REPUBBLICA DI SAN MARINO

DECRETO CONSILIARE 2 maggio 2011 n.70

Noi Capitani Reggenti
la Serenissima Repubblica di San Marino

Visto il combinato disposto dell'articolo 5, comma 3, della Legge Costituzionale n.185/2005 e dell'articolo 11, comma 2, della Legge Qualificata n. 186/2005;
Vista la delibera del Consiglio Grande e Generale n.29 del 27 aprile 2011;
ValendoCi delle Nostre Facoltà;
Promulghiamo e mandiamo a pubblicare:

ADESIONE ALL'ATTO DI GINEVRA RELATIVO ALL'ACCORDO DELL'AJA IN MATERIA DI REGISTRAZIONE DI DISEGNI E MODELLI INDUSTRIALI, CONCLUSO A GINEVRA IL 2 LUGLIO 1999

Articolo Unico

Piena ed intera esecuzione è data all'Atto di Ginevra relativo all'Accordo dell'Aja in materia di registrazione di disegni e modelli industriali, concluso a Ginevra il 2 luglio 1999 (Allegato A), a decorrere dalla sua entrata in vigore ai sensi dell'articolo 28 comma 3 dell'Atto medesimo.

Dato dalla Nostra Residenza, addì 2 maggio 2011/1710 d.F.R

I CAPITANI REGGENTI
Maria Luisa Berti – Filippo Tamagnini

IL SEGRETARIO DI STATO
PER GLI AFFARI INTERNI
Valeria Ciavatta

Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs

Adopted by the Diplomatic Conference on July 2, 1999

INTRODUCTORY PROVISION

Article 1
Abbreviated Expressions

For the purposes of this Act:

(i) "the Hague Agreement" means the Hague Agreement Concerning the International Deposit of Industrial Designs, henceforth renamed the Hague Agreement Concerning the International Registration of Industrial Designs;

(ii) "this Act" means the Hague Agreement as established by the present Act;

(iii) "Regulations" means the Regulations under this Act;

(iv) "prescribed" means prescribed in the Regulations;

(v) "Paris Convention" means the Paris Convention for the Protection of Industrial Property, signed at Paris on March 20, 1883, as revised and amended;

(vi) "international registration" means the international registration of an industrial design effected according to this Act;

(vii) "international application" means an application for international registration;

(viii) "International Register" means the official collection of data concerning international registrations maintained by the International Bureau, which data this Act or the Regulations require or permit to be recorded, regardless of the medium in which such data are stored;

(ix) "person" means a natural person or a legal entity;

(x) "applicant" means the person in whose name an international application is filed;

(xi) "holder" means the person in whose name an international registration is recorded in the International Register;

(xii) "intergovernmental organization" means an intergovernmental organization eligible to become party to this Act in accordance with Article 27(1)(ii);

(xiii) "Contracting Party" means any State or intergovernmental organization party to this Act;

(xiv) "applicant's Contracting Party" means the Contracting Party or one of the Contracting Parties from which the applicant derives its entitlement to file an international application by virtue of satisfying, in relation to that Contracting Party, at least one of the conditions specified in Article 3; where there are two or more Contracting Parties from which the applicant may, under Article 3, derive its entitlement to file an international application, "applicant's Contracting Party" means the one which, among those Contracting Parties, is indicated as such in the international application;

(xv) "territory of a Contracting Party" means, where the Contracting Party is a State, the territory of that State and, where the Contracting Party is an intergovernmental organization, the territory in which the constituent treaty of that intergovernmental organization applies;

(xvi) "Office" means the agency entrusted by a Contracting Party with the grant of protection for industrial designs with effect in the territory of that Contracting Party;

(xvii) "Examining Office" means an Office which *ex officio* examines applications filed with it for the protection of industrial designs at least to determine whether the industrial designs satisfy the condition of novelty;

(xviii) "designation" means a request that an international registration have effect in a Contracting Party; it also means the recording, in the International Register, of that request;

(xix) "designated Contracting Party" and "designated Office" means the Contracting Party and the Office of the Contracting Party, respectively, to which a designation applies;

(xx) "1934 Act" means the Act signed at London on June 2, 1934, of the Hague Agreement;

(xxi) "1960 Act" means the Act signed at The Hague on November 28, 1960, of the Hague Agreement;

(xxii) "1961 Additional Act" means the Act signed at Monaco on November 18, 1961, additional to the 1934 Act;

(xxiii) "Complementary Act of 1967" means the Complementary Act signed at Stockholm on July 14, 1967, as amended, of the Hague Agreement;

(xxiv) "Union" means the Hague Union established by the Hague Agreement of November 6, 1925, and maintained by the 1934 and 1960 Acts, the 1961 Additional Act, the Complementary Act of 1967 and this Act;

(xxv) "Assembly" means the Assembly referred to in Article 21(1)(a) or any body replacing that Assembly;

(xxvi) "Organization" means the World Intellectual Property Organization;

(xxvii) "Director General" means the Director General of the Organization;

(xxviii) "International Bureau" means the International Bureau of the Organization;

(xxix) "instrument of ratification" shall be construed as including instruments of acceptance or approval.

Article 2
Applicability of Other Protection Accorded by Laws of Contracting Parties and by Certain International Treaties

(1) [*Laws of Contracting Parties and Certain International Treaties*] The provisions of this Act shall not affect the application of any greater protection which may be accorded by the law of a Contracting Party, nor shall they affect in any way the protection accorded to works of art and works of applied art by international copyright treaties and conventions, or the protection accorded to industrial designs under the Agreement on Trade-Related Aspects of Intellectual Property Rights annexed to the Agreement Establishing the World Trade Organization.

(2) [*Obligation to Comply with the Paris Convention*] Each Contracting Party shall comply with the provisions of the Paris Convention which concern industrial designs.

CHAPTER I
INTERNATIONAL APPLICATION AND INTERNATIONAL REGISTRATION

Article 3
Entitlement to File an International Application

Any person that is a national of a State that is a Contracting Party or of a State member of an intergovernmental organization that is a Contracting Party, or that has a domicile, a habitual residence or a real and effective industrial or commercial establishment in the territory of a Contracting Party, shall be entitled to file an international application.

Article 4
Procedure for Filing the International Application

(1) [*Direct or Indirect Filing*] (a) The international application may be filed, at the option of the applicant, either directly with the International Bureau or through the Office of the applicant's Contracting Party.

(b) Notwithstanding subparagraph (a), any Contracting Party may, in a declaration, notify the Director General that international applications may not be filed through its Office.

(2) [*Transmittal Fee in Case of Indirect Filing*] The Office of any Contracting Party may require that the applicant pay a transmittal fee to it, for its own benefit, in respect of any international application filed through it.

Article 5
Contents of the International Application

(1) [*Mandatory Contents of the International Application*] The international application shall be in the prescribed language or one of the prescribed languages and shall contain or be accompanied by

(i) a request for international registration under this Act;

(ii) the prescribed data concerning the applicant;

(iii) the prescribed number of copies of a reproduction or, at the choice of the applicant, of several different reproductions of the industrial design that is the subject of the international application, presented in the prescribed manner; however, where the industrial design is two-dimensional and a request for deferment of publication is made in accordance with paragraph (5), the international application may, instead of containing reproductions, be accompanied by the prescribed number of specimens of the industrial design;

(iv) an indication of the product or products which constitute the industrial design or in relation to which the industrial design is to be used, as prescribed;

(v) an indication of the designated Contracting Parties;

(vi) the prescribed fees;

(vii) any other prescribed particulars.

(2) [*Additional Mandatory Contents of the International Application*] (a) Any Contracting Party whose Office is an Examining Office and whose law, at the time it becomes party to this Act, requires that an application for the grant of protection to an industrial design contain any of the elements specified in subparagraph (b) in order for that application to be accorded a filing date under that law may, in a declaration, notify the Director General of those elements.

(b) The elements that may be notified pursuant to subparagraph (a) are the following:

(i) indications concerning the identity of the creator of the industrial design that is the subject of that application;

(ii) a brief description of the reproduction or of the characteristic features of the industrial design that is the subject of that application;

(iii) a claim.

(c) Where the international application contains the designation of a Contracting Party that has made a notification under subparagraph (a), it shall also contain, in the prescribed manner, any element that was the subject of that notification.

(3) [*Other Possible Contents of the International Application*] The international application may contain or be accompanied by such other elements as are specified in the Regulations.

(4) [*Several Industrial Designs in the Same International Application*] Subject to such conditions as may be prescribed, an international application may include two or more industrial designs.

(5) [*Request for Deferred Publication*] The international application may contain a request for deferment of publication.

Article 6
Priority

(1) [*Claiming of Priority*] (a) The international application may contain a declaration claiming, under Article 4 of the Paris Convention, the priority of one or more earlier applications filed in or for any country party to that Convention or any Member of the World Trade Organization.

(b) The Regulations may provide that the declaration referred to in subparagraph (a) may be made after the filing of the international application. In such case, the Regulations shall prescribe the latest time by which such declaration may be made.

(2) [*International Application Serving as a Basis for Claiming Priority*] The international application shall, as from its filing date and whatever may be its subsequent fate, be equivalent to a regular filing within the meaning of Article 4 of the Paris Convention.

Article 7
Designation Fees

(1) [*Prescribed Designation Fee*] The prescribed fees shall include, subject to paragraph (2), a designation fee for each designated Contracting Party.

(2) [*Individual Designation Fee*] Any Contracting Party whose Office is an Examining Office and any Contracting Party that is an intergovernmental organization may, in a declaration, notify the Director General that, in connection with any international application in which it is designated, and in connection with the renewal of any international registration resulting from such an international application, the prescribed designation fee referred to in paragraph (1) shall be replaced by an individual designation fee, whose amount shall be indicated in the declaration and can be changed in further declarations. The said amount may be fixed by the said Contracting Party for the initial term of protection and for each term of renewal or for the maximum period of protection allowed by the Contracting Party concerned. However, it may not be higher than the equivalent of the amount which the Office of that Contracting Party would be entitled to receive from an applicant for a grant of protection for an equivalent period to the same number of industrial designs, that amount being diminished by the savings resulting from the international procedure.

(3) [*Transfer of Designation Fees*] The designation fees referred to in paragraphs (1) and (2) shall be transferred by the International Bureau to the Contracting Parties in respect of which those fees were paid.

Article 8
Correction of Irregularities

(1) [*Examination of the International Application*] If the International Bureau finds that the international application does not, at the time of its receipt by the International Bureau,

fulfill the requirements of this Act and the Regulations, it shall invite the applicant to make the required corrections within the prescribed time limit.

(2) [*Irregularities Not Corrected*] (a) If the applicant does not comply with the invitation within the prescribed time limit, the international application shall, subject to subparagraph (b), be considered abandoned.

(b) In the case of an irregularity which relates to Article 5(2) or to a special requirement notified to the Director General by a Contracting Party in accordance with the Regulations, if the applicant does not comply with the invitation within the prescribed time limit, the international application shall be deemed not to contain the designation of that Contracting Party.

Article 9
Filing Date of the International Application

(1) [*International Application Filed Directly*] Where the international application is filed directly with the International Bureau, the filing date shall, subject to paragraph (3), be the date on which the International Bureau receives the international application.

(2) [*International Application Filed Indirectly*] Where the international application is filed through the Office of the applicant's Contracting Party, the filing date shall be determined as prescribed.

(3) [*International Application with Certain Irregularities*] Where the international application has, on the date on which it is received by the International Bureau, an irregularity which is prescribed as an irregularity entailing a postponement of the filing date of the international application, the filing date shall be the date on which the correction of such irregularity is received by the International Bureau.

Article 10
International Registration, Date of the International Registration, Publication and Confidential Copies of the International Registration

(1) [*International Registration*] The International Bureau shall register each industrial design that is the subject of an international application immediately upon receipt by it of the international application or, where corrections are invited under Article 8, immediately upon receipt of the required corrections. The registration shall be effected whether or not publication is deferred under Article 11.

(2) [*Date of the International Registration*] (a) Subject to subparagraph (b), the date of the international registration shall be the filing date of the international application.

(b) Where the international application has, on the date on which it is received by the International Bureau, an irregularity which relates to Article 5(2) , the date of the international registration shall be the date on which the correction of such irregularity is received by the International Bureau or the filing date of the international application, whichever is the later.

(3) [*Publication*] (a) The international registration shall be published by the International Bureau. Such publication shall be deemed in all Contracting Parties to be sufficient publicity, and no other publicity may be required of the holder.

(b) The International Bureau shall send a copy of the publication of the international registration to each designated Office.

(4) [*Maintenance of Confidentiality Before Publication*] Subject to paragraph (5) and Article 11(4)(b), the International Bureau shall keep in confidence each international application and each international registration until publication.

(5) [*Confidential Copies*] (a) The International Bureau shall, immediately after registration has been effected, send a copy of the international registration, along with any relevant statement, document or specimen accompanying the international application, to each Office that has notified the International Bureau that it wishes to receive such a copy and has been designated in the international application.

(b) The Office shall, until publication of the international registration by the International Bureau, keep in confidence each international registration of which a copy has been sent to it by the International Bureau and may use the said copy only for the purpose of the examination of the international registration and of applications for the protection of industrial designs filed in or for the Contracting Party for which the Office is competent. In particular, it may not divulge the contents of any such international registration to any person outside the Office other than the holder of that international registration, except for the purposes of an administrative or legal proceeding involving a conflict over entitlement to file the international application on which the international registration is based. In the case of such an administrative or legal proceeding, the contents of the international registration may only be disclosed in confidence to the parties involved in the proceeding who shall be bound to respect the confidentiality of the disclosure.

Article 11
Deferment of Publication

(1) [*Provisions of Laws of Contracting Parties Concerning Deferment of Publication*] (a) Where the law of a Contracting Party provides for the deferment of the publication of an industrial design for a period which is less than the prescribed period, that Contracting Party shall, in a declaration, notify the Director General of the allowable period of deferment.

(b) Where the law of a Contracting Party does not provide for the deferment of the publication of an industrial design, the Contracting Party shall, in a declaration, notify the Director General of that fact.

(2) [*Deferment of Publication*] Where the international application contains a request for deferment of publication, the publication shall take place,

(i) where none of the Contracting Parties designated in the international application has made a declaration under paragraph (1), at the expiry of the prescribed period or,

(ii) where any of the Contracting Parties designated in the international application has made a declaration under paragraph (1)(a), at the expiry of the period notified in such

declaration or, where there is more than one such designated Contracting Party, at the expiry of the shortest period notified in their declarations.

(3) [*Treatment of Requests for Deferment Where Deferment Is Not Possible Under Applicable Law*] Where deferment of publication has been requested and any of the Contracting Parties designated in the international application has made a declaration under paragraph (1)(b) that deferment of publication is not possible under its law,

(i) subject to item (ii), the International Bureau shall notify the applicant accordingly; if, within the prescribed period, the applicant does not, by notice in writing to the International Bureau, withdraw the designation of the said Contracting Party, the International Bureau shall disregard the request for deferment of publication;

(ii) where, instead of containing reproductions of the industrial design, the international application was accompanied by specimens of the industrial design, the International Bureau shall disregard the designation of the said Contracting Party and shall notify the applicant accordingly.

(4) [*Request for Earlier Publication or for Special Access to the International Registration*] (a) At any time during the period of deferment applicable under paragraph (2), the holder may request publication of any or all of the industrial designs that are the subject of the international registration, in which case the period of deferment in respect of such industrial design or designs shall be considered to have expired on the date of receipt of such request by the International Bureau.

(b) The holder may also, at any time during the period of deferment applicable under paragraph (2), request the International Bureau to provide a third party specified by the holder with an extract from, or to allow such a party access to, any or all of the industrial designs that are the subject of the international registration.

(5) [*Renunciation and Limitation*] (a) If, at any time during the period of deferment applicable under paragraph (2), the holder renounces the international registration in respect of all the designated Contracting Parties, the industrial design or designs that are the subject of the international registration shall not be published.

(b) If, at any time during the period of deferment applicable under paragraph (2), the holder limits the international registration, in respect of all of the designated Contracting Parties, to one or some of the industrial designs that are the subject of the international registration, the other industrial design or designs that are the subject of the international registration shall not be published.

(6) [*Publication and Furnishing of Reproductions*] (a) At the expiration of any period of deferment applicable under the provisions of this Article, the International Bureau shall, subject to the payment of the prescribed fees, publish the international registration. If such fees are not paid as prescribed, the international registration shall be canceled and publication shall not take place.

(b) Where the international application was accompanied by one or more specimens of the industrial design in accordance with Article 5(1)(iii), the holder shall submit the prescribed number of copies of a reproduction of each industrial design that is the subject of that application to the International Bureau within the prescribed time limit. To the extent that

the holder does not do so, the international registration shall be canceled and publication shall not take place.

Article 12
Refusal

(1) [*Right to Refuse*] The Office of any designated Contracting Party may, where the conditions for the grant of protection under the law of that Contracting Party are not met in respect of any or all of the industrial designs that are the subject of an international registration, refuse the effects, in part or in whole, of the international registration in the territory of the said Contracting Party, provided that no Office may refuse the effects, in part or in whole, of any international registration on the ground that requirements relating to the form or contents of the international application that are provided for in this Act or the Regulations or are additional to, or different from, those requirements have not been satisfied under the law of the Contracting Party concerned.

(2) [*Notification of Refusal*] (a) The refusal of the effects of an international registration shall be communicated by the Office to the International Bureau in a notification of refusal within the prescribed period.

(b) Any notification of refusal shall state all the grounds on which the refusal is based.

(3) [*Transmission of Notification of Refusal; Remedies*] (a) The International Bureau shall, without delay, transmit a copy of the notification of refusal to the holder.

(b) The holder shall enjoy the same remedies as if any industrial design that is the subject of the international registration had been the subject of an application for the grant of protection under the law applicable to the Office that communicated the refusal. Such remedies shall at least consist of the possibility of a re-examination or a review of the refusal or an appeal against the refusal.

(4) [*Withdrawal of Refusal*] Any refusal may be withdrawn, in part or in whole, at any time by the Office that communicated it.

Article 13
Special Requirements Concerning Unity of Design

(1) [*Notification of Special Requirements*] Any Contracting Party whose law, at the time it becomes party to this Act, requires that designs that are the subject of the same application conform to a requirement of unity of design, unity of production or unity of use, or belong to the same set or composition of items, or that only one independent and distinct design may be claimed in a single application, may, in a declaration, notify the Director General accordingly. However, no such declaration shall affect the right of an applicant to include two or more industrial designs in an international application in accordance with Article 5(4), even if the application designates the Contracting Party that has made the declaration.

(2) [*Effect of Declaration*] Any such declaration shall enable the Office of the Contracting Party that has made it to refuse the effects of the international registration pursuant to Article 12(1) pending compliance with the requirement notified by that Contracting Party.

(3) [*Further Fees Payable on Division of Registration*] Where, following a notification of refusal in accordance with paragraph (2), an international registration is divided before the Office concerned in order to overcome a ground of refusal stated in the notification, that Office shall be entitled to charge a fee in respect of each additional international application that would have been necessary in order to avoid that ground of refusal.

Article 14
Effects of the International Registration

(1) [*Effect as Application Under Applicable Law*] The international registration shall, from the date of the international registration, have at least the same effect in each designated Contracting Party as a regularly-filed application for the grant of protection of the industrial design under the law of that Contracting Party.

(2) [*Effect as Grant of Protection Under Applicable Law*] (a) In each designated Contracting Party the Office of which has not communicated a refusal in accordance with Article 12, the international registration shall have the same effect as a grant of protection for the industrial design under the law of that Contracting Party at the latest from the date of expiration of the period allowed for it to communicate a refusal or, where a Contracting Party has made a corresponding declaration under the Regulations, at the latest at the time specified in that declaration.

(b) Where the Office of a designated Contracting Party has communicated a refusal and has subsequently withdrawn, in part or in whole, that refusal, the international registration shall, to the extent that the refusal is withdrawn, have the same effect in that Contracting Party as a grant of protection for the industrial design under the law of the said Contracting Party at the latest from the date on which the refusal was withdrawn.

(c) The effect given to the international registration under this paragraph shall apply to the industrial design or designs that are the subject of that registration as received from the International Bureau by the designated Office or, where applicable, as amended in the procedure before that Office.

(3) [*Declaration Concerning Effect of Designation of Applicant's Contracting Party*] (a) Any Contracting Party whose Office is an Examining Office may, in a declaration, notify the Director General that, where it is the applicant's Contracting Party, the designation of that Contracting Party in an international registration shall have no effect.

(b) Where a Contracting Party having made the declaration referred to in subparagraph (a) is indicated in an international application both as the applicant's Contracting Party and as a designated Contracting Party, the International Bureau shall disregard the designation of that Contracting Party.

Article 15
Invalidation

(1) [*Requirement of Opportunity of Defense*] Invalidation, by the competent authorities of a designated Contracting Party, of the effects, in part or in whole, in the territory of that Contracting Party, of the international registration may not be pronounced without the holder having, in good time, been afforded the opportunity of defending his rights.

(2) [*Notification of Invalidation*] The Office of the Contracting Party in whose territory the effects of the international registration have been invalidated shall, where it is aware of the invalidation, notify it to the International Bureau.

Article 16
Recording of Changes and Other Matters Concerning International Registrations

(1) [*Recording of Changes and Other Matters*] The International Bureau shall, as prescribed, record in the International Register

(i) any change in ownership of the international registration, in respect of any or all of the designated Contracting Parties and in respect of any or all of the industrial designs that are the subject of the international registration, provided that the new owner is entitled to file an international application under Article 3,

(ii) any change in the name or address of the holder,

(iii) the appointment of a representative of the applicant or holder and any other relevant fact concerning such representative,

(iv) any renunciation, by the holder, of the international registration, in respect of any or all of the designated Contracting Parties,

(v) any limitation, by the holder, of the international registration, in respect of any or all of the designated Contracting Parties, to one or some of the industrial designs that are the subject of the international registration,

(vi) any invalidation, by the competent authorities of a designated Contracting Party, of the effects, in the territory of that Contracting Party, of the international registration in respect of any or all of the industrial designs that are the subject of the international registration,

(vii) any other relevant fact, identified in the Regulations, concerning the rights in any or all of the industrial designs that are the subject of the international registration.

(2) [*Effect of Recording in International Register*] Any recording referred to in items (i), (ii), (iv), (v), (vi) and (vii) of paragraph (1) shall have the same effect as if it had been made in the Register of the Office of each of the Contracting Parties concerned, except that a Contracting Party may, in a declaration, notify the Director General that a recording referred to in item (i) of paragraph (1) shall not have that effect in that Contracting Party until the Office of that Contracting Party has received the statements or documents specified in that declaration.

(3) [*Fees*] Any recording made under paragraph (1) may be subject to the payment of a fee.

(4) [*Publication*] The International Bureau shall publish a notice concerning any recording made under paragraph (1). It shall send a copy of the publication of the notice to the Office of each of the Contracting Parties concerned.

Article 17
Initial Term and Renewal of the International Registration and Duration of Protection

(1) [*Initial Term of the International Registration*] The international registration shall be effected for an initial term of five years counted from the date of the international registration.

(2) [*Renewal of the International Registration*] The international registration may be renewed for additional terms of five years, in accordance with the prescribed procedure and subject to the payment of the prescribed fees.

(3) [*Duration of Protection in Designated Contracting Parties*] (a) Provided that the international registration is renewed, and subject to subparagraph (b), the duration of protection shall, in each of the designated Contracting Parties, be 15 years counted from the date of the international registration.

(b) Where the law of a designated Contracting Party provides for a duration of protection of more than 15 years for an industrial design for which protection has been granted under that law, the duration of protection shall, provided that the international registration is renewed, be the same as that provided for by the law of that Contracting Party.

(c) Each Contracting Party shall, in a declaration, notify the Director General of the maximum duration of protection provided for by its law.

(4) [*Possibility of Limited Renewal*] The renewal of the international registration may be effected for any or all of the designated Contracting Parties and for any or all of the industrial designs that are the subject of the international registration.

(5) [*Recording and Publication of Renewal*] The International Bureau shall record renewals in the International Register and publish a notice to that effect. It shall send a copy of the publication of the notice to the Office of each of the Contracting Parties concerned.

Article 18
Information Concerning Published International Registrations

(1) [*Access to Information*] The International Bureau shall supply to any person applying therefor, upon the payment of the prescribed fee, extracts from the International Register, or information concerning the contents of the International Register, in respect of any published international registration.

(2) [*Exemption from Legalization*] Extracts from the International Register supplied by the International Bureau shall be exempt from any requirement of legalization in each Contracting Party.

Article 19
Common Office of Several States

(1) [*Notification of Common Office*] If several States intending to become party to this Act have effected, or if several States party to this Act agree to effect, the unification of their domestic legislation on industrial designs, they may notify the Director General

(i) that a common Office shall be substituted for the national Office of each of them, and

(ii) that the whole of their respective territories to which the unified legislation applies shall be deemed to be a single Contracting Party for the purposes of the application of Articles 1, 3 to 18 and 31 of this Act.

(2) [*Time at Which Notification Is to Be Made*] The notification referred to in paragraph (1) shall be made,

(i) in the case of States intending to become party to this Act, at the time of the deposit of the instruments referred to in Article 27(2);

(ii) in the case of States party to this Act, at any time after the unification of their domestic legislation has been effected.

(3) [*Date of Entry into Effect of the Notification*] The notification referred to in paragraphs (1) and (2) shall take effect,

(i) in the case of States intending to become party to this Act, at the time such States become bound by this Act;

(ii) in the case of States party to this Act, three months after the date of the communication thereof by the Director General to the other Contracting Parties or at any later date indicated in the notification.

Article 20
Membership of the Hague Union

The Contracting Parties shall be members of the same Union as the States party to the 1934 Act or the 1960 Act.

Article 21
Assembly

(1) [*Composition*] (a) The Contracting Parties shall be members of the same Assembly as the States bound by Article 2 of the Complementary Act of 1967.

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

(c) Members of the Union that are not members of the Assembly shall be admitted to the meetings of the Assembly as observers.

(2) [*Tasks*] (a) The Assembly shall

(i) deal with all matters concerning the maintenance and development of the Union and the implementation of this Act;

(ii) exercise such rights and perform such tasks as are specifically conferred upon it or assigned to it under this Act or the Complementary Act of 1967;

(iii) give directions to the Director General concerning the preparations for conferences of revision and decide the convocation of any such conference;

(iv) amend the Regulations;

(v) review and approve the reports and activities of the Director General concerning the Union, and give the Director General all necessary instructions concerning matters within the competence of the Union;

(vi) determine the program and adopt the biennial budget of the Union, and approve its final accounts;

(vii) adopt the financial regulations of the Union;

(viii) establish such committees and working groups as it deems appropriate to achieve the objectives of the Union;

(ix) subject to paragraph (1)(c), determine which States, intergovernmental organizations and non-governmental organizations shall be admitted to its meetings as observers;

(x) take any other appropriate action to further the objectives of the Union and perform any other functions as are appropriate under this Act.

(b) With respect to matters which are also of interest to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3) [*Quorum*] (a) One-half of the members of the Assembly which are States and have the right to vote on a given matter shall constitute a quorum for the purposes of the vote on that matter.

(b) Notwithstanding the provisions of subparagraph (a), if, in any session, the number of the members of the Assembly which are States, have the right to vote on a given matter 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 and have the right to vote on that matter, 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, have the right to vote on the said matter 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. 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 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 Act, and no such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote, and *vice versa*.

(c) On matters concerning only States that are bound by Article 2 of the Complementary Act of 1967, Contracting Parties that are not bound by the said Article shall not have the right to vote, whereas, on matters concerning only Contracting Parties, only the latter shall have the right to vote.

(5) [*Majorities*] (a) Subject to Articles 24(2) and 26(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(b) Abstentions shall not be considered as votes.

(6) [*Sessions*] (a) The Assembly shall meet once in every second calendar year in ordinary session 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.

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, either at the request of one-fourth of the members of the Assembly or on the Director General's own initiative.

(c) The agenda of each session shall be prepared by the Director General.

(7) [*Rules of Procedure*] The Assembly shall adopt its own rules of procedure.

Article 22
International Bureau

(1) [*Administrative Tasks*] (a) International registration and related duties, as well as all other administrative tasks concerning the Union, shall be performed by the International Bureau.

(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) [*Director General*] The Director General shall be the chief executive of the Union and shall represent the Union.

(3) [*Meetings Other than Sessions of the Assembly*] The Director General shall convene any committee and working group established by the Assembly and all other meetings dealing with matters of concern to the Union.

(4) [*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, and any other meetings convened by the Director General under the aegis of the Union.

(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, working groups and other meetings referred to in subparagraph (a).

(5) [*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 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.

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

Article 23
Finances

(1) [*Budget*] (a) The Union shall have a budget.

(b) The budget of the Union shall include the income and expenses proper to the Union and its contribution to the budget of expenses common to the Unions administered by the Organization.

(c) Expenses not attributable exclusively to the Union but also to one or more other Unions administered by the Organization shall be considered to be expenses common to the Unions. The share of the Union in such common expenses shall be in proportion to the interest the Union has in them.

(2) [*Coordination with Budgets of Other Unions*] The budget of the Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(3) [*Sources of Financing of the Budget*] The budget of the Union shall be financed from the following sources:

(i) fees relating to international registrations;

(ii) charges due for other services rendered by the International Bureau in relation to the Union;

(iii) sale of, or royalties on, the publications of the International Bureau concerning the Union;

(iv) gifts, bequests and subventions;

(v) rents, interests and other miscellaneous income.

(4) [*Fixing of Fees and Charges; Level of the Budget*] (a) The amounts of the fees referred to in paragraph (3)(i) shall be fixed by the Assembly on the proposal of the Director General. Charges referred to in paragraph 3(ii) shall be established by the Director General and shall be provisionally applied subject to approval by the Assembly at its next session.

(b) The amounts of the fees referred to in paragraph (3)(i) shall be so fixed that the revenues of the Union from fees and other sources shall be at least sufficient to cover all the expenses of the International Bureau concerning the Union.

(c) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, as provided in the financial regulations.

(5) [*Working Capital Fund*] The Union shall have a working capital fund which shall be constituted by the excess receipts and, if such excess does not suffice, by a single payment made by each member of the Union. If the fund becomes insufficient, the Assembly shall decide to increase it. The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General.

(6) [*Advances by Host State*] (a) In the headquarters agreement concluded with the State on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such State shall grant advances. The amount of those advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such State and the Organization.

(b) The State referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(7) [*Auditing of Accounts*] The auditing of the accounts shall be effected by one or more of the States members of the Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

Article 24
Regulations

(1) [*Subject Matter*] The Regulations shall govern the details of the implementation of this Act. They shall, in particular, include provisions concerning

(i) matters which this Act expressly provides are to be prescribed;

(ii) further details concerning, or any details useful in the implementation of, the provisions of this Act;

(iii) any administrative requirements, matters or procedures.

(2) [*Amendment of Certain Provisions of the Regulations*] (a) The Regulations may specify that certain provisions of the Regulations may be amended only by unanimity or only by a four-fifths majority.

(b) In order for the requirement of unanimity or a four-fifths majority no longer to apply in the future to the amendment of a provision of the Regulations, unanimity shall be required.

(c) In order for the requirement of unanimity or a four-fifths majority to apply in the future to the amendment of a provision of the Regulations, a four-fifths majority shall be required.

(3) [*Conflict Between This Act and the Regulations*] In the case of conflict between the provisions of this Act and those of the Regulations, the former shall prevail.

CHAPTER III
REVISION AND AMENDMENT

Article 25
Revision of This Act

(1) [*Revision Conferences*] This Act may be revised by a conference of the Contracting Parties.

(2) [*Revision or Amendment of Certain Articles*] Articles 21, 22, 23 and 26 may be amended either by a revision conference or by the Assembly according to the provisions of Article 26.

Article 26
Amendment of Certain Articles by the Assembly

(1) [*Proposals for Amendment*] (a) Proposals for the amendment by the Assembly of Articles 21, 22, 23 and this Article may be initiated by any Contracting Party or by the Director General.

(b) Such proposals shall be communicated by the Director General to the Contracting Parties at least six months in advance of their consideration by the Assembly.

(2) [*Majorities*] Adoption of any amendment to the Articles referred to in paragraph (1) shall require a three-fourths majority, except that adoption of any amendment to Article 21 or to the present paragraph shall require a four-fifths majority.

(3) [*Entry into Force*] (a) Except where subparagraph (b) applies, any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of those

Contracting Parties which, at the time the amendment was adopted, were members of the Assembly and had the right to vote on that amendment.

(b) Any amendment to Article 21(3) or (4) or to this subparagraph shall not enter into force if, within six months of its adoption by the Assembly, any Contracting Party notifies the Director General that it does not accept such amendment.

(c) Any amendment which enters into force in accordance with the provisions of this paragraph shall bind all the States and intergovernmental organizations which are Contracting Parties at the time the amendment enters into force, or which become Contracting Parties at a subsequent date.

CHAPTER IV
FINAL PROVISIONS

Article 27
Becoming Party to This Act

(1) [*Eligibility*] Subject to paragraphs (2) and (3) and Article 28,

(i) any State member of the Organization may sign and become party to this Act;

(ii) any intergovernmental organization which maintains an Office in which protection of industrial designs may be obtained with effect in the territory in which the constituting treaty of the intergovernmental organization applies may sign and become party to this Act, provided that at least one of the member States of the intergovernmental organization is a member of the Organization and provided that such Office is not the subject of a notification under Article 19.

(2) [*Ratification or Accession*] Any State or intergovernmental organization referred to in paragraph (1) may deposit

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

(ii) an instrument of accession if it has not signed this Act.

(3) [*Effective Date of Deposit*] (a) Subject to subparagraphs (b) to (d), the effective date of the deposit of an instrument of ratification or accession shall be the date on which that instrument is deposited.

(b) The effective date of the deposit of the instrument of ratification or accession of any State in respect of which protection of industrial designs may be obtained only through the Office maintained by an intergovernmental organization of which that State is a member shall be the date on which the instrument of that intergovernmental organization is deposited if that date is later than the date on which the instrument of the said State has been deposited.

(c) The effective date of the deposit of any instrument of ratification or accession containing or accompanied by the notification referred to in Article 19 shall be the date on which the last of the instruments of the States members of the group of States having made the said notification is deposited.

(d) Any instrument of ratification or accession of a State may contain or be accompanied by a declaration making it a condition to its being considered as deposited that the instrument of one other State or one intergovernmental organization, or the instruments of two other States, or the instruments of one other State and one intergovernmental organization, specified by name and eligible to become party to this Act, is or are also deposited. The instrument containing or accompanied by such a declaration shall be considered to have been deposited on the day on which the condition indicated in the declaration is fulfilled. However, when an instrument specified in the declaration itself contains, or is itself accompanied by, a declaration of the said kind, that instrument shall be considered as deposited on the day on which the condition specified in the latter declaration is fulfilled.

(e) Any declaration made under paragraph (d) may be withdrawn, in its entirety or in part, at any time. Any such withdrawal shall become effective on the date on which the notification of withdrawal is received by the Director General.

Article 28
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 States or intergovernmental organizations 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 This Act*] This Act shall enter into force three months after six States have deposited their instruments of ratification or accession, provided that, according to the most recent annual statistics collected by the International Bureau, at least three of those States fulfill at least one of the following conditions:

(i) at least 3,000 applications for the protection of industrial designs have been filed in or for the State concerned, or

(ii) at least 1,000 applications for the protection of industrial designs have been filed in or for the State concerned by residents of States other than that State.

(3) [*Entry into Force of Ratifications and Accessions*] (a) Any State or intergovernmental organization that has deposited its instrument of ratification or accession three months or more before the date of entry into force of this Act shall become bound by this Act on the date of entry into force of this Act.

(b) Any other State or intergovernmental organization shall become bound by this Act three months after the date on which it has deposited its instrument of ratification or accession or at any later date indicated in that instrument.

Article 29
Prohibition of Reservations

No reservations to this Act are permitted.

Article 30
Declarations Made by Contracting Parties

(1) [*Time at Which Declarations May Be Made*] Any declaration under Articles 4(1)(b), 5(2)(a), 7(2), 11(1), 13(1), 14(3), 16(2) or 17(3)(c) may be made

(i) at the time of the deposit of an instrument referred to in Article 27(2), in which case it shall become effective on the date on which the State or intergovernmental organization having made the declaration becomes bound by this Act, or

(ii) after the deposit of an instrument referred to in Article 27(2), in which case it shall become effective three months after the date of its receipt by the Director General or at any later date indicated in the declaration but shall apply only in respect of any international registration whose date of international registration is the same as, or is later than, the effective date of the declaration.

(2) [*Declarations by States Having a Common Office*] Notwithstanding paragraph (1), any declaration referred to in that paragraph that has been made by a State which has, with another State or other States, notified the Director General under Article 19(1) of the substitution of a common Office for their national Offices shall become effective only if that other State or those other States makes or make a corresponding declaration or corresponding declarations.

(3) [*Withdrawal of Declarations*] Any declaration referred to in paragraph (1) may be withdrawn at any time by notification addressed to the Director General. Such withdrawal shall take effect three months after the date on which the Director General has received the notification or at any later date indicated in the notification. In the case of a declaration made under Article 7(2), the withdrawal shall not affect international applications filed prior to the coming into effect of the said withdrawal.

Article 31
Applicability of the 1934 and 1960 Acts

(1) [*Relations Between States Party to Both This Act and the 1934 or 1960 Acts*] This Act alone shall be applicable as regards the mutual relations of States party to both this Act and the 1934 Act or the 1960 Act. However, such States shall, in their mutual relations, apply the 1934 Act or the 1960 Act, as the case may be, to industrial designs deposited at the International Bureau prior to the date on which this Act becomes applicable as regards their mutual relations.

(2) [*Relations Between States Party to Both This Act and the 1934 or 1960 Acts and States Party to the 1934 or 1960 Acts Without Being Party to This Act*] (a) Any State that is party to both this Act and the 1934 Act shall continue to apply the 1934 Act in its relations with States that are party to the 1934 Act without being party to the 1960 Act or this Act.

(b) Any State that is party to both this Act and the 1960 Act shall continue to apply the 1960 Act in its relations with States that are party to the 1960 Act without being party to this Act.

Article 32
Denunciation of This Act

(1) [*Notification*] Any Contracting Party may denounce this Act by notification addressed to the Director General.

(2) [*Effective Date*] Denunciation shall take effect one year after the date on which the Director General has received the notification or at any later date indicated in the notification. It shall not affect the application of this Act to any international application pending and any international registration in force in respect of the denouncing Contracting Party at the time of the coming into effect of the denunciation.

Article 33
Languages of This Act; Signature

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

(b) Official texts shall be established by the Director General, after consultation with the interested Governments, in such other languages as the Assembly may designate.

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

Article 34
Depositary

The Director General shall be the depositary of this Act.

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