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**SPECIAL UNION FOR THE INTERNATIONAL DEPOSIT OF INDUSTRIAL DESIGNS
(HAGUE UNION)**

ASSEMBLY

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AMENDMENT OF THE REGULATIONS UNDER THE HAGUE AGREEMENT: NEW
METHOD OF CALCULATING PUBLICATION FEES; AMOUNT OF PUBLICATION
FEES; PRESENTATION OF REPRODUCTIONS

Document prepared by the International Bureau

Introduction

1. At its fifteenth session (in September 1997), the Assembly of the Hague Union authorized the Director General to embark on a change in the presentation of the *International Designs Bulletin*, which consisted in replacing the paper publication of reproductions of designs contained in new deposits registered under the 1960 Act of the Agreement with a complete publication of the deposits on CD-ROM. The proposal made to the Assembly predicted that the change would make for substantial savings, which would in turn be passed on to the depositors in the form of a reduction in publication fees.
2. At its seventeenth session (in September 1998), the Assembly approved, with a view to the launch of the CD-ROM publication, and with effect from January 1, 1999, an across-the-board 20% reduction in the publication fees provided for in the Schedule of Fees which forms part of the Regulations under the Agreement (see document H/A/17/1). The method of calculating the publication fees remained the same, however. It seemed preferable, before proposing a change in the method of calculation, to acquire a modicum of experience of the real costs associated with the new publication on CD-ROM.
3. The experience acquired since the first CD-ROM publication of the *International Designs Bulletin* (issue 1/1999) means that a new method of calculation can now be proposed which would not only reflect the costs of electronic publication better, but also result in a simpler procedure for applicants and an overall reduction in the fees payable for a deposit governed by the 1960 Act (including State fees) in the order of 9%.
4. It will further be noted that the draft Program and Budget for the 2002-2003 biennium provides that the *International Designs Bulletin* will be published “on CD-ROM, and on paper for bibliographic data as long as there is sufficient demand” (see document WO/PBC/3/2, page 71 of the English version). Because all the bibliographic data of international deposits (including those under the 1934 Act) have been included in the CD-ROM publication since issue 1/2001 of the Bulletin, and because the number of subscribers to the paper version of the Bulletin has dwindled, it is planned that the paper publication of those bibliographic data will be discontinued at the end of 2001.

The need to devise a new method of calculating the publication fee

5. Under the present regime, the publication fee is 33 Swiss francs for black and white publication and 264 Swiss francs for color publication, in both cases by group of four fully or partly occupied standard spaces. “Standard spaces” are represented by squares measuring 4cm x 4cm, set out in the form of grids reproduced on the fifth and sixth pages of the international deposit application form. The reproductions accompanying the application have to be pasted on the grid or printed direct on A4 format white paper (in which case a transparent grid is superimposed on them to calculate the number of standard spaces applicable).

6. If one disregards the distinction between black and white publication and color publication, the amount of the fee is determined solely by the size of the reproductions. In the case of electronic publication, that size remains relevant inasmuch as both the number of bytes taken up by a deposit on the CD-ROM and the cost of printing the certificate of deposit are dependent on the size of the reproductions of the designs deposited. However, the prime purpose of this method of calculation was to determine the area necessary for the publication of the reproductions in the paper edition of the *International Designs Bulletin*. With the underlying reason for that method of calculation removed, another method had to be found which was better suited to the parameters determining the cost of electronic publication.

7. The search for that new method took due account of the fact that the calculation of the publication fee under the present system was still far too complex and responsible for a great many irregularities. The difficulties that arose had mainly to do with the actual concept of a “group of standard spaces,” when users naturally reason in simpler terms (number of views, dimensions, etc.). Moreover, the rules governing the arrangement of the reproductions are complex. In the light of these considerations, preference should be given to a method of calculation involving criteria that are simpler and easier to apply.

Possible bases for a new method of calculating the publication fee

8. Past experience indicates a need to devise a method of calculating the publication fee that relies primarily on the number of reproductions and secondarily on the number of pages on which those reproductions are set out by the depositor, while at the same time maintaining the distinction between reproductions for which black and white publication is requested and those for which color publication is requested.

9. This proposal relies on the assumption that, with reproductions being published on CD-ROM, the costs arising from the production of the *International Designs Bulletin* are essentially a function of the time required for the digitization of the reproductions by the International Bureau and, albeit only as a secondary factor, of the archive space required for them. The latter factor may be taken into account while maintaining the distinction between reproductions published in black and white and those published in color (given that the latter use up a considerably greater number of bytes).

10. If one disregards the differentiation between color and black and white, the time required for digitization depends on the quality of the reproductions, their layout and number, and also the number of pages that they occupy. Reproduction quality and presentation are factors that would be difficult to accommodate in a schedule that has also to be simple and transparent. One should rather rely on the provisions of the Regulations or Administrative Instructions to ensure adequate quality and proper presentation.

11. The main advantage of retaining the number of reproductions and the number of pages as criteria is that they are both expressed in simple, objective terms. It could also be argued that they do indirectly take account of the bulk of the images in the sense that, type and quality being equal, the space required for archiving is largely proportional to the number of reproductions and to the number of pages necessary to fit them all in.

Relative weighting of the fee by reproduction and the fee by page

12. The amount of the reproduction fee should be relatively low. A high fee might make users limit the number of views of the designs deposited, whereas that decision should be determined by legal factors. On the other hand, the number of pages is purely a matter of form. It has however been noted that users who avail themselves of the possibility, introduced in 1998, of submitting reproductions printed direct on blank paper rather than submitting a collage tend more and more to content themselves with presenting them on separate pages, which greatly increases the digitization work to be done by the International Bureau. The fee per page should therefore be sufficiently high to encourage users to group reproductions as much as possible.

13. A first page is of course inevitable. Apart from that, the proportion of deposits with reproductions occupying no more than six groups of spaces, and so capable of being accommodated on an A4 page, is considerable. The fee per page should therefore apply only to pages in addition to the first.

Design of a schedule according to the proposed method of calculation, and its effects

14. On the basis of these considerations, various fee coefficients have been tested on a representative sample of international deposits. For each deposit, the number of pages has been evaluated in the light of the reproductions filed by the depositor, but on the assumption that, being aware of the charging of a fee per additional page, he would have confined them to the necessary number of pages.

15. The simulations undertaken have made it possible to propose the following publication fees:

(i) Fee per reproduction:

12 Swiss francs per reproduction to be published in black and white
75 Swiss francs per reproduction to be published in color

(ii) Fee per page on which reproductions are filed:

150 Swiss francs per page in addition to the first

16. When applied to the sample, the above schedule would have brought about a 27.3% reduction in the total publication fees payable for the deposits in question. As that total itself represents 33.2% of all the fees paid for the purposes of the registration of the deposits (namely all the international deposit fees, the State fees and the publication and deferment fees), the result would have been an overall saving of 9.1% for depositors. That would represent, for the months to which the sample relates, a 10.4% overall reduction in the total fees charged by the International Bureau under the Hague Agreement, 38.1% of which were accounted for by the publication fees. A reduction of this size for the 2002-2003 biennium has already received the approval of the Program and Budget Committee (see document WO/PBC/3/5, paragraphs 76 and 77).

Savings for the vast majority of depositors

17. Application of this schedule has the effect of reducing fees for the vast majority of deposits in the sample (almost 85%), without causing a significant increase for the others. The ratio of the black and white publication fee to the color publication fee, which is 1:8 in the present schedule, is reduced to 1:6.25 in the proposed schedule.

Advantages of the proposed calculation method

18. Apart from substantial savings for the vast majority of depositors, the new schedule of publication fees proposed in paragraph 15 will make it easier for depositors to calculate the publication fees. What is more, the new method of calculating the publication fee makes it possible to simplify quite significantly the rules concerning the presentation of reproductions (see below). Finally, the new method of calculation and the new schedule of publication fees as proposed should make for improved quality of the *International Designs Bulletin* inasmuch as they make reproductions in medium or large format and color reproductions more accessible.

Amendment of the Regulations

19. The implementation of the proposed new method of calculating the international publication fee requires certain amendments to be made to Rule 12 and to the Schedule of Fees in the Regulations under the Hague Agreement, and also to a number of the Administrative Instructions (see paragraphs 27 to 29). The amendment proposals are reproduced in the Annex to this document; the words and passages to be deleted are struck through, whereas those to be added appear in bold type.

20. Pursuant to Article 2(2)(a)(iii) of the Complementary Act of Stockholm of July 14, 1967, the Assembly of the Hague Union may modify the Regulations under the Agreement on matters relating to the international deposit of industrial designs. This document contains proposals for the amendment of Rule 12.1(b) and (d) and of the Schedule of Fees forming part of the Regulations.

Representation of an object from different angles (Rule 12.1(d))

21. As worded at present, Rule 12.1(d) provides that different views of one and the same object may be shown on the same photograph or graphic representation or on separate photographs or graphic representations.

22. As the choice of one or other of these options has no particular financial significance according to the present method of calculation, one notices in practice that the vast majority of depositors choose, in the interest of clarity, to submit several views of the same object in separate reproductions.

23. With the proposed new method of calculating the publication fee (which is determined mainly by the number of reproductions), keeping Rule 12.1(d) as it is would motivate applicants to submit several views of a given object on *one* reproduction, and therefore would run counter to the proposed new method of calculation.

24. It is therefore proposed that Rule 12.1(d) be amended so that the representation of one object from different angles would be allowed only on separate photographs or graphic representations.

25. Such an amendment seems all the more justified since the present Rule 12.1(d) already causes the International Bureau and users of the Hague system a certain number of difficulties with the numbering of reproductions that represent an object seen from different angles.

Dimensions of the representations of a design or object deposited (Rule 12.1(b))

26. In view of the need to amend Rule 12.1(d) of the Regulations under the Hague Agreement, it is also proposed that Rule 12.1(b) be amended. The amendment would consist,

– on the one hand, in the removal of the requirement that the representation of each design or object be in the dimensions in which the depositor wishes to have it published (a requirement no longer contemplated in connection with electronic publication because, in that case, the dimensions of the representation depend essentially on the computer tools available to the user of the publication) and,

– on the other hand, in transferring the provisions on the maximum and minimum dimensions of the representation of each design or object to the Administrative Instructions.

Amendment of the Administrative Instructions

27. Rule 31.1(a) of the Regulations provides that the Director General may modify the Administrative Instructions for the application of the Hague Agreement, and that to that end he consults the national and regional offices directly concerned by the modifications proposed. The new method of calculating the publication fee calls for modification of Sections 401 to 405 of the Administrative Instructions. Independently of those modifications, it is also proposed that Section 604 be completed. The inclusion of the proposals in this document constitutes consultation within the meaning of Rule 31.1(a) of the Regulations.

Sections 401 to 405

28. The proposals for amendment of Sections 401 to 405 of the Administrative Instructions are the consequence of the new method of calculating the publication fee, and of the implications that it would have both for the presentation of the reproductions and for their digitization. It is therefore proposed, in particular:

– that all references to the grids made up of standard spaces be removed, as they would have to disappear on the introduction of the new method of calculating the publication fee (Sections 401(b) and (c), 402(b) and (c) and 404(c));

– that every page containing reproductions be used upright (in order to facilitate digitization work) and be allowed to contain no more than 25 reproductions (Section 401(b)); this limit has been set on the basis of the minimum dimensions prescribed for the representation of a design¹ and in the light of the new requirement that a margin of at least 5mm be left around each reproduction (introduced in Section 401(c)) in order to make for optimum digitization of reproductions);

– that reproductions be required to be arranged in ascending numerical order (Section 402(b) as proposed) in order to facilitate the digitization process.

Section 604

29. In addition to the modifications to the Administrative Instructions that are connected with the new method of calculating the publication fee, it is also suggested that Section 604 on the international deposit certificate should be completed in order to make it clear that, where an international deposit has been amended in the course of the period of deferment, the International Bureau issues to the owner, after the period of deferment has ended, a new deposit certificate which contains the elements that will be published (and not those initially appearing in the deposit). Section 604 has been reorganized accordingly.

30. The Assembly is invited to adopt the amendments to the Regulations Under the Hague Agreement appearing in the Annex to this document, with effect from January 1, 2002.

[Annex follows]

¹ The required minimum and maximum dimensions of a deposited design have been transferred from the Regulations to Section 403(b) of the Administrative Instructions; see paragraph 26 on this point.

PROPOSALS FOR AMENDMENT OF THE REGULATIONS
UNDER THE HAGUE AGREEMENT AND ITS
ADMINISTRATIVE INSTRUCTIONS

Rule 12

Reproduction, Samples and Models of the Designs or Articles

12.1 Reproduction, Samples and Models

[...]

(b) In the case of international deposits which are governed exclusively or partly by the 1960 Act, the application shall be accompanied, for each design or for each article in which it is intended to incorporate the designs, by one photograph or other graphic representation, in color if the depositor requests publication in color or, failing that, in black and white, presented in accordance with the provisions of the Administrative Instructions. Additionally, the application may be accompanied by samples or models of the article or articles. The **maximum and minimum** dimensions of the representation of each design or article shown in the photographs or other graphic representations accompanying the application shall be ~~those in which the depositor wishes the design to be published, provided that one of those dimensions shall be not less than 3cm. The dimensions of the representations of the articles shall not be more than 16cm x 16cm laid down in the~~ **Administrative Instructions.**²

[...]

(d) The same article may be represented from different angles; **provided that each representation reproductions** of the article viewed from **a** different angles ~~may be is~~ shown on ~~the same photograph or graphic representation or on~~ **a** separate photographs or graphic representations.

[...]

² See Section 403(b).

Schedule of Fees
(in force since ~~January 1, 1999~~ **January 1, 2002**)

| | Amounts (Swiss francs) |
|---|---------------------------|
| <i>I. Fees payable if the deposit is governed exclusively or partly by the 1960 Act (deposits published under the 1960 Act)</i> | |
| 1. International deposit fee (Rule 13.2(a)(i)) | |
| 1.1 For 1 design | 397 |
| 1.2 For each additional design included in the same deposit | 19 |
| 2. International publication fee (Rule 13.2(a)(ii)) | |
| 2.1 For publication each reproduction to be published in black and white, per set of four standard spaces * | 33 12 |
| 2.2 For publication each reproduction to be published in color, per set of four standard spaces * | 264 75 |
| 2.3 For each page, in addition to the first, on which one or more reproductions are shown | 150 |
| [...] | |

* ~~— A standard space is 4cm x 4cm; the fee is calculated on the basis of the number of spaces or sets of spaces completely or partly occupied by the representation of the article or articles in which it is intended to incorporate the designs included in the deposit. One single space cannot include the representation, in whole or in part, of several articles or the representation, in whole or in part, of one single article viewed from different angles.~~

Section 401
Presentation of Reproductions

(a) One and the same deposit may comprise both photographs and graphic representations.

(b) Where the international deposit is governed exclusively or partly by the 1960 Act, ~~each of~~ the photographs or other graphic representations accompanying the application shall be either pasted ~~on the standard spaces provided on the application form~~ or printed directly onto a separate sheet of A4 paper which is white, **and** opaque ~~and does not bear the grid of standard spaces~~. **The separate sheet of paper shall be used upright and shall not contain more than 25 reproductions.**

(c) ~~The method of calculating the publication fee referred to in the Schedule of Fees and, unless provided to the contrary, the requirements of Sections 401 to 405 apply equally to reproductions which are pasted on the standard spaces and to reproductions which are printed on separate sheets. In particular, t~~The photographs or other graphic representations must ~~lie~~ **be arranged on the separate sheet referred to in paragraph (b) in the orientation in which the applicant wishes them to be published. A margin of at least 5 millimeters should be left around each reproduction.**

(d) Each reproduction must fall within a right-angled quadrilateral ~~not~~ containing ~~any~~ **no** other reproduction or part of another reproduction **and no numbering**. The photographs or other graphic representations shall not be folded or stapled or marked in any way.

[...]

Section 402
Numbering of Reproductions

(a) The numbering stipulated for multiple deposits shall appear in the margin of **the each** photographs or other graphic representations, ~~outside the standard spaces provided on the application form or outside the frame within which the reproductions are printed.~~ When the same article is represented from different angles, the numbering shall consist of two separate figures separated by a dot (e.g. 1.1, 1.2, 1.3, etc. for the first article, 2.1, 2.2, 2.3, etc. for the second article and so on).

(b) The reproductions shall be pasted or printed in ascending numerical order on the separate sheet referred to in Section 401(b).

Section 403
Representation of the Design or Article Deposited

(a) The photographs and other graphic representations shall represent the deposited design or article alone, to the exclusion of any other object, accessory, person or animal. ~~An article must be represented at least once in the position in which it is normally used.~~

(b) **The dimensions of the representation of each design or object appearing in a photograph or other graphic representation may not exceed 16 x 16 centimeters, and one of those dimensions must be at least 3 centimeters.**

(c)³ **The following shall not be accepted:**

(i) **technical drawings or representations showing articles in section or in plan, particularly with axes and dimensions;**

(ii) **explanatory text or legends.**

³ This subparagraph reproduces the requirements currently mentioned in Section 405.

Section 404
Requirements for Photographs

(a) The photographs supplied must be of professional standard. The articles must be shown against a neutral plain background. Photographs retouched with ink or correcting fluid are not allowed.

(b) Reproductions of photographs that meet the conditions set forth in paragraph (a) and have been produced by means of electronic processes shall be allowed if they are themselves of professional standard and not retouched.

(c) Photographs or reproductions of photographs ~~which are pasted on the standard spaces provided on the application form~~ shall have all the edges cut at right angles.

Section 405
Requirements for Graphic Representations

Graphic representations must be either originals of professional standard produced with drawing instruments or by electronic means on good quality white, opaque paper, all of whose edges are cut at right angles, or prints or photocopies made from such originals and having the same quality. The lines must be even and boldly drawn. The article represented should preferably be in perspective; it may comprise shading and hatching to provide relief. ~~it~~ **Graphic representations executed by electronic means** may be shown against a background, provided that it is neutral and plain- **and has only edges cut at right angles.**

~~The following shall not be accepted:~~

~~(i) technical drawings showing articles in section or in plan, particularly with axes and dimensions;~~

~~(ii) explanatory texts or wording shown on or adjacent to the articles.~~

Section 604
International Deposit Certificate

(a) After having entered the international deposit in the International Register, the International Bureau shall issue to the owner an ~~The~~ international deposit certificate ~~shall~~ comprise a reproduction of the recordings made ~~containing the data and copies of the photographs or other graphic representations entered~~ in the International Register ~~on the date of deposit, certified by the Director General or by an officer authorized to sign in his name by virtue of Section 111. For as long as~~ **However,**

(i) **where** publication of the international deposit is deferred, the certificate shall consist of a ~~reproduction~~ **copy** of the application, bearing the **provisional** number assigned to the deposit, and, ~~certified by the Director General or by an officer authorized to sign in his name by virtue of Section 111.~~

(ii) **where the international deposit is accompanied by a request for deferment of publication, the period of deferment has ended and the conditions are fulfilled for publication to proceed, the International Bureau shall issue to the owner a new international deposit certificate containing the data and copies of the photographs or other graphic representations that are to be published.**

(b) **The copy of the application, the data and the copies of the photographs or other graphic representations contained in an international deposit certificate shall be certified by the Director General or by an officer authorized to sign in his name by virtue of Section 111.**

[End of Annex and of document]