

Preparatory Committee of the Diplomatic Conference to Conclude and Adopt a Design Law Treaty (DLT)

Geneva, October 9 to 11, 2023

DRAFT ADMINISTRATIVE PROVISIONS AND FINAL CLAUSES OF THE TREATY TO BE CONSIDERED BY THE DIPLOMATIC CONFERENCE

prepared by the Secretariat

1. The WIPO General Assembly, at its Fifty-Fifth Session held from July 14 to 22, 2022, decided to convene a Diplomatic Conference to Conclude and Adopt a Design Law Treaty (DLT). The WIPO General Assembly further decided “to convene a Preparatory Committee in the second half of 2023, to establish the necessary modalities of the Diplomatic Conference” [...] and to “approve the Basic Proposal for the administrative and final provisions of the Treaty” (see document WO/GA/55/12, paragraph 309).

2. *The Preparatory Committee is invited to consider and approve the administrative provisions and final clauses as set forth in document DLT/2/PM/2 for further consideration by the Diplomatic Conference.*

Draft Administrative Provisions and Final Clauses for a Design Law Treaty (DLT)

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Article 24 Assembly

(1) [Composition] (a) The Contracting Parties shall have an Assembly.

b) Each Contracting Party shall be represented in the Assembly by one delegate, who may be assisted by alternate delegates, advisors and experts. Each delegate may represent only one Contracting Party.

[(c) Option 1

[The expenses of each delegation shall be borne by the Contracting Party that has appointed the delegation. The Assembly may ask the Organization to grant financial assistance to facilitate the participation of delegations of Contracting Parties that are regarded as developing countries in conformity with the established practice of the General Assembly of the United Nations or LDCs or that are countries in transition to a market economy.]

Option 2

[Contracting Parties that are regarded as developing countries or LDCs or that are countries in transition to a market economy shall be granted adequate financial assistance by the Organization to facilitate the participation of at least one delegate of such Contracting Party in all ordinary and extraordinary sessions of the Assembly, and any inter-sessional meeting, working group, revision conference or diplomatic conference in relation to the Treaty and the Regulations.]]

(2) [Tasks] The Assembly shall

(i) deal with matters concerning the development of this Treaty;

[(ii) establish Model International Forms, referred to in Article 23(1)b);]

(iii) amend the Regulations;

(iv) determine the conditions for the date of application of each amendment referred to in item (iii);

(v) monitor, at every ordinary session, the technical assistance provided under this Treaty¹;

(vi) perform such other functions as are appropriate to implementing the provisions of this Treaty.

(3) [Quorum] (a) One-half of the members of the Assembly which are States shall constitute a quorum.

(b) Notwithstanding subparagraph (a), if, in any session, the number of the members of the Assembly which are States and are represented is less than one-half but equal to or more than one-third of the members of the Assembly which are States, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the members of the Assembly which are States and were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication.

¹ The Delegation of the United States of America proposed the words "provided for implementation of this Treaty" in place of "provided under this Treaty".

If, at the expiration of this period, the number of such members having thus expressed their vote or abstention attains the number of the members which was lacking for attaining the quorum in the session itself, such decisions shall take effect, provided that at the same time the required majority still obtains.

(4) [Taking Decisions in the Assembly] (a) The Assembly shall endeavor to take its decisions by consensus.

(b) Where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. In such a case,

(i) each Contracting Party that is a State shall have one vote and shall vote only in its own name; and

(ii) any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States which are party to this Treaty. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and vice versa. In addition, no such intergovernmental organization shall participate in the vote if any one of its Member States party to this Treaty is a Member State of another such intergovernmental organization and that other intergovernmental organization participates in that vote.

(5) [Majorities] (a) Subject to Article 23(2) and (3), the decisions of the Assembly shall require two-thirds of the votes cast.

(b) In determining whether the required majority is attained, only votes actually cast shall be taken into consideration. Abstentions shall not be considered as votes.

(6) [Sessions] The Assembly shall meet upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(7) [Rules of Procedure] The Assembly shall establish its own rules of procedure, including rules for the convocation of extraordinary sessions.

Article 25

International Bureau

(1) [Administrative Tasks] (a) The International Bureau shall perform the administrative tasks concerning this Treaty.

(b) In particular, the International Bureau shall prepare the meetings and provide the Secretariat of the Assembly and of such committees of experts and working groups as may be established by the Assembly.

(2) [Meetings Other than Sessions of the Assembly] The Director General shall convene any committee and working group established by the Assembly.

(3) [Role of the International Bureau in the Assembly and Other Meetings] (a) The Director General and persons designated by the Director General shall participate, without the right to vote, in all meetings of the Assembly, the committees and working groups established by the Assembly.

(b) The Director General or a staff member designated by the Director General shall be ex officio Secretary of the Assembly, and of the committees and working groups referred to in subparagraph (a).

(4) [Conferences] (a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for any revision conferences.

(b) The International Bureau may consult with Member States of the Organization, intergovernmental organizations and international and national non-governmental organizations concerning the said preparations.

(c) The Director General and persons designated by the Director General shall take part, without the right to vote, in the discussions at revision conferences.

(5) [Other Tasks] The International Bureau shall carry out any other tasks assigned to it in relation to this Treaty.

Article 26

Revision

This Treaty may only be revised by a diplomatic conference. The convocation of any diplomatic conference shall be decided by the Assembly.

Article 27

Becoming Party to the Treaty

(1) [Eligibility] The following entities may sign and, subject to paragraphs (2) and (3) and Article 28(1) and (3), become party to this Treaty:

(i) any State member of the Organization in respect of which industrial designs may be registered or patented with its own Office;

(ii) any intergovernmental organization that maintains an Office in which industrial designs may be registered with effect in the territory in which the constituting treaty of the intergovernmental organization applies, in all its Member States or in those of its Member States which are designated for such purpose in the relevant application, provided that all the Member States of the intergovernmental organization are members of the Organization;

(iii) any State member of the Organization in respect of which industrial designs may be registered only through the Office of another specified State that is a member of the Organization;

(iv) any State member of the Organization in respect of which industrial designs may be registered only through the Office maintained by an intergovernmental organization of which that State is a member;

(v) any State member of the Organization in respect of which industrial designs may be registered only through an Office common to a group of States members of the Organization.

(2) [Ratification or Accession] Any entity referred to in paragraph (1) may deposit

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

- (ii) an instrument of accession, if it has not signed this Treaty.
- (3) [Effective Date of Deposit] The effective date of the deposit of an instrument of ratification or accession shall be,
- (i) in the case of a State referred to in paragraph (1)(i), the date on which the instrument of that State is deposited;
- (ii) in the case of an intergovernmental organization, the date on which the instrument of that intergovernmental organization is deposited;
- (iii) in the case of a State referred to in paragraph (1)(iii), the date on which the following condition is fulfilled: the instrument of that State has been deposited and the instrument of the other specified State has been deposited;
- (iv) in the case of a State referred to in paragraph (1)(iv), the date applicable under item (ii), above;
- (v) in the case of a State member of a group of States referred to in paragraph (1)(v), the date on which the instruments of all the States members of the group have been deposited.

Article 28
Entry into Force;
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 entities 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 the Treaty] This Treaty shall enter into force three months after [10] [30] States or intergovernmental organizations referred to in Article 27(1)(ii) have deposited their instruments of ratification or accession.
- (3) [Entry into Force of Ratifications and Accessions Subsequent to the Entry into Force of the Treaty] Any entity not covered by paragraph (2) shall become bound by this Treaty three months after the date on which it has deposited its instrument of ratification or accession.

Article 29
Reservations

Article 30
Denunciation of the Treaty

- (1) [Notification] Any Contracting Party may denounce this Treaty by notification addressed to the Director General.
- (2) [Effective Date] Denunciation shall take effect one year from the date on which the Director General has received the notification.

It shall not affect the application of this Treaty to any application pending or any industrial design registered in respect of the denouncing Contracting Party at the time of the expiration of the said one-year period, provided that the denouncing Contracting Party may, after the expiration of the said one-year period, discontinue applying this Treaty to any registration as from the date on which that registration is due for renewal.

Article 31
Languages of the Treaty; Signature

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

(b) An official text in a language not referred to in subparagraph (a) that is an official language of a Contracting Party shall be established by the Director General after consultation with the said Contracting Party and any other interested Contracting Party.

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

Article 32
Depositary

The Director General shall be the depositary of this Treaty.

[End of document]