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Special Union for the International Deposit of Industrial Designs (Hague Union)

Assembly

**Thirty-Eighth (17th Extraordinary) Session
Geneva, September 24 to October 2, 2018**

DRAFT REPORT

prepared by the Secretariat

1. The Assembly was concerned with the following items of the Consolidated Agenda (document A/58/1): 1, 2, 4, 5, 6, 11(ii), 12, 23, 29 and 30.
2. The reports on the said items, with the exception of item 23, are contained in the draft General Report (document A/58/11 Prov.).
3. The report on item 23 is contained in the present document.
4. Mr. Jung Dae Soon (Republic of Korea), Vice-Chair of the Assembly, presided over the meeting.

ITEM 23 OF THE CONSOLIDATED AGENDA

HAGUE SYSTEM

5. The Acting Chair welcomed three new members to the Hague Union Assembly since the last session in October 2016, namely Cambodia, the Russian Federation and the United Kingdom. The Acting Chair further mentioned that those new Contracting Parties would soon be joined by another member, namely, Canada, as its accession would enter into force on November 5, 2018.

Proposed Amendments to the Common Regulations Under the 1999 Act and the 1960 Act of the Hague Agreement

6. Discussions were based on document H/A/38/1.

7. The Secretariat explained that the document submitted to the Hague Union Assembly, for adoption, contained a proposal to amend Rule 3 of the Common Regulations Under the 1999 Act and the 1960 Act of the Hague Agreement. Rule 3 concerned representation before the International Bureau. The document contained a recommendation made by the Working Group on the Legal Development of the Hague System for the International Registration of Industrial Designs (hereinafter referred to as the “Working Group”) at its seventh session held in Geneva from July 16 to 18, 2018.

8. The Delegation of the United Kingdom thanked the Secretariat for its assistance in the ratification process when the United Kingdom joined the Hague System in June 2018. The Delegation noted that the United Kingdom’s decision to leave the European Union was a major topic. The developments on the current negotiations would be set out in the draft withdrawal agreement. The United Kingdom emphasized its commitment to ensure that it would provide the greatest possible legal certainty for users, applicants and rights holders. The Delegation recalled that currently a designation of the European Union under the Hague System covered protection in the United Kingdom. However, once the United Kingdom left the European Union, the applicants would need to designate the United Kingdom separately. The Delegation stressed that for all scenarios, including the unlikely event of no withdrawal agreement being reached, the United Kingdom would ensure continuity of protection to avoid any loss of those rights. The United Kingdom was working with WIPO to find practical solutions for a way for designs filed through the Hague System designating the European Union to continue to be protected in the United Kingdom from March 2019. Those discussions included practical solutions for pending applications.

9. The Delegation of the United States of America expressed its strong support for the Hague System. The Delegation welcomed Cambodia, the Russian Federation and the United Kingdom and thanked the Secretariat for its tireless work in supporting the accession and implementation process. The Delegation appreciated the efforts of the International Bureau to modernize the Hague System, including the IT system. The Delegation also recalled the importance of the use and promotion of the WIPO Digital Access Service (DAS) in the context of the Hague System. Regarding the financial sustainability of the Hague System, the Delegation recalled that the Hague Union had taken loans from other Unions to support its own operational expenses for many years, and that the Hague Union, as a fee-financed Union with a projected deficit, was expected to examine measures to address its deficit, following the direction of the WIPO Assemblies of 2017. In that context, the Delegation noted that the issue was not discussed at the seventh session of the Working Group. The long-term financial stability of the fee-financed systems was of utmost importance. It would therefore be important for the Working Group to review fees associated with the Hague System. It had been approximately 20 years since the fees had been updated and there had been many developments over the last two decades, including a significant number of new accessions and the launch of e-filing, all

of which could make a decision to review the Schedule of Fees prudent and necessary. The Delegation expected that the Hague Union would respond to the mandate of the WIPO Assemblies of 2017, and that the Secretariat would take the issue into account in its preparation of the agenda of the Working Group in 2019. Lastly, the Delegation reiterated its full commitment and confidence in the success of the Hague System. The Delegation concluded by expressing its support for the amendments to Rule 3, which would reduce unnecessary burdens that no longer served their purpose.

10. The Delegation of Kazakhstan, speaking on behalf of the Group of Central Asian, Caucasus and Eastern European Countries (CACEEC) expressed its support for the proposal submitted to the seventh session of the Working Group by the Russian Federation to include the Russian language as an official language of the Hague System. The Russian language was widely used for communication in the region. The Delegation believed that the potential growth of the Hague System depended on the expansion of its language regime. The inclusion of the Russian language would promote growth in international design applications in CACEEC countries, enhance the performance of Russian-speaking examiners and facilitate the processing of applications in the IP Offices of the region. The inclusion of the Russian language would also stimulate growth of membership of the Hague Union.

11. The Delegation of the Russian Federation expressed its support for the position expressed by the Delegation of Kazakhstan speaking on behalf of CACEEC. The Delegation noted that, since the Russian Federation became a member of the Hague Agreement, there were more than 140 international registrations designating the Russian Federation, which showed a strong interest from applicants. The Delegation expressed its strong interest in including Russian as an official language to increase the growth of the Hague System. The Delegation recalled that the Russian language was one of the official languages of the United Nations System and its specialized agencies. In addition, the Russian language was one of the leading languages worldwide and spoken by over 250 million people. The Delegation noted that a computerized translation technology being developed by WIPO would potentially decrease the translation costs of including Russian as an official language. The inclusion of Russian would not only facilitate filing international applications by Russian-speaking users but would also be an incentive for other countries of CACEEC to join the Hague System.

12. The Delegation of Switzerland expressed its satisfaction with the growing geographical coverage of the Hague System and welcomed the sixty-ninth accession to the Hague Agreement by Canada. The Delegation indicated that it was necessary to bear in mind that the Hague System should remain simple for all users despite the growing number of its members. The Delegation therefore encouraged the International Bureau to focus on the development of the Hague System which should remain attractive for its users. The Delegation expressed its support for the proposed amendments to the Common Regulations. The decision of the Working Group to waive the signature requirement for applicants would greatly simplify the use of the system. The Delegation added that it was equally important to highlight that, due to the important geographical growth, the Hague System was still in an intensive development phase requiring a certain amount of time for adjustment and adaptation. In that regard, the Delegation considered that a revision of the Schedule of Fees would be premature and that it would be more appropriate to wait for the system to stabilize in order to facilitate the exercise. The Delegation noted that the Schedule of Fees had a great impact on the attractiveness of the Hague System both for prospective Contracting Parties, as well as in terms of the number of filings. The Delegation considered that the level of the fees should remain attractive in order not to discourage applicants, especially those from small businesses or from lower-income countries.

13. The Delegation of Mexico indicated that, on August 29, 2018, the President of Mexico signed the document allowing its accession to the Hague Agreement and that it had been sent to Parliament for its consideration and possible approval. It had already gone through the

relevant joint committees in the Senate. The Delegation expressed its expectation that Mexico's accession to the Hague Agreement would be approved by the Senate in the course of the current session so that the Ministry of Foreign Affairs could prepare and formally submit its instrument of accession to WIPO.

14. The Assembly of the Hague Union adopted the amendments to the Common Regulations with respect to Rule 3, as set out in Annexes I and II of document H/A/38/1, with a date of entry into force of January 1, 2019.

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