) where the use or exploitation is for gainful intent, there should be equitable remuneration or benefit-sharing on terms determined by the national competent authority in consultation with the relevant community.

19.4. Contracting States shall provide adequate and effective legal and practical measures to ensure that communities have the means to prevent the unauthorized disclosure, subsequent use of and acquisition and exercise of intellectual property rights over expressions of folklore that are held secret.

Section 20

Exceptions and limitations applicable to protection of expressions of folklore

20.1. Measures for the protection of expressions of folklore shall:

- (a) be such as not to restrict or hinder the normal use, development, exchange, dissemination and transmission of expressions of folklore within the traditional or customary context by members of the community concerned, as determined by customary laws and practices;
- (b) extend only to uses of expressions of folklore taking place outside their traditional or customary context, whether or not for commercial gain;
- (c) be subject to exceptions in order to address the needs of non-commercial use, such as teaching and research, personal or private use, criticism or review, reporting of current events, use in the course of legal proceedings, the making of recordings and reproductions of expressions of folklore for inclusion in an archive or inventory exclusively for the purposes of safeguarding cultural heritage, and incidental uses,

Provided that in each case, such uses are compatible with fair practice, the relevant community is acknowledged as the source of the expressions of folklore where practicable and possible, and such uses would not be offensive to the relevant community.

20.2. The measures put in place for the protection of expressions of folklore may make special provision for their use by the nationals of the country concerned.

Section 21

Duration of protection of expressions of folklore

Expressions of folklore shall be protected against all acts of misappropriation, misuse or unlawful exploitation for as long as the expressions of folklore fulfill the protection criteria set out in section 16.

Section 22

Management of rights in expressions of folklore

22.1. For the purpose of ensuring the effectiveness of the protection and management of expressions of folklore, the national competent authority and the ARIPO Office acting on behalf of the Contracting States shall be entrusted with the tasks of awareness-raising, education, guidance, monitoring, dispute resolution and other activities relating to the protection of expressions of folklore.

22.2. Authorizations to exploit expressions of folklore shall be obtained from the national competent authority which acts on behalf of and in the interests of the community concerned.

22.3. Where the national competent authority acts under sections 22.1 and 22.2 of this Protocol:

- (a) authorizations shall be granted only after appropriate consultations with the communities concerned, in accordance with their traditional processes for decision-making and public affairs management;
- (b) authorizations shall comply with the scope of protection provided for the expressions of folklore concerned and shall, in particular, provide for the equitable sharing of the benefits arising from their use;
- (c) uncertainties or disputes as to which communities are concerned shall be resolved, as far as possible, in accordance with customary laws and protocols, where applicable, of those communities;
- (d) any monetary or non-monetary benefits arising from the use of the expressions of folklore shall be transferred directly by the national competent authority to the community concerned;
- (e) enabling legislation or administrative measures shall provide guidance on matters such as procedures for applications for authorization, fees that the national competent authority or ARIPO Office may, where necessary, charge for its services, official publication procedures, dispute resolution, and the terms and conditions governing authorizations that may be granted by the national competent authority.

22.4 Where two or more communities in different countries share the same expressions of folklore, the ARIPO Office shall be responsible for raising awareness, education, guidance, monitoring, dispute resolution and other activities relating to the protection of expressions of folklore of those communities.

PART IV: GENERAL PROVISIONS

Section 23

Sanctions, remedies and enforcement

23.1. The Contracting States shall ensure that accessible and appropriate enforcement and dispute resolution mechanisms, sanctions and remedies are available where there is a breach of the provisions relating to the protection of traditional knowledge and expressions of folklore.

23.2. The national competent authority shall be entrusted with the task of advising and assisting holders of protected traditional knowledge and communities who are beneficiaries of protected expressions of folklore in defending and enforcing their rights and instituting civil and criminal proceedings, where appropriate and when requested by the holders and communities concerned.

Section 24

Regional Protection

24.1. Eligible foreign holders of traditional knowledge and expressions of folklore shall enjoy benefits of protection to the same level as holders of traditional knowledge and expressions of folklore who are nationals of the country of protection, taking into account as far as possible the customary laws and protocols applicable to the traditional knowledge or expressions of folklore concerned.

24.2. Measures should be established by the national competent authority and ARIPO Office to facilitate as far as possible the acquisition, management and enforcement of such protection for the benefit of the holders of traditional knowledge and expressions of folklore from foreign countries.

24.3. ARIPO may be entrusted with the task of settling cases of concurrent claims from communities of different countries with regard to traditional knowledge or expressions of folklore; to this end, ARIPO shall make use of customary law, local information sources, alternative dispute resolution mechanisms, and any other practical mechanism of this kind, which might prove necessary.

Section 25

Transitional measures

25.1. Exploitation and dissemination of traditional knowledge prior to the entry into force of the protection under this Protocol shall comply with the provisions of section 9 relating to equitable benefit-sharing and section 10 relating to the recognition of the source, within twelve months following the entry into force of the protection, subject to equitable treatment of the rights acquired by third parties in good faith.

25.2. The continued use of expressions of folklore that had commenced prior to the introduction of this Protocol to protect the expressions of folklore shall comply with provisions of section 19 within twelve months of this Protocol entering into force, subject to equitable treatment of the rights and interests acquired by third parties through prior use in good faith.

Section 26
Regulations

- 26.1. The Administrative Council of ARIPO shall make Regulations for the implementation of this Protocol and may amend them where necessary.
- 26.2. The Regulations shall, in particular,
- a) stipulate any administrative requirements, or any necessary details for the implementation of the provisions of this Protocol;
 - b) prescribe the procedure for applications of authorization to exploit traditional knowledge and expressions of folklore;
 - c) prescribe fees to be charged by the ARIPO Office and the details of the distribution of part of the fees among Contracting States; and
 - d) provide forms to be used for matters requiring forms under this Protocol.

Section 27
Entry into force

- 27.1. Any State which is a member of ARIPO or any State to which membership of ARIPO is open may become party to this Protocol by:
- i) signature followed by the deposit of an instrument of ratification; or
 - ii) deposit of an instrument of accession.
- 27.2. Instruments of ratification or accession shall be deposited with the Government of the Republic of Zimbabwe.
- 27.3. This Protocol shall come into force three months after six States have deposited their instruments of ratification or accession.
- 27.4. Ratification of or accession to this Protocol shall entail acceptance of the Agreement on the Creation of the African Regional Intellectual Property Organization.

Section 28
Reservations

Reservations may not be made to this Protocol.

Section 29

Signature of the Protocol

29.1. This Protocol shall be signed in a single copy and shall be deposited with the Government of the Republic of Zimbabwe.

29.2. The Government of the Republic of Zimbabwe shall transmit certified copies of this Protocol to the Contracting States to which membership of ARIPO is open in accordance with Article IV of the Agreement on the Creation of the African Regional Intellectual Property Organization (ARIPO).

Section 30

Amendment of the Protocol

30.1. This Protocol may be amended at the instance of any Contracting State or the Director General of ARIPO during the sessions of the Administrative Council of ARIPO.

30.2. Adoption of the amendments of any provision of this Protocol shall require a majority of two-thirds of the votes of all the Contracting States.

Section 31

Denunciation of the Protocol

31.1. Any Contracting State may denounce this Protocol by notification addressed to the Government of the Republic of Zimbabwe.

31.2. Denunciation of this Protocol shall take effect six months after receipt of the said notification by the Government of the Republic of Zimbabwe.



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IMPLEMENTING REGULATIONS UNDER THE SWAKOPMUND PROTOCOL

(Made under section 26 of the Protocol)

Citation

These Regulations may be cited as the Implementing Regulations under the ARIPO Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore.

Commencement

These Regulations came into operation on January 1, 2012.

Rule 1 ***Definitions***

In these Regulations, unless the context otherwise requires:

“Administrative Council” means the Administrative Council of the African Regional Intellectual Property Organization;

“Applicant” is any natural or legal person, entity or agent applying for authorization or license to exploit traditional knowledge or for authorization to exploit expressions of folklore;

“Appropriate authority” means a body or an agency authorized by the State which is party to this Protocol or entrusted with the responsibility to supervise and administer the provisions of the Protocol;

“ARIPO Office” means the Office of the African Regional Intellectual Property Organization (ARIPO);

“Benefit sharing” means the sharing of whatever accrues from the utilization of traditional knowledge and expressions of folklore;

“Contracting State” means any State that has become party to the Protocol;

“Designated State” means any State designated in the application in accordance with sub-rule (3) of rule 2 and sub-rule (3) of rule 3 of these Regulations;

“Director General” means the Director General of the African Regional Intellectual Property Organization;

“Misappropriation” is the acquisition of genetic resources or traditional knowledge or expressions of folklore without the free prior informed consent of those who are authorised to give such consent to such acquisition;

“Prior Informed Consent” is the giving by the prospective user of complete and accurate information, and, based on that information, the prior acceptance by the concerned communities to use their traditional knowledge or expressions of folklore under the terms envisaged by sections 7.2 and 19.2 of the Protocol;

“Protocol” means the Swakopmund Protocol for the Protection of Traditional Knowledge and Expressions of Folklore;

“Unauthorised use” is the acquisition of genetic resources and/or traditional knowledge and/or expressions of folklore without the consent of the national competent authority in accordance with national legislation.

Rule 2

Applications for registration of traditional knowledge

- (1) An application for registration of traditional knowledge shall in accordance with sections 5.4 and 5.5 of the Protocol be made on ARIPO Form T1 as set out in Schedule 1 to these Regulations.
- (2) An application made under sub-rule (1) of this rule shall contain:
 - a) the name and address of the applicant;
 - b) the name of the State of which the applicant is a national;
 - c) a request for the registration;
 - d) the purpose for which the registration is sought;
 - e) the economic, social, scientific, technical, environmental, or any other benefit that are likely to accrue to the owners of the traditional knowledge or to the relevant indigenous or local community; and
 - (f) the proposed mechanism for equitable sharing of benefits arising from the exploitation of the traditional knowledge.
- (3) The application shall designate the Contracting State, which possess or share the traditional knowledge.
- (4) The registration of any traditional knowledge shall be subject to prior informed consent of the owners of the traditional knowledge and the relevant local or traditional community or their representatives.

Rule 3

Applications for registration of expressions of folklore

- (1) An application for registration of expressions of folklore shall in accordance with sections 17.4 and 17.5 of the Protocol be made on ARIPO Form F1 as set out in Schedule 2 to these Regulations.

- (2) An application made under sub-rule (1) of this rule shall contain:
- a) the name and address of the applicant;
 - b) the name of the State of which the applicant is a national;
 - c) a request for the registration;
 - d) the purpose for which the registration is sought;
 - e) the economic, social, scientific, technical, environmental, or any other benefit that are likely to accrue to the owners of the expressions of folklore or to the relevant local or traditional community; and
 - f) the proposed mechanism for equitable sharing of benefits arising from the exploitation of the expressions of folklore.
- (3) The application shall designate the Contracting State or communities, which possess or share the expressions of folklore.
- (4) The registration of any expressions of folklore shall be subject to prior informed consent of the owners of the expressions of folklore and the relevant local or traditional community or their representatives.

Rule 4

Certificate for registration of traditional knowledge

- (1) A certificate of registration of traditional knowledge shall be issued by ARIPO Office to the applicant (s), which acts on behalf of the community, after consultation with the community concerned.
- (2) Where the ARIPO Office is satisfied that prior informed consent was obtained from the owners of the traditional knowledge, it may issue a certificate of registration to the applicant(s) to exploit or use the traditional knowledge subject to such conditions as may be specified in the registration certificate.
- (3) A certificate of registration of traditional knowledge by the ARIPO Office in accordance with sections 5.4 and 5.5 of the Protocol shall be on ARIPO Form T11 as set out in Schedule I to these Regulations.

Rule 5

Certificate for registration of expressions of folklore

- (1) A certificate of registration of expression of folklore shall be issued by ARIPO office to the applicant (s) which acts on behalf of the community, after consultation with the community concerned.
- (2) Where the ARIPO Office is satisfied that prior informed consent was obtained from the owners of the expression of folklore, it may issue a certificate of registration to the applicant(s) to exploit or use the expressions of folklore subject to such conditions as may be specified in the registration certificate.

- (3) A certificate of registration of expressions of folklore by the ARIPO Office in accordance with sections 17.4 and 17.5 of the Protocol shall be on ARIPO Form F11 as set out in Schedule 2 to these Regulations.

Rule 6

Authorization subject to prior informed consent to exploit traditional knowledge

- (1) An application for prior informed consent to exploit traditional knowledge shall be addressed to the national competent authority or appropriate authority which acts on behalf of and in the interests of the relevant communities. The national competent authority or appropriate authority shall in accordance with section 7 of the Protocol notify the ARIPO Office of such consent to exploit traditional knowledge on ARIPO Form T14 as set out in Schedule 1 to these Regulations.
- (2) Any exploitation of traditional knowledge without prior informed consent granted by the relevant local or traditional community shall be in violation of the Protocol.

Rule 7

Authorization subject to prior informed consent to exploit expressions of folklore

- (1) An application for prior informed consent to exploit expressions of folklore shall be addressed to the national competent authority or appropriate authority which acts on behalf of and in the interests of the relevant communities. The national competent authority or appropriate authority shall in accordance with section 7 of the Protocol notify the ARIPO Office of such consent to exploit expressions of folklore on ARIPO Form F14 as set out in Schedule 2 to these Regulations.
- (2) Any exploitation of expressions of folklore without prior informed consent granted by the relevant local or traditional community shall be in violation of the Protocol.

Rule 8

Publication of application for the registration of traditional knowledge and expressions of folklore

- (1) The ARIPO Office shall cause the application for the registration of traditional knowledge and/or expressions of folklore under these Regulations to be published in a local newspaper, radio that is accessible to the public or in any other appropriate manner as is likely to bring the notice of the application to the attention of the relevant local or traditional community.
- (2) The ARIPO Office shall cause the application for the registration of traditional knowledge and/or expressions of folklore under these Regulations to be published in the appropriate ARIPO Journal.

Rule 9

Forms

The Forms set out in Schedules 1 and 2 to these Regulations shall be used for the matters specified, respectively, in those Schedules.

Rule 10

Fees

- (1) An application for registration of traditional knowledge and/or expressions of folklore shall be accompanied by the prescribed fees.
- (2) The fees payable for application, registration, renewal, inspection of the register and other related matters shall be the fees specified in Schedule 3 to these Regulations.

Rule 11

Distribution of fees

- (1) Subject to sub-rule (2) of this rule, the fees paid under these Regulations shall be distributed between the ARIPO Office and the designated States.
- (2) The distribution of fees between the ARIPO Office and the designated States shall be fifty percent to the ARIPO Office and fifty percent to designated states.

Rule 12

Licensing agreements for traditional knowledge

- (1) A person wishing to enter into a licensing agreement to exploit protected traditional knowledge may apply in writing to the owners of the traditional knowledge.
- (2) Where the owners of the traditional knowledge agree to enter into a licensing agreement with an applicant under sub-rule (1) of this rule, the agreement shall be subject to the written approval of the national competent authority or appropriate authority.
- (3) The licensing agreement shall specify the terms and conditions and the duration applicable to it.
- (4) Where the owners of the traditional knowledge, with the approval of the national competent authority or appropriate authority, have agreed to conclude a licensing agreement, the national competent authority or appropriate authority shall notify the ARIPO Office in accordance with section 8.4 of the Protocol on ARIPO Form T15 as set out in Schedule 1 to these Regulations.

Rule 13

Licensing agreements for expressions of folklore

- (1) A person wishing to enter into a licensing agreement to exploit protected expressions of folklore may apply in writing to the owners of the expressions of folklore.

- (2) Where the owners of the expressions of folklore agree to enter into a licensing agreement with an applicant under sub-rule (1) of this rule, the agreement shall be subject to the written approval of the national competent authority or appropriate authority.
- (3) The licensing agreement shall specify the terms and conditions and the duration applicable to it.
- (4) Where the owners of the expressions of folklore, with the approval of the national competent authority or appropriate authority, have agreed to conclude a licensing agreement, the national competent authority or appropriate authority shall notify the ARIPO Office in accordance with section 8.4 of the Protocol on ARIPO Form F15 as set out in Schedule 2 to these Regulations.

Rule 14 ***Traditional knowledge register***

The ARIPO Office shall in accordance with section 5.2 of the Protocol maintain a traditional knowledge register in which shall be recorded:

- a) the number of every application made under this Protocol;
- b) the name and address of the applicant;
- c) the date and number of registrations made under rule 4 and licensing agreements made under rule 12 of these Regulations;
- d) the name of the holders/communities of the traditional knowledge;
- e) the address or location of the holders/communities of traditional knowledge;
- f) description or identification of the registered traditional knowledge;
- g) any change with respect to the matters set out in paragraphs (a) to (d) of this sub-rule.

Any person may, on payment of the fees prescribed in Schedule 3 to these Regulations, inspect the register maintained under this rule.

Rule 15 ***Expressions of folklore register***

The ARIPO Office shall in accordance with section 17 of the Protocol maintain an expressions of folklore register in which shall be recorded:

- a) the number of every application made under this Protocol;
- b) the name and address of the applicant;
- c) the date and number of registrations made under rule 4 and licensing agreements made under rule 12 of these Regulations;
- d) the name of the holders/communities of the expressions of folklore;
- e) the address or location of the holders/communities of expressions of folklore;
- f) description or identification of the registered expressions of folklore;
- g) any change with respect to the matters set out in paragraphs (a) to (d) of this sub-rule.

Any person may, on payment of the fees prescribed in Schedule 3 to these Regulations, inspect the register maintained under this rule.

Rule 16

Publication of registered traditional knowledge and issuance of certificates, etc, in respect of traditional knowledge

The ARIPO Office shall:

- a) publish in the ARIPO Journal a reference to the registration of traditional knowledge or licensing agreement;
- b) issue the applicant with a certificate of registration of the traditional knowledge or licensing agreement, as the case may be, on ARIPO Form T11 or T15 as set out in Schedule 1 of the Regulations;
- c) transmit to the national competent authority or appropriate authority for which the registration or licensing agreement is registered a copy of the certificate of the registration.

Rule 17

Publication of registered expressions of folklore and issuance of certificates, etc, in respect of expressions of folklore

The ARIPO Office shall:

- a) publish in the ARIPO Journal a reference to the registration of expressions of folklore or licensing agreement;
- b) issue the applicant with a certificate of registration of the expressions of folklore or licensing agreement, as the case may be, on ARIPO Form F11 or F15 as set out in Schedule 2 of the Regulations;
- c) transmit to the national competent authority or appropriate authority for which the registration or licensing agreement is registered a copy of the certificate of the registration.

Rule 18

Benefit sharing

- (1) The benefits accruing from exploitation of the traditional knowledge under these Regulations shall be shared in a fair and equitable way, between the owners of the traditional knowledge and persons who have been granted authorization or licensing agreement.
- (2) The benefits arising from the use of expressions of folklore shall be transferred directly by the national competent authority or appropriate authority to the local or traditional community concerned.
- (3) The sharing of benefits under sub-rules (1) and (2) of this rule shall involve the participation and approval of the owners of the traditional knowledge and expressions of folklore and the concerned communities.
- (4) The benefits derived from exploitation of traditional knowledge and expressions of folklore may include:
 - a) division of profits;
 - b) payment of royalties;

- c) technology access and transfer; and
- d) training of human resources.
- e) Others, as applicable.

Rule 19

Right to refuse to grant authorization or to conclude a licensing agreement

The owners of traditional knowledge and expressions of folklore and concerned communities may refuse to grant authorization or to conclude a licensing agreement under these Regulations where the authorization and licensing agreement are likely to be detrimental to their natural or cultural heritage.

Rule 20

Right to withdraw consent

The owners of traditional knowledge and expressions of folklore and concerned communities may withdraw consent or place restrictions on the activities relating to the exploitation of their traditional knowledge and expressions of folklore where the activities are likely to be detrimental to their socio-economic life or their natural or cultural heritage.

Rule 20bis

Confidentiality of registered traditional knowledge and expressions of folklore

- (1) Where the application for the registered traditional knowledge or expressions of folklore is considered confidential by the applicant, the ARIPO Office shall enter into non-disclosure agreement with applicant and keep confidential all proprietary information that it may acquire in any manner.
- (2) Such information shall not be disclosed to anybody except to authorised employees, agents or third parties who need to have access to the proprietary information for the purpose of carrying out their duties in connection with the permitted use.

Rule 21

Dispute settlement

- (1) The appropriate authority shall establish a Dispute Settlement Committee for the purpose of settling disputes arising out of authorizations granted and licensing agreements concluded under these Regulations and any other related matter.
- (2) Where the subject matter of the dispute concerns ascertaining the relevant community, the dispute shall be resolved as far as possible, in accordance with the customary laws and practices of the community concerned.

- (3) The ARIPO Office shall in accordance with sections 14.3 and 22.4 of the Protocol establish *ad hoc* committees for the purposes of settling disputes arising from traditional knowledge and expressions of folklore shared by different communities across national boundaries as the need arises.

Rule 22
Amendment

- (1) These Regulations may be amended at the instance of the Director General or any member of a Contracting State during the Administrative Council sessions.
- (2) The decision to amend these Regulations shall be by a simple majority of Contracting States.
- (3) Every amendment to these Regulations shall be notified to the Contracting States by the Director General.

Rule 23
Administrative instructions

The Director General of the ARIPO Office shall establish administrative instructions which will deal with details in respect of the application of these regulations and which shall not be in conflict with the provisions of the Protocol and these Regulations.

**SCHEDULES 1, 2 AND 3:
SWAKOPMUND PROTOCOL FORMS
AND FEES**

**SCHEDULE 1:
FORMS FOR TRADITIONAL KNOWLEDGE**

| FORM NO. | TITLE | STATUS |
|-----------------|---|---------------|
| Form T1 | Request for registration of traditional knowledge | |
| Form T2 | Acknowledgement of receipt and notification of filing date of application for traditional | |
| Form T3 | Invitation by ARIPO Office to correct application for traditional knowledge | |
| Form T4 | Acknowledgement by national competent authority of receipt of application | |
| Form T5 | Invitation by national competent authority to correct application for traditional knowledge | |
| Form T6 | Transmittal by national competent authority to ARIPO Office of application | |
| Form T7 | Notification by national competent authority of transmittal of application | |
| Form T8 | Notification of compliance with administrative requirements for the | |
| Form T9 | Notification of non-compliance with administrative requirements for the | |
| Form T10 | Notification of decision to register traditional knowledge | |
| Form T11 | Certificate of registration of traditional knowledge | |
| Form T12 | Request for alteration of name or address or for correction of error | |
| Form T13 | Appointment of representative (power of attorney) | |
| Form T14 | Communication by national competent authority that prior informed consent has been grant- | |
| Form T15 | Notification by national competent authority of concluded license agreement | |

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| ARIPO Form No. T1 SWAKOPMUND PROTOCOL REQUEST FOR REGISTRATION OF TRADITIONAL KNOWLEDGE (Rule 2(1)) | |
| Name of applicant: | |
| Address of the applicant: | |
| Background information of the applicant: | |
| Applicant's Nationality: | |
| Purpose for requesting registration: | |
| Use of the Traditional Knowledge (traditional context): | |
| Contracting States which share the Traditional Knowledge: | |
| Nullity of registered Traditional Knowledge: <i>(If it is established that a Traditional Knowledge has been registered to holder(s) who is/are not entitled to it, the ARIPO Office shall declare the registered traditional knowledge null and void.)</i> | |
| Signature..... Date..... | |
| NATIONAL COMPETENT AUTHORITY/APPROPRIATE AUTHORITY: | |
| ATTACHMENTS: <input type="checkbox"/> Copy of Prior Informed Consent <input type="checkbox"/> Proposal for Benefit Sharing | |

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| ARIPO Form No. T2 SWAKOPMUND PROTOCOL ACKNOWLEDGEMENT OF RECEIPT AND NOTIFICATION OF FILING DATE OF APPLICATION FOR REGISTRATION OF TRADITIONAL KNOWLEDGE (Instruction 6) To*: | For Official Use Received on: <hr/> Applicant's or Representative's File Reference: |
| I. IN THE MATTER OF [] Application No. for Registration of Traditional Knowledge: [] Application No. given by National Competent Authority: | |
| II. APPLICANTS Name: Address: | |
| III. NOTIFICATION We hereby notify you, pursuant to Instruction 6, that the above-identified application has been accorded (date) as its filing date. This notification is being sent to***: | |
| IV. SIGNATURE**** <div style="display: flex; justify-content: space-between;"> <div style="text-align: center;"> DIRECTOR GENERAL ARIPO Office </div> <div style="text-align: center;"> (Date) </div> </div> | |

* A notification Form No. T2 shall be sent to the applicant's representative and to the national competent authority of each designated State.

** Please quote the application number given by the ARIPO Office in all subsequent communications concerning this application.

*** Indicate all those to whom a notification Form No. T2 is being sent in connection with the above-identified application.

**** Type name of Director General under signature.

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| ARIPO Form No. T3 SWAKOPMUND PROTOCOL INVITATION BY ARIPO OFFICE TO CORRECT APPLICATION FOR TRADITIONAL KNOWLEDGE (Instruction 25) To*: | For Official Use Received on: Applicant's or Representative's File Reference: |
| I. IN THE MATTER OF** [] Application for registration of Traditional Knowledge: [] Application No. given by National Competent Authority: | |
| II. APPLICANT(S) Name: Address: | |
| III. INVITATION [] After examining, pursuant to Instruction 25), whether the above-identified application on the face of it fulfils the requirements of Instruction 24, the ARIPO Office finds that the application on the face of it does not fulfil such requirements with respect to [] [] [] and therefore hereby requests that the applicant(s), within two months from the date of this invitation, file the following correction, together with the payment of the prescribed fee: THE APPLICATION SHALL NOT BE ACCORDED A FILING DATE UNTIL THE SAID REQUIREMENTS ARE FULFILLED. | |
| IV. SIGNATURE**** DIRECTOR GENERAL ARIPO Office | |
| (Date) | |

*A notification Form No. T3 shall be sent to the applicant's representative and to the national competent authority of each designated State.

** Please quote the application number given by the ARIPO Office in all subsequent communications concerning this application.

*** Type name of Director General

**** Type name of Director General under signature.

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| ARIPO Form No. T4 SWAKOPMUND PROTOCOL ACKNOWLEDGEMENT OF RECEIPT OF APPLICATION FOR REGISTRATION OF TRADITIONAL KNOWLEDGE BY NATIONAL COMPETENT AUTHORITY (Instruction) To*: | For Official Use Received on: |
| Applicant's or Representative's File Reference: | |
| I. IN THE MATTER OF [] Application for registration of Traditional Knowledge: | |
| II. APPLICANT(S) Name: Address: | |
| III. NOTIFICATION We hereby acknowledge receipt of the above-identified application for transmittal to ARIPO Office on..... (date). | |
| IV. SIGNATURE** (Date) ***NATIONAL COMPETENT AUTHORITY | |

*A notification Form No. T4 shall be sent to the applicant(s) or applicant(s) representative and to ARIPO Office

** Type name of Director General under signature.

***Type name of national competent authority .

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| ARIPO Form No. T5 SWAKOPMUND PROTOCOL INVITATION BY NATIONAL COMPETENT AUTHORITY TO CORRECT APPLICATION FOR TRADITIONAL KNOWLEDGE (Instruction 2(i)(ii)) To*: | For Official Use Received on: Applicant's or Representative's File Reference: |
| I. IN THE MATTER OF [] Receiving Office No. given by National Competent Authority**: | |
| II. APPLICANT(S) Name: Address: | |
| III. INVITATION [] after examining, pursuant to Rule 2(1), whether the above-identified application on the face of it fulfils the requirements, finds that the application on the face of it does not fulfil such requirements with respect to And therefore hereby requests that the applicant, within two months from the date of this invitation, either file the following correction, together with the payment of the prescribed fee, or request this Office to transmit all documents making up the application to the ARIPO Office: | |
| IV. SIGNATURE*** <div style="text-align: right; margin-right: 100px;"> (Date) </div> INDUSTRIAL PROPERTY OFFICE**** | |

* A notification Form No. T5 shall be sent to the applicant's or their representative

** Please quote the application number given by the Receiving Office

*** Type name and title under signature.

**** Type name and State of Receiving Office.

Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore



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| <p>ARIPO Form No. T6 SWAKOPMUND PROTOCOL</p> <p>TRANSMITTAL BY NATIONAL COMPETENT AUTHORITY TO ARIPO OFFICE OF APPLICATION (Instruction 5)</p> <p>To: Director General ARIPO Office P.O. Box 4228 Harare Zimbabwe</p> | <p align="center">For Official Use</p> <p>Received on:</p> <p>Applicant's or Representative's File Reference:</p> |
| <p>I. IN THE MATTER OF:</p> <p>Application No. given by National Competent Authority*:</p> | |
| <p>II. APPLICANT(S)</p> <p>Name:</p> <p>Address:</p> | |
| <p>III. TRANSMITTAL</p> <p>We hereby transmit to the ARIPO Office the documents making up the above-identified application (in ... (number)* copies, except for any certified copy of an earlier application and any translation thereof, in case a priority is claimed, which are transmitted in one copy).</p> <p>Furthermore, we:</p> <p>(i) <input type="checkbox"/> have verified that the application on the face of it fulfilled the requirements of on (date), being <input type="checkbox"/> the date of its receipt <input type="checkbox"/> the date on which corrections were received;</p> <p>(ii) <input type="checkbox"/> have found that the application on the face of it does not fulfil the requirements of Rule fulfil the requirements of Rule 5(1)(a), (b) and (c), <input type="checkbox"/> have found that the application does not comply with but the applicant(s), after having been notified of that fact, has (have) requested this Office nonetheless to transmit to the ARIPO Office the documents making up the application;</p> <p>(iii) have marked on each document making up the application the actual date of its receipt, an appropriate number and our official stamp.</p> | |
| <p>IV. SIGNATURE** (Date)</p> <p>INDUSTRIAL PROPERTY OFFICE***</p> | |

* Type receiving office number.

** Type name and title under signature.

*** Type name and State of receiving office.



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| ARIPO Form No. T7 SWAKOPMUND PROTOCOL NOTIFICATION BY NATIONAL COMPETENT AUTHORITY OF TRANSMITTAL OF APPLICATION FOR TRADITIONAL KNOWLEDGE (Instruction) To*: | <p align="center">For Official Use</p> Received on: |
| | Applicant's or Representative's File Reference: |
| I. IN THE MATTER OF [] Application for registration of Traditional Knowledge: [] Application No. given by National Competent Authority: [] Date of receipt given by National Competent Authority: | |
| II. APPLICANT(S) Name: Address: | |
| III. NOTIFICATION <p>We hereby notify the applicant(s), pursuant to Instruction ..., that the documents making up the above-identified application have been transmitted, as required to the ARIPO Office on..... (date). Any further documents filed by the applicant with respect to the above-identified application shall henceforth be filed directly with the ARIPO Office.</p> | |
| IV. SIGNATURE** <p align="center">..... (Date)</p> <p>***NATIONAL COMPETENT AUTHORITY.....</p> | |

* A notification Form No. T7 shall be sent to the applicant(s) or applicant(s) representative and to ARIPO Office.
 ** Type name of person and signature of national competent authority officer.
 ***Type name of national competent authority.



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| <p>ARIPO Form No. T8</p> <p>NOTIFICATION OF COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS FOR THE REGISTRATION OF TRADITIONAL KNOWLEDGE (Instruction 28)</p> <p>To*:</p> | <p align="center">For Official Use</p> <p>Received on:</p> |
| <p align="right">Applicant's or Representative's File Reference:</p> | |
| <p>I. IN THE MATTER OF</p> <p><input type="checkbox"/> Application for registration of Traditional Knowledge</p> <p><input type="checkbox"/> Application No. given by National Competent Authority:</p> | |
| <p>II. APPLICANT(S)</p> <p>Name:</p> <p>Address:</p> | |
| <p>III. NOTIFICATION</p> <p>We hereby notify you, pursuant to Instruction 28, that the above-identified application complies with the prescribed administrative requirements.</p> <p>This notification is being sent to**.....</p> <p>.....</p> | |
| <p>IV. SIGNATURE****</p> <p align="center">.....</p> <p align="center">DIRECTOR GENERAL (Date)</p> <p align="center">ARIPO Office</p> | |

* A notification Form No. T8 shall be sent to the applicant's representative and to the national competent authority of each designated State.

** Please quote the application number given by the ARIPO Office in all subsequent communications concerning this application.

*** Indicate all those to whom a notification Form No. T8 is being sent in connection with the above-identified application.

**** Type name of Director General under signature.

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| <p>ARIPO Form No. T9 SWAKOPMUND PROTOCOL</p> <p>NOTIFICATION OF NON-COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS FOR THE REGISTRATION OF TRADITIONAL KNOWLEDGE (Instructions 29)</p> <p>To*:</p> | <p align="center">For Official Use</p> <p>Received on:</p> <p>Applicant's or Representative's File Reference:</p> |
| <p>I. IN THE MATTER OF</p> <p><input type="checkbox"/> Application for registration of Traditional Knowledge</p> <p><input type="checkbox"/> Application No. given by National Competent Authority:</p> | |
| <p>II. APPLICANT(S)</p> <p>Name:</p> <p>Address:</p> | |
| <p>III. NOTIFICATION</p> <p><input type="checkbox"/> We hereby notify the applicant(s), pursuant to that the ARIPO Office has decided to refuse the above-identified application on grounds of non-compliance with the prescribed administrative requirements because the applicant(s) failed to respond to the invitation by the ARIPO Office to correct the above-identified application, which was transmitted to the applicant(s) on ARIPO Form No. F8, dated</p> <p><input type="checkbox"/> We hereby notify the applicant(s), that, for the reasons stated below, the ARIPO Office has decided to refuse the above-identified application on grounds of non-compliance with the prescribed administrative requirements despite any correction which was made by the applicant(s) on (date) in response to the invitation by the ARIPO Office to correct the above-identified application.</p> <p>ACCORDING TO INSTRUCTION (30), THE APPLICANT MAY, WITHIN TWO MONTHS FROM THE DATE OF THIS NOTIFICATION, REQUEST THAT THE ARIPO OFFICE RECONSIDERS THE DECISION ABOVE NOTIFIED.</p> | |
| <p>IV. SIGNATURE****</p> <p align="center">.....</p> <p align="center">DIRECTOR GENERAL (Date)</p> <p align="center">ARIPO Office</p> | |

* A notification Form No. T9 shall be sent in the first instance to the applicant's representative pursuant toi.e., when any of the first two boxes is ticked off); if the applicant does not request the ARIPO Office to reconsider its decision refusing the application on grounds of non-compliance with administrative requirements or if the ARIPO Office refuses the application notwithstanding such a request for reconsideration (i.e., when the third or fourth box is ticked off), a notification Form No. shall then be sent, pursuant to, to the receiving Office and to the industrial property office of each designated State to which an ARIPO Form No. was sent, as well as to the applicant's representative.

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| <p>ARIPO Form No. T10 SWAKOPMUND PROTOCOL</p> <p>NOTIFICATION OF DECISION TO REGISTER TRADITIONAL KNOWLEDGE (Instructions ...)</p> <p>To*:</p> | <p align="center">For Official Use</p> <p>Received on:</p> <hr/> <p>Applicant's or Representative's File Reference:</p> |
| <p>I. IN THE MATTER OF</p> <p><input type="checkbox"/> Application for registration of Traditional Knowledge</p> <p>Application No.:</p> <p>Application No. given by National Competent Authority:</p> | |
| <p>II. APPLICANT(S)</p> <p>Name:</p> <p>Address:</p> | |
| <p>III. NOTIFICATION</p> <p>We hereby notify you, pursuant to Section (...), that the ARIPO Office has decided to register the Traditional Knowledge on the above-identified application.</p> <p><input type="checkbox"/> A copy of the above-identified application is attached hereto**</p> <p>We hereby request the applicant(s) to make payment of the registration fee within(period specified) from the date of this notification.</p> <p>Before the expiration of months from the date of this notification, each Contracting State may, pursuant to Section (...), make a written communication to the ARIPO Office on ARIPO Form No.....to the effect that, if the Traditional Knowledge is registered by the ARIPO Office on the above-identified application, said registration shall have no effect in its territory for any of the reasons indicated in Section (.....).</p> <p>Upon expiration of the said months and subject to the payment of the registration fee by the applicant(s), the ARIPO Office shall register the Traditional Knowledge in accordance with Section (...) and the registration shall have effect in those Contracting States which have not made the communication referred to in the preceding paragraph.</p> | |
| <p>IV. This notification is being sent to:***</p> | |
| <p>IV. SIGNATURE***</p> <p align="center">.....</p> <p align="center">DIRECTOR GENERAL (Date)</p> <p align="center">ARIPO Office</p> | |

* A notification Form No. T10 shall be sent to the applicant's representative.

** Indicate all those to whom a notification Form No. T10 is being sent in connection with the above-identified application.

*** Type name of Director General under signature.

Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore



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| ARIPO Form No. T11 SWAKOPMUND PROTOCOL CERTIFICATE OF REGISTRATION OF TRADITIONAL KNOWLEDGE (Rule 4; Instr. 35) | For Official Use |
| <p>In accordance with Rule 4 of the Regulations, it is hereby certified that traditional knowledge having the no. has been registered to:</p> <p>Name: Address:</p> <p>on (date), with effect in the following designated Contracting States: </p> <p>in respect of an invention disclosed in an application for that patent having a: Filing date:.....</p> <p>being traditional knowledge for: (Title)</p> | |
| <p>Dated this day of, 20.....</p> <p align="right">..... DIRECTOR GENERAL ARIPO Office</p> | |

Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore



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| ARIPO Form No. T12 SWAKOPMUND PROTOCOL REQUEST FOR ALTERATION OF NAME OR ADDRESS OR FOR CORRECTION OF ERROR (Instruction 28) To*: | For Official Use Received on: Applicant's or Representative's File Reference: |
| I. IN THE MATTER OF [] Application for registration of Traditional Knowledge [] Application No. given by National Competent Authority: | |
| II. APPLICANT(S) Name: Address: | |
| III. REQUEST I/We hereby request that: [] the following entry in the Traditional Knowledge Register in relation to the above-identified matter*: [] the following document filed in connection with the above-identified matter*: be altered/corrected as shown in red ink on the annexed copy of the said entry or document as follows: | |
| SIGNATURE***** <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;"> DIRECTOR GENERAL ARIPO Office </div> <div style="text-align: center;"> (Date) </div> </div> | |

* A notification Form No. T12 shall be sent to the applicant's representative and to the national competent authority of each designated State.

** Please quote the application number given by the ARIPO Office in all subsequent communications concerning this application.

*** Indicate all those to whom a notification Form No. T12 is being sent in connection with the above-identified application.

**** Type name of Director General under signature.

Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore



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| <p>ARIPO Form No. T13</p> <p>SWAKOPMUND PROTOCOL</p> <p>APPOINTMENT OF REPRESENTATIVE (POWER OF ATTORNEY) (Rule 10(2); Instruction 19)</p> <p>To*:</p> | <p align="right">For Official Use</p> <p>Received on</p> |
| <p align="right">Applicant's or Representative's File Reference:</p> | |
| <p>I/We, the undersigned,</p> <p>Name: _____ Address: _____</p> <p>hereby appoint (Name): _____</p> <p>Address: _____</p> <p>Telephone Number: E-mail Address: Fax Number:</p> <p>to act as my/our representative in all proceedings relating to:</p> <p><input type="checkbox"/> Application for registration of Traditional Knowledge and any registration for Traditional Knowledge for patent granted pursuant thereto**</p> <p style="padding-left: 40px;">(.....).</p> <p><input type="checkbox"/> Other (specify)</p> <p>and ratify all acts done by the representative on my/our behalf in connection with that (those) matter(s), and request that all notices, requisitions and communications relating thereto be sent to the said representative at his address. Any previous appointment in respect of the same matter(s) is hereby revoked.</p> | |
| <p>SIGNATURE(S)*** (Date)</p> | |

* If filed together with the request Form, indicate name and address of receiving office; if filed subsequently, indicate ARIPO Office and its address.

** Indicate title and /or application number, if known.

*** Must be signed by the person(s) appointing the representative; type name(s) under signature(s).

Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore



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| <p>ARIPO Form No. T14 SWAKOPMUND PROTOCOL</p> <p>COMMUNICATION BY NATIONAL COMPETENT AUTHORITY THAT PRIOR INFORMED CONSENT HAS BEEN GRANTED FOR THE EXPLOITATION OF TRADITIONAL KNOWLEDGE</p> <p>(Rule 6(1))</p> | <p style="text-align: right;">For Official Use</p> <p>Received on:</p> |
| <p>On behalf of (Traditional/Local Communities), the National Competent Authority/Appropriate Authority of (Contracting State) hereby communicate to the ARIPO Office pursuant to Rule 6(1) that Prior Informed Consent has been granted to:</p> <p>Name and Address of Licensee:</p> <p>to exploit the following identified traditional knowledge:</p> | |
| <p>Signature..... Date.....</p> <p>NATIONAL COMPETENT AUTHORITY/APPROPRIATE AUTHORITY:</p> <p>.....</p> | |

Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore



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| <p>ARIPO Form No. T15 SWAKOPMUND PROTOCOL</p> <p>NOTIFICATION BY NATIONAL COMPETENT AUTHORITY OF CONCLUDED LICENSE AGREEMENT</p> <p>(Rule 12(4))</p> | <p>For Official Use</p> <p>Received on:</p> |
| <p>On behalf of (Traditional/Local Communities), the National Competent Authority/Appropriate Authority of (Contracting State) hereby notifies the ARIPO Office pursuant to Rule 12(4) that a License Agreement has been made on day of 20..... between(Traditional community concerned) of the one part and (Licensee) of the other part.</p> <p>A copy of the license agreement is attached to this Form.</p> | |
| <p>Signature..... Date.....</p> <p>NATIONAL COMPETENT AUTHORITY/APPROPRIATE AUTHORITY: </p> | |

**SCHEDULE 2:
FORMS FOR EXPRESSIONS OF FOLKLORE**

| FORM NO. | TITLE | STATUS |
|-----------------|--|---------------|
| Form F1 | Request for registration of expressions of folklore | |
| Form F2 | Acknowledgement of receipt and notification of filing date of application for expressions of folklore | |
| Form F3 | Invitation by ARIPO Office to correct application for expressions of folklore | |
| Form F4 | Acknowledgement by national competent authority of receipt of application | |
| Form F5 | Invitation by national competent authority to correct application for expressions of folklore | |
| Form F6 | Transmittal by national competent authority to ARIPO Office of application | |
| Form F7 | Notification by national competent authority of transmittal of application | |
| Form F8 | Notification of compliance with administrative requirements for the registration of expressions of folklore | |
| Form F9 | Notification of non-compliance with administrative requirements for the registration of expressions of folklore | |
| Form F10 | Notification of decision to register expressions of folklore | |
| Form F11 | Certificate of registration of expressions of folklore | |
| Form F12 | Request for alteration of name or address or for correction of error | |
| Form F13 | Appointment of representative (power of attorney) | |
| Form F14 | Communication by national competent authority that prior informed consent has been granted for the exploitation of expressions of folklore | |
| Form F15 | Notification by national competent authority of concluded license agreement | |

Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore



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| <p>ARIPO Form No. F1 SWAKOPMUND PROTOCOL</p> <p>REQUEST FOR REGISTRATION OF EXPRESSIONS OF FOLKLORE</p> <p>(Rule 2(1))</p> | <p>For Official Use</p> <p>Received on:</p> |
| Name of applicant: | |
| Address of the applicant: | |
| Background information of the applicant: | |
| Applicant's nationality: | |
| Purpose for requesting registration: | |
| Use of the Expression of Folklore (traditional context): | |
| Contracting States which share the Expression of Folklore: | |
| Nullity of registered Expression of Folklore If it is established that a Expression of Folklore has been registered to holder(s) who is/are not entitled to it, the ARIPO Office shall declare the registered Expression of Folklore null and void. | |
| Signature:..... Date:..... NATIONAL COMPETENT AUTHORITY/APPROPRIATE AUTHORITY: | |
| ATTACHMENTS: <input type="checkbox"/> Copy of Prior Informed Consent <input type="checkbox"/> Proposal for Benefit Sharing | |

Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore



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| <p>ARIPO Form No. F2 SWAKOPMUND PROTOCOL ACKNOWLEDGEMENT OF RECEIPT AND NOTIFICATION OF FILING DATE OF APPLICATION FOR REGISTRATION OF EXPRESSIONS OF FOLKLORE (Instruction 6) To*:</p> | <p>For Official Use</p> <p>Receivedon:</p> |
| <p align="right">Applicant's or Representative's File Reference:</p> | |
| <p>I. IN THE MATTER OF</p> <p>[] Application No. for registration of Expressions Of Folklore: [] Application No. given by National Competent Authority:</p> | |
| <p>II. APPLICANT(S)</p> <p>Name: Address:</p> | |
| <p>III. NOTIFICATION</p> <p>We hereby notify you, pursuant to Instruction 6, that the above-identified application has been accord- ed (date) as its filing date.</p> <p>This notification is being sent to***:..... </p> | |
| <p>IV. SIGNATURE****</p> <p align="center">.....</p> <p align="center">DIRECTOR GENERAL (Date) ARIPO Office</p> | |

*A notification Form No. F2 shall be sent to the applicant's representative and to the national competent authority of each designated State.

** Please quote the application number given by the ARIPO Office in all subsequent communications concerning this application.

*** Indicate all those to whom a notification Form No. F2 is being sent in connection with the above-identified applica-
 tion.

**** Type name of Director General under signature.



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| <p>ARIPO Form No. F3 SWAKOPMUND PROTOCOL</p> <p>INVITATION BY ARIPO OFFICE TO CORRECT APPLICATION EXPRESSIONS OF FOLKLORE (Instruction 25)</p> <p>To*:</p> | <p>For Official Use</p> <p>Received on:</p> |
| <p>Applicant's or Representative's File Reference:</p> | |
| <p>I. IN THE MATTER OF**</p> <p><input type="checkbox"/> Application for registration of Expressions Of Folklore</p> <p><input type="checkbox"/> Application No. given by National Competent Authority:</p> | |
| <p>II. APPLICANT(S)</p> <p>Name:</p> <p>Address:</p> | |
| <p>III. INVITATION</p> <p><input type="checkbox"/> After examining, pursuant to Instruction 25), whether the above-identified application on the face of it fulfils the requirements of Instruction 24, the ARIPO Office finds that the application on the face of it does not fulfil such requirements with respect to <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> and therefore hereby requests that the applicant(s), within two months from the date of this invitation, file the following correction, together with the payment of the prescribed fee:</p> <p>THE APPLICATION SHALL NOT BE ACCORDED A FILING DATE UNTIL THE SAID REQUIREMENTS ARE FULFILLED.</p> | |
| <p>IV. SIGNATURE****</p> <p align="center">.....</p> <p align="center">DIRECTOR GENERAL (Date)</p> <p align="center">ARIPO Office</p> | |

*A notification Form No. F3 shall be sent to the applicant's representative and to the national competent authority of each designated State.

** Please quote the application number given by the ARIPO Office in all subsequent communications concerning this application.

*** Type name of Director General

**** Type name of Director General under signature.

Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore



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| <p>ARIPO Form No. F4 SWAKOPMUND PROTOCOL ACKNOWLEDGEMENT OF RECEIPT OF APPLICATION FOR REGISTRATION OF EXPRESSION OF FOLKLORE BY NATIONAL COMPETENT AUTHORITY (Instruction) To*:</p> | <p>For Official Use</p> <p>Received on:</p> |
| <p align="right">Applicant's or Representative's File Reference:</p> | |
| <p>I. IN THE MATTER OF</p> <p style="padding-left: 20px;"><input type="checkbox"/> Application for registration of Expression of Folklore:</p> | |
| <p>II. APPLICANT(S)</p> <p style="padding-left: 20px;">Name:</p> <p style="padding-left: 20px;">Address:</p> | |
| <p>III. NOTIFICATION</p> <p style="padding-left: 20px;">We hereby acknowledge receipt of the above-identified application for transmittal to ARIPO Office on (date).</p> | |
| <p>IV. SIGNATURE**</p> <p style="text-align: center; margin-top: 20px;">.....</p> <p style="text-align: center; margin-top: 10px;">(Date)</p> <p style="margin-top: 20px;">NATIONAL COMPETENT AUTHORITY***.....</p> | |

*A notification Form No. F4 shall be sent to the applicant(s) or applicant(s) representative and to ARIPO Office

** Type name of Director General under signature.

***Type name of national competent authority.

Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore



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| <p>ARIPO Form No. F5 SWAKOPMUND PROTOCOL</p> <p>INVITATION BY NATIONAL COMPETENT AUTHORITY TO CORRECT APPLICATION FOR EXPRESSIONS OF FOLKLORE (Instruction 2(i)(ii))</p> <p>To*:</p> | <p align="center">For Official Use</p> <p>Received on:</p> |
| <p align="center">Applicant's or Representative's File Reference:</p> | |
| <p>I. IN THE MATTER OF:</p> <p>[] Receiving Office No. given by National Competent Authority**:</p> | |
| <p>II. APPLICANT(S)</p> <p>Name:</p> <p>Address:</p> | |
| <p>III. INVITATION</p> <p>[] after examining, pursuant to Rule 2(1), whether the above-identified application on the face of it fulfils the requirements, finds that the application on the face of it does not fulfil such requirements with respect to</p> <p>And therefore hereby requests that the applicant, within two months from the date of this invitation, either file the following correction, together with the payment of the prescribed fee, or request this Office to transmit all documents making up the application to the ARIPO Office:</p> | |
| <p>IV. SIGNATURE***</p> <p align="center">.....</p> <p align="right">(Date)</p> <p>INDUSTRIAL PROPERTY OFFICE****</p> | |

*A notification Form No. F5 shall be sent to the applicant's or their representative

** Please quote the application number given by the receiving office

*** Type name and title under signature.

**** Type name and State of receiving office.

Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore



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| <p>ARIPO Form No. F6 SWAKOPMUND PROTOCOL</p> <p>TRANSMITTAL BY NATIONAL COMPETENT AUTHORITY TO ARIPO OFFICE OF APPLICATION (Instruction 5)</p> <p>To: Director General ARIPO Office P.O. Box 4228 Harare Zimbabwe</p> | <p align="center">For Official Use</p> <p>Received on:</p> |
| <p align="right">Applicant's or Representative's File Reference:</p> | |
| <p>I. IN THE MATTER OF:</p> <p>Application No. given by National Competent Authority*:.....</p> | |
| <p>II. APPLICANT(S)</p> <p>Name:</p> <p>Address:</p> | |
| <p>III. TRANSMITTAL</p> <p>We hereby transmit to the ARIPO Office the documents making up the above-identified application (in ... (number)* copies, except for any certified copy of an earlier application and any translation thereof, in case a priority is claimed, which are transmitted in one copy).</p> <p>Furthermore, we:</p> <p>(i) <input type="checkbox"/> have verified that the application on the face of it fulfilled the requirements of on (date), being <input type="checkbox"/> the date of its receipt <input type="checkbox"/> the date on which corrections were received;</p> <p>(ii) <input type="checkbox"/> have found that the application on the face of it does not fulfil the requirements of Rule fulfil the requirements of Rule 5(1)(a), (b) and (c), <input type="checkbox"/> have found that the application does not comply with but the applicant(s), after having been notified of that fact, has (have) requested this Office nonetheless to transmit to the ARIPO Office the documents making up the application;</p> <p>(iii) have marked on each document making up the application the actual date of its receipt, an appropriate number and our official stamp.</p> | |
| <p>IV. SIGNATURE** (Date)</p> <p>INDUSTRIAL PROPERTY OFFICE***</p> | |

* Type receiving office number
 ** Type name and title under signature.
 *** Type name and State of receiving office.

Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore



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| <p>ARIPO Form No. F7 SWAKOPMUND PROTOCOL NOTIFICATION BY NATIONAL COMPETENT AUTHORITY OF TRANSMITTAL OF APPLICATION FOR EXPRESSION OF FOLKLORE (Instruction) To*:</p> | <p align="center">For Official Use</p> <p>Received on:</p> |
| <p align="center">Applicant's or Representative's File Reference:</p> | |
| <p>I. IN THE MATTER OF</p> <p><input type="checkbox"/> Application for registration of Expression of Folklore: <input type="checkbox"/> Application No. given by National Competent Authority: <input type="checkbox"/> Date of receipt given by National Competent Authority:</p> | |
| <p>II. APPLICANT(S)</p> <p>Name: Address:</p> | |
| <p>III. NOTIFICATION</p> <p>We hereby notify the applicant(s), pursuant to Instruction ..., that the documents making up the above-identified application have been transmitted, as required to the ARIPO Office on (date). Any further documents filed by the applicant with respect to the above-identified application shall henceforth be filed directly with the ARIPO Office.</p> | |
| <p>IV. SIGNATURE**</p> <p align="center">..... (Date)</p> <p>NATIONAL COMPETENT AUTHORITY***:</p> | |

* A Notification Form No. F7 shall be sent to the applicant(s) or applicant(s) representative and to ARIPO Office

** Type name of person and signature of national competent authority officer.

*** Type name of National Competent Authority.

Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore



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| <p>ARIPO Form No. F8 SWAKOPMUND PROTOCOL</p> <p>NOTIFICATION OF COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS FOR THE REGISTRATION OF EXPRESSIONS OF FOLKLORE (Instruction 28)</p> <p>To*:</p> | <p align="center">For Official Use</p> <p>Received on:</p> |
| <p align="center">Applicant's or Representative's File Reference:</p> | |
| <p>I. IN THE MATTER OF:</p> <p><input type="checkbox"/> Application for registration of Expressions of Folklore</p> <p><input type="checkbox"/> Application No. given by National Competent Authority:</p> | |
| <p>II. APPLICANT(S)</p> <p>Name:</p> <p>Address:</p> | |
| <p>III. NOTIFICATION</p> <p>We hereby notify you, pursuant to Instruction 28, that the above-identified application complies with the prescribed administrative requirements.</p> <p>This notification is being sent to**.....</p> <p>.....</p> | |
| <p>IV. SIGNATURE****</p> <p align="center">.....</p> <p align="center">DIRECTOR GENERAL (Date)</p> <p align="center">ARIPO Office</p> | |

* A notification Form No. F8 shall be sent to the applicant's representative and to the national competent authority of each designated State.

** Please quote the application number given by the ARIPO Office in all subsequent communications concerning this application.

*** Indicate all those to whom a notification Form No. F8 is being sent in connection with the above-identified application.

**** Type name of Director General under signature.

Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore



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| <p>ARIPO Form No. F9 SWAKOPMUND PROTOCOL</p> <p>NOTIFICATION OF NON-COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS FOR THE REGISTRATION OF EXPRESSIONS OF FOLKLORE (Instructions 29)</p> <p>To*:</p> | <p>For Official Use</p> <p>Received on:</p> |
| <p align="right">Applicant's or Representative's File Reference:</p> | |
| <p>I. IN THE MATTER OF</p> <p><input type="checkbox"/> Application for registration of Expressions of Folklore</p> <p><input type="checkbox"/> Application No. given by National Competent Authority:</p> | |
| <p>II. APPLICANT(S)</p> <p>Name:</p> <p>Address:</p> | |
| <p>III. NOTIFICATION</p> <p><input type="checkbox"/> We hereby notify the applicant(s), pursuant to that the ARIPO Office has decided to refuse the above-identified application on grounds of non-compliance with the prescribed administrative requirements because the applicant(s) failed to respond to the invitation by the ARIPO Office to correct the above-identified application, which was transmitted to the applicant(s) on ARIPO Form No. F8, dated</p> <p><input type="checkbox"/> We hereby notify the applicant(s), that, for the reasons stated below, the ARIPO Office has decided to refuse the above-identified application on grounds of non-compliance with the prescribed administrative requirements despite any correction which was made by the applicant(s) on (date) in response to the invitation by the ARIPO Office to correct the above-identified application</p> <p>ACCORDING TO INSTRUCTION 30), THE APPLICANT MAY, WITHIN TWO MONTHS FROM THE DATE OF THIS NOTIFICATION, REQUEST, THAT THE ARIPO OFFICE RECONSIDER THE DECISION ABOVE NOTIFIED.</p> | |
| <p>IV. SIGNATURE****</p> <p align="center">.....</p> <p align="center">DIRECTOR GENERAL (Date)</p> <p align="center">ARIPO Office</p> | |

* A notification Form No. F9 shall be sent in the first instance to the applicant's representative pursuant to i.e., when any of the first two boxes is ticked off); if the applicant does not request the ARIPO Office to reconsider its decision refusing the application on grounds of non-compliance with administrative requirements or if the ARIPO Office refuses the application notwithstanding such a request for reconsideration (i.e., when the third or fourth box is ticked off), a notification Form No. shall then be sent, pursuant to, to the receiving office and to the industrial property office of each designated State to which an ARIPO Form No. was sent, as well as to the applicant's representative.

Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore



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| <p>ARIPO Form No. F10 SWAKOPMUND PROTOCOL</p> <p>NOTIFICATION OF DECISION TO REGISTER EXPRESSION OF FOLKLORE (Instructions ...)</p> <p>To*:</p> | <p align="center">For Official Use</p> <p>Received on:</p> |
| <p align="right">Applicant's or Representative's File Reference:</p> | |
| <p>I. IN THE MATTER OF</p> <p><input type="checkbox"/> Application for registration of Expression of Folklore</p> <p>Application No.:</p> <p>Application No. given by National Competent Authority:</p> | |
| <p>II. APPLICANT(S)</p> <p>Name:</p> <p>Address:</p> | |
| <p>III. NOTIFICATION</p> <p>We hereby notify you, pursuant to Section (...), that the ARIPO Office has decided to register the Expression of Folklore on the above-identified application.</p> <p><input type="checkbox"/> A copy of the above-identified application is attached hereto**</p> <p>We hereby request the applicant(s) to make payment of the registration fee within(period specified) from the date of this notification.</p> <p>Before the expiration of months from the date of this notification, each Contracting State may, pursuant to Section (...), make a written communication to the ARIPO Office on ARIPO Form No. to the effect that, if the Expression of Folklore is registered by the ARIPO Office on the above-identified application, said registration shall have no effect in its territory for any of the reasons indicated in Section (.....)</p> <p>Upon expiration of the said months and subject to the payment of the registration fee by the applicant(s), the ARIPO Office shall register the Expression of Folklore in accordance with Section (...) and the registration shall have effect in those Contracting States which have not made the communication referred to in the preceding paragraph.</p> | |
| <p>IV. This notification is being sent to:***</p> <p>.....</p> | |
| <p>IV. SIGNATURE***</p> <p align="center">.....</p> <p align="center">DIRECTOR GENERAL (Date)</p> <p align="center">ARIPO Office</p> | |



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| <p>ARIPO Form No. F11 SWAKOPMUND PROTOCOL CERTIFICATE OF REGISTRATION OF EXPRESSIONS OF FOLKLORE (Rule 4; Instr. 35)</p> | <p>For Official Use</p> |
| <p>In accordance with Rule 4 of the Regulations, it is hereby certified that Expressions of Folklore having the No. has been registered to:</p> <p>Name:</p> <p>Address:</p> <p>on (date), with effect in the following designated Contracting States:</p> <p>in respect of an invention disclosed in an application for that patent having a:</p> <p>Filingdate:</p> <p>being Expressions of Folklore for: (title)</p> | |
| <p>Dated this day of, 20.....</p> <p style="text-align: right;">..... DIRECTOR GENERAL ARIPO Office</p> | |

Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore



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| <p>ARIPO Form No. F12 SWAKOPMUND PROTOCOL</p> <p>REQUEST FOR ALTERATION OF NAME OR ADDRESS OR FOR CORRECTION OF ERROR (Instruction 28)</p> <p>To*:</p> | <p align="center">For Official Use</p> <p>Received on:</p> |
| <p align="center">Applicant's or Representative's File Reference:</p> | |
| <p>I. IN THE MATTER OF</p> <p><input type="checkbox"/> Application for registration of Expressions of Folklore</p> <p><input type="checkbox"/> Application No. given by National Competent Authority:</p> | |
| <p>II. APPLICANT(S)</p> <p>Name:</p> <p>Address:</p> | |
| <p>III. REQUEST</p> <p>I/We hereby request that:</p> <p><input type="checkbox"/> the following entry in the Expressions of Folklore Register in relation to the above-identified matter*:.....</p> <p><input type="checkbox"/> the following document filed in connection with the above-identified matter*: be altered/corrected as shown in red ink on the annexed copy of the said entry or document as follows: </p> | |
| <p>SIGNATURE****</p> <p align="center">.....</p> <p align="center">DIRECTOR GENERAL ARIPO Office</p> <p align="right">..... (Date)</p> | |

*A notification Form No. F12 shall be sent to the applicant's representative and to the national competent authority of each designated State.

** Please quote the application number given by the ARIPO Office in all subsequent communications concerning this application.

*** Indicate all those to whom a notification Form No. F12 is being sent in connection with the above-identified application.

**** Type name of Director General under signature.



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| <p>ARIPO Form No. F13 SWAKOPMUND PROTOCOL</p> <p>APPOINTMENT OF REPRESENTATIVE (POWER OF ATTORNEY) (Rule 10(2); Instruction 19)</p> <p>To*:</p> | <p align="center">For Official Use</p> <p>Received on:</p> <p>Applicant's or Representative's File Reference:</p> |
| <p>I/We, the undersigned,</p> <p>Name:Address:</p> <p>hereby appoint (Name):</p> <p>Address:</p> <p>Telephone Number: E-mail Address: Fax Number:</p> <p>to act as my/our representative in all proceedings relating to:</p> <p><input type="checkbox"/> Application for registration of Expressions of Folklore and any Registration for Expressions of Folklore for patent granted pursuant thereto**</p> <p>(.....).</p> <p><input type="checkbox"/> Other (specify)</p> <p>and ratify all acts done by the representative on my/our behalf in connection with that (those) matter(s), and request that all notices, requisitions and communications relating thereto be sent to the said representative at his address.</p> <p>Any previous appointment in respect of the same matter(s) is hereby revoked.</p> | |
| <p>SIGNATURE(S)*** (Date)</p> | |

* If filed together with the request Form, indicate name and address of receiving office; if filed subsequently, indicate ARIPO Office and its address.

** Indicate title and /or application number, if known.

*** Must be signed by the person(s) appointing the representative; type name(s) under signature(s).



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| <p>ARIPO Form No. F14 SWAKOPMUND PROTOCOL</p> <p>COMMUNICATION BY NATIONAL COMPETENT AUTHORITY THAT PRIOR INFORMED CONSENT HAS BEEN GRANTED FOR THE EXPLOITATION OF EXPRESSIONS OF FOLKLORE</p> <p>(Rule 6(1))</p> | <p style="text-align: right;">For Official Use</p> <p>Received on:</p> |
| <p>On behalf of (Traditional/Local Communities), the National Competent Authority/Appropriate Authority of (Contracting State) hereby communicate to the ARIPO Office pursuant to Rule 6(1) that Prior Informed Consent has been granted to:</p> <p>Name and Address of Licensee:</p> <p>.....</p> <p>to exploit the following identified Expressions of Folklore</p> | |
| <p>Signature..... Date.....</p> <p>NATIONAL COMPETENT AUTHORITY/APPROPRIATE AUTHORITY: </p> | |



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| <p>ARIPO Form No. F15 SWAKOPMUND PROTOCOL</p> <p>NOTIFICATION BY NATIONAL COMPETENT AUTHORITY OF CONCLUDED LICENSE AGREEMENT</p> <p>(Rule 12(4))</p> | <p>For Official Use</p> <p>Received on:</p> |
| <p>On behalf of (Traditional/Local Communities), the National Competent Authority/Appropriate Authority of (Contracting State) hereby notifies the ARIPO Office pursuant to Rule 12(4) that a License Agreement has been made on day of 20..... between (Traditional community concerned) of the one part and (Licensee) of the other part. A copy of the license agreement is attached to this Form.</p> | |
| <p>Signature..... Date.....</p> <p>NATIONAL COMPETENT AUTHORITY/APPROPRIATE AUTHORITY: </p> | |

SCHEDULE 3:

FEES

**PART A
FEES FOR
TRADITIONAL KNOWLEDGE**

| | Kind of fees | Amount (US Dollars) |
|----|---|--------------------------------|
| 1. | Application fees | 50 |
| 2. | Registration and publication fee | 50 |
| 3. | Surcharge for late payment of annual maintenance fee For every month or fraction thereof that the fees remain unpaid | 15 2 |
| 4. | Certified copy per page and for every page in excess of 10 pages | 2 1 |
| 5. | Consultation of the register for R&D | 100 |
| 6. | Correction of errors: the first error any additional errors | 10 2 |
| 7. | Certified copy of the entry of the register | 10 |

**PART B
FEES FOR
EXPRESSIONS OF FOLKLORE**

| | Kind of fees | Amount (US Dollars) |
|----|---|--------------------------------|
| 1. | Application fees | 50 |
| 2. | Registration and publication fee | 50 |
| 3. | Surcharge for late payment of annual maintenance fee | 15 |
| | For every month or fraction thereof that the fees remain unpaid | 2 |
| 4. | Certified copy per page | 2 |
| | and for every page in excess of 10 pages | 1 |
| 5. | Consultation of the register for R&D | 100 |
| 6. | Correction of errors: | |
| | the first error | 10 |
| | any additional errors | 2 |
| 7. | Certified copy of the entry of the register | 10 |



MUTUAL NON-DISCLOURE AGREEMENT
FOR THE REGISTRATION OF TRADITIONAL KNOWLEDGE
AND EXPRESSIONS OF FOLKLORE AT ARIPO

Parties:

This agreement is entered into this [Insert day] day of [Insert month and year] by and between the ARIPO Office through its Director General whose registered address is at 11 Natal Road, Belgravia, Harare, which expression shall, where the context so admits or requires, include its successors in title and assigns of the one part, AND

Applicant whose registered address is at P.O. Box [Insert postal address], which expression shall, where the context so admits or requires, include its successors in title and assigns on the other hand.

Field and Purpose:

WHEREAS this agreement affirms the terms under which each of the parties to this Agreement intends to exchange or disclose confidential information to the other party for the purpose of registering a traditional knowledge and/or expressions of folklore

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

Definitions

Information shall include information, whether commercial, technical or of any nature whatsoever, given directly or indirectly by the Applicant to the ARIPO Office in documentary or oral forms, chemical or biological materials, tangible form, models, demonstrations and whether provided before, on or after the Agreement Date.

Confidential Information shall mean:

- a) Proprietary information, technical information, filed application received from or disclosed to the ARIPO Office which is clearly marked as confidential or given under an expressed or implied commitment of confidence.
- b) With respect to information which is disclosed visually or orally, any information that the Applicant or his duly authorised representative informed the ARIPO Office at the time of disclosure was disclosed in confidence. In this case, Applicant shall confirm in writing such disclosures as Confidential within 15 days of such disclosure to the ARIPO Office.
- c) Any confidential, proprietary or non-public information irrespective of the manner in which the information is stored, exchanged or delivered between the Parties, prior to, on or after the date of this Agreement in relation to the Purpose.
- d) Any copy (in print format, electronic embodiments, etc.) of the Confidential Information.

Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore

Electronic Embodiments signifies all information held in electronic storage media, computer software or memory, and/ or in the form of emails and/ or attachments.

Applicant refers to the party disclosing or providing Confidential Information either directly or indirectly to the ARIPO Office under or in anticipation of this Agreement.

ARIPO Office refers to the party who uses or receives the Confidential Information disclosed either directly or indirectly by the Applicant.

It is agreed as follows:

1. Obligations on Confidentiality

In consideration of the Applicant disclosing Confidential Information, at its discretion, to the ARIPO Office, the ARIPO Office shall

- 1.1 Not use the Confidential Information disclosed to it for any other purpose, whether commercial or non-commercial, except for the Purpose of registering traditional knowledge and expressions of folklore, without obtaining the prior written consent from the Applicant.
- 1.2 Maintain in secrecy any Confidential Information disclosed to it and would take reasonable precaution not to disclose Confidential Information to any third party (except to employees, and professional advisers), who need to know the same for the Purpose aforementioned, and who recognise that they are obliged to keep the information confidential and are bound by responsibilities equal to those in clause 1.1 above and this clause 1.2.
- 1.3 The ARIPO Office shall be responsible for ensuring that its employees, professional advisers act in accordance with the ARIPO Office's obligations under this Agreement and shall be held liable for any breach of this Agreement by its employees and professional advisers.
- 1.4 The provisions in clauses 1.1 and 1.2 above shall apply to all of the confidential information disclosed to the ARIPO Office, irrespective of the manner or form in which it was recorded or disclosed.

2. Exceptions to Confidentiality Obligations

The ARIPO Office obligations to confidentiality shall not apply with respect to confidential information:

- 2.1 Which can be established from written records as already known to the ARIPO Office or made available to the Office from other sources or third parties not subject to any commitment of confidentiality prior to the disclosure; or
- 2.2 In the public domain by use and/ or publication or which subsequently enters the public domain without fault on the part of the party receiving the information;
- 2.3 Obtained by the ARIPO Office from the Applicant which is not under any commitment to maintain such information or material confidential; or
- 2.4 That the ARIPO Office is required by law to disclose to a court of competent jurisdiction or any competent authority.
- 2.5 Is approved for release in writing by an authorised representative of the Applicant.

Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate as of the date indicated above.

**FOR AND ON BEHALF OF THE
AFRICAN REGIONAL INTELLECTUAL
PROPERTY ORGANIZATION (ARIPO)**

Name:

Position:.....

Signature:

Date:.....

**FOR AND ON BEHALF OF THE
[INSERT NAME OF OTHER PARTY]**

Name:.....

Position:.....

Signature:.....

Date:.....

WITNESS

Name:

Position:.....

Signature:.....

Date:.....

Name:.....

Position:.....

Signature:.....

Date:.....



ARIPO Office

*11 Natal Road, Belgravia
P.O. Box 4228, Harare, Zimbabwe*

Tel: (+263) (4) 794054/65/66

Mobile: (+263) (0) 731 559 987, 731 020 609,
(+263) (0) 715 837 323

Fax: (+263) (4) 794072/3

Email: mail@aripo.org

Website: www.aripo.org