

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

### **Assembly**

**Thirtieth (18<sup>th</sup> Ordinary) Session  
Geneva, September 26 to October 5, 2011**

#### **MATTERS CONCERNING THE LEGAL DEVELOPMENT OF THE HAGUE SYSTEM**

*Document prepared by the International Bureau*

#### **I. INTRODUCTION**

1. Since the last Assembly of the Hague Union in September-October 2010, an *ad hoc* Working Group on the Legal Development of the Hague System for the International Registration of Industrial Designs (hereinafter referred to as “the *ad hoc* Working Group”) was convened from May 30 to June 1, 2011.
2. The draft report of the meeting of the *ad hoc* Working Group is available in document H/LD/WG/1/6 Prov. The Summary by the Chair is attached hereto in Annex I.
3. The present document summarizes the main conclusions and recommendations of the *ad hoc* Working Group and, in particular, submits to the Assembly, for adoption, amendments to the Common Regulations Under the 1999 Act and the 1960 Act of the Hague Agreement (hereinafter referred to as “the Common Regulations”) as well as the recommendation of the *ad hoc* Working Group that the Assembly establish a Working Group to address the legal development of the Hague system. It further submits, for comments by the Assembly, a proposed new section to the Administrative Instructions for the Application of the Hague Agreement (hereinafter referred to as “the Administrative Instructions”). For ease of reference,

all the proposed amendments are first reproduced in Annexes II and IV in “track changes” mode, i.e., with the text that is proposed to be deleted, struck through, and the text that is proposed to be added, appearing underlined. For additional clarity, the final text of all provisions concerned, as it would result following the amendments, is reproduced in Annexes III and V.

## II. MAIN CONCLUSIONS AND RECOMMENDATIONS OF THE *AD HOC* WORKING GROUP

### ISSUES RELATING TO THE PUBLICATION AND CONTENTS OF THE INTERNATIONAL DESIGNS BULLETIN AND RELATED PROPOSED AMENDMENTS TO THE COMMON REGULATIONS UNDER THE 1999 ACT AND THE 1960 ACT OF THE HAGUE AGREEMENT AND TO THE ADMINISTRATIVE INSTRUCTIONS

#### Tightening the Publication Cycle

4. The discussions of the *ad hoc* Working Group with regard to the issues relating to the publication and contents of the *International Designs Bulletin* (hereinafter referred to as “the Bulletin”) were based on document H/LD/WG/1/2. The *ad hoc* Working Group supported approach 3 elaborated in the document, on the understanding that the Bulletin will be published on a weekly basis.

5. In this respect, the International Bureau has sent a circular to the Offices of all the Contracting Parties to the Hague Agreement inviting them to comment on the target date of January 1, 2012, for the implementation of a weekly publication of the Bulletin. The Offices were invited to communicate their comments to the International Bureau by September 15, 2011. In the event that an Office indicated that it would not be ready for implementing the weekly publication as from January 1, 2012, the target date would be reconsidered.

#### Updating the Legal Framework

6. The *ad hoc* Working Group recommended the submission, for adoption, to the Assembly of the amendments to the Common Regulations as elaborated below and set out in Annexes II and III of the present document. Furthermore, according to Rule 34(1) of the Common Regulations, the Director General of WIPO may modify the Administrative Instructions after having consulted the Offices of Contracting Parties. As recommended by the *ad hoc* Working Group, with a view to proceeding to that consultation, the proposed changes to the Administrative Instructions are also included in the present document and set out in Annexes IV and V thereof.

#### *Proposal to Amend Rule 26(3) and Section 204(d) of the Administrative Instructions*

7. At present, Rule 26(3) provides that the date on which each issue of the Bulletin is published on the website of the Organization shall be electronically communicated by the International Bureau to the Office of each Contracting Party. The *ad hoc* Working Group approved a proposal to amend Rule 26(3) to the effect that the obligation of the International Bureau to communicate the publication date of the Bulletin to the Office of each Contracting Party be removed. In the case of a weekly publication cycle, as supported by the *ad hoc* Working Group, the Bulletin would be published on a given day of the week and that standard would make such communication obsolete. However, it was approved to amend Section 204(d) of the Administrative Instructions so that at the express wish of the Office of a Contracting Party, the International Bureau would continue sending this communication to this Office.

8. Furthermore, the *ad hoc* Working Group recommended to amend the said Rule to the effect that it is the publication itself of an issue of the Bulletin on the website of the Organization that shall be deemed to replace the sending of the Bulletin as referred to in Articles 10(3)(b) and 16(4) of the 1999 Act and Article 6(3)(b) of the 1960 Act.

*Proposal to Amend Section 601 of the Administrative Instructions*

9. Pursuant to Section 601 of the Administrative Instructions, the request for the recording of a renunciation or limitation concerning the international registration must be received by the International Bureau no later than three months prior to the expiry of the period of deferment. Otherwise, the international registration is published at the expiration of the period of deferment without account being taken of the request for the recording of the limitation or renunciation.

10. Given that the current publication techniques allow for the shortening of the preparation time of the Bulletin, the *ad hoc* Working Group approved the proposal to postpone the latest date to request the recording of a renunciation or limitation during the period of deferment to three weeks prior to the expiry of the period of deferment.

*Proposal to Amend the Common Regulations with Respect to the Titles of Chapter 6 and Rule 26, and with respect to Rules 26(2) and (3), 28(2)(c) and (d), and 34(3)(a) and (b) and the Administrative Instructions with respect to Sections 204(a)(i) and (d) and 402(b)*

11. The *ad hoc* Working Group recommended the proposed amendments to the provisions concerned to better reflect the fact that the website of the Organization itself has become the central source of official information on the Hague system. More precisely, the *ad hoc* Working Group recommended that the titles of Chapter 6 and Rule 26, and Rules 26(2) and (3), 28(2)(c) and (d), and 34(3)(a) and (b) of the Common Regulations and Sections 204(a)(i) and (d) and 402(b) of the Administrative Instructions be amended by replacing any reference to the Bulletin contained therein with a reference to the website.

12. The date of entry into force of the amendments to the Common Regulations is proposed to be the same as the target date of the implementation of the weekly publication cycle of the Bulletin, *i.e.*, January 1, 2012. Furthermore, it is the intention of the International Bureau to proceed to the publication of the amendments to the Administrative Instructions so that, in accordance with Rule 34(3)(b), they would come into force also on January 1, 2012.

13. *The Assembly of the Hague Union is invited:*

*(i) to adopt the amendments to the Common Regulations with respect to the titles of Chapter 6 and Rule 26, and with respect to Rules 26(2) and (3), 28(2)(c) and (d), and 34(3)(a) and (b), as set out in Annex III hereto, with a date of entry into force of January 1, 2012; and*

*(ii) to comment on the proposal to amend Sections 204(a)(i) and (d), 402(b) and 601 of the Administrative Instructions, as set out in Annex V hereto.*

## PROPOSAL FOR A NEW RULE ON THE REFUSAL OF THE EFFECTS OF THE RECORDING OF A CHANGE IN OWNERSHIP IN THE INTERNATIONAL REGISTER

### Proposed New Rule 21bis

14. It is recalled that pursuant to Article 16(2) of the 1999 Act, any recording in the International Register shall have the same effect as if it had been made in the Register of the Office of each of the Contracting Parties concerned. This Article provides for one possible exception, namely a Contracting Party may, in a declaration, notify the Director General of WIPO that a recording of a change in ownership in the International Register shall not have effect in that Contracting Party until the Office of that Contracting Party has received the statements or documents specified in that declaration.

15. As Article 16(2) does not set up any procedure for submission of those statements or documents, the situation that it provides for remains open-ended. This can be problematic for all parties concerned, *i.e.*, the holder, the Office of the designated Contracting Party concerned and third parties.

16. Furthermore, there are situations under some national/regional laws, where the recording of a partial change in ownership is not allowed. For example, in some jurisdictions providing for “similar design” or “related design” system, industrial designs registered under this particular condition can only be transferred all together at the same time.

17. Therefore, as elaborated in document H/LD/WG/1/3, a certain mechanism would be necessary in the Hague system to allow current or prospective Contracting Parties to refuse the effects of the recording of a change in ownership, where such a recording under their national/regional laws is not allowed. Such a mechanism would also be in the interest of third parties by reducing the uncertainty as to the identity of the holder of the rights deriving from the international registration.

18. It was the recommendation of the *ad hoc* Working Group to introduce to the Common Regulations proposed new Rule 21bis on the refusal of the effects of the recording of a change in ownership in the International Register, subject to certain editorial corrections in the French version of the proposed rule. The proposed date of entry into force of the new rule would be January 1, 2012.

*19. The Assembly of the Hague Union is invited to adopt proposed new Rule 21bis as set out in Annex III, hereto, with a date of entry into force of January 1, 2012.*

### **III. ESTABLISHMENT OF A WORKING GROUP**

20. It is recalled that the Regulations adopted by the Diplomatic Conference for the Adoption of the New Act of the Hague Agreement Concerning the International Deposit of Industrial Designs, in 1999, were first implemented as part of the Common Regulations that came into force in April 2004 alongside the 1999 Act, and that have been amended several times since. However, on none of these occasions have any items set aside at the time of the Diplomatic Conference been dealt with.

21. This makes it important that work commence on these items set aside at the time of the Diplomatic Conference, and that the need for such items be aired in a collegial context to ensure that a balanced solution, capable of suiting all prospective Contracting Parties with similar needs, is achieved. In particular, the *ad hoc* Working Group wanted the International Bureau to pursue the development of possible model forms for the purpose of Article 16(2) of the 1999 Act and that, in that respect, the International Bureau would be taking into account any comments made by Offices and user groups as well as developments in the Digital Access Service environment.

22. It was the recommendation of the *ad hoc* Working Group that the Assembly of the Hague Union establish a Working Group to address the legal development of the Hague system. Similar working groups have been established by the Madrid Union Assembly and the Lisbon Union Assembly. Provision is made in the draft proposed Program and Budget for the 2012-2013 biennium (document WO/PBC/17/4) for the holding of two sessions of a Working Group.

23. *The Assembly is invited to establish a Working Group to address the legal development of the Hague system.*

#### **IV. PROPOSAL TO ADD A NEW SECTION IN THE ADMINISTRATIVE INSTRUCTIONS**

##### **INTRODUCTION**

24. It is recalled that the Diplomatic Conference discussed the optional contents of an international application. Rule 7(4)(h) of the Final text of the Regulations, as adopted by the Diplomatic Conference read as follows:

*“The international application may also contain any declaration, statement or other relevant indication as may be specified in the Administrative Instructions”<sup>1</sup>.*

The said rule was inserted as Rule 7(5)(f) to the Common Regulations, which entered into force in 2004, alongside the 1999 Act. It is now being proposed that a new section be introduced to the Administrative Instructions to complement the said Rule, as further elaborated below and set out in Annexes IV and V of the present document.

25. As mentioned in paragraph 6 of the present document, pursuant to Rule 34(1) of the Common Regulations, the Director General of WIPO may modify the Administrative Instructions after having consulted the Offices of Contracting Parties. The inclusion of a proposal for introduction of a new Section 407 to the Administrative Instructions in the present document is intended to constitute that consultation. After having taken note of any comments by the Assembly, the Director General would establish Section 407 of the Administrative Instructions and set a date of entry into force.

##### **INDICATION OF A PRINCIPAL INDUSTRIAL DESIGN OR A PRINCIPAL APPLICATION OR REGISTRATION IN AN INTERNATIONAL APPLICATION**

26. In some jurisdictions, an industrial design application must contain, under certain circumstances, a reference to another application or registration, or to a certain industrial design contained in such an application or registration. The purpose of providing such an element is that a given application is to be considered by the Office in relation to the industrial design or to the application or registration referred to.

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<sup>1</sup> Records of the Diplomatic Conference for the Adoption of the New Act of the Hague Agreement Concerning the International Deposit of Industrial Designs, p. 168.

27. The Republic of Korea has announced its intention to accede to the 1999 Act in 2012. In the course of its preparatory work for the accession, the Korean Intellectual Property Office (KIPO) has indicated to the International Bureau that the applicant filing an international application should be allowed to seek for a special type of design registration which is stipulated as “similar design” in the current industrial design law of the Republic of Korea. The Republic of Korea intends to revise its industrial design law to the effect that the said “similar design” system be replaced with a new system to be called “related design” system<sup>2</sup>.

28. Under both the current “similar design” system and the “related design” system, a reference to the “principal design” is required to be indicated in the application for the registration of a “similar design” or “related design” in relation to that “principal design”. The Office needs to identify the “principal design”, because a “similar design” or “related design” can be registered as such, only if the latter is actually considered by the Office to be similar to that “principal design”, and if both the “similar design” or “related design” and the “principal design” belong to the same applicant/holder. In other words, by fulfilling these conditions, the “principal design” in question is not considered as a prior design that would prevent the “similar design” or “related design” from being registered.

29. Thus, in order that an applicant under the Hague system be able to benefit from the “similar design” or “related design” system, an international application should contain a reference to the “principal design”, where appropriate.

30. The proposed new Section 407 serves primarily the “similar design” or “related design” system, as described above. However, the new section is drafted in order to be able to also serve other situations in which another application or registration, or a certain industrial design contained in an application or registration, should be indicated in a given international application. Such a need may arise, for instance, if the law of any prospective Contracting Party provides for the possibility to file an international application claiming the filing date of a prior national or international application<sup>3</sup>.

31. Subparagraph (a) of Section 407 provides for the possibility to indicate in the international application that any or all of the industrial designs which are contained in that international application are to be considered in relation to any national or international application or registration, or to any certain industrial design contained in a national or international application or registration, for the purpose of the designation of a certain Contracting Party. It is to be noted that such an indication shall produce no effect on the designation of any other Contracting Party.

32. Subparagraph (b) provides for the manner in which the reference to the “principal industrial design” must be given. It takes into account that the “principal industrial design” may be contained in a national application or registration, or in an international application or registration. Furthermore, if such a national or international application or registration contains more than one industrial design, the “principal industrial design” needs to be identified by indicating its number.

33. Given the possibility that an international application may contain up to 100 industrial designs, as provided for in subparagraph (c), the applicant shall indicate those industrial designs to be considered in relation to the “principal industrial design”, so indicated in the international application.

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<sup>2</sup> The “related design” system already exists in the industrial design law of Japan.

<sup>3</sup> This may be the case, where, under the national law, the national application containing more than one industrial design must be divided into two or more applications, and the Contracting Party wishes to provide for the possibility to file such new divided applications under the Hague system. If such is the case, a reference to the original application would have to be provided in the international application.

*34. The Assembly is invited to comment on the proposal to add Section 407 in the Administrative Instructions and the consequential amendment of the title of Part Four thereof, as set out in Annex V hereto.*

[Annexes follow]



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H/LD/WG/1/5  
ORIGINAL: ENGLISH  
DATE: JUNE 1, 2011

## ***Ad hoc* Working Group on the Legal Development of the Hague System for the International Registration of Industrial Designs**

**Geneva, May 30 to June 1, 2011**

### SUMMARY BY THE CHAIR

*approved by the ad hoc Working Group*

1. The *ad hoc* Working Group on the Legal Development of the Hague System for the International Registration of Industrial Designs (hereinafter referred to as “the *ad hoc* Working Group”) met in Geneva from May 30 to June 1, 2011.
2. The following members of the Hague Union were represented at the session: Bulgaria, Denmark, Estonia, France, Georgia, Germany, Hungary, Italy, Latvia, Lithuania, Mongolia, Morocco, Norway, Poland, Republic of Moldova, Romania, Serbia, Singapore, Spain, Switzerland, The former Yugoslav Republic of Macedonia and Tunisia (22).
3. The following States were represented as observers: Algeria, Canada, China, Haiti, Indonesia, Japan, Kazakhstan, Panama, Republic of Korea, Saudi Arabia and United States of America (11).
4. Representatives of the following international intergovernmental organizations (IGOs) took part in the session in an observer capacity: Benelux Office for Intellectual Property (BOIP) and Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM) (2).
5. Representatives of the following international non-governmental organizations (NGOs) took part in the session in an observer capacity: *Association romande de propriété intellectuelle* (AROPI) and European Communities Trade Mark Association (ECTA) (2).



Agenda Item 1: Opening of the session

6. Mr. Francis Gurry, Director General of WIPO, opened the session of the *ad hoc* Working Group and welcomed the participants.

Agenda Item 2: Election of a Chair and two Vice-Chairs

7. Ms. Solvår Winnie Finnanger (Norway) was unanimously elected as Chair of the *ad hoc* Working Group, and Ms. Anne Loo (Singapore) and Mr. Gusztáv Szöllősi (Hungary) were elected as Vice-Chairs.
8. Ms. Päivi Lähdesmäki (WIPO) acted as Secretary to the *ad hoc* Working Group.

Agenda Item 3: Adoption of the Agenda

9. The *ad hoc* Working Group adopted the draft agenda (document H/LD/WG/1/1 Prov.) without modification.

Agenda Item 4: Issues relating to the publication and contents of the *International Designs Bulletin* and related proposed amendments to the Common Regulations Under the 1999 Act and the 1960 Act of the Hague Agreement

10. Discussion was based on document H/LD/WG/1/2.
11. The *ad hoc* Working Group considered document H/LD/WG/1/2 in detail.
  12. The Chair concluded that the *ad hoc* Working Group supported approach three elaborated in the document, on the understanding that the *International Designs Bulletin* will be published on a weekly basis.
  13. The Chair noted that the International Bureau will send a circular to the Offices of all the Contracting Parties inviting them to comment on the target date of January 1, 2012, for the implementation of a weekly publication of the *International Designs Bulletin*.
  14. The Chair concluded that the *ad hoc* Working Group recommended that a proposal to amend the Common Regulations with respect to the titles of Chapter 6 and Rule 26, and with respect to Rules 26(2) and (3), 28(2)(c) and (d), and 34(3)(b), as provided in Annex I to document H/LD/WG/1/2, be submitted, for adoption, to the Assembly of the Hague Union.
  15. The Chair concluded that the *ad hoc* Working Group recommended that a proposal to amend Sections 204(a)(i) and (d), 402(b) and 601 of the Administrative Instructions, as provided in Annex II to document H/LD/WG/1/2, be submitted, for consultation, to the Assembly of the Hague Union.

Agenda Item 5: Proposal for a new Rule on the refusal of the effects of the recording of a change in ownership in the International Register

16. Discussion was based on document H/LD/WG/1/3, as well as on a first draft of possible model forms for “Certificate of Transfer” and “Transfer Document”, as prepared and circulated by the Secretariat in the course of the meeting.
17. The Chair concluded that the *ad hoc* Working Group recommended to the Hague Union Assembly the introduction to the Common Regulations of proposed new Rule 21*bis*, as reproduced in Annex I to document H/LD/WG/1/3, subject to editorial corrections to the French version thereof, with January 1, 2012, as the date for its entry into force.
18. The Chair concluded that the *ad hoc* Working Group wanted the International Bureau to pursue the development of possible model forms and that, in that respect, the International Bureau would be taking into account any comments made by Offices and user groups as well as developments in the Digital Access Service environment.

Agenda Item 6: Situation of the 1934 Act and the 1960 Act of the Hague Agreement

19. Discussion was based on document H/LD/WG/1/4.
20. The *ad hoc* Working Group took note of the information provided in the document.

Agenda Item 7: Other matters

21. The Chair concluded that the *ad hoc* Working Group agreed to recommend to the Assembly of the Hague Union the establishment of a Working Group to address the legal development of the Hague system.

Agenda Item 8: Summary by the Chair

22. The *ad hoc* Working Group approved the Summary by the Chair as contained in the present document.

Agenda Item 9: Closing of the session

23. The Chair closed the session on June 1, 2011.

[Annex II follows]

**Common Regulations  
Under the 1999 Act and the 1960 Act  
of the Hague Agreement**

(as in force on [January 1, 2012])

[...]

CHAPTER 4

CHANGES AND CORRECTIONS

[...]

Rule 21bis

Declaration That a Change in Ownership Has No Effect

(1) [Declaration and Its Effect] The Office of a designated Contracting Party may declare that a change in ownership recorded in the International Register has no effect in the said Contracting Party. The effect of such a declaration shall be that, with respect to the said Contracting Party, the international registration concerned shall remain in the name of the transferor.

(2) [Contents of the Declaration] The declaration referred to in paragraph (1) shall indicate

(a) the reasons for which the change in ownership has no effect,

(b) the corresponding essential provisions of the law,

(c) where the declaration does not relate to all the industrial designs that are the subject of the change in ownership, those to which it relates, and

(d) whether such declaration may be subject to review or appeal and, if so, the time limit, reasonable under the circumstances, for any request for review of, or appeal against, the declaration and the authority to which such request for review or appeal shall lie, with the indication, where applicable, that the request for review or the appeal has to be filed through the intermediary of a representative whose address is within the territory of the Contracting Party whose Office has pronounced the declaration.

(3) [Period for Declaration] The declaration referred to in paragraph (1) shall be sent to the International Bureau within six months from the date of the publication of the said change in ownership or within the applicable refusal period in accordance with Article 12(2) of the 1999 Act or Article 8(1) of the 1960 Act, whichever expires later.

(4) [Recording and Notification of the Declaration; Consequential Modification of the International Register] The International Bureau shall record in the International Register any declaration made in accordance with paragraph (3) and shall modify the International Register, whereby that part of the international registration which has been the subject of the said declaration shall be recorded as a separate international registration in the name of the previous holder (transferor). The International Bureau shall notify accordingly the previous holder (transferor) and the new holder (transferee).

(5) [Withdrawal of Declaration] Any declaration made in accordance with paragraph (3) may be withdrawn, in part or in whole. The withdrawal of declaration shall be notified to the International Bureau which shall record it in the International Register. The International Bureau shall modify the International Register accordingly, and shall notify accordingly the previous holder (transferor) and the new holder (transferee).

[...]

## CHAPTER 6

### BULLETIN PUBLICATION

#### Rule 26

#### Bulletin Publication

[...]

(2) *[Information Concerning Declarations; Other Information]* The International Bureau shall publish in the Bulletin on the website of the Organization any declaration made by a Contracting Party under the 1999 Act, the 1960 Act or these Regulations, as well as a list of the days on which the International Bureau is not scheduled to open to the public during the current and the following calendar year.

(3) *[Mode of Publishing the Bulletin]* The Bulletin shall be published on the website of the Organization. ~~The date on which each issue of the Bulletin is published on that website shall be electronically communicated by the International Bureau to the Office of each Contracting Party. Such communication~~ publication of each issue of the Bulletin shall be deemed to replace the sending of the Bulletin referred to in Article 10(3)(b) and 16(4) of the 1999 Act and Article 6(3)(b) of the 1960 Act, and, for the purposes of Article 8(2) of the 1960 Act, each issue of the Bulletin shall be deemed to have been received by each Office concerned ~~also~~ on the date of ~~the said communication~~ its publication on the website of the Organization.

[...]

## CHAPTER 7

### FEES

[...]

#### Rule 28

#### *Currency of Payments*

[...]

(2) *[Establishment of the Amount of Individual Designation Fees in Swiss Currency]*

[...]

(c) Where, for more than three consecutive months, the official exchange rate of the United Nations between the Swiss currency and the currency in which the amount of an individual designation fee has been indicated by a Contracting Party is higher or lower by at

least 5% than the last exchange rate applied to establish the amount of the fee in Swiss currency, the Office of that Contracting Party may ask the Director General to establish a new amount of the fee in Swiss currency according to the official exchange rate of the United Nations prevailing on the day preceding the day on which the request is made. The Director General shall proceed accordingly. The new amount shall be applicable as from a date which shall be fixed by the Director General, provided that such date is between one and two months after the date of the publication of the said amount [in the Bulletin on the website of the Organization](#).

(d) Where, for more than three consecutive months, the official exchange rate of the United Nations between the Swiss currency and the currency in which the amount of an individual designation fee has been indicated by a Contracting Party is lower by at least 10% than the last exchange rate applied to establish the amount of the fee in Swiss currency, the Director General shall establish a new amount of the fee in Swiss currency according to the current official exchange rate of the United Nations. The new amount shall be applicable as from a date which shall be fixed by the Director General, provided that such date is between one and two months after the date of the publication of the said amount [in the Bulletin on the website of the Organization](#).

[...]

## CHAPTER 9

### MISCELLANEOUS

[...]

#### *Rule 34 Administrative Instructions*

[...]

(3) [*Publication and Effective Date*] (a) The Administrative Instructions and any modification thereof shall be published [in the Bulletin on the website of the Organization](#).

(b) Each publication shall specify the date on which the published provisions become effective. The dates may be different for different provisions, provided that no provision may be declared effective prior to its publication [in the Bulletin on the website of the Organization](#).

[Annex III follows]

**Common Regulations  
Under the 1999 Act and the 1960 Act  
of the Hague Agreement**

(as in force on [January 1, 2012])

[...]

CHAPTER 4

CHANGES AND CORRECTIONS

[...]

*Rule 21bis*

*Declaration That a Change in Ownership Has No Effect*

(1) *[Declaration and Its Effect]* The Office of a designated Contracting Party may declare that a change in ownership recorded in the International Register has no effect in the said Contracting Party. The effect of such a declaration shall be that, with respect to the said Contracting Party, the international registration concerned shall remain in the name of the transferor.

(2) *[Contents of the Declaration]* The declaration referred to in paragraph (1) shall indicate

- (a) the reasons for which the change in ownership has no effect,
- (b) the corresponding essential provisions of the law,
- (c) where the declaration does not relate to all the industrial designs that are the subject of the change in ownership, those to which it relates, and
- (d) whether such declaration may be subject to review or appeal and, if so, the time limit, reasonable under the circumstances, for any request for review of, or appeal against, the declaration and the authority to which such request for review or appeal shall lie, with the indication, where applicable, that the request for review or the appeal has to be filed through the intermediary of a representative whose address is within the territory of the Contracting Party whose Office has pronounced the declaration.

(3) *[Period for Declaration]* The declaration referred to in paragraph (1) shall be sent to the International Bureau within six months from the date of the publication of the said change in ownership or within the applicable refusal period in accordance with Article 12(2) of the 1999 Act or Article 8(1) of the 1960 Act, whichever expires later.

(4) *[Recording and Notification of the Declaration; Consequential Modification of the International Register]* The International Bureau shall record in the International Register any declaration made in accordance with paragraph (3) and shall modify the International Register, whereby that part of the international registration which has been the subject of the said declaration shall be recorded as a separate international registration in the name of the previous holder (transferor). The International Bureau shall notify accordingly the previous holder (transferor) and the new holder (transferee).

(5) *[Withdrawal of Declaration]* Any declaration made in accordance with paragraph (3) may be withdrawn, in part or in whole. The withdrawal of declaration shall be notified to the International Bureau which shall record it in the International Register. The International Bureau shall modify the International Register accordingly, and shall notify accordingly the previous holder (transferor) and the new holder (transferee).

[...]

## CHAPTER 6

### PUBLICATION

#### *Rule 26 Publication*

[...]

(2) *[Information Concerning Declarations; Other Information]* The International Bureau shall publish on the website of the Organization any declaration made by a Contracting Party under the 1999 Act, the 1960 Act or these Regulations, as well as a list of the days on which the International Bureau is not scheduled to open to the public during the current and the following calendar year.

(3) *[Mode of Publishing the Bulletin]* The Bulletin shall be published on the website of the Organization. The publication of each issue of the Bulletin shall be deemed to replace the sending of the Bulletin referred to in Article 10(3)(b) and 16(4) of the 1999 Act and Article 6(3)(b) of the 1960 Act, and, for the purposes of Article 8(2) of the 1960 Act, each issue of the Bulletin shall be deemed to have been received by each Office concerned on the date of its publication on the website of the Organization.

[...]

## CHAPTER 7

### FEES

[...]

#### *Rule 28 Currency of Payments*

[...]

(2) *[Establishment of the Amount of Individual Designation Fees in Swiss Currency]*

[...]

(c) Where, for more than three consecutive months, the official exchange rate of the United Nations between the Swiss currency and the currency in which the amount of an individual designation fee has been indicated by a Contracting Party is higher or lower by at least 5% than the last exchange rate applied to establish the amount of the fee in Swiss currency, the Office of that Contracting Party may ask the Director General to establish a

new amount of the fee in Swiss currency according to the official exchange rate of the United Nations prevailing on the day preceding the day on which the request is made. The Director General shall proceed accordingly. The new amount shall be applicable as from a date which shall be fixed by the Director General, provided that such date is between one and two months after the date of the publication of the said amount on the website of the Organization.

(d) Where, for more than three consecutive months, the official exchange rate of the United Nations between the Swiss currency and the currency in which the amount of an individual designation fee has been indicated by a Contracting Party is lower by at least 10% than the last exchange rate applied to establish the amount of the fee in Swiss currency, the Director General shall establish a new amount of the fee in Swiss currency according to the current official exchange rate of the United Nations. The new amount shall be applicable as from a date which shall be fixed by the Director General, provided that such date is between one and two months after the date of the publication of the said amount on the website of the Organization.

[...]

## CHAPTER 9

### MISCELLANEOUS

[...]

#### *Rule 34* *Administrative Instructions*

[...]

(3) [*Publication and Effective Date*] (a) The Administrative Instructions and any modification thereof shall be published on the website of the Organization.

(b) Each publication shall specify the date on which the published provisions become effective. The dates may be different for different provisions, provided that no provision may be declared effective prior to its publication on the website of the Organization.

[Annex IV follows]



## Administrative Instructions for the Application of the Hague Agreement

[...]

### Part Two Communications with the International Bureau

[...]

#### *Section 204: Electronic Communications*

(a) (i) Communications with the International Bureau, including the presentation of the international application, may take place by electronic means at a time and in a manner and format to be ascertained by the International Bureau, the particulars of which shall be published ~~in the Bulletin~~ on the website of the Organization.

[...]

(d) ~~For the purpose of the~~ Where the Office of a Contracting Party wishes to receive a communication by the International Bureau ~~to Offices of Contracting Parties~~ of the dates on which each issue of the Bulletin is published, ~~as provided for in Rule 26(3), each such Office shall~~ that Office shall notify the International Bureau of that fact and indicate ~~to the International Bureau~~ the email address to which the said communication shall be sent.

### Part Four

#### ~~Reproduction of the Industrial Design; Disclaimer; Numbering~~ Requirements Concerning Reproductions and Other Elements of the International Application

[...]

#### *Section 402: Representation of the Industrial Design*

[...]

(b) The dimensions of the representation of each industrial design 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. With respect to the filing of international applications by electronic means, the International Bureau may establish a data format, the particulars of which shall be published ~~in the Bulletin~~ on the website of the Organization, to ensure compliance with these maximum and minimum dimensions.

[...]

Section 407: Relation with a principal industrial design  
or a principal application or registration

(a) Where the applicant wishes any or all of the industrial designs which are contained in the international application to be considered, under the law of a designated Contracting Party that so provides, in relation to any national or international application or registration (the principal application or registration), or to any certain industrial design contained in a national or international application or registration (the principal industrial design), the international application shall contain a request to that effect, identifying the Contracting Party concerned and providing the reference to the principal application or registration, or to the principal industrial design.

(b) For the purpose of subparagraph (a), the reference to the principal application or registration or to the principal industrial design shall be indicated in either of the following manners:

(i) Where the principal industrial design is contained in the same international application, the number of that industrial design;

(ii) Where the principal industrial design is the subject of another national or international registration, the number of the national or international registration concerned, together with the number of the principal industrial design if such a registration contains more than one industrial design;

(iii) Where the principal industrial design is the subject of a national application which has not matured into registration, the number of the national application concerned or, if not available, the applicant's reference for that national application, together with the number of the principal industrial design if such an application contains more than one industrial design, or

(iv) Where the principal industrial design is the subject of an international application which has not matured into international registration, the reference given by the International Bureau to that international application, together with the number of the principal industrial design if such an application contains more than one industrial design.

(c) Where the request under subparagraph (a) concerns only one or some of the industrial designs which are contained in the international application, the request shall also indicate the numbers of the industrial designs concerned.

[...]

**Part Six**  
**Request for the Recording of a Limitation or Renunciation**  
**when Publication Deferred**

*Section 601: Latest Time to Request the Recording  
of a Limitation or Renunciation*

Where the publication of an international registration is deferred, a request for the recording of a limitation or renunciation concerning that registration, complying with the applicable requirements, must be received by the International Bureau not later than three ~~months~~ weeks prior to the expiry of the period of deferment. In default of this, the international registration is published at the expiration of the period of deferment without account being taken of the request for the recording of a limitation or renunciation. Provided that the request for limitation or renunciation complies with the applicable requirements, the limitation or renunciation is however recorded in the International Register.

[Annex V follows]

**Administrative Instructions for the Application  
of the Hague Agreement**

[...]

**Part Two  
Communications with the International Bureau**

[...]

*Section 204: Electronic Communications*

(a) (i) Communications with the International Bureau, including the presentation of the international application, may take place by electronic means at a time and in a manner and format to be ascertained by the International Bureau, the particulars of which shall be published on the website of the Organization.

[...]

(d) Where the Office of a Contracting Party wishes to receive a communication by the International Bureau of the dates on which each issue of the Bulletin is published, that Office shall notify the International Bureau of that fact and indicate the email address to which the said communication shall be sent.

**Part Four  
Requirements Concerning Reproductions and  
Other Elements of the International Application**

[...]

*Section 402: Representation of the Industrial Design*

[...]

(b) The dimensions of the representation of each industrial design 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. With respect to the filing of international applications by electronic means, the International Bureau may establish a data format, the particulars of which shall be published on the website of the Organization, to ensure compliance with these maximum and minimum dimensions.

[...]

*Section 407: Relation with a principal industrial design  
or a principal application or registration*

- (a) Where the applicant wishes any or all of the industrial designs which are contained in the international application to be considered, under the law of a designated Contracting Party that so provides, in relation to any national or international application or registration (the principal application or registration), or to any certain industrial design contained in a national or international application or registration (the principal industrial design), the international application shall contain a request to that effect, identifying the Contracting Party concerned and providing the reference to the principal application or registration, or to the principal industrial design.
- (b) For the purpose of subparagraph (a), the reference to the principal application or registration or to the principal industrial design shall be indicated in either of the following manners:
- (i) Where the principal industrial design is contained in the same international application, the number of that industrial design;
  - (ii) Where the principal industrial design is the subject of another national or international registration, the number of the national or international registration concerned, together with the number of the principal industrial design if such a registration contains more than one industrial design;
  - (iii) Where the principal industrial design is the subject of a national application which has not matured into registration, the number of the national application concerned or, if not available, the applicant's reference for that national application, together with the number of the principal industrial design if such an application contains more than one industrial design, or
  - (iv) Where the principal industrial design is the subject of an international application which has not matured into international registration, the reference given by the International Bureau to that international application, together with the number of the principal industrial design if such an application contains more than one industrial design.
- (c) Where the request under subparagraph (a) concerns only one or some of the industrial designs which are contained in the international application, the request shall also indicate the numbers of the industrial designs concerned.

[...]

**Part Six**  
**Request for the Recording of a Limitation or Renunciation**  
**when Publication Deferred**

*Section 601: Latest Time to Request the Recording  
of a Limitation or Renunciation*

Where the publication of an international registration is deferred, a request for the recording of a limitation or renunciation concerning that registration, complying with the applicable requirements, must be received by the International Bureau not later than three weeks prior to the expiry of the period of deferment. In default of this, the international registration is published at the expiration of the period of deferment without account being taken of the request for the recording of a limitation or renunciation. Provided that the request for limitation or renunciation complies with the applicable requirements, the limitation or renunciation is however recorded in the International Register.

[End of Annex V and of document]