QUESTIONNAIRE ON THE TEMPORARY PROTECTION PROVIDED TO INDUSTRIAL DESIGNS AT CERTAIN INTERNATIONAL EXHIBITIONS UNDER ARTICLE 11 OF THE PARIS CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY

considered by the SCT at its forty-first session

1. At the forty-first session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), held in Geneva from April 8 to 11, 2019, the SCT considered document SCT/41/3, entitled “Temporary Protection Provided to Industrial Designs at Certain International Exhibitions Under Article 11 of the Paris Convention for the Protection of Industrial Property: Draft Questionnaire”, as well as a revised version of the draft questionnaire (document SCT/41/3 Rev.). The Chair of the SCT concluded that the Secretariat was requested to “circulate the questionnaire as contained in document SCT/41/3 Rev. to SCT members and Intergovernmental Intellectual Property Organizations with observer status, for returns by July 31, 2019; and compile all returns into a document for consideration by the forty-second session of the SCT” (see document SCT/41/10, paragraph 12).

2. The present Questionnaire on the Temporary Protection Provided to Industrial Designs at Certain International Exhibitions Under Article 11 of the Paris Convention for the Protection of Industrial Property aims at collecting information on the way in which the temporary protection provided for under Article 11 of the Paris Convention is implemented by members for industrial designs. In particular, the questionnaire seeks information as regards the following: (i) the provisions of the applicable law, (ii) the nature of the measure(s) that give(s) effect to Article 11 of the Paris Convention, (iii) the starting date and duration of the temporary protection provided by Article 11 of the Paris Convention, (iv) the criteria as to “official or officially recognized international exhibitions”, (v) the conditions and evidence to comply with to benefit from the aforementioned measure(s) and (vi) the examination by the office and recording of the temporary protection granted to an industrial design.

3. So as to enable the Secretariat to prepare the requested document compiling the replies of SCT members and the aforementioned Organizations, the completed questionnaire should be returned to the World Intellectual Property Organization (WIPO) by July 31, 2019, by e-mail to: sct.forum@wipo.int; or by surface mail to WIPO, 34, chemin des Colombettes, 1211 Geneva 20, Switzerland; or by facsimile to +41 22 338 87 45.
Please respond to the following questions based on the applicable law and practice in your jurisdiction.

QUESTIONS

(a) Preliminary question

1. **Does the applicable law in your jurisdiction contain specific provisions concerning the temporary protection granted to industrial designs under Article 11 of the Paris Convention?**

   □ YES  □ NO

   If YES, please indicate the reference

   Comments, if any:

(b) Nature of the measure

2. **What measure(s) give(s) effect to Article 11 of the Paris Convention:**

   □ an “exhibition” right of priority\(^1\)
   
   □ a “grace period” for filing\(^2\)
   
   □ other - Please specify

   Comments, if any:

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\(^1\) For the purpose of this questionnaire, an “exhibition” right of priority is understood as the right of priority that may be claimed by an applicant with respect to an application for registration of an industrial design/the filing of a design patent, on the basis of the disclosure of the industrial design at an official or officially recognized international exhibition.

\(^2\) For the purpose of this questionnaire, a “grace period” for filing is understood as a period of time, preceding the filing of an application for registration of an industrial design/the filing of a design patent, during which a disclosure of the industrial design will be without prejudice to its novelty and/or originality, provided that certain conditions are met. In certain jurisdictions, such a disclosure is referred to as a “non-prejudicial disclosure”; in other jurisdictions, such disclosure is regarded as an “exception to lack of novelty”.
(c) Starting date and duration of the temporary protection provided by Article 11 of the Paris Convention

3. **What is the starting date of the temporary protection?**

   - [ ] the opening date of the exhibition
   - [ ] the date of the first disclosure of the goods on which the industrial design is incorporated or to which it is applied at the exhibition
   - [ ] other - *Please specify*

   Comments, if any:

4. **What is the duration of the temporary protection?**

   - [ ] 6 months  [ ] 12 months
   - [ ] other - *Please specify*

   Comments, if any:

5. **Which date is taken into account to calculate the end of the temporary protection?**

   - [ ] the date of filing of the application in your jurisdiction
   - [ ] the date of priority, if any
   - [ ] other – *Please specify*

   Comments, if any:

(d) Official or officially recognized international exhibitions

6. **Are criteria established to determine what is an “official or officially recognized international exhibition”?**

   - [ ] YES  [ ] NO

   If NO, why?

   - [ ] the measure referred to in Question 2 is not limited to the disclosure at an official or officially recognized international exhibition
☐ other – *Please specify*

**If YES, what are those criteria?**

☐ the exhibition falls within the terms of the Convention Relating to International Exhibitions signed in Paris on 22 November 1928

☐ other – *Please specify*

**If YES, how are those criteria published or made available to the public?**

☐ the criteria are specified in the legislation

☐ the criteria are published in an official Bulletin/Journal/Gazette

☐ the criteria are published in the office’s guidelines or manuals

☐ the criteria are published on the office's website

☐ other – *Please specify*

Comments, if any:

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(e) **Conditions and evidence**

7. Must the applicant expressly claim the benefit of the measure referred to in Question 2?

☐ YES  ☐ NO

**If YES, what conditions must be fulfilled?**

☐ the applicant must claim an “exhibition” right of priority

☐ the applicant must make a declaration stating that the industrial design has been disclosed at an exhibition

☐ the applicant must make a declaration to claim the benefit of an exception to lack of novelty

☐ other - *Please specify*

**If YES, when must the claim/declaration be filed?**

☐ it must be filed with the application

☐ it may be filed at a later stage – *Please specify*
8. Must the applicant pay a fee to benefit from the measure referred to in Question 2?

- □ YES  □ NO

If YES, when must the fee be paid? *Please specify*

Comments, if any:

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9. What documentary evidence is required to prove the disclosure of an industrial design at an exhibition?

- □ a certificate issued by the competent authority of the exhibition concerned or of the country where it was held
- □ a declaration by the applicant
- □ other – *Please specify*

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10. What is the mandatory content of the documentary evidence referred to in Question 9

- □ name of the exhibition
- □ venue of the exhibition
- □ opening date of the exhibition
- □ closing date of the exhibition
- □ date of the first disclosure of the goods on which the industrial design is incorporated or to which it is applied at the exhibition
- □ name of the person(s) who disclosed the industrial design at the exhibition
- □ declaration that identifies the industrial design disclosed at the exhibition
- □ description of the industrial design disclosed at the exhibition

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☐ photographs of the goods on which the industrial design is incorporated or to which it is applied, as exhibited at the exhibition

☐ other – Please specify

Comments, if any:

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11. When is the documentary evidence referred to in Question 9 to be submitted?

☐ it must be submitted along with the application

☐ it may be submitted after the filing of the application, within a given time limit – Please specify the time limit

☐ it may be submitted during the application examination process in reply to an office's action

☐ other – Please specify

Comments, if any:

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(f) Examination and recording

12. Where an applicant claims the benefit of the measure referred to in Question 2, does the office examine if the industrial design disclosed at the exhibition is the same as the industrial design subject to the application?

☐ YES ☐ NO

Comments, if any:

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13. Is the temporary protection granted to an industrial design recorded in the register?

☐ YES ☐ NO

Comments, if any:
14. Do you have any further remarks with respect to Article 11 of the Paris Convention?

☐ YES ☐ NO

If YES, please specify

Comments, if any: