

Lusaka Agreement

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Preamble

The Governments on whose behalf this Agreement is signed,
Being aware of the advantages to be derived by them from the effective and continuous exchange of information and the harmonization and co-ordination of their laws, policies and activities in intellectual property matters,

Recognizing that the creation of an African regional intellectual property organization for the study and promotion of and co-operation in intellectual property matters in collaboration with the Economic Commission for Africa, the World Intellectual Property Organization and other appropriate organizations would best serve this purpose,

Hereby agree as follows:

Article I Establishment

The African Regional Intellectual Property Organization (ARIPO) (hereinafter referred to as "the Organization") is hereby established and shall operate and be governed according to the provisions of this Agreement.

Article II Organs

The Organization shall have the following organs:
the Council of Ministers,
the Administrative Council,
the Secretariat, and
such other subsidiary organs as may be established by the Administrative Council in accordance with the provisions of this Agreement.

Article III

Objectives

The objectives of the Organization shall be:

- (a) to promote the harmonization and development of the intellectual property laws, and matters related thereto, appropriate to the needs of its members and of the region as a whole;
- (b) to foster the establishment of a close relationship between its members in matters relating to intellectual property;
- (c) to establish 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 members;
- (d) to establish schemes for the training of staff in the administration of intellectual property laws;
- (e) to organize conferences, seminars and other meetings on intellectual property matters;
- (f) to promote the exchange of ideas and experience, research and studies relating to intellectual property matters;
- (g) to promote and evolve a common view and approach of its members on intellectual property matters;
- (h) to assist its members, as appropriate, in the acquisition and development of technology relating to intellectual property matters;
- (i) to promote, in its members, the development of copyright and related rights and ensure that copyright and related rights contribute to the economic, social and cultural development of members and of the region as a whole; and
- (j) to do all such other things as may be necessary or desirable for the achievement of these objectives.

Article IV

Membership

Membership of the Organization shall be open to the States members of the United Nations Economic Commission for Africa or the African Union.

Article V
Special Relationship with the United Nations
Economic Commission for Africa,
the African Union and the World Intellectual
Property Organization

The Organization shall establish and maintain close and continuous working relationships with the United Nations Economic Commission for Africa, the World Intellectual Property Organization and the African Union.

Article VI
Co-operating States and
Organizations

The Organization may co-operate with Governments of States not members of the Organization and with organizations, institutions and bodies other than those referred to in Article V of this Agreement (hereinafter referred to collectively as "Co-operating States and Organizations") which are desirous of assisting the Organization or its members in achieving the objectives of the Organization.

Article VI *bis*
The Council of Ministers—
Composition and Functions

(1) The Council of Ministers shall consist of Ministers of the Governments of States members of the Organization who are responsible for the administration of intellectual property.

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(2) The Council of Ministers, as the supreme body of the Organization, shall be responsible for the orientation of the Organization, shall decide on all necessary measures to develop the Organization's activities and shall review the implementation of those activities.

(3) The Council of Ministers shall,

- (a) receive from the Chairman of the Administrative Council the programme of activities, annual reports, budget and accounts of the Organization, and a report on the appointment of the Director General of the Secretariat of the Organization;
- (b) be responsible for resolving problems which, because of their nature, cannot be resolved by the Administrative Council;
- (c) determine special contributions to be paid by the members of the Organization and matters related thereto;
- (d) determine the headquarters of the Organization and matters related thereto;
- (e) give directions to the Administrative Council or the Secretariat concerning the orientation of the Organization or the development of its activities;
- (f) exercise such other powers and perform such other functions as are conferred upon it or entrusted to it by this Agreement;
- (g) do all such other things as it may deem necessary or desirable for the achievement of all the objectives of the Organization.

(4) The ordinary meetings of the Council of Ministers shall be convened on the initiative of its Chairman acting on the advice of the Chairman of the Administrative Council, at least once every two years or, in case of an emergency, on the advice of the Director General of the Secretariat of the Organization.

(5) The Council of Ministers shall determine which States not members of the Organization, and which Organizations, institutions and bodies shall be admitted to its meetings as observers.

(6) The Council of Ministers may delegate any of the powers and functions entrusted to it by this Article to the Administrative Council.

(7) The Council of Ministers shall, subject to the provisions of this Agreement, determine its own rules of procedure.

Article VII

The Administrative Council— Composition and Functions

(1) The Administrative Council shall consist of Heads of Offices dealing with the administration of intellectual property in members of the Organization, provided that any member may nominate any other person or persons to represent it in the Administrative Council whom it considers to have the requisite knowledge of intellectual property.

(2) The Administrative Council shall elect from among its members the Chairman and two Vice-Chairmen to be officers of the Organization. Such officers shall hold office for two years and may be eligible for re-election.

(3) The Administrative Council shall meet at least once a year in ordinary session. Extraordinary sessions may be convened as prescribed in the rules of procedure referred to in paragraph (4). They must be convened on the request of a least two thirds of the members. The Chairman of the Administrative Council shall preside over all sessions of the Council.

(4) The Administrative Council shall, subject to the provisions of this Agreement, determine its own rules of procedure including provisions relating to the convening of sessions, the conduct of business thereat and at other times and the participation of Co-operating States and Organizations at such sessions.

(5) The Administrative Council shall, subject to the provisions of this Agreement,

- (a) formulate and direct the execution of policy with respect to the activities of the Organization;
- (b) approve the programme of activities, annual report, budget and accounts of the Organization;
- (c) determine the annual and special contributions to be paid by the members of the Organization and matters related thereto;
- (d) establish the Secretariat of the Organization and appoint the Director General of the Secretariat;
- (e) establish other subsidiary organs as it may deem necessary or desirable for the purpose of achieving the objectives of the Organization and prescribe for such organs rules for the conduct of their affairs;

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- (f) make rules governing the financial, administrative and other activities of the Organization including those relating to co-operation between the Organization and the Organizations referred to in Article V of this Agreement as well as the Co-operating States and Organizations referred to in Article VI of this Agreement and representation of the Organization by officers of the Organization or the Director General of the Secretariat of the Organization;
- (g) promote research and study on and the implementation of the objectives of the Organization;
- (h) give directions to the Secretariat concerning its work, including the organization of conferences, seminars and other meetings on intellectual property and on other matters relevant to the objectives of the Organization;
- (i) exercise such other powers and perform such other functions as are entrusted to it or conferred upon it by this Agreement or the Council of Ministers;
- (j) do all such other things as it may deem necessary or desirable for the achievement of the objectives of the Organization.

(6) The Administrative Council may delegate any of the powers and functions conferred upon it or entrusted to it by this Article to the Chairman or a Vice-Chairman or to all or some of such officers collectively, or to the Director General of the Secretariat or a subsidiary organ established by the Administrative Council.

Article VIII

The Secretariat and Functions

(1) The Director General of the Secretariat shall be the principal executive officer of the Organization. The Director General shall be appointed for a fixed term of four years and may be eligible for re-appointment for a further term of four years.

(2) The Secretariat shall examine ways in which the objectives of the Organization may be achieved and may act in relation to any particular matter which appears to merit examination either on its own initiative or upon the request of a member of the Organization made through its Director General and the Secretariat shall, where appropriate, report the result of its examination to the Administrative Council.

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(3) The Secretariat shall undertake such work and studies and perform such services relating to the Organization as may be assigned to it by the Administrative Council and shall also make such proposals thereto as it considers may assist in the achievement of the objectives of the Organization.

(4) The Director General of the Secretariat shall submit for the approval of the Administrative Council the annual report and drafts for the programme of activities, for the budget and for the accounts of the Organization.

(5) For the performance of the functions entrusted to it by this Article, the Secretariat may collect information and verify matters of fact relating to such functions and for that purpose may request a member of the Organization to provide information relating thereto.

(6) The members of the Organization agree to cooperate with and assist the Secretariat in the performance of the functions entrusted to it by this Article and agree in particular to provide any information which may be requested under paragraph (5) of this Article.

Article IX

Status, Privileges and Immunities

(1) The Organization shall in the territories of the members of the Organization enjoy international legal personality and shall have the legal capacity required for the performance of its functions and to acquire or dispose of movable or immovable property.

(2) In the exercise of the powers conferred by paragraph (1) of this Article, the acts of the Organization shall be signified by the Director General of the Secretariat.

(3) The Director General of the Secretariat shall on behalf of the Organization conclude with the Government of the State in whose territory the Secretariat is situated an agreement relating to the privileges and immunities to be recognized and granted with respect to the Organization.

Article X

Finances of the Organization

- (1) There shall be a general fund of the Organization.
- (2) There shall be special funds as may from time to time be established by the Administrative Council.
- (3) All monies received by the Organization under this Agreement or from any other source shall be paid into the general fund except sums which are required to be paid into one of the special funds referred to in paragraph (2) of this Article.
- (4) All expenditure of the Organization, other than expenditure which is required to be met from one of the special funds referred to in paragraph (2) of this Article, shall be met from the general fund.

Article XI

Obligation of Members of the Organization

The members of the Organization undertake to take all steps that are within their power to give effect to this Agreement and in particular:

- (a) to pay their annual contributions;
- (b) to pay such special contributions as may be determined by the Council of Ministers;
- (c) to facilitate the exchange and dissemination of information; and
- (d) to provide for the purposes of the Organization training and research facilities and personnel on such terms and conditions as may be agreed with the appropriate organ of the Organization.

Article XII

Withdrawal and Suspension

- (1) Any member of the Organization may withdraw from the Organization at any time after the expiration of one year from the date on which it became a member of the Organization by giving written notice of its

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withdrawal to the Government of the Republic of Zambia, which shall forthwith notify all other members of the Organization of the receipt of such notice of withdrawal.

(2) Withdrawal shall become effective, unless previously withdrawn, one year from the date of receipt by the Government of the Republic of Zambia of a notice of withdrawal:

Provided that any member of the Organization withdrawing from the Organization shall, nevertheless, remain liable for the fulfillment of its obligations to the Organization including the payment of contributions in respect of the entire year of a notice of withdrawal.

(3) The Council of Ministers may by a two-thirds of the votes cast by its members present and voting suspend a member of the Organization which, for three consecutive years, fails to meet its financial obligations towards the Organization, to comply with the decisions of the Council of Ministers or to fulfil any other obligations under this Agreement. The same majority shall be required for a decision of the Council of Ministers to revoke the suspension of a member of the Organization.

(4) The Director General of the Secretariat shall notify the Government of the Republic of Zambia of any suspension or revocation of a suspension under paragraph (3) of this Article and the Government of the Republic of Zambia shall notify all the members of the Organization of any such suspension or revocation of a suspension.

Article XIII

Settlement of Disputes

Any disputes arising out of the interpretation or application of any of the provisions of this Agreement which cannot be settled by the Administrative Council shall be submitted to the Council of Ministers, whose decision on the matter shall be final and binding on all the members of the Organization.

Article XIV Amendment

(1) Subject to the approval of the Council of Ministers, this Agreement may be amended by a two-thirds vote of the members of the Administrative Council.

(2) Every amendment to this Agreement shall be notified to the States members of the Organization by the Director General of the Secretariat and no such amendment shall have effect until after the expiration of two months from the date of such notification.

(3) No amendment to this Agreement shall be considered by the Administrative Council unless it shall have been notified to all the members of the Organization at least six months prior to such consideration.

Article XV Dissolution

The Organization may be dissolved by agreement of two thirds of the members of the Organization and, upon such agreement, the Council of Ministers shall appoint a Committee for the orderly liquidation of the Organization.

Article XVI Final Provisions

(1) This Agreement shall be signed in a single copy and shall be deposited with the Government of the Republic of Zambia. It shall remain open for signature at Lusaka until December 31, 1977.

(2) This Agreement shall come into force upon ratification or accession by at least five of the States referred to in Article IV of this Agreement, in accordance with the constitutional procedures applicable to such States. Instruments of ratification or accession shall be deposited with the Government of the Republic of Zambia, which shall notify all States referred to in Article IV of this Agreement of such ratifications or accessions.

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(3) After the coming into force of this Agreement, a State referred to in Article IV of this Agreement which is not already a member of the Organization may ratify the Agreement or accede thereto. Instruments of ratification or accession shall be deposited with the Government of the Republic of Zambia, which shall notify all States members of the Organization of such ratifications or accessions. With respect to such State, this Agreement shall enter into force at the date of deposit of such instrument of ratification or accession.

(4) The Government of the Republic of Zambia shall transmit certified copies of this Agreement to the members of the Organization, and to the United Nations Economic Commission for Africa, the African Union, the World Intellectual Property Organization, the Co-operating States and Organizations and such other bodies as the Administrative Council may direct.

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