

WIPO



H/DC/3

ORIGINAL: English

DATE: December 15, 1998

E

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

**DIPLOMATIC CONFERENCE
FOR THE ADOPTION OF A NEW ACT OF THE HAGUE
AGREEMENT CONCERNING THE INTERNATIONAL DEPOSIT
OF INDUSTRIAL DESIGNS**

Geneva, June 16 to July 6, 1999

**BASIC PROPOSAL FOR THE NEW ACT OF THE HAGUE AGREEMENT
CONCERNING THE INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS**

*submitted, under Rule 29(1)(a) of the Draft Rules of Procedure,
by the Director General of WIPO*

INTRODUCTION

1. The present document contains a draft of a new Act of the Hague Agreement for the International Deposit of Industrial Designs. Together with document H/DC/4, which contains a draft of Regulations under the new Act, it constitutes the basic proposal mentioned in Rule 29(1)(a) of the draft Rules of Procedure of the Diplomatic Conference. Notes on the provisions of the draft new Act and Regulations are contained in documents H/DC/5 and 6.

2. The draft new Act is the result of seven sessions of the Committee of Experts on the Development of the Hague Agreement, held respectively in April 1991, April 1992, April 1993, January/February 1994, June 1995, November 1996 and November 1997. The draft Regulations were considered for the first time at the seventh session, although certain of the Rules had been submitted to the sixth session. Following the seventh session, the International Bureau prepared further drafts of the new Act and the Regulations in the light of the comments of that session; in particular, several provisions were transferred from the Act to the Regulations. These drafts were circulated to those who had participated in the seventh session; the present documents take account of comments received.

3. The question of the right to vote in the Assembly, which was reserved in previous drafts of the new Act, is still reserved in the present document (see Article 24). A further document regarding that particular issue (containing possibly one or several alternative draft provisions) will be distributed early in 1999.

[Draft New Act follows]

DRAFT NEW ACT OF THE HAGUE AGREEMENT CONCERNING THE
INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

TABLE OF CONTENTS

INTRODUCTORY PROVISIONS

- Article 1: Abbreviated Expressions
Article 2: Applicability of Other Protection Accorded by Laws
of Contracting Parties and of Certain International Treaties

*CHAPTER I: INTERNATIONAL APPLICATION AND INTERNATIONAL
REGISTRATION*

- Article 3: Entitlement to File an International Application
Article 4: Procedure for Filing the International Application
Article 5: Contents of the International Application
Article 6: Priority
Article 7: Designation Fees
Article 8: Correction of Irregularities
Article 9: International Registration, Date of the International Registration
and Publication
Article 10: Deferment of Publication
Article 11: Refusal of Effects; Remedies Against Refusals
Article 12: Effects of the International Registration
Article 13: Invalidation
Article 14: Recording of Changes and Other Matters Concerning International
Registrations
Article 15: Term and Renewal of the International Registration
Article 16: Information Concerning Published International Registrations

*CHAPTER II: SPECIAL PROVISIONS RELATING TO CONTRACTING PARTIES
WITH EXAMINING OFFICES*

- Article 17: Additional Mandatory Contents of the International Application
Article 18: Special Requirements Concerning Unity of Design
Article 19: Confidential Copies of International Registrations Whose Publication Is
Deferred
Article 20: Republication of the Industrial Design

CHAPTER III: ADMINISTRATIVE PROVISIONS

- Article 21: Common Office of Several States
- Article 22: Membership of the Hague Union
- Article 23: Acceptance of Provisions of the Complementary Act of 1967
- Article 24: Voting in the Assembly
- Article 25: Regulations

CHAPTER IV: REVISION

- Article 26: Revision of This Act

CHAPTER V: FINAL PROVISIONS

- Article 27: Becoming Party to This Act
- Article 28: Effective Date of Ratifications and Accessions
- Article 29: Prohibition of Reservations
- Article 30: Declarations Made by Contracting Parties
- Article 31: Applicability of the 1934 and 1960 Acts
- Article 32: Denunciation of This Act
- Article 33: Languages of This Act; Signature
- Article 34: Depositary

INTRODUCTORY PROVISIONS

Article 1
Abbreviated Expressions

For the purposes of this Act:

- (i) “the Hague Agreement” means the Hague Agreement Concerning the International Deposit of Industrial Designs, henceforth renamed the Hague Agreement Concerning the International Registration of Industrial Designs;
- (ii) “this Act” means the Hague Agreement as established by the present Act;
- (iii) “international registration” means the international registration of an industrial design effected according to this Act;
- (iv) “international application” means an application for international registration;
- (v) “filing date of the international application” means the date established in accordance with Article 4(2);

[Article 1, continued]

(vi) “International Register” means the official collection of data concerning international registrations maintained by the International Bureau, which data this Act or the Regulations referred to in item (xxviii) require or permit to be recorded, regardless of the medium in which such data are stored;

(vii) “person” means a natural person or a legal entity;

(viii) “applicant” means the person in whose name an international application is filed;

(ix) “holder” means the person in whose name an international registration is recorded in the International Register;

(x) “intergovernmental organization” means an intergovernmental organization eligible to become party to this Act in accordance with Article 27(1)(ii);

(xi) “Contracting Party” means any State or intergovernmental organization party to this Act;

(xii) “applicant’s Contracting Party” means the Contracting Party from which the applicant derives its entitlement to file an international application by virtue of satisfying, in relation to that Contracting Party, at least one of the conditions specified in Article 3; where there are two or more Contracting Parties from which the applicant may, under Article 3, derive its entitlement to file an international application, “applicant’s Contracting Party” means the one which, among those Contracting Parties, is indicated as such in the international application;

(xiii) “territory of a Contracting Party” means, where the Contracting Party is a State, the territory of that State and, where the Contracting Party is an intergovernmental organization, the territory in which the constituent treaty of that intergovernmental organization applies;

(xiv) “Office” means the agency entrusted by a Contracting Party with the grant of protection for industrial designs with effect in the territory of that Contracting Party;

(xv) “Examining Office” means an Office which *ex officio* examines applications filed with it for the protection of industrial designs at least to determine whether the industrial designs satisfy the condition of novelty;

(xvi) “designation” means a request that an international registration have effect in a Contracting Party; it also means the recording, in the International Register, of that request;

(xvii) “designated Contracting Party” and “designated Office” means the Contracting Party and the Office of the Contracting Party, respectively, to which a designation applies;

(xviii) “notification of refusal” means the communication by a designated Office to the International Bureau pursuant to Article 11(2) of the refusal by it of the effects, in part or in whole, of an international registration in the Contracting Party to which that Office belongs;

(xix) “1934 Act” means the Act signed at London on June 2, 1934, of the Hague Agreement;

(xx) “1960 Act” means the Act signed at The Hague on November 28, 1960, of the Hague Agreement;

(xxi) “1961 Additional Act” means the Act signed at Monaco on November 18, 1961, additional to the 1934 Act;

(xxii) “Complementary Act of 1967” means the Complementary Act signed at Stockholm on July 14, 1967, as amended, of the Hague Agreement;

(xxiii) “Union” means the Hague Union established by the Hague Agreement of November 6, 1925, and maintained by the 1934 and 1960 Acts, the 1961 Additional Act, the Complementary Act of 1967 and this Act;

(xxiv) “Assembly” means the Assembly of the Union established by the Complementary Act of 1967 or any body replacing that Assembly;

(xxv) “Organization” means the World Intellectual Property Organization;

(xxvi) “Director General” means the Director General of the Organization;

(xxvii) “International Bureau” means the International Bureau of the Organization;

[Article 1, continued]

(xxviii) “Regulations” means the Regulations under this Act;

(xxix) “prescribed” means prescribed in the Regulations;

(xxx) “instrument of ratification” shall be construed as including instruments of acceptance or approval;

(xxxi) “Paris Convention” means the Paris Convention for the Protection of Industrial Property, signed at Paris on March 20, 1883, as revised and amended;

(xxxii) “International Classification” means the Classification established by the Locarno Agreement Establishing an International Classification for Industrial Designs, signed at Locarno on October 8, 1968, as amended.

Article 2
Applicability of Other Protection Accorded by Laws of Contracting Parties and of Certain International Treaties

(1) [*Laws of Contracting Parties*] The provisions of this Act shall not affect the application of any other protection that may be accorded by the law of a Contracting Party, except insofar as such other protection diminishes or interferes with the enjoyment of the rights afforded to applicants and holders under this Act, in which case the provisions of this Act shall prevail.

(2) [*Certain International Treaties*] The provisions of this Act shall not affect in any way

(i) the protection accorded to works of art and works of applied art by international copyright treaties and conventions, or

(ii) the protection accorded to industrial designs under the Agreement on Trade-Related Aspects of Intellectual Property Rights.

(3) [*Obligation to Comply with the Paris Convention*] Any Contracting Party shall comply with the provisions of the Paris Convention which concern industrial designs.

CHAPTER I
INTERNATIONAL APPLICATION AND INTERNATIONAL REGISTRATION

Article 3
Entitlement to File an International Application

Any person that is a national of a State that is a Contracting Party or of a State member of an intergovernmental organization that is a Contracting Party, or that has a domicile, a habitual residence or a real and effective industrial or commercial establishment in the territory of a Contracting Party, shall be entitled to file an international application.

Article 4

Procedure for Filing the International Application

(1) [*Direct or Indirect Filing*] (a) The international application may be filed, at the option of the applicant, either direct with the International Bureau, or through the intermediary of the Office of the applicant's Contracting Party.

(b) Notwithstanding subparagraph (a), any Contracting Party may, in a declaration, notify the Director General that international applications may not be filed through the intermediary of its Office.

(2) [*Filing Date of the International Application*] (a) Where the international application is filed direct with the International Bureau, the filing date shall be the date on which the International Bureau receives the international application.

(b) Where the international application is filed through the intermediary of the Office of the applicant's Contracting Party, the filing date shall be determined as prescribed.

(3) [*Transmittal Fee in Case of Indirect Filing*] The Office of any Contracting Party may require that the applicant pay a transmittal fee to it, for its own benefit, in respect of any international application filed through it as intermediary.

Article 5

Contents of the International Application

(1) [*Mandatory Contents of the International Application*] The international application shall be in the prescribed language or one of the prescribed languages and shall contain or be accompanied by

(i) a request for international registration under this Act;

(ii) the applicant's name and address and the name of the applicant's Contracting Party, as prescribed;

(iii) the prescribed number of copies of a reproduction or, at the choice of the applicant, of several different reproductions of the industrial design that is the subject of the international application, presented in the prescribed manner; however, where the industrial design is two-dimensional and a request for deferment of publication is made in accordance with paragraph (4), the international application may, instead of reproductions, be accompanied by the prescribed number of specimens of the industrial design;

(iv) an indication of the product or products which constitute the industrial design or in relation to which the industrial design is to be used, as prescribed;

(v) an indication of the designated Contracting Parties;

(vi) the prescribed fees;

[Article 5(1), continued]

(vii) any other prescribed particulars.

(2) [*Other Possible Contents of the International Application*] The international application may contain or be accompanied by such other elements as are specified in the Regulations.

(3) [*Several Industrial Designs in the Same International Application*] Subject to such conditions as may be prescribed, an international application may relate to two or more industrial designs.

(4) [*Request for Deferred Publication*] The international application may contain a request for deferment of publication.

Article 6
Priority

(1) [*Claiming of Priority*] (a) The international application may contain a declaration claiming, under Article 4 of the Paris Convention, the priority of one or more earlier applications filed in or for any country party to that Convention or any Member of the World Trade Organization.

(b) The Regulations may provide that the declaration referred to in subparagraph (a) may be made after the filing of the international application. In such case, the Regulations shall prescribe the latest time on which such declaration may be made.

(2) [*International Registration Serving as a Basis for Claiming Priority*] The international registration shall, as from its registration date, be equivalent to a regular filing within the meaning of Article 4 of the Paris Convention.

Article 7
Designation Fees

(1) [*Prescribed Designation Fee*] The prescribed fees shall include, subject to paragraph (2), a designation fee for each designated Contracting Party.

(2) [*Individual Designation Fee*] A Contracting Party whose Office is an Examining Office may, in a declaration, notify the Director General that, in connection with any international application in which it is designated, and in connection with the renewal of any international registration resulting from such an international application, the prescribed designation fee referred to in paragraph (1) shall be replaced by an individual designation fee, whose amount shall be indicated in the declaration and can be changed in further declarations. The said amount may be fixed by the said Contracting Party for the initial term of protection and for each term of renewal or for the maximum period of protection allowed by the Contracting Party concerned. However, it may not be higher than the equivalent of the amount which the Office of that Contracting Party would be entitled to receive from an applicant for a grant of protection for an equivalent period to the same number of industrial designs, that amount being diminished by the savings resulting from the international procedure.

(3) [*Transfer of Designation Fees*] The designation fees referred to in paragraphs (1) and (2) shall be transferred by the International Bureau to the Contracting Parties in respect of which those fees were paid.

Article 8
Correction of Irregularities

(1) [*Examination of the International Application*] If the International Bureau finds that the international application does not, at the time of its receipt by the International Bureau, fulfill the requirements of this Act and the Regulations, it shall invite the applicant to make the required corrections within the prescribed time limit.

(2) [*Irregularities Not Corrected*] (a) If the applicant does not comply with the invitation within the prescribed time limit, the international application shall, subject to subparagraph (b), be considered abandoned.

(b) In the case of an irregularity which relates to Article 17 or to a special requirement notified to the Director General by a Contracting Party in accordance with the Regulations, if the applicant does not comply with the invitation within the prescribed time limit, the international application shall be deemed not to contain the designation of that Contracting Party.

Article 9

International Registration, Date of the International Registration and Publication

(1) [*International Registration*] The International Bureau shall register each industrial design that is the subject of an international application, whether or not publication is deferred under Article 10. The registration will be effected immediately upon receipt by the International Bureau of the international application or, where corrections are made under Article 8, immediately upon receipt of the required corrections.

(2) [*Date of the International Registration*] (a) Subject to subparagraph (b), the date of the international registration shall be the filing date of the international application.

(b) Where the international application has, at the date on which it is received by the International Bureau, an irregularity which relates to Article 17 or which is prescribed as an irregularity entailing a postponement of the date of international registration, the date of the international registration shall be the date on which the correction of such irregularity is received by the International Bureau.

(3) [*Publication*] (a) The international registration shall be published by the International Bureau. Such publication shall be deemed in all Contracting Parties to be sufficient publicity, and no other publicity may be required of the holder.

(b) The International Bureau shall send a copy of the publication of the international registration to each designated Office.

[Article 9, continued]

(4) [*Maintenance of Confidentiality Before Publication*] Subject to Articles 10(4)(b) and 19, the International Bureau shall keep in confidence each international application and each international registration until publication.

Article 10
Deferment of Publication

(1) [*Provisions of the Contracting Parties Concerning Deferment of Publication*] (a) Where the law of a Contracting Party provides that an applicant may request the deferment of the publication of an industrial design for a period which is less than the prescribed period, that Contracting Party shall, in a declaration, notify the Director General of the allowable period of deferment.

(b) Where the law of a Contracting Party does not provide that an applicant may request the deferment of the publication of an industrial design, the Contracting Party shall, in a declaration, notify the Director General of that fact.

(2) [*Deferment of Publication*] Where the international application contains a request for deferment of publication, the publication shall take place,

(i) where none of the Contracting Parties designated in the international application has made a declaration under paragraph (1), at the expiry of the prescribed period;

(ii) where any of the Contracting Parties designated in the international application has made a declaration under paragraph (1)(a), at the expiry of the period notified in such declaration or, where there is more than one such designated Contracting Party, at the expiry of the shortest period notified in their declarations.

[Article 10, continued]

(3) [*Treatment of Requests for Deferment Where Deferment Is Not Possible Under Applicable Law*] Where deferment of publication has been requested and any of the Contracting Parties designated in the international application has made a declaration under paragraph (1)(b) that deferment of publication is not possible under its law,

(i) subject to item (ii), the International Bureau shall notify the applicant accordingly; if, within the prescribed period, the applicant does not, by notice in writing to the International Bureau, withdraw the designation of the said Contracting Party, the International Bureau shall disregard the request for deferment of publication;

(ii) where, instead of being accompanied by reproductions of the industrial design, the international application was accompanied by specimens of the industrial design, the International Bureau shall disregard the designation of the said Contracting Party and shall notify the applicant accordingly.

(4) [*Request for Earlier Publication or for Special Access to the International Registration*] (a) At any time during the period of deferment applicable under paragraph (2), the holder may request publication of any or all of the industrial designs that are the subject of the international registration, in which case the period of deferment in respect of such industrial design or designs shall be considered to have expired on the date of receipt of such request by the International Bureau.

[Article 10(4), continued]

(b) The holder may also, at any time during the period of deferment applicable under paragraph (2), request the International Bureau to provide a third party specified by the holder with an extract from, or to allow such a party access to, any or all of the industrial designs that are the subject of the international registration.

(5) [*Renunciation and Limitation*] (a) If, at any time during the period of deferment applicable under paragraph (2), the holder renounces the international registration in respect of all the designated Contracting Parties, the industrial design or designs that are the subject of the international registration shall not be published.

(b) If, at any time during the period of deferment applicable under paragraph (2), the holder limits the international registration, in respect of all of the designated Contracting Parties, to one or some of the industrial designs that are the subject of the international registration, the other industrial design or designs that are the subject of the international registration shall not be published.

(6) [*Publication and Furnishing of Reproductions*] (a) At the expiration of any period of deferment applicable under the provisions of this Article, the International Bureau shall, subject to the payment of the prescribed fees, publish the international registration. If such fees are not paid as prescribed, the international registration shall be canceled and publication shall not take place.

[Article 10(6), continued]

(b) Where the international application was accompanied by one or more specimens of the industrial design in accordance with Article 5(1)(iii), the holder shall submit the prescribed number of copies of a reproduction of each industrial design that is the subject of that application to the International Bureau within the prescribed time limit. To the extent that the holder does not do so, the international registration shall be canceled and publication shall not take place.

Article 11
Refusal of Effects; Remedies Against Refusals

(1) [*Refusal of Effects*] The Office of any designated Contracting Party may, where the conditions for the grant of protection under the law of that Contracting Party are not met in respect of any or all of the industrial designs that are the subject of an international registration, refuse the effects, in part or in whole, of the international registration, provided that no Office may refuse the effects, in part or in whole, of any international registration on the ground that requirements relating to the form or contents of the international application that are additional to, or different from, those which are provided for in this Act and the Regulations have not been satisfied under the law of the Contracting Party concerned.

(2) [*Notification of Refusal*] (a) The refusal of the effects of an international registration shall be communicated by the Office to the International Bureau in a notification of refusal within the prescribed period.

(b) Any notification of refusal shall state all the grounds on which the refusal that is the subject of the notification is based.

(c) Any notification of refusal may be withdrawn at any time by the Office that has made it.

[Article 11, continued]

(3) [*Transmission of Notification of Refusal; Remedies*] (a) The International Bureau shall, without delay, transmit a copy of the notification of refusal to the holder.

(b) The holder shall enjoy the same remedies as if any industrial design that is the subject of the international registration had been the subject of an application for the grant of protection under the law applicable to the Office that has notified the refusal. Such remedies shall at least consist of the possibility of a re-examination or a review of the refusal or an appeal against the refusal.

Article 12
Effects of the International Registration

(1) [*Effect as Application Under Applicable Law*] The international registration shall, from the date of the international registration, have at least the same effect in each designated Contracting Party as a regularly-filed application for the grant of protection of the industrial design under the law of that Contracting Party.

(2) [*Effect as Grant of Protection Under Applicable Law*] (a) In each designated Contracting Party the Office of which has not communicated a notification of refusal in accordance with Article 11, the international registration shall have the same effect as a grant of protection for the industrial design under the law of that Contracting Party at the latest from the date of expiration of the period allowed for it to communicate a notification of refusal or, where a Contracting Party has made a corresponding declaration under the Regulations, at the latest at the time specified in that declaration.

(b) Where the Office of a designated Contracting Party has communicated a notification of refusal and has subsequently withdrawn, in part or in whole, that notification, the international registration shall, to the extent that the notification of refusal is withdrawn, have the same effect in that Contracting Party as a grant of protection for the industrial design under the law of the said Contracting Party at the latest from the date on which the notification was withdrawn.

[Article 12(2), continued]

(c) The effect given to the international registration under this paragraph shall apply to the industrial design or designs that are the subject of that registration as received from the International Bureau by the designated Office and, where applicable, as amended in the procedure before that Office.

Article 13
Invalidation

(1) [*Requirement of Opportunity of Defense*] Invalidation, by the competent authorities of a designated Contracting Party, of the effects, in part or in whole, in the territory of that Contracting Party, of the international registration may not be pronounced without the holder having, in good time, been afforded the opportunity of defending his rights.

(2) [*Notification of Invalidation*] Invalidation shall be notified to the International Bureau by the Office of the Contracting Party in whose territory the effects of the international registration have been invalidated.

Article 14
Recording of Changes and Other Matters Concerning International Registrations

(1) [*Recording of Changes and Other Matters*] The International Bureau shall, as prescribed, record in the International Register

(i) any change in ownership of the international registration, in respect of any or all of the designated Contracting Parties and in respect of any or all of the industrial designs that are the subject of the international registration, provided that the new owner is entitled to file an international application under Article 3,

(ii) any change in the name or address of the holder,

(iii) the appointment of a representative of the applicant or holder and any other relevant fact concerning such representative,

(iv) any renunciation, by the holder, of the international registration, in respect of any or all of the designated Contracting Parties,

(v) any limitation, by the holder, of the international registration, in respect of any or all of the designated Contracting Parties, to one or some of the industrial designs that are the subject of the international registration,

(vi) any invalidation, by the competent authorities of a designated Contracting Party, of the effects, in the territory of that Contracting Party, of the international registration in respect of any or all of the industrial designs that are the subject of the international registration,

(vii) any other relevant fact, identified in the Regulations, concerning the rights in any or all of the industrial designs that are the subject of the international registration.

(2) [*Effect of Recording in International Register*] Any recording referred to in items (i), (ii), (iv), (v), (vi) and, if so provided in the Regulations, (vii) of paragraph (1) shall have the same effect as if it had been made in the Register of the Office of each of the Contracting Parties concerned.

(3) [*Fees*] Any recording made under paragraph (1) may be subject to the payment of a fee.

(4) [*Publication*] The International Bureau shall publish a notice concerning any recording made under paragraph (1). It shall send a copy of the publication of the notice to the Office of each of the Contracting Parties concerned.

Article 15
Term and Renewal of the International Registration

(1) [*Term of International Registration*] The international registration shall be effected for five years counted from the date of the international registration.

(2) [*Renewal of International Registration*] The international registration may be renewed for additional terms of five years, in accordance with the prescribed procedure and subject to the payment of the prescribed fees.

(3) [*Minimum and Maximum Period of Protection in Designated Contracting Parties*]
(a) Provided that the international registration is renewed, the period of protection shall not terminate, in each of the designated Contracting Parties, before the expiration of 15 years counted from the date of the international registration.

(b) Where the law of a designated Contracting Party provides for a period of protection of more than 15 years for an industrial design for which protection has been granted under that law, the period of protection shall, provided that the international registration is renewed, be the same as the one provided for by the law of that Contracting Party.

(c) Any Contracting Party shall, in a declaration, notify the Director General of the maximum period of protection provided for by its law.

(4) [*Possibility of a Limited Renewal*] The renewal of the international registration may be effected for any or all of the designated Contracting Parties and for any or all of the industrial designs that are the subject of the international registration.

(5) [*Recording and Publication of Renewal*] The International Bureau shall record renewals in the International Register and publish a notice to that effect. It shall send a copy of the publication of the notice to the Office of each of the Contracting Parties concerned.

Article 16
Information Concerning Published International Registrations

(1) [*Information Concerning International Registrations*] The International Bureau shall supply to any person applying therefor, upon the payment of the prescribed fee, information on or copies of entries in the International Register in respect of any published international registration.

(2) [*Legalization*] Copies of entries in the International Register supplied by the International Bureau shall be exempt from any requirement of legalization in each Contracting Party.

CHAPTER II
SPECIAL PROVISIONS RELATING TO CONTRACTING PARTIES WITH EXAMINING
OFFICES

Article 17
Additional Mandatory Contents of the International Application

(1) [*Notification of Additional Elements*] Any Contracting Party whose Office is an Examining Office and whose law, at the time that it becomes party to this Act, requires that an application for the grant of protection to an industrial design contain any of the elements specified in paragraph (2) in order for that application to be accorded a filing date may, in a declaration, notify the Director General of those elements.

(2) [*Permitted Additional Elements*] The elements that may be notified pursuant to paragraph (1) are the following:

- (i) indications concerning the identity of the creator of the industrial design that is the subject of that application, as prescribed;
- (ii) a brief description of the reproduction or of the characteristic features of the industrial design that is the subject of that application, as prescribed;
- (iii) a claim, as prescribed.

[Article 17, continued]

(3) [*Obligation to Include Such Elements*] Where the international application contains the designation of a Contracting Party that has made a notification under paragraph (1), it shall also contain any element that was the subject of that notification.

Article 18
Special Requirements Concerning Unity of Design

(1) [*Notification of Special Requirements*] Any Contracting Party whose Office is an Examining Office and whose law, at the time that it becomes party to this Act, requires that designs that are the subject of the same application conform to a requirement of unity of invention, unity of design, unity of production, or unity of use, or belong to the same set or composition of items or that only one independent and distinct invention may be claimed in a single application, may, in a declaration, notify the Director General accordingly.

(2) [*Effect of Notification*] Any such declaration shall enable the Office of the Contracting Party that has made the notification to refuse the effects of the international registration pursuant to Article 11(1) pending compliance with the requirement notified by that Contracting Party. It shall not however affect the right of an applicant to include two or more industrial designs in an international application designating the said Contracting Party in accordance with Article 5(3).

(3) [*Further Fees Payable on Division of Registration*] Where, following a notification of refusal in accordance with paragraph (2), an international registration is divided before the Office concerned in order to overcome a ground of refusal stated in the notification, that Office shall be entitled to charge a fee in respect of each additional international application that would have been necessary in order to avoid that ground of refusal.

Article 19

Confidential Copies of International Registrations Whose Publication Is Deferred

(1) [*Transmittal of Confidential Copies*] In the case of an international registration whose publication is deferred pursuant to the provisions of Article 10, the International Bureau shall, immediately after registration has been effected, send a copy of the international registration to each designated Examining Office that has notified the International Bureau that it wishes to receive such a copy.

(2) [*Obligation of Office to Maintain Confidentiality*] The Office shall, until publication of the international registration by the International Bureau, keep in confidence each international registration of which a copy has been transmitted to it by the International Bureau and may use the said copy only for the purpose of the examination of other applications for the protection of industrial designs filed in or for the Contracting Party for which the Office is competent. In particular, it may not divulge the contents of any such international registration to any person outside the Office, including the persons in whose names such other applications are filed, except for the purposes of an administrative or legal proceeding involving a conflict over entitlement to file the international application on which the international registration is based. In the case of such a proceeding, the contents of the international registration may only be disclosed in confidence to the parties involved in the proceeding who shall be bound to respect the confidentiality of the disclosure.

Article 20
Republication of the Industrial Design

Notwithstanding Article 9(3)(a), where an industrial design has been amended in proceedings before an Examining Office in order to satisfy the condition of novelty, so that the reproduction of the industrial design for which protection is granted in the Contracting Party concerned differs from the reproduction published by the International Bureau, that Office shall be entitled to charge a fee for the publication of the amended reproduction.

CHAPTER III
ADMINISTRATIVE PROVISIONS

Article 21
Common Office of Several States

(1) [*Notification of Common Office*] If several States intending to become party to this Act have effected, or if several States party to this Act agree to effect, the unification of their domestic legislation on industrial designs, they may notify the Director General

(i) that a common Office shall be substituted for the national Office of each of them, and

(ii) that the whole of their respective territories shall be deemed to be a single Contracting Party for the purposes of the application of Articles 1, 3 to 20 and 31 of this Act.

(2) [*Time at Which Notification Is to Be Made*] The notification referred to in paragraph (1) shall be made,

(i) in the case of States intending to become party to this Act, at the time of the deposit of the instruments referred to in Article 27(2);

(ii) in the case of States party to this Act, at any time after the unification of their domestic legislation has been effected.

(3) [*Date of Entry into Effect of the Notification*] The notification referred to in paragraphs (1) and (2) shall take effect,

(i) in the case of States intending to become party to this Act, at the time that such States become bound by this Act;

(ii) in the case of States party to this Act, three months after the date of the communication thereof by the Director General to the other Contracting Parties or at any later date indicated in the notification.

Article 22
Membership of the Hague Union

The Contracting Parties shall be members of the Union.

Article 23
Acceptance of Provisions of the Complementary Act of 1967

Any Contracting Party that is not already bound by the provisions of Articles 2 to 5 of the Complementary Act of 1967 shall, from the date on which its ratification of, or accession to, the present Act enters into force, be bound by those provisions, subject to Article 24 and Article 25(2) of this Act, and provided that

(i) references in those provisions to “countries,” to “those countries which have ratified or acceded to this Complementary Act” or to “Government” shall be construed as references to Contracting Parties, and

(ii) references in those provisions to the “Special Union” shall be construed as references to the Union.

Article 24
Voting in the Assembly

[Reserved]*

* See paragraph 3 of the introduction.

Article 25
Regulations

(1) [*Content*] The Regulations shall govern the details of the implementation of this Act. They shall, in particular, provide rules concerning

(i) matters which this Act expressly provides are to be “prescribed”;

(ii) further details concerning, or any details useful in the implementation of, the provisions of this Act;

(iii) any administrative requirements, matters or procedures.

(2) [*Requirement of Unanimity*] (a) The Regulations shall specify the Rules which may be amended only by unanimity.

(b) Exclusion, for the future, of any Rules designated as requiring unanimity for amendment from such requirement shall require unanimity.

(c) Inclusion, for the future, of the requirement of unanimity for the amendment of any Rule shall require unanimity.

(3) [*Conflict Between This Act and the Regulations*] In the case of conflict between the provisions of this Act and those of the Regulations, the former shall prevail.

CHAPTER IV
REVISION

Article 26
Revision of This Act

This Act may be revised by a conference of the Contracting Parties.

CHAPTER V
FINAL PROVISIONS

Article 27
Becoming Party to This Act

(1) [*Eligibility*] Subject to paragraphs (2) and (3) and Article 28,

(i) any State member of the Organization may sign and become party to this Act;

(ii) any intergovernmental organization which maintains an Office in which protection of industrial designs may be obtained with effect in the territory in which the constituting treaty of the intergovernmental organization applies may sign and become party to this Act, provided that at least one of the member States of the intergovernmental organization is a member of the Organization and provided that such Office is not the subject of a notification under Article 21.

(2) [*Ratification or Accession*] Any State or intergovernmental organization referred to in paragraph (1) may deposit

(i) an instrument of ratification, if it has signed this Act,

(ii) an instrument of accession, if it has not signed this Act.

[Article 27, continued]

(3) [*Effective Date of Deposit*] (a) Subject to subparagraphs (b) to (d), the effective date of the deposit of an instrument of ratification or accession shall be the date on which that instrument is deposited.

(b) The effective date of the deposit of the instrument of ratification or accession of any State in respect of which protection of industrial designs may be obtained only through the Office maintained by an intergovernmental organization of which that State is a member shall be the date on which the instrument of that intergovernmental organization is deposited.

(c) The effective date of the deposit of any instrument of ratification or accession containing or accompanied by the notification referred to in Article 21 shall be the date on which the last of the instruments of the States members of the group of States having made the said notification is deposited.

(d) Any instrument of ratification or accession of a State may contain or be accompanied by a declaration making it a condition to its being considered as deposited that the instrument of one other State or one intergovernmental organization, or the instruments of two other States, or the instruments of one other State and one intergovernmental organization, specified by name and eligible to become party to this Act, is or are also deposited. The instrument containing or accompanied by such a declaration shall be considered to have been deposited on the day on which the condition indicated in the

declaration is fulfilled. However, when any instrument specified in the declaration does itself contain, or is itself accompanied by, a declaration of the said kind, that instrument shall be considered as deposited on the day on which the condition specified in the latter declaration is fulfilled.

(e) Any declaration made under paragraph (d) may be withdrawn, in its entirety or in part, at any time. Any such withdrawal shall become effective on the date on which the notification of withdrawal is received by the Director General.

Article 28
Effective Date of Ratifications and Accessions

(1) [*Instruments to Be Taken into Consideration*] For the purposes of this Article, only instruments of ratification or accession that are deposited by States or intergovernmental organizations referred to in Article 27(1) and that have an effective date according to Article 27(3) shall be taken into consideration.

(2) [*Entry into Force of This Act*] This Act shall enter into force three months after six States have deposited their instruments of ratification or accession, provided that, according to the most recent annual statistics collected by the International Bureau, at least three of those States fulfill at least one of the following conditions:

(i) at least 3,000 applications for the protection of industrial designs have been filed in or for the State concerned, or

(ii) at least 1,000 applications for the protection of industrial designs have been filed in or for the State concerned by residents of States other than that State.

(3) [*Entry into Force of Ratifications and Accessions*] (a) Any State or intergovernmental organization that has deposited its instrument of ratification or accession three months or more before the date of entry into force of this Act shall become bound by this Act on the date of entry into force of this Act.

(b) Any other State or intergovernmental organization shall become bound by this Act three months after the date on which it has deposited its instrument of ratification or accession or at any later date indicated in that instrument.

Article 29
Prohibition of Reservations

No reservations to this Act are permitted.

Article 30
Declarations Made by Contracting Parties

(1) [*Time at Which Declarations May Be Made*] Any declaration under Articles 4(1)(b), 7(2), 10(1), 15(3)(c), 17(1) or 18(1) may be made

(i) at the time of the deposit of an instrument referred to in Article 27(2), in which case it shall become effective on the date on which the State or intergovernmental organization having made the declaration becomes bound by this Act, or

(ii) after the deposit of an instrument referred to in Article 27(2), in which case it shall become effective three months after the date of its receipt by the Director General or at any later date indicated in the declaration, but shall apply only in respect of any international registration whose date of international registration is the same as, or is later than, the effective date of the declaration.

(2) [*Declarations by States Having a Common Office*] Notwithstanding paragraph (1), any declaration referred to in that paragraph that has been made by a State which has, with another State or other States, notified the Director General under Article 21(1) of the substitution of a common Office for their national Offices shall become effective only if that other State or those other States makes or make a corresponding declaration or corresponding declarations.

[Article 30, continued]

(3) [*Withdrawal of Declarations*] Any declaration referred to in paragraph (1) may be withdrawn at any time by notification addressed to the Director General. Such withdrawal shall take effect three months after the date on which the Director General has received the notification or at any later date indicated in the notification. In the case of a declaration made under Article 7(2), the withdrawal shall not affect international applications filed prior to the coming into effect of the said withdrawal.

Article 31
Applicability of the 1934 and 1960 Acts

(1) [*Relations Between States Party to Both This Act and the 1934 or 1960 Acts*] This Act alone shall be applicable as regards the mutual relations of States party to both this Act and the 1934 Act or the 1960 Act. However, such States shall, in their mutual relations, apply the 1934 Act or the 1960 Act, as the case may be, to industrial designs deposited at the International Bureau prior to the date on which this Act becomes applicable as regards their mutual relations.

(2) [*Relations Between States Party to Both This Act and the 1934 or 1960 Acts and States Party to the 1934 or 1960 Acts Without Being Party to This Act*] (a) Any State that is party to both this Act and the 1934 Act shall continue to apply the 1934 Act in its relations with States that are party to the 1934 Act without being party to the 1960 Act or this Act.

(b) Any State that is party to both this Act and the 1960 Act shall continue to apply the 1960 Act in its relations with States that are party to the 1960 Act without being party to this Act.

Article 32
Denunciation of This Act

(1) [*Notification*] Any Contracting Party may denounce this Act by notification addressed to the Director General.

(2) [*Effective Date*] Denunciation shall take effect one year after the date on which the Director General has received the notification or at any later date indicated in the notification. It shall not affect the application of this Act to any international application pending and any international registration in force in respect of the denouncing Contracting Party at the time of the coming into effect of the denunciation.

Article 33
Languages of This Act; Signature

(1) [*Original Texts; Official Texts*] (a) This Act shall be signed in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic.

(b) Official texts shall be established by the Director General, after consultation with the interested Governments, in such other languages as the Assembly may designate.

(2) [*Time Limit for Signature*] This Act shall remain open for signature at the headquarters of the Organization for one year after its adoption.

Article 34
Depositary

The Director General shall be the depositary of this Act.

[End of document]