

Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications

**Third Special Session - Preparation of the Basic Proposal for the Diplomatic
Conference to Conclude and Adopt a Design Law Treaty (DLT)
Geneva, October 2 to 6, 2023**

SUMMARY BY THE CHAIR

adopted by the Committee

AGENDA ITEM 1: OPENING OF THE SESSION

1. Mr. Sergio Chuez Salazar (Peru) acted as Chair. Ms. Marie Béatrice Nanga Nguele (Cameroon) and Mr. Simion Levitchi (Republic of Moldova) acted as Vice-chairs.
2. The Chair opened the third Special Session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT).
3. Ms. Wang Binying, Deputy Director General of the World Intellectual Property Organization (WIPO), welcomed the participants on behalf of Mr. Daren Tang, Director General of WIPO.
4. Mr. Marcus Höpperger (WIPO) acted as Secretary to the SCT.

AGENDA ITEM 2: ADOPTION OF THE AGENDA, FOLLOWED BY OPENING STATEMENTS BY DELEGATIONS

5. The SCT adopted the draft Agenda (SCT/S3/1 Prov.).

AGENDA ITEM 3: ELECTION OF A CHAIR AND TWO VICE-CHAIRS FOR SCT/47

6. The SCT elected, for the forty-seventh session of the SCT, Ms. Loreto Bresky (Chile) as Chair and Ms. Fatema Al Hosani (United Arab Emirates) and Ms. Marie Béatrice Nanga Nguele (Cameroon) as Vice-Chairs.

AGENDA ITEM 4: RULES OF PROCEDURE

7. The SCT considered document SCT/S3/2.
8. The SCT decided to repeal the SCT Special Rule of Procedure, which provides that “the Standing Committee elects the Chair and the two Vice-Chairs for one year”.

AGENDA ITEM 5: ACCREDITATION OF AN OBSERVER

9. The SCT considered document SCT/S3/3.
10. The SCT approved the accreditation of the International Olympic Committee (IOC).

AGENDA ITEM 6: INDUSTRIAL DESIGN LAW AND PRACTICE – DRAFT ARTICLES AGENDA ITEM 7: INDUSTRIAL DESIGN LAW AND PRACTICE – DRAFT REGULATIONS

11. The SCT considered documents SCT/S3/4 and 5.

A. Provisions that are the subject of alternative options or proposals supported by several delegations, except administrative provisions and final clauses

(i) Article 1bis concerning general principles

12. The Chair noted that the SCT decided to delete the brackets and the footnotes to this Article.

(ii) Article 3(1)(a)(ix) concerning the option to require a disclosure in design applications of the origin or source of traditional cultural expressions, traditional knowledge or biological/genetic resources utilized or incorporated in the industrial design

13. The Chair noted that the SCT took the decision concerning a new or alternative proposal reflected in paragraph 38.

(iii) Article 5(2), (3), (4) and (5) concerning filing-date requirements

14. The Chair noted that the SCT decided to keep the brackets in these provisions.

(iv) Article 15(4)(b) concerning the prohibition of other requirements in requests for recording of a license or a security interest

15. The Chair noted that the SCT decided to delete the text in brackets and the footnote to this Article.

(v) Article 17(2) concerning the effects of the non-recording of a license

16. The Chair noted that the SCT decided to reflect two alternative options appearing in brackets in Article 17(2), as shown below, and to delete the footnote:

(2) [Certain Rights of the Licensee] A Contracting Party [may] [may not] require the recording of a license as a condition for any right that the licensee may have under the law of that Contracting Party to join infringement proceedings initiated by the holder or to obtain, by way of such proceedings, damages resulting from an infringement of the industrial design which is the subject of the license.

(vi) Article 22/Resolution concerning technical assistance and capacity building

17. The Chair noted that:

- the SCT decided to delete the brackets around “allocation and” and around “WIPO” in paragraph (2)(b);
- the SCT decided to replace the text in paragraph (3)(a) with the following text:

(3) [Other Provisions] (a) The World Intellectual Property Organization is urged to encourage the participation of Contracting Parties into the existing digital libraries for registered designs, as well as to ensure the access to them. Contracting Parties shall endeavor to communicate published registered design information through such systems. The Organization shall support Contracting Parties in their efforts to exchange information through these systems.

- the SCT took the decision concerning a new or alternative proposal on that provision reflected in paragraph 38.

(vii) Article 23(1), in conjunction with Rule 17, concerning Model International Forms in the Regulations

18. The Chair noted that the SCT decided to keep the brackets in these provisions.

B. Provisions that are the subject of individual proposals, except administrative provisions and final clauses

(i) Article 2(1) concerning a specific reference to “divisional applications” at the end of paragraph (1)

19. The Chair noted that the SCT decided to transfer the proposal from the Delegation of the United States of America from the footnote to the main text of Article 2(1), as an option appearing in brackets, as follows:

(1) [Applications] This Treaty shall apply to national and regional applications which are filed with, or for, the Office of a Contracting Party [and to divisional applications thereof].

(ii) Article 5(1) concerning permitted requirements for the granting of a filing date

20. The Chair noted that:

- the Delegation of the United States of America withdrew its proposal in the footnote to this Article;
- the Delegation of China withdrew its proposal in the footnote to this Article;
- the SCT decided to transfer the proposal from the Delegation of India from the footnote to the main text of Article 5(1), as an option appearing in brackets, as follows:

(1) [Permitted Requirements] (a) Subject to subparagraph (b) and paragraph (2), a Contracting Party shall accord as the filing date of an application the date on which the Office receives the following indications and elements, in a language admitted by the Office:

(i) an express or implicit indication to the effect that the elements are intended to be an application;

(ii) indications allowing the identity of the applicant to be established;

(iii) a sufficiently clear representation of the industrial design;

(iv) indications allowing the applicant or the applicant's representative, if any, to be contacted;

[(v) any further indication or element as prescribed under the applicable law].

(iii) Article 5(2)(b)(i) concerning permitted additional requirements

21. The Chair noted that the Delegation of Japan withdrew its proposal in the footnote to this Article.

(iv) Article 13 concerning the nature of the provision on reinstatement of rights

22. The Chair noted that the SCT decided to transfer the proposal from the Delegation of India from the footnote to the main text of Article 13(1), as an alternative option appearing in brackets, as follows:

(1) [Reinstatement of Rights] A Contracting Party [shall] [may] provide that, where an applicant or holder has failed to comply with a time limit for an action in a procedure before the Office, and that failure has the direct consequence of causing a loss of rights with respect to an application or a registration, the Office shall reinstate the rights of the applicant or holder with respect to that application or registration, if: [...]

(v) Article 14(2) concerning the nature of paragraph (2), related to restoration of the right of priority

23. The Chair noted that the SCT decided to transfer the proposal from the Delegation of India from the footnote to the main text of Article 14(2), as an alternative option appearing in brackets, as follows:

(2) [Delayed Filing of the Subsequent Application] A Contracting Party [shall] [may] provide that, where an application (“the subsequent application”) which claims or could have claimed the priority of an earlier application has a filing date which is later than the date on which the priority period expired, but within the time limit prescribed in the Regulations, the Office shall restore the right of priority, if: [...]

(vi) Article 17(1) concerning the nature of paragraph (1), related to the effects of the non-recording of a license

24. The Chair noted that the Delegation of Iran (Islamic Republic of) withdrew its proposal in the footnote to this Article.

(vii) Article 22(2) concerning technical assistance and capacity building

25. The Chair noted that the SCT decided to transfer the proposal from the Delegation of the United States of America from the footnote to the main text of paragraph (2)(a), as an option appearing in brackets, as follows:

(2) [Technical Assistance and Capacity Building] (a) Technical assistance and capacity building activities provided under this Treaty shall be for the implementation of this Treaty and, where requested, include [assistance with]: [...]

(viii) Rule 3(4) concerning the number of copies of representation of an industrial design

26. The Chair noted that the Delegation of India withdrew its proposal in the footnote to this Rule.

(ix) Rule 6 concerning the starting point for calculating the minimum period to maintain an industrial design unpublished

27. The Chair noted that the SCT decided to transfer the proposal from the Delegation of Japan from the footnote to the main text of Rule 6, as an option appearing in brackets, as follows:

The minimum period referred to in Article 9(1) shall be six months from the filing date [or, where priority is claimed, from the priority date].

(x) Rule 7(7)(ii) concerning the time limit for filing the original of a communication on paper filed by electronic means of transmittal

28. The Chair noted that the SCT decided to transfer the proposal from the Delegation of India from the footnote to the main text of Rule 7(7)(ii), as an alternative option appearing in brackets, as follows:

(7) [Original of a Communication on Paper Filed by Electronic Means of Transmittal] A Contracting Party that provides for communications on paper to be filed by electronic means of transmittal may require that the original of any such communication be filed with the Office:

(i) accompanied by a letter identifying that earlier transmission; and

(ii) within a time limit which shall be at least [one month] [15 days] from the date on which the Office received the communication by electronic means of transmittal.

(xi) Rule 13(2)(a) concerning supporting documents for recording of a license

29. The Chair noted that the SCT decided to transfer the proposal from the Delegation of Brazil from the footnotes to the main text of Rule 13(2)(a), as an option appearing in brackets, as follows:

(2) [Supporting Documents for Recording of a License] (a) Where the license is a freely concluded agreement, a Contracting Party may require that the request for the recording of a license be accompanied [, at the option of the requesting party,] by one of the following:

(i) a copy of the agreement, which copy may be required to be certified [, at the option of the requesting party,] by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office, as being in conformity with the original agreement; [...]

C. Provisions that are subject to individual reservations

(i) Article 4(2)(b) concerning mandatory representation

30. The Chair noted that the SCT decided to delete the footnote to this Article.

(ii) Article 6 concerning the duration of the grace period for layout designs of integrated circuits and the acts of disclosure that would give rise to a grace period

31. The Chair noted that:

- the SCT decided to delete the footnote containing the reservation by the Delegation of South Africa;
- the Delegation of China made a proposal in relation to the footnote in this Article;

- the SCT decided to reflect the proposal made by the Delegation of China in the main text of Article 6 as an option appearing in brackets as follows:

[(1)] [...]

[(2)(a) A Contracting Party whose law, at the time it becomes party to this Treaty, provides that the grace period under paragraph (1) is triggered by acts other than those referred to in paragraph (1) may, in a declaration, notify the Director General that the grace period shall be triggered in the territory of that Contracting Party only by those acts.

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

(i) A disclosure of the industrial design made for the first time for the purpose of public interest when a state of emergency or an extraordinary situation occurred in the country;

(ii) A disclosure of the industrial design made for the first time at an international exhibition, at prescribed academic or technological activities;

(iii) A disclosure of the industrial design by another person without the consent of the applicant.

(c) Any declaration notified under subparagraph (a) may be withdrawn at any time.]

- the SCT decided to delete the footnote to this Article.

(iii) Article 12(2) concerning relief in respect of time limits

32. The Chair noted that:

- the Delegation of India made a proposal in relation to the footnote to this Article;

- the SCT decided to reflect the proposal made by the Delegation of India in the main text of Article 12(2), as an alternative option appearing in brackets, as follows:

(2) [Continued Processing] Where an applicant or holder has failed to comply with a time limit fixed by the Office of a Contracting Party for an action in a procedure before the Office, and that Contracting Party does not provide for the extension of a time limit under paragraph (1)(ii), the Contracting Party [shall] [may] provide for continued processing with respect to the application or registration and, if necessary, reinstatement of the rights of the applicant or holder with respect to that application or registration, if: [...]

- the SCT decided to delete the footnote to this Article.

(iv) Article 14(2) concerning restoration of the right of priority

33. The Chair noted that the SCT decided to delete the footnote containing the reservation by the Delegation of China.

(v) Article 20 concerning changes in names or addresses

34. The Chair noted that the SCT decided to delete the footnote containing the reservation by the Delegation of India.

D. Administrative provisions and final clauses that are subject of alternative options or proposals supported by several delegations, or the subject of individual proposals

35. The Chair noted that provisions under Group D will be considered by the Preparatory Committee.

E. Other provisions that are the subject of a proposal

36. The Delegation of Japan made proposals on the addition of notes and an agreed understanding with respect to Article 1(viii), Article 14, Article 15, Article 16, Article 19, Article 3, Article 10 and Article 11, as contained in document SCT/S3/6, with no decision.

The Delegation of the Republic of Korea made a proposal on the modification of note 5.07 to Article 5(4), as contained in document SCT/S3/8, with no decision.

The Delegation of the Russian Delegation forwarded to the Secretariat alternative textual proposals with respect to Articles *9bis*, *9ter* and *14bis*. The Delegation of India forwarded to the Secretariat an alternative proposal on Rule 2. However, these proposals were not discussed by the Committee.

37. The Chair noted that the SCT decided to place the proposals listed in the following paragraph in the main text of the draft Articles and draft Rules, in brackets, with a footnote stating the delegation making the proposal, followed by an indication of delegations that supported and those that did not support the proposal. The footnote will also state that the proposal was presented during the Third Special Session of the SCT. In addition, the SCT decided to list those proposals and the corresponding footnotes at the end of the documents containing the draft Articles and draft Rules.

38. The proposals that were discussed in the SCT, referred to in the preceding paragraph, are the following:

– Proposals made by the Delegation of Japan with respect to Article 6 and Rule 12, as contained in document SCT/S3/6;

– Proposals made by the Delegation of the United States of America with respect to new Articles *9bis*, *9ter* and *14bis*, as well as with respect to Rule 2, as contained in document SCT/S3/7;

– Proposal made by the Delegation of the United States of America with respect to Article 6, reading as follows:

Article 6 Grace Period for Filing in Case of Disclosure

A public disclosure of the industrial design during a period of ~~six or~~ 12 months preceding the date of filing of the application or, if priority is claimed, the date of priority, shall be without prejudice to the eligibility for the registration novelty and/or originality, as the case ~~may be~~, of the industrial design, where it the disclosure was made:

- (i) *by the creator or his/her successor in title; or*
- (ii) *by a person who obtained the disclosed information about the industrial design directly or indirectly, including as a result of an abuse, from the creator or his/her successor in title.*

– Proposal made by the Delegation of the United States of America to move options A and B from Article 3(1)(a)(ix) to Rule 2(1);

– Proposal made by the Delegation of the United States of America to put the whole Article 22/Resolution in brackets;

– Proposals made by the Delegation of Nigeria with respect to new Articles 9bis, 9quater and 9quinquies, reading as follows:

Article 9bis: Term of Protection

Contracting Parties shall have the option to comply with Article 17 of the Hague Convention or Article 26 of the TRIPS Agreement.

Article 9quater: Electronic Industrial Design System

(1) *A Contracting Party may provide a system for electronic applications.*

(2) *Contracting Parties shall not be required to provide a publicly available electronic information system, nor an online database of registered industrial designs.*

Article 9quinquies: Exceptions for Publicly Accessible Design Databases

(1) *Designs that incorporate or are based on traditional knowledge or traditional cultural expressions shall only be included in any publicly accessible database with the permission of the IPLC owners of the traditional knowledge or traditional cultural expressions.*

(2) *A Contracting Party which provides a publicly accessible database of registered industrial designs shall provide a mechanism by which Indigenous Peoples and Local Communities (IPLCs) may object to the inclusion of any design based on traditional knowledge or traditional cultural expressions.*

– Proposal made by the Delegation of the European Union with respect to Article 5(1)(b), reading as follows:

“A Contracting Party may accord as the filing date of an application the date on which the Office receives, together with a sufficiently clear representation of the industrial design [and indications allowing the identity of the applicant to be established], some only, rather than all, of the other indications and elements referred to in subparagraph (a), or receives them in a language other than a language admitted by the Office.”

- Proposal made by the Delegation of India with respect to Article 6, reading as follows:

Article 6 - Grace Period for Filing in Case of Disclosure

A disclosure of the industrial design during a period of six or 12 months preceding the date of filing of the application or, if priority is claimed, the date of priority, shall be without prejudice to the novelty and/or originality, as the case may be, of the industrial design, where it was made:

- ~~(i) by the creator or his/her successor in title; or~~
- ~~(ii) by a person who obtained information about the industrial design directly or indirectly, including as a result of an abuse, from the creator or his/her successor in title.~~
- (i) by the creator or his/her successor in title at an exhibition notified as per the applicable laws of the Contracting Party; or
- (ii) by a person who obtained information about the industrial design directly or indirectly, including as a result of an abuse, from the creator or his/her successor in title, without the consent of the creator or his/her successor in title.

- Proposal by the Delegation of Brazil to move the footnote in Article 6, regarding the expression of time limits, to Article 1 (Abbreviated Expressions).

39. The draft Articles and the draft Regulations are contained in Annexes I and II to the present document.

AGENDA ITEM 8: SUMMARY BY THE CHAIR

40. The SCT adopted the Summary by the Chair, as contained in the present document.

AGENDA ITEM 9: CLOSING OF THE SESSION

41. The Chair closed the special session on October 6, 2023.

[Annexes follow]

INDUSTRIAL DESIGN LAW AND PRACTICE – DRAFT ARTICLES

CONTENTS

page

LIST OF DRAFT ARTICLES

Article 1	Abbreviated Expressions.....	3
Article 1bis	General Principles	4
Article 2	Applications and Industrial Designs to Which This Treaty Applies.....	4
Article 3	Application	4
Article 4	Representatives; Address for Service or Address for Correspondence.....	5
Article 5	Filing Date	6
Article 6	Grace Period for Filing in Case of Disclosure	8
Article 7	Requirement to File the Application in the Name of the Creator	9
Article 8	Amendment or Division of Application Including More Than One Industrial Design.....	10
Article 9	Publication of the Industrial Design.....	10
Article 10	Communications	12
Article 11	Renewal	13
Article 12	Relief in Respect of Time Limits.....	14
Article 13	Reinstatement of Rights After a Finding by the Office of Due Care or Unintentionality	15
Article 14	Correction or Addition of Priority Claim; Restoration of Priority Right.....	15
Article 15	Request for Recording of a License or a Security Interest.....	16
Article 16	Request for Amendment or Cancellation of the Recording of a License or a Security Interest.....	17
Article 17	Effects of the Non-Recording of a License.....	18
Article 18	Indication of the License	18
Article 19	Request for Recording of a Change in Ownership	18
Article 20	Changes in Names or Addresses.....	19

Article 21	Correction of a Mistake.....	20
[Article 22] [Resolution]	Technical Assistance and Capacity Building	21
Article 23	Regulations	22
Article 24	Assembly.....	22
Article 25	International Bureau	24
Article 26	Revision	25
Article 27	Becoming Party to the Treaty	25
Article 28	Entry into Force; Effective Date of Ratifications and Accessions.....	26
Article 29	Reservations	26
Article 30	Denunciation of the Treaty	26
Article 31	Languages of the Treaty; Signature.....	26
Article 32	Depositary	27

Article 1 **Abbreviated Expressions**

For the purposes of this Treaty, unless expressly stated otherwise:

- (i) “Contracting Party” means any State or intergovernmental organization party to this Treaty;*
- (ii) “Office” means the agency of a Contracting Party entrusted with the registration of industrial designs;*
- (iii) “registration” means the registration of an industrial design, or the grant of a patent for an industrial design, by an Office;*
- (iv) “application” means an application for registration;*
- (v) “applicable law” means, where the Contracting Party is a State, the law of that State and, where the Contracting Party is an intergovernmental organization, the legal enactments under which that intergovernmental organization operates;*
- (vi) references to “industrial design” shall be construed as references to “industrial designs”, where the application or the registration includes more than one industrial design;*
- (vii) references to a “person” shall be construed as references to both a natural person and a legal entity;*
- (viii) “procedure before the Office” means any procedure in proceedings before the Office with respect to an application or registration;*
- (ix) “communication” means any application, or any request, declaration, document, correspondence or other information, relating to an application or a registration, which is filed with the Office;*
- (x) “records of the Office” means the collection of information maintained by the Office, relating to, and including the contents of, applications and registrations, irrespective of the medium in which such information is stored;*
- (xi) “applicant” means the person whom the records of the Office show, pursuant to the applicable law, as the person who is applying for registration, or as another person who is filing or prosecuting the application;*
- (xii) “holder” means the person shown in the records of the Office as the holder of the registration;*
- (xiii) “Paris Convention” means the Paris Convention for the Protection of Industrial Property, signed on March 20, 1883, as revised and amended;*
- (xiv) “license” means a license for the use of an industrial design under the law of a Contracting Party;*
- (xv) “licensee” means the person to whom a license has been granted;*
- (xvi) “Regulations” means the Regulations referred to in Article 23;*
- (xvii) “Diplomatic Conference” means the convocation of Contracting Parties for the purpose of revising the Treaty;*

(xviii) "Assembly" means the Assembly referred to in Article 24;

(xix) references to an "instrument of ratification" shall be construed as including references to instruments of acceptance and approval;

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

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

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

(xxiii) references to an "Article" or to a "paragraph", "subparagraph" or "item" of an Article shall be construed as including references to the corresponding rule(s) under the Regulations.

[(xxiv) time limits expressed in months in the Treaty and Regulations can be calculated by Contracting Parties in accordance with their national law.]¹

Article 1bis General Principles

(1) [No Regulation of Substantive Industrial Design Law] Nothing in this Treaty or the Regulations is intended to be construed as prescribing anything that would limit the freedom of a Contracting Party to prescribe such requirements of the applicable substantive law relating to industrial designs as it desires.

(2) [Relation to Other Treaties] Nothing in this Treaty shall derogate from any obligations that Contracting Parties have to each other under any other treaties.

Article 2 Applications and Industrial Designs to Which This Treaty Applies

(1) [Applications] This Treaty shall apply to national and regional applications which are filed with, or for, the Office of a Contracting Party [and to divisional applications thereof].

(2) [Industrial Designs] This Treaty shall apply to industrial designs that can be registered as industrial designs, or for which patents can be granted, under the applicable law.

Article 3 Application

(1) [Contents of Application; Fee] (a) A Contracting Party may require that an application contain some, or all, of the following indications or elements:

(i) a request for registration;

(ii) the name and address of the applicant;

(iii) where the applicant has a representative, the name and address of that representative;

¹ Proposal made at the SCT/S3 by the Delegation of Brazil. Proposal supported by the Delegations of Egypt, Nigeria and Peru.

(iv) *where an address for service or an address for correspondence is required under Article 4(3), such address;*

(v) *a representation of the industrial design, as prescribed in the Regulations;*

(vi) *an indication of the product or products which incorporate the industrial design, or in relation to which the industrial design is to be used;*

(vii) *where the applicant wishes to take advantage of the priority of an earlier application, a declaration claiming the priority of that earlier application, together with indications and evidence in support of the declaration that may be required pursuant to Article 4 of the Paris Convention;*

(viii) *where the applicant wishes to take advantage of Article 11 of the Paris Convention, evidence that the product or products which incorporate the industrial design or in relation to which the industrial design is to be used have been shown at an official, or officially recognized, international exhibition;*

Option A

[(ix) a disclosure of the origin or source of traditional cultural expressions, traditional knowledge or biological/genetic resources utilized or incorporated in the industrial design;]

Option B²

[(ix) an indication of any prior application or registration, or of other information³, of which the applicant is aware, that is relevant to the eligibility for registration of the industrial design]

(x) *any further indication or element prescribed in the Regulations.*

(b) *In respect of the application, the payment of a fee may be required.*

(2) *[Prohibition of Other Requirements] No indication or element, other than those referred to in paragraph (1) and in Article 10, may be required in respect of the application.*

(3) *[Several Industrial Designs in the Same Application] Subject to such conditions as may be prescribed under the applicable law, an application may include more than one industrial design.*

(4) *[Evidence] A Contracting Party may require that evidence be furnished to the Office where, in the course of the examination of the application, the Office may reasonably doubt the veracity of any indication or element contained in the application.*

Article 4

Representatives; Address for Service or Address for Correspondence

(1) *[Representatives Admitted to Practice] (a) A Contracting Party may require that a representative appointed for the purposes of any procedure before the Office*

² The text of item (ix) under this option, along with the corresponding footnote, was proposed by Ambassador Socorro Flores Liera (Mexico) to the fifty-first (24th ordinary) session of the WIPO General Assembly, held in Geneva from September 30 to October 9, 2019.

³ Other information could include, among other things, information relating to traditional knowledge and traditional cultural expressions.

(i) have the right, under the applicable law, to practice before the Office in respect of applications and registrations;

(ii) provide, as its address, an address in a territory prescribed by the Contracting Party.

(b) An act, with respect to any procedure before the Office, by or in relation to a representative who complies with the requirements established by the Contracting Party under subparagraph (a), shall have the effect of an act by or in relation to the applicant, holder or other interested person who appointed that representative.

(2) [Mandatory Representation] (a) Subject to subparagraph (b), a Contracting Party may require that for the purposes of any procedure before the Office, an applicant, holder, or other interested person who has neither a domicile nor a real and effective industrial or commercial establishment in its territory appoint a representative.

(b) An applicant, holder, or other interested person who has neither a domicile nor a real and effective industrial or commercial establishment in the territory of the Contracting Party may act himself/herself before the Office for the filing of an application, for the purposes of the filing date, and for the mere payment of a fee.

(3) [Address for Service or Address for Correspondence] A Contracting Party may, to the extent that it does not require representation in accordance with paragraph (2), require that, for the purposes of any procedure before the Office, an applicant, holder, or other interested person who has neither a domicile nor a real and effective industrial or commercial establishment in its territory, shall have an address for service, or an address for correspondence, in a territory prescribed by the Contracting Party.

(4) [Appointment of a Representative] A Contracting Party shall accept that the appointment of a representative be filed with the Office in a manner prescribed in the Regulations.

(5) [Prohibition of Other Requirements] Subject to the requirements of Article 10, no Contracting Party may demand that requirements, other than those referred to in paragraphs (1) to (4), be complied with in respect of the matters dealt with in those paragraphs.

(6) [Notification] Where one or more of the requirements applied by the Contracting Party under paragraphs (1) to (4) is or are not complied with, the Office shall notify the applicant, holder or other interested person, giving the opportunity to comply with any such requirement within the time limit prescribed in the Regulations.

(7) [Non-Compliance with Requirements] Where one or more of the requirements applied by the Contracting Party under paragraphs (1) to (4) is or are not complied with within the time limit prescribed in the Regulations, the Contracting Party may apply such sanction as is provided for in its law.

Article 5 **Filing Date**

(1) [Permitted Requirements] (a) Subject to subparagraph (b) and paragraph (2), a Contracting Party shall accord as the filing date of an application the date on which the Office receives the following indications and elements, in a language admitted by the Office:

(i) an express or implicit indication to the effect that the elements are intended to be an application;

- (ii) indications allowing the identity of the applicant to be established;
- (iii) a sufficiently clear representation of the industrial design;
- (iv) indications allowing the applicant or the applicant's representative, if any, to be contacted;

[(v) any further indication or element as prescribed under the applicable law].

(b) A Contracting Party may accord as the filing date of an application the date on which the Office receives, together with a sufficiently clear representation of the industrial design [and indications allowing the identity of the applicant to be established]⁴, some only, rather than all, of the other indications and elements referred to in subparagraph (a), or receives them in a language other than a language admitted by the Office.

[(2) [Permitted Additional Requirements] (a) A Contracting Party whose law, at the time it becomes party to this Treaty, requires that an application comply with any of the requirements specified in subparagraph (b) in order for that application to be accorded a filing date may, in a declaration, notify the Director General of those requirements.

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

- (i) an indication of the product or products which incorporate the industrial design, or in relation to which the industrial design is to be used;
- (ii) a brief description of the reproduction or of the characteristic features of the industrial design;
- (iii) a claim;
- (iv) the payment of the required fees.

(c) Any declaration notified under subparagraph (a) may be withdrawn at any time.]

(3) [Prohibition of Other Requirements] No indication or element other than those referred to in paragraph[s] (1)(a) [and (2)(b)] may be required for the purpose of according a filing date to an application.

(4) [Notification and Time Limits] Where the application does not, at the time of its receipt by the Office, comply with one or more of the applicable requirements under paragraph[s] (1) [and (2)(b)], the Office shall notify the applicant and give the opportunity to comply with such requirements within the time limit prescribed in the Regulations.

(5) [Filing Date in Case of Subsequent Compliance with Requirements] If, within the time limit referred to in paragraph (4), the applicant complies with the applicable requirements, the filing date shall be no later than the date on which all the indications and elements required by the Contracting Party under paragraph[s] (1) [and (2)(b)] are received by the Office. Otherwise, the application shall be treated as if it had not been filed.

⁴ Proposal made at the SCT/S3 by the Delegation of the European Union (EU). Proposal supported by the Delegations of Canada, Denmark, Germany, Georgia, Japan, Nigeria, Poland, on behalf of the CEBS Group, and Ukraine.

Article 6
Grace Period for Filing in Case of Disclosure

[(1)] A disclosure of the industrial design during a period of six or 12 months preceding the date of filing of the application or, if priority is claimed, the date of priority, shall be without prejudice to the novelty and/or originality, as the case may be, of the industrial design, where it was made:

(i) by the creator or his/her successor in title; or

(ii) by a person who obtained information about the industrial design directly or indirectly, including as a result of an abuse, from the creator or his/her successor in title.

[(2)(a) A Contracting Party whose law, at the time it becomes party to this Treaty, provides that the grace period under paragraph (1) is triggered by acts other than those referred to in paragraph (1) may, in a declaration, notify the Director General that the grace period shall be triggered in the territory of that Contracting Party only by those acts.

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

(i) A disclosure of the industrial design made for the first time for the purpose of public interest when a state of emergency or an extraordinary situation occurred in the country;

(ii) A disclosure of the industrial design made for the first time at an international exhibition, at prescribed academic or technological activities;

(iii) A disclosure of the industrial design by another person without the consent of the applicant.

(c) Any declaration notified under subparagraph (a) may be withdrawn at any time.]

Proposal by the Delegation of Japan

[Article 6⁵
Grace Period for Filing in Case of Disclosure

A disclosure of the industrial design during a period of ~~six or~~ 12 months preceding the date of filing of the application or, if priority is claimed, the date of priority, shall be without prejudice to the novelty and/or originality, as the case may be, of the industrial design, where it was made:

(i) by the creator or his/her successor in title; or

(ii) by a person who obtained information about the industrial design directly or indirectly, including as a result of an abuse, from the creator or his/her successor in title.]

⁵ Proposal made at the SCT/S3 by the Delegation of Japan. Proposal supported by the Delegations of Australia, Canada, Republic of Korea, Switzerland, United Kingdom and the United States of America. Proposal not supported by the Delegations of Brazil, China, Ghana, on behalf of the African Group, India, Iran (Islamic Republic of) and the Russian Federation.

Proposal by the Delegation of India

**[Article 6⁶
Grace Period for Filing in Case of Disclosure**

A disclosure of the industrial design during a period of six or 12 months preceding the date of filing of the application or, if priority is claimed, the date of priority, shall be without prejudice to the novelty and/or originality, as the case may be, of the industrial design, where it was made:

(i) ~~by the creator or his/her successor in title; or~~

(ii) ~~by a person who obtained information about the industrial design directly or indirectly, including as a result of an abuse, from the creator or his/her successor in title.~~

(i) by the creator or his/her successor in title at an exhibition notified as per the applicable laws of the Contracting Party; or

(ii) by a person who obtained information about the industrial design directly or indirectly, including as a result of an abuse, from the creator or his/her successor in title, without the consent of the creator or his/her successor in title.]

Proposal by the Delegation of the United States of America

**[Article 6⁷
Grace Period for Filing in Case of Disclosure**

A public disclosure of the industrial design during a period of ~~six or~~ 12 months preceding the date of filing of the application or, if priority is claimed, the date of priority, shall be without prejudice to the eligibility for the registration ~~novelty and/or originality, as the case may be,~~ of the industrial design, where ~~the~~ disclosure was made:

(i) by the creator or his/her successor in title; or

(ii) by a person who obtained the disclosed information ~~about the industrial design~~ directly or indirectly, including as a result of an abuse, from the creator or his/her successor in title.]

**Article 7
Requirement to File the Application in the Name of the Creator**

(1) [Requirement That the Application Be Filed in the Name of the Creator] A Contracting Party may require that the application be filed in the name of the creator of the industrial design.

(2) [Formality Where There Is a Requirement to File the Application in the Name of the Creator] Where a Contracting Party requires that the application be filed in the name of the creator of the industrial design, such requirement shall be satisfied if the name of the creator of the industrial design is indicated, as such, in the application, and:

⁶ Proposal made at the SCT/S3 by the Delegation of India. Proposal supported by the Delegations of China, Nepal and Niger. Proposal not supported by the Delegations of Canada, France, Japan, Republic of Korea, Ukraine, United Kingdom, United States of America.

⁷ Proposal made at the SCT/S3 by the Delegation of United States of America. Proposal supported by the Delegations of Australia, Canada, Republic of Moldova, Switzerland, Ukraine and United Kingdom. Proposal not supported by the Delegations of China, India, Nigeria and the Russian Federation.

- (i) *that name corresponds to the name of the applicant, or*
- (ii) *the application is accompanied by, or contains, a statement of assignment from the creator to the applicant, signed by the creator of the industrial design.*

Article 8
Amendment or Division of Application
Including More Than One Industrial Design

(1) *[Amendment or Division of Application] If an application that includes more than one industrial design (hereinafter “initial application”) does not comply with the conditions prescribed by the Contracting Party concerned in accordance with Article 3(3), the Office may require the applicant, at the option of the applicant, to either:*

- (i) *amend the initial application to comply with those conditions; or*
- (ii) *divide the initial application into two or more applications (hereinafter “divisional applications”) that comply with those conditions by distributing among the latter the industrial designs for which protection was claimed in the initial application.*

(2) *[Filing Date and Right of Priority of Divisional Applications] Divisional applications shall preserve the filing date of the initial application and the benefit of the claim of priority, if applicable.*

(3) *[Fees] The division of an application may be subject to the payment of fees.*

Article 9
Publication of the Industrial Design

(1) *[Maintaining the Industrial Design Unpublished] A Contracting Party shall allow the industrial design to be maintained unpublished for a period fixed by its applicable law, subject to the minimum period prescribed in the Regulations.*

(2) *[Request to Maintain the Industrial Design Unpublished; Fee] (a) A Contracting Party may require that, for the purposes of maintaining the industrial design unpublished under paragraph (1), the applicant make a request to the Office.*

(b) *In respect of a request for maintaining the industrial design unpublished under subparagraph (a), the Office may require the payment of a fee.*

(3) *[Request to Publish Further to a Request to Maintain Unpublished] Where a request to maintain the industrial design unpublished has been made under paragraph (2)(a), the applicant or holder, as the case may be, may, at any time during the period applicable under paragraph (1), request the publication of the industrial design.*

[Article 9bis⁸
Term of Protection

A Contracting Party shall provide a term of protection for industrial designs of at least 15 years⁹ from either: (a) the filing date, or (b) the date of grant or registration.]

[Article 9bis¹⁰
Term of Protection

Contracting Parties shall have the option to comply with Article 17 of the Hague Convention or Article 26 of the TRIPS Agreement.]

[Article 9ter¹¹
Electronic Industrial Design System

A Contracting Party shall provide:¹²

- (a) a system for electronic application; and**
- (b) a publicly available electronic information system, which must include an online database of registered industrial designs.]**

[Article 9quater¹³
Electronic Industrial Design System

(1) A Contracting Party may provide a system for electronic applications.

(2) Contracting Parties shall not be required to provide a publicly available electronic information system, nor an online database of registered industrial designs.]

⁸ Proposal made at the SCT/S3 by the Delegation of the United States of America. Proposal supported by the Delegations of Canada, Japan, Republic of Korea, Switzerland and the United Kingdom. Proposal not supported by the Delegations of Brazil, China, Colombia, Ecuador, Ghana, on behalf of the African Group, Iran (Islamic Republic of), Niger, Nigeria, Peru, Russian Federation, South Africa.

⁹ Taking into account the varied industrial design systems, this provision may be flexibly implemented, for example, through three (3) successive five-year terms with renewals, a single fifteen-year term, etc.

¹⁰ Proposal made at the SCT/S3 by the Delegation of Nigeria. Proposal supported by the Delegations of Brazil, Kyrgyzstan, Mauritania, Niger, Uganda, Yemen, Zambia and Zimbabwe. Proposal not supported by the Delegations of United Kingdom and the United States of America.

¹¹ Proposal made at the SCT/S3 by the Delegation of the United States of America. Proposal supported by the Delegations of Australia, Canada, Republic of Korea, Switzerland, United Kingdom and Uruguay. Proposal not supported by the Delegations of Egypt, Ghana, on behalf of the African Group, Iran (Islamic Republic of), Morocco, Nigeria, Russian Federation, Uganda and Zimbabwe.

¹² Contracting Parties would not need to supply or develop the technology itself but rather ensure the aforementioned functionality is available with respect to their jurisdiction. With regard to electronic filing, the IP Office of a Contracting Party itself would not need to host or develop the electronic system itself but merely ensure electronic filing is available for their jurisdiction. Likewise, Contracting Parties need not develop or host any database but rather ensure information in relation to designs registered in their jurisdiction is publicly available, such as via an existing database. (E.g., WIPO Global Design Database (<https://designdb.wipo.int/designdb/en/index.jsp>), DesignView (<https://www.tmdn.org/tmdsview-web/#/dsview>)).

¹³ Proposal made at the SCT/S3 by the Delegation of Nigeria. Proposal supported by the Delegations of Kyrgyzstan, Mauritania, Niger, Uganda, Yemen, Zambia and Zimbabwe. Proposal not supported by the Delegations of France, United Kingdom and the United States of America.

[Article 9quinquies¹⁴
Exceptions for Publicly Accessible Design Databases

(1) Designs that incorporate or are based on traditional knowledge or traditional cultural expressions shall only be included in any publicly accessible database with the permission of the IPLC owners of the traditional knowledge or traditional cultural expressions.

(2) A Contracting Party which provides a publicly accessible database of registered industrial designs shall provide a mechanism by which Indigenous Peoples and Local Communities (IPLCs) may object to the inclusion of any design based on traditional knowledge or traditional cultural expressions.]

Article 10
Communications

(1) *[Means of Transmittal and Form of Communications]* A Contracting Party may choose the means of transmittal of communications and elect whether to accept communications on paper, communications in electronic form, or any other form of communication.

(2) *[Language of Communications]* (a) A Contracting Party may require that any communication be in a language admitted by the Office.

(b) A Contracting Party may require that, where a communication is not in a language admitted by its Office, a translation of that communication by an official translator or a representative, into a language admitted by the Office, be supplied within a reasonable time limit.

(c) No Contracting Party may require the attestation, notarization, authentication, legalization or any other certification of any translation of a communication, except in those cases prescribed in this Treaty.

(d) Notwithstanding subparagraph (c), a Contracting Party may require that any translation of a communication be accompanied by a statement that the translation is true and accurate.

(3) *[Address for Correspondence, Address for Service and Contact Details]* A Contracting Party may, subject to any provisions prescribed in the Regulations, require that an applicant, holder, or other interested person, indicate in any communication:

- (i) an address for correspondence;
- (ii) an address for service;
- (iii) any other address or contact details provided for in the Regulations.

(4) *[Signature of Communications on Paper]* (a) A Contracting Party may require that a communication on paper be signed by the applicant, holder or other interested person. Where a Contracting Party requires a communication on paper to be signed, that Contracting Party shall accept any signature that complies with the requirements prescribed in the Regulations.

¹⁴ Proposal made at the SCT/S3 by the Delegation of Nigeria. Proposal supported by the Delegations of Brazil, Kyrgyzstan, Mauritania, Niger, Uganda, Yemen, Zambia and Zimbabwe. Proposal not supported by the Delegations of France, Japan, Sweden, United Kingdom and the United States of America.

(b) *No Contracting Party may require the attestation, notarization, authentication, legalization or other certification of any signature, except in respect of any quasi-judicial proceedings or in those cases prescribed in the Regulations.*

(c) *Notwithstanding subparagraph (b), a Contracting Party may require that evidence be filed with the Office where the Office may reasonably doubt the authenticity of any signature of a communication on paper.*

(5) *[Communications Filed in Electronic Form or by Electronic Means of Transmittal] Where a Contracting Party permits the filing of communications in electronic form or by electronic means of transmittal, it may require that any such communications comply with the requirements prescribed in the Regulations.*

(6) *[Prohibition of Other Requirements] No Contracting Party may demand that, in respect of paragraphs (1) to (5), requirements other than those referred to in this Article be complied with.*

(7) *[Indications in Communications] A Contracting Party may require that any communication contain one or more indications prescribed in the Regulations.*

(8) *[Means of Communication with Representative] Nothing in this Article regulates the means of communication between an applicant, holder or other interested person and the representative of any such person.*

Article 11 **Renewal**

(1) *[Request for Renewal; Fee] (a) Where a Contracting Party provides for renewal of the term of protection, it may require that the renewal be subject to the filing of a request and that such request contain some, or all, of the following indications:*

(i) *an indication that renewal is sought;*

(ii) *the name and address of the holder;*

(iii) *the number(s) of the registration(s) concerned by the renewal;*

(iv) *an indication of the term of protection for which renewal is requested;*

(v) *where the holder has a representative, the name and address of that representative;*

(vi) *where the holder has an address for service or an address for correspondence, such address;*

(vii) *where it is permitted that renewal be made for some only of the industrial designs contained in the registration, and such a renewal is requested, an indication of the industrial design number(s) for which the renewal is, or is not, requested;*

(viii) *where it is permitted that a request for renewal may be filed by a person other than the holder or its representative, and the request is filed by such a person, the name and address of that person.*

(b) *A Contracting Party may require that, in respect of the renewal, a fee be paid to the Office.*

(2) *[Period for Presentation of the Request for Renewal and Payment of the Fee]* A Contracting Party may require that the request for renewal referred to in paragraph (1)(a) be presented, and the corresponding fee referred to in paragraph (1)(b) be paid, to the Office within a period fixed by the law of the Contracting Party, subject to the minimum periods prescribed in the Regulations.

(3) *[Prohibition of Other Requirements]* No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) and in Article 10 be complied with in respect of the request for renewal.

Article 12 **Relief in Respect of Time Limits**

(1) *[Extension of Time Limits]* A Contracting Party may provide for the extension, for the period prescribed in the Regulations, of a time limit fixed by the Office for an action in a procedure before the Office, if a request to that effect is filed with the Office in accordance with the requirements prescribed in the Regulations, and the request is filed, at the option of the Contracting Party:

(i) prior to the expiry of the time limit; or

(ii) after the expiry of the time limit, and within the time limit prescribed in the Regulations.

(2) *[Continued Processing]* Where an applicant or holder has failed to comply with a time limit fixed by the Office of a Contracting Party for an action in a procedure before the Office, and that Contracting Party does not provide for the extension of a time limit under paragraph (1)(ii), the Contracting Party *[shall] [may]* provide for continued processing with respect to the application or registration and, if necessary, reinstatement of the rights of the applicant or holder with respect to that application or registration, if:

(i) a request to that effect is made to the Office in accordance with the requirements prescribed in the Regulations;

(ii) the request is filed, and all of the requirements for the said action, in respect of which the time limit applied, are complied with, within the time limit prescribed in the Regulations.

(3) *[Exceptions]* There shall be no requirement to provide for the extension of time limits under paragraph (1) or continued processing under paragraph (2) with respect to the exceptions prescribed in the Regulations.

(4) *[Fees]* A Contracting Party may require that a fee be paid in respect of a request under paragraph (1) or (2).

(5) *[Prohibition of Other Requirements]* No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (4) be complied with in respect of the relief provided for under paragraph (1) or (2), except where otherwise provided for by this Treaty or prescribed in the Regulations.

(6) *[Opportunity to Make Observations in Case of Intended Refusal]* A request under paragraph (1) or (2) may not be refused without the applicant or holder being given the opportunity to make observations on the intended refusal within a reasonable time limit.

Article 13

Reinstatement of Rights After a Finding by the Office of Due Care or Unintentionality

(1) *[Reinstatement of Rights]* A Contracting Party ~~[shall]~~ [may] provide that, where an applicant or holder has failed to comply with a time limit for an action in a procedure before the Office, and that failure has the direct consequence of causing a loss of rights with respect to an application or a registration, the Office shall reinstate the rights of the applicant or holder with respect to that application or registration, if:

(i) a request to that effect is made to the Office in accordance with the requirements prescribed in the Regulations;

(ii) the request is filed, and all of the requirements for the said action, in respect of which the time limit applied, are complied with, within the time limit prescribed in the Regulations;

(iii) the request states the reasons for the failure to comply with the time limit; and

(iv) the Office finds that the failure to comply with the time limit occurred in spite of due care required by the circumstances having been taken or, at the option of the Contracting Party, that any delay was unintentional.

(2) *[Exceptions]* There shall be no requirement to provide for the reinstatement of rights under paragraph (1) with respect to the exceptions prescribed in the Regulations.

(3) *[Fees]* A Contracting Party may require that a fee be paid in respect of a request under paragraph (1).

(4) *[Evidence]* A Contracting Party may require that a declaration or other evidence in support of the reasons referred to in paragraph (1)(iii) be filed with the Office within a time limit fixed by the Office.

(5) *[Opportunity to Make Observations in Case of Intended Refusal]* A request under paragraph (1) may not be refused, totally or in part, without the requesting party being given the opportunity to make observations on the intended refusal, within a reasonable time limit.

Article 14

Correction or Addition of Priority Claim; Restoration of Priority Right

(1) *[Correction or Addition of Priority Claim]* A Contracting Party shall provide for the correction or addition of a priority claim with respect to an application (“the subsequent application”), if:

(i) a request to that effect is made to the Office in accordance with the requirements prescribed in the Regulations;

(ii) the request is filed within the time limit prescribed in the Regulations; and

(iii) the filing date of the subsequent application is not later than the date of the expiration of the priority period calculated from the filing date of the earliest application whose priority is claimed.

(2) *[Delayed Filing of the Subsequent Application]* A Contracting Party *[shall] [may]* provide that, where an application (“the subsequent application”) which claims or could have claimed the priority of an earlier application has a filing date which is later than the date on which the priority period expired, but within the time limit prescribed in the Regulations, the Office shall restore the right of priority, if:

(i) a request to that effect is made to the Office in accordance with the requirements prescribed in the Regulations;

(ii) the request is filed within the time limit prescribed in the Regulations;

(iii) the request states the reasons for the failure to comply with the priority period;
and

(iv) the Office finds that the failure to file the subsequent application within the priority period occurred in spite of due care required by the circumstances having been taken or, at the option of the Contracting Party, was unintentional.

(3) *[Fees]* A Contracting Party may require that a fee be paid in respect of a request under paragraph (1) and in respect of a request under paragraph (2).

(4) *[Evidence]* A Contracting Party may require that a declaration or other evidence in support of the reasons referred to in paragraph (2)(iii) be filed with the Office within a time limit fixed by the Office.

(5) *[Opportunity to Make Observations in Case of Intended Refusal]* A request under paragraph (1) or (2) may not be refused, totally or in part, without the requesting party being given the opportunity to make observations on the intended refusal within a reasonable time limit.

[Article 14bis¹⁵
Electronic Priority Document Exchange

A Contracting Party shall provide for electronic exchange of priority documents for applications.]

Article 15
Request for Recording of a License or a Security Interest

(1) *[Requirements Concerning the Request for Recording of a License]* Where the law of a Contracting Party provides for the recording of a license, that Contracting Party may require that the request for recording:

(i) be filed in accordance with the requirements prescribed in the Regulations,
and

(ii) be accompanied by the supporting documents prescribed in the Regulations.

¹⁵ Proposal made at the SCT/S3 by the Delegation of the United States of America. Proposal supported by the Delegations of Australia, Canada, Republic of Korea, Switzerland and Uruguay. Proposal not supported by the Delegations of Ecuador, Ghana, on behalf of the African Group, Nigeria, Paraguay and the Russian Federation.

- (2) *[Fees]* In respect of the recording of a license, the Office may require the payment of a fee.
- (3) *[Single Request]* A single request shall be sufficient even where the license relates to more than one registration, provided that the registration numbers of all registrations concerned are indicated in the request, the holder and the licensee are the same for all registrations, and the request indicates the scope of the license with respect to all registrations.
- (4) *[Prohibition of Other Requirements]* (a) No requirement other than those referred to in paragraphs (1) to (3) and in Article 10 may be demanded in respect of the recording of a license. In particular, the following may not be required:
- (i) the furnishing of the registration certificate of the industrial design which is the subject of the license;
 - (ii) an indication of the financial terms of the license contract.
- (b) Subparagraph (a) is without prejudice to any obligations existing under the law of a Contracting Party concerning the disclosure of information for purposes other than the recording of the license.
- (5) *[Evidence]* It may be required that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in the request, or in any supporting document.
- (6) *[Requests Relating to Applications]* Paragraphs (1) to (5) shall apply, mutatis mutandis, to requests for recording of a license in respect of an application, where the law of a Contracting Party provides for such recording.
- (7) *[Request for Recording of a Security Interest]* With the exception of paragraph (4)(a)(ii), paragraphs (1) to (5) shall apply, mutatis mutandis, to requests for recording of a security interest in respect of an application or registration.

Article 16

Request for Amendment or Cancellation of the Recording of a License or a Security Interest

- (1) *[Requirements Concerning the Request for Amendment or Cancellation of the Recording of a License]* Where the law of a Contracting Party provides for the recording of a license, that Contracting Party may require that the request for amendment or cancellation of the recording of a license:
- (i) be filed in accordance with the requirements prescribed in the Regulations,
and
 - (ii) be accompanied by the supporting documents prescribed in the Regulations.
- (2) *[Requirements Concerning the Request for Cancellation of the Recording of a Security Interest]* Paragraph (1) shall apply, mutatis mutandis, to requests for cancellation of the recording of a security interest.
- (3) *[Other Requirements]* Article 15(2) to (7) shall apply, mutatis mutandis, to requests for amendment or cancellation of the recording of a license and to requests for cancellation of the recording of a security interest.

Article 17
Effects of the Non-Recording of a License

(1) *[Validity of the Registration and Protection of the Industrial Design]* The non-recording of a license with the Office or with any other authority of a Contracting Party shall not affect the validity of the registration of the industrial design which is the subject of the license, nor the protection of that industrial design.

(2) *[Certain Rights of the Licensee]* A Contracting Party **[may]** ~~[may not]~~ require the recording of a license as a condition for any right that the licensee may have under the law of that Contracting Party to join infringement proceedings initiated by the holder or to obtain, by way of such proceedings, damages resulting from an infringement of the industrial design which is the subject of the license.

Article 18
Indication of the License

Where the law of a Contracting Party requires an indication that the industrial design is used under a license, full or partial non-compliance with that requirement shall not affect the validity of the registration of the industrial design which is the subject of the license, nor the protection of that industrial design.

Article 19
Request for Recording of a Change in Ownership

(1) *[Requirements Concerning the Request for Recording]* (a) Where there is a change in the person of the holder, a Contracting Party shall accept that a request for the recording of the change be made either by the holder or by the new owner.

(b) A Contracting Party may require that the request contain some, or all, of the indications prescribed in the Regulations.

(2) *[Requirements Concerning Supporting Documents for Recording of a Change in Ownership]* (a) Where the change in ownership results from a contract, a Contracting Party may require that the request be accompanied, at the option of the requesting party, by one of the elements prescribed in the Regulations.

(b) Where the change in ownership results from a merger, a Contracting Party may require that the request be accompanied by a copy of a document, which originates from a competent authority and evidences the merger, such as a copy of an extract from a register of commerce, and that that copy be certified by the authority which issued the document or by a notary public or any other competent public authority, as being in conformity with the original document.

(c) Where there is a change in one or more, but not all, of several co-holders, and such change in ownership results from a contract or a merger, a Contracting Party may require that any co-holder in respect of which there is no change in ownership give its express consent to the change in ownership, in a document signed by such co-holder.

(d) Where the change in ownership does not result from a contract or a merger but from another ground, for example, by operation of law or a court decision, a Contracting Party may require that the request be accompanied by a copy of a document evidencing the change and that that copy be certified as being in conformity with the original document by the authority which issued the document, or by a notary public or any other competent public authority.

(3) *[Fees]* A Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(4) *[Single Request]* A single request shall be sufficient even where the change relates to more than one registration, provided that the holder and the new owner are the same for each registration, and that the numbers of all registrations concerned are indicated in the request.

(5) *[Change in the Ownership of an Application]* Paragraphs (1) to (4) shall apply, mutatis mutandis, where the change in ownership concerns an application, provided that, where the application number of the application concerned has not yet been issued or is not known to the applicant or its representative, the request identifies the application as prescribed in the Regulations.

(6) *[Prohibition of Other Requirements]* No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (5) and in Article 10 be complied with in respect of a request for the recording of a change in ownership.

(7) *[Evidence]* A Contracting Party may require that evidence, or further evidence where paragraph (2)(b) or (d) applies, be furnished to the Office where the Office reasonably doubts the veracity of any indication contained in the request or in any document referred to in the present Article.

Article 20 **Changes in Names or Addresses**

(1) *[Changes in the Name or Address of the Holder]* (a) Where there is no change in the person of the holder but there is a change in its name and/or address, each Contracting Party shall accept that a request for the recording of the change by the Office be made by the holder in a communication indicating the registration number of the registration concerned and the change to be recorded.

(b) A Contracting Party may require that the request contain some, or all, of the indications prescribed in the Regulations.

(c) A Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(d) A single request shall be sufficient even where the change relates to more than one registration, provided that the registration numbers of all registrations concerned are indicated in the request.

(2) *[Change in the Name or Address of the Applicant]* Paragraph (1) shall apply, mutatis mutandis, where the change concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or its representative, the request otherwise identifies that application as prescribed in the Regulations.

(3) *[Change in the Name or Address of the Representative or in the Address for Service]* Paragraph (1) shall apply, mutatis mutandis, to any change in the name or address of the representative, if any, and to any change relating to the address for service, if any.

(4) *[Prohibition of Other Requirements]* No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) and in Article 10 be complied with in

respect of the request referred to in this Article. In particular, the furnishing of any certificate concerning the change may not be required.

(5) *[Evidence]* A Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in the request.

Article 21 **Correction of a Mistake**

(1) *[Request]* (a) Where an application, a registration or any request communicated to the Office in respect of an application or a registration contains a mistake, not related to search or substantive examination, which is correctable by the Office under the applicable law, the Office shall accept that a request for correction of that mistake in the records and publications of the Office be made in a communication to the Office signed by the applicant or holder.

(b) A Contracting Party may require that the request be accompanied by a replacement part or part incorporating the correction or, where paragraph (3) applies, by such a replacement part or part incorporating the correction for each application and registration to which the request relates.

(c) A Contracting Party may require that the request be subject to a declaration by the requesting party stating that the mistake was made in good faith.

(d) A Contracting Party may require that the request be subject to a declaration by the requesting party stating that the said request was made without undue delay or, at the option of the Contracting Party, that it was made without intentional delay, following the discovery of the mistake.

(2) *[Fees]* (a) Subject to subparagraph (b), a Contracting Party may require that a fee be paid in respect of a request under paragraph (1).

(b) The Office shall correct its own mistakes, ex officio or upon request, for no fee.

(3) *[Single Request]* Article 19(4) shall apply, mutatis mutandis, to requests for correction of a mistake, provided that the mistake and the requested correction are the same for all applications and registrations concerned.

(4) *[Evidence]* A Contracting Party may only require that evidence in support of the request be filed with the Office where the Office may reasonably doubt that the alleged mistake is in fact a mistake, or where it may reasonably doubt the veracity of any matter contained in, or of any document filed in connection with, the request for correction of a mistake.

(5) *[Prohibition of Other Requirements]* No Contracting Party may require that formal requirements other than those referred to in paragraphs (1) to (4) be complied with in respect of the request referred to in paragraph (1), except where otherwise provided for by this Treaty or prescribed in the Regulations.

(6) *[Exclusions]* A Contracting Party may exclude the application of this Article in respect of any mistake which must be corrected in that Contracting Party under a procedure for reissue of the registration.

**[[Article 22] [Resolution]
Technical Assistance and Capacity Building¹⁶**

[(1)] [Principles] The Organization shall, subject to availability of resources and with a view to facilitating the implementation of the Treaty, provide technical assistance, in particular to developing countries and Least Developed Countries. Such technical assistance shall

(i) be development-oriented, demand-driven, transparent, targeted and adequate for the strengthening of the capacity of beneficiary countries to implement the Treaty;

(ii) take into account the priorities and the specific needs of receiving countries for enabling the users to take full advantage of the provisions of the Treaty.

(2) [Technical Assistance and Capacity Building] (a) Technical assistance and capacity building activities provided under this Treaty shall be for the implementation of this Treaty and, where requested, include [assistance with]:

(i) establishing the required legal framework and revising administrative practices and procedures of design registration authorities;

(ii) building up the necessary capacity of the Offices, including but not limited to providing training of human resources, [and providing appropriate equipment and technology as well as the required infrastructure].

(b) The Organization shall provide, subject to allocation and availability of resources financing for WIPO activities and measures that are required to implement the Treaty in accordance with paragraph (2)(a), (3)(a) [and Article 24(1)(c)]. [Moreover, the Organization shall seek to enter into agreements with international financing organization, intergovernmental organizations and governments of receiving countries in order to provide financial support for technical assistance pursuant to this Treaty.]

(3) ~~[Other Provisions] [(a) The World Intellectual Property Organization is urged to expedite the creation of a digital library system for registered designs. Contracting Parties shall endeavor to communicate published registered design information through such system. The Organization shall support Contracting Parties in their efforts to exchange information through this system.]~~

(3) [Other Provisions] (a) The World Intellectual Property Organization is urged to encourage the participation of Contracting Parties into the existing digital libraries for registered designs, as well as to ensure the access to them. Contracting Parties shall endeavor to communicate published registered design information through such systems. The Organization shall support Contracting Parties in their efforts to exchange information through those systems.

[(b) Contracting Parties to this Treaty [shall endeavor][are encouraged] to establish a fee reduction system to the benefit of design creators [(natural persons and small and medium enterprises (SMEs))]. [Such fee reduction system if implemented shall apply to those who are nationals of and reside in a developing country or an LDC.]]¹⁷

¹⁶ The proposal made by Ambassador Socorro Flores Liera (Mexico) to the fifty-first (24th ordinary) session of the WIPO General Assembly, held in Geneva from September 30 to October 9, 2019, contained an item whereby the WIPO General Assembly “agreed that the Diplomatic Conference will consider a provision on technical assistance and capacity building”.

¹⁷ Proposal to put the whole Article 22/Resolution in brackets, made at the SCT/S3 by the Delegation of the United States of America. Proposal supported by the Delegations of Australia and Switzerland. Proposal not supported by the Delegations of Brazil, Egypt, Ghana, on behalf of the African Group, India, Iran (Islamic Republic of), Morocco, Russian Federation, Uganda, Venezuela (Bolivarian Republic of), on behalf of GRULAC, Zambia and Zimbabwe

Article 23 Regulations

(1) *[Content] [(a)] The Regulations annexed to this Treaty provide rules concerning:*

- (i) matters which this Treaty expressly provides to be prescribed in the Regulations;*
- (ii) any details useful in the implementation of the provisions of this Treaty;*
- (iii) any administrative requirements, matters or procedures.*

[(b) The Regulations also provide for the publication of Model International Forms to be established by the Assembly.]

(2) *[Amending the Regulations] Subject to paragraph (3), any amendment of the Regulations shall require three-fourths of the votes cast.*

(3) *[Requirement of Unanimity] (a) The Regulations may specify provisions of the Regulations which may be amended only by unanimity.*

(b) Any amendment of the Regulations resulting in the addition of provisions to, or the deletion of provisions from, the provisions specified in the Regulations pursuant to subparagraph (a) shall require unanimity.

(c) In determining whether unanimity is attained, only votes actually cast shall be taken into consideration. Abstentions shall not be considered as votes.

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

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 Treaty¹⁸;*
- (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. 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.

¹⁸ The Delegation of the United States of America proposed the words "provided for implementation of this Treaty" in place of "provided under this Treaty".

(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 which 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.

OTHER PROVISIONS THAT ARE THE SUBJECT OF A PROPOSAL

Article 1

[(xxiv) time limits expressed in months in the Treaty and Regulations can be calculated by Contracting Parties in accordance with their national law.]¹

Article 5(1)(b)

(b) A Contracting Party may accord as the filing date of an application the date on which the Office receives, together with a sufficiently clear representation of the industrial design [and indications allowing the identity of the applicant to be established]⁴, some only, rather than all, of the other indications and elements referred to in subparagraph (a), or receives them in a language other than a language admitted by the Office.

Article 6 – Proposal by the Delegation of Japan

A disclosure of the industrial design during a period of ~~[six or]~~⁵ 12 months preceding the date of filing of the application or, if priority is claimed, the date of priority, shall be without prejudice to the novelty and/or originality, as the case may be, of the industrial design, where it was made: [...]

[Article 6 – Proposal by the Delegation of India⁶

A disclosure of the industrial design during a period of six or 12 months preceding the date of filing of the application or, if priority is claimed, the date of priority, shall be without prejudice to the novelty and/or originality, as the case may be, of the industrial design, where it was made:

(i) ~~by the creator or his/her successor in title; or~~

(ii) ~~by a person who obtained information about the industrial design directly or indirectly, including as a result of an abuse, from the creator or his/her successor in title.~~

(i) by the creator or his/her successor in title at an exhibition notified as per the applicable laws of the Contracting Party; or

(ii) by a person who obtained information about the industrial design directly or indirectly, including as a result of an abuse, from the creator or his/her successor in title, without the consent of the creator or his/her successor in title.

¹ Proposal made at the SCT/S3 by the Delegation of Brazil. Proposal supported by the Delegations of Egypt, Nigeria and Peru.

⁴ Proposal made at the SCT/S3 by the Delegation of the European Union (EU). Proposal supported by the Delegations of Canada, Denmark, Germany, Georgia, Japan, Nigeria, Poland, on behalf of the CEBS Group, and Ukraine

⁵ Proposal made at the SCT/S3 by the Delegation of Japan. Proposal supported by the Delegations of Australia, Canada, Republic of Korea, Switzerland, United Kingdom and the United States of America. Proposal not supported by the Delegations of Brazil, China, Ghana, on behalf of the African Group, India, Iran (Islamic Republic of) and the Russian Federation.

⁶ Proposal made at the SCT/S3 by the Delegation of India. Proposal supported by the Delegations of China, Nepal and Niger. Proposal not supported by the Delegations of Canada, France, Japan, Republic of Korea, Ukraine, United Kingdom, United States of America.

[Article 6 – Proposal by the Delegation of the United States of America⁷

A public disclosure of the industrial design during a period of ~~six~~ 12 months preceding the date of filing of the application or, if priority is claimed, the date of priority, shall be without prejudice to the eligibility for the registration novelty and/or originality, ~~as the case may be~~, of the industrial design, where ~~it~~ the disclosure was made:

- (i) by the creator or his/her successor in title; or
- (ii) by a person who obtained the disclosed information ~~about the industrial design~~ directly or indirectly, including as a result of an abuse, from the creator or his/her successor in title.]

[Article 9bis – Term of Protection – Proposal by the Delegation of the United States of America⁸

A Contracting Party shall provide a term of protection for industrial designs of at least 15 years⁹ from either: (a) the filing date, or (b) the date of grant or registration.]

[Article 9bis – Term of Protection – Proposal by the Delegation of Nigeria¹⁰

Contracting Parties shall have the option to comply with Article 17 of the Hague Convention or Article 26 of the TRIPS Agreement.]

[Article 9ter – Electronic Industrial Design System – Proposal by the Delegation of the United States of America¹¹

A Contracting Party shall provide:¹²

- (a) a system for electronic application; and

⁷ Proposal made at the SCT/S3 by the Delegation of United States of America. Proposal supported by the Delegations of Australia, Canada, Republic of Moldova, Switzerland, Ukraine and United Kingdom. Proposal not supported by the Delegations of China, India, Nigeria and the Russian Federation.

⁸ Proposal made at the SCT/S3 by the Delegation of the United States of America. Proposal supported by the Delegations of Canada, Japan, Republic of Korea, Switzerland and the United Kingdom. Proposal not supported by the Delegations of Brazil, China, Colombia, Ecuador, Ghana, on behalf of the African Group, Iran (Islamic Republic of), Niger, Nigeria, Peru, Russian Federation, South Africa.

⁹ Taking into account the varied industrial design systems, this provision may be flexibly implemented, for example, through three (3) successive five-year terms with renewals, a single fifteen-year term, etc.

¹⁰ Proposal made at the SCT/S3 by the Delegation of Nigeria. Proposal supported by the Delegations of Brazil, Kyrgyzstan, Mauritania, Niger, Uganda, Yemen, Zambia and Zimbabwe. Proposal not supported by the Delegations of United Kingdom and the United States of America.

¹¹ Proposal made at the SCT/S3 by the Delegation of the United States of America. Proposal supported by the Delegations of Australia, Canada, Republic of Korea, Switzerland, United Kingdom and Uruguay. Proposal not supported by the Delegations of Egypt, Ghana, on behalf of the African Group, Iran (Islamic Republic of), Morocco, Nigeria, Russian Federation, Uganda and Zimbabwe.

¹² Contracting Parties would not need to supply or develop the technology itself but rather ensure the aforementioned functionality is available with respect to their jurisdiction. With regard to electronic filing, the IP Office of a Contracting Party itself would not need to host or develop the electronic system itself but merely ensure electronic filing is available for their jurisdiction. Likewise, Contracting Parties need not develop or host any database but rather ensure information in relation to designs registered in their jurisdiction is publicly available, such as via an existing database. (E.g., WIPO Global Design Database (<https://designdb.wipo.int/designdb/en/index.jsp>), DesignView (<https://www.tmdn.org/tmdsview-web/#/dsvview>)).

(b) *a publicly available electronic information system, which must include an online database of registered industrial designs.]*

[Article 9quater – Electronic Industrial Design System – Proposal by the Delegation of Nigeria¹³

- (1) *A Contracting Party may provide a system for electronic applications.*
- (2) *Contracting Parties shall not be required to provide a publicly available electronic information system, nor an online database of registered industrial designs.]*

[Article 9quinquies – Exceptions for Publicly Accessible Design Databases – Proposal by the Delegation of Nigeria¹⁴

- (1) *Designs that incorporate or are based on traditional knowledge or traditional cultural expressions shall only be included in any publicly accessible database with the permission of the IPLC owners of the traditional knowledge or traditional cultural expressions.*
- (2) *A Contracting Party which provides a publicly accessible database of registered industrial designs shall provide a mechanism by which Indigenous Peoples and Local Communities (IPLCs) may object to the inclusion of any design based on traditional knowledge or traditional cultural expressions.]*

[Article 14bis¹⁵ – Electronic Priority Document Exchange

A Contracting Party shall provide for electronic exchange of priority documents for applications.]

[[Article 22] [Resolution] – Technical Assistance and Capacity Building¹⁶

[(1)] [Principles] The Organization shall, subject to availability of resources and with a view to facilitating the implementation of the Treaty, provide technical assistance, in particular to developing countries and Least Developed Countries. Such technical assistance shall

- (i) *be development-oriented, demand-driven, transparent, targeted and adequate for the strengthening of the capacity of beneficiary countries to implement the Treaty;*
- (ii) *take into account the priorities and the specific needs of receiving countries for enabling the users to take full advantage of the provisions of the Treaty.*

¹³ Proposal made at the SCT/S3 by the Delegation of Nigeria. Proposal supported by the Delegations of Kyrgyzstan, Mauritania, Niger, Uganda, Yemen, Zambia and Zimbabwe. Proposal not supported by the Delegations of France, United Kingdom and the United States of America.

¹⁴ Proposal made at the SCT/S3 by the Delegation of Nigeria. Proposal supported by the Delegations of Brazil, Kyrgyzstan, Mauritania, Niger, Uganda, Yemen, Zambia and Zimbabwe. Proposal not supported by the Delegations of France, Japan, Sweden, United Kingdom and the United States of America.

¹⁵ Proposal made at the SCT/S3 by the Delegation of the United States of America. Proposal supported by the Delegations of Australia, Canada, Republic of Korea, Switzerland and Uruguay. Proposal not supported by the Delegations of Ecuador, Ghana, on behalf of the African Group, Nigeria, Paraguay and the Russian Federation.

¹⁶ The proposal made by Ambassador Socorro Flores Liera (Mexico) to the fifty-first (24th ordinary) session of the WIPO General Assembly, held in Geneva from September 30 to October 9, 2019, contained an item whereby the WIPO General Assembly “agreed that the Diplomatic Conference will consider a provision on technical assistance and capacity building”.

(2) *[Technical Assistance and Capacity Building]* (a) *Technical assistance and capacity building activities provided under this Treaty shall be for the implementation of this Treaty and, where requested, include [assistance with]:*

(i) *establishing the required legal framework and revising administrative practices and procedures of design registration authorities;*

(ii) *building up the necessary capacity of the Offices, including but not limited to providing training of human resources, [and providing appropriate equipment and technology as well as the required infrastructure].*

(b) *The Organization shall provide, subject to allocation and availability of resources financing for WIPO activities and measures that are required to implement the Treaty in accordance with paragraph (2)(a), (3)(a) [and Article 24(1)(c)]. [Moreover, the Organization shall seek to enter into agreements with international financing organization, intergovernmental organizations and governments of receiving countries in order to provide financial support for technical assistance pursuant to this Treaty.]*

(3) *[Other Provisions]* (a) *The World Intellectual Property Organization is urged to encourage the participation of Contracting Parties into the existing digital libraries for registered designs, as well as to ensure the access to them. Contracting Parties shall endeavor to communicate published registered design information through such systems. The Organization shall support Contracting Parties in their efforts to exchange information through those systems.*

[(b) Contracting Parties to this Treaty [shall endeavor][are encouraged] to establish a fee reduction system to the benefit of design creators [(natural persons and small and medium enterprises (SMEs))]. [Such fee reduction system if implemented shall apply to those who are nationals of and reside in a developing country or an LDC.]]¹⁷

[Annex II follows]

¹⁷ Proposal made at the SCT/S3 by the Delegation of the United States of America. Proposal supported by the Delegations of Australia and Switzerland. Proposal not supported by the Delegations of Brazil, Egypt, Ghana, on behalf of the African Group, India, Iran (Islamic Republic of), Morocco, Russian Federation, Uganda, Venezuela (Bolivarian Republic of), on behalf of GRULAC, Zambia and Zimbabwe

INDUSTRIAL DESIGN LAW AND PRATICE – DRAFT REGULATIONS

CONTENTS

page

LIST OF DRAFT RULES

Rule 1	Abbreviated Expressions.....	2
Rule 2	Details Concerning the Application	2
Rule 3	Details Concerning Representation of the Industrial Design	4
Rule 4	Details Concerning Representatives, Address for Service or Address for Correspondence	5
Rule 5	Details Concerning Filing Date	5
Rule 6	Details Concerning Publication	5
Rule 7	Details Concerning Communications	5
Rule 8	Identification of an Application Without its Application Number.....	8
Rule 9	Details Concerning Renewal	8
Rule 10	Details Concerning Relief in Respect of Time Limits.....	8
Rule 11	Details Concerning Reinstatement of Rights After a Finding by the Office of Due Care or Unintentionality Under Article 13	9
Rule 12	Details Concerning Correction or Addition of Priority Claim and Restoration of Priority Right Under Article 14	10
Rule 13	Details Concerning the Requirements Concerning the Request for Recording of a License or a Security Interest or for Amendment or Cancellation of the Recording of a License or a Security Interest.....	10
Rule 14	Details Concerning the Request for Recording of a Change in Ownership.....	12
Rule 15	Details Concerning the Request for Recording of a Change in Name or Address	13
Rule 16	Details Concerning the Request for Correction of a Mistake.....	14
[Rule 17	Model International Forms].....	14

Rule 1
Abbreviated Expressions

(1) *[Abbreviated Expressions Defined in the Regulations]* For the purposes of these Regulations, unless expressly stated otherwise:

- (i) “Treaty” means the Design Law Treaty;
- (ii) “Article” refers to the specified Article of the Treaty;
- (iii) “Locarno Classification” means the classification established by the Locarno Agreement Establishing an International Classification for Industrial Designs, signed at Locarno on October 8, 1968, as revised and amended;
- (iv) “exclusive license” means a license which is only granted to one licensee and which excludes the holder from using the industrial design and from granting licenses to any other person;
- (v) “sole license” means a license which is only granted to one licensee and which excludes the holder from granting licenses to any other person but does not exclude the holder from using the industrial design;
- (vi) “non-exclusive license” means a license which does not exclude the holder from using the industrial design or from granting licenses to any other person.

(2) *[Abbreviated Expressions Defined in the Treaty]* The abbreviated expressions defined in Article 1 for the purposes of the Treaty shall have the same meaning for the purposes of these Regulations.

Rule 2
Details Concerning the Application

(1) *[Further Requirements Under Article 3]* In addition to the requirements provided for in Article 3, a Contracting Party may require that an application contain some, or all, of the following indications or elements:

- (i) an indication of the class of the Locarno Classification to which belongs the product which incorporates the industrial design, or in relation to which the industrial design is to be used;
- (ii) a claim;
- (iii) a statement of novelty;
- (iv) a description;
- (v) indications concerning the identity of the creator of the industrial design;
- (vi) a statement that the creator believes himself/ herself to be the creator of the industrial design;
- (vii) where the applicant is not the creator of the industrial design, a statement of assignment or, at the option of the applicant, other evidence of the transfer of the design to the applicant admitted by the Office;

(viii) *where the applicant is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;*

(ix) *the name of a State of which the applicant is a national if he/she is the national of any State, the name of a State in which the applicant has his/her domicile, if any, and the name of a State in which the applicant has a real and effective industrial or commercial establishment, if any;*

(x) *an indication of any prior application or registration, or other information, of which the applicant is aware, that could have an effect on the eligibility for registration of the industrial design;*

Option A

a disclosure of the origin or source of traditional cultural expressions, traditional knowledge or biological/genetic resources utilized or incorporated in the industrial design;

Option B¹

an indication of any prior application or registration, or of other information², of which the applicant is aware, that is relevant to the eligibility for registration of the industrial design³

(xi) *where the applicant wishes to maintain the industrial design unpublished for a period of time, a request to that effect;*

(xii) *where the application includes more than one industrial design, an indication of the number of industrial designs included;*

(xiii) *an indication of the term of protection for which the application is filed;*

(xiv) *where a Contracting Party requires payment of a fee in respect of an application, evidence that the payment was made;*

(xv) *where applicable, an indication of partial design;*

(xvi) *where applicable, a request for earlier publication.*

(2) *[Requirements in Case of Divisional Applications] A Contracting Party may require that, where an application is to be treated as a divisional application, the application contain the following:*

(i) *an indication to that effect;*

(ii) *the number and filing date of the initial application.*

¹ The text under Option B, along with the corresponding footnote, was proposed, with respect to Article 3(1)(a)(ix) by Ambassador Socorro Flores Liera (Mexico) to the fifty-first (24th ordinary) session of the WIPO General Assembly, held in Geneva from September 30 to October 9, 2019.

² Other information could include, among other things, information relating to traditional knowledge and traditional cultural expressions.

³ Proposal to move options A and B from Article 3(1)(a)(ix) to Rule 2(1), made at the SCT/S3 by the Delegation of the United States of America. Proposal supported by the Delegation of the United Kingdom. Proposal not supported by the Delegations of Algeria, Ghana, on behalf of the African Group, India, Iran (Islamic Republic of), Nigeria, Uganda and Venezuela (Bolivarian Republic of), on behalf of GRULAC.

[(3) *[Partial Design]* A Contracting Party shall permit the application to be directed to a design embodied in a part of an article or product.]⁴

Rule 3
Details Concerning Representation of the Industrial Design

(1) *[Form of Representation of the Industrial Design]* (a) The representation of the industrial design shall, at the option of the applicant, be in the form of:

- (i) *photographs;*
- (ii) *graphic reproductions;*
- (iii) *any other visual representation admitted by the Office;*
- (iv) *a combination of any of the above.*

(b) *The representation of the industrial design may, at the option of the applicant, be in color or in black and white.*

(c) *The industrial design shall be represented alone, to the exclusion of any other matter.*

(2) *[Particulars Concerning Representation]* Notwithstanding paragraph (1)(c), the representation of the industrial design may include:

- (i) *matter that does not form part of the claimed design if it is identified as such in the description and/or it is shown by means of dotted or broken lines;*
- (ii) *shading, to show the contours or volume of a three-dimensional design.*

(3) *[Views]* (a) The industrial design may, at the option of the applicant, be represented by one view that fully discloses the industrial design, or by several different views that fully disclose the industrial design.

(b) *Notwithstanding subparagraph (a), additional, specific views may be required by the Office where such views are necessary to fully show the product or products that incorporate the industrial design or in relation to which the industrial design is to be used. However, additional views disclosing new matter affecting the industrial design, which are not derivable from the original view or views, do not have to be admitted.*

(4) *[Number of Copies of Representation]* No more than one copy of any representation of the industrial design may be required where the application is filed electronically, and no more than three copies where the application is filed on paper.

⁴ Proposal made at the SCT/S3 by the Delegation of the United States of America. Proposal supported by the Delegation of Canada, Japan, Republic of Korea, Switzerland and the United Kingdom. Proposal not supported by the Delegations of China, Colombia, Ecuador, Ghana, on behalf of the African Group, Iran (Islamic Republic of), Nigeria, Peru, Russian Federation and Zambia

Rule 4

Details Concerning Representatives, Address for Service or Address for Correspondence

(1) *[Appointment of Representative Under Article 4(4); Power of Attorney]* (a) *Whenever a Contracting Party allows or requires an applicant, a holder or any other interested person to be represented by a representative before the Office, it may require that the representative be appointed in a separate communication (hereinafter referred to as "power of attorney") indicating the name of the applicant, holder, or other interested person, as the case may be, as well as the name and address of the representative.*

(b) *The power of attorney may relate to one or more applications and/or registrations identified in the power of attorney or, subject to any exception indicated by the appointing person, to all existing and future applications and/or registrations of that person.*

(c) *The power of attorney may limit the powers of the representative to certain acts. A Contracting Party may require that any power of attorney under which the representative has the right to withdraw an application or to surrender a registration contain an express indication to that effect.*

(2) *[Time Limit Under Article 4(6)]* *The time limit referred to in Article 4(6) shall be not less than one month* from the date of the notification referred to in that Article where the address of the applicant, holder or other interested person is on the territory of the Contracting Party making the notification, and not less than two months from the date of the notification where such address is outside the territory of that Contracting Party.*

(3) *[Evidence]* *A Contracting Party may require that evidence be filed with the Office where the Office may reasonably doubt the veracity of any indication contained in any communication referred to in paragraph (1).*

Rule 5

Details Concerning Filing Date

The time limit referred to in Article 5(4) shall be not less than one month from the date of the notification referred to in that Article.

Rule 6

Details Concerning Publication

The minimum period referred to in Article 9(1) shall be six months from the filing date [or, where priority is claimed, from the priority date.]

Rule 7

Details Concerning Communications

(1) *[Details Concerning Article 10(3)]* (a) *A Contracting Party may require that the address for correspondence referred to in Article 10(3)(i) and the address for service referred to in Article 10(3)(ii) be in a territory prescribed by that Contracting Party.*

* The SCT understands that time limits expressed in months in the Treaty and Regulations can be calculated by Contracting Parties in accordance with their national law.

(b) *A Contracting Party may require that the applicant, holder, or other interested person, include some, or all, of the following contact details in any communication:*

- (i) a telephone number;*
- (ii) a telefacsimile number;*
- (iii) an email address.*

(2) *[Indications Accompanying Signature of Communication on Paper] A Contracting Party may require that the signature of the natural person who signs be accompanied by:*

(i) an indication, in letters, of the family or principal name and the given or secondary name or names, of that person or, at the option of that person, of the name, or names, customarily used by the said person;

(ii) an indication of the capacity in which that person signed, where such capacity is not obvious from reading the communication.

(3) *[Date of Signing] A Contracting Party may require that a signature be accompanied by an indication of the date on which the signing was effected. Where that indication is required, but is not supplied, the date of signing shall be deemed to be the date on which the communication bearing the signature was received by the Office or, if the Contracting Party so allows, a date earlier than the latter date.*

(4) *[Signature of Communications on Paper] Where a communication to the Office of a Contracting Party is on paper and a signature is required, that Contracting Party:*

- (i) shall, subject to item (iii), accept a handwritten signature;*
- (ii) may permit, instead of a handwritten signature, the use of other forms of signature, such as a printed or stamped signature, or the use of a seal or of a bar-coded label;*
- (iii) may, where the natural person who signs the communication is a national of the Contracting Party concerned and such person's address is in its territory, or where the legal entity on behalf of which the communication is signed is organized under its law and has either a domicile or a real and effective industrial or commercial establishment in its territory, require that a seal be used instead of a handwritten signature.*

(5) *[Attestation, Notarization, Authentication, Legalization or Other Certification of a Signature of Communications on Paper] A Contracting Party may require the attestation, notarization, authentication, legalization or other certification of any signature of a communication on paper, under Article 10(4)(b), if the communication concerns the withdrawal of an application or the surrender of a registration.*

(6) *[Signature of Communications on Paper Filed by Electronic Means of Transmittal] A Contracting Party that provides for communications on paper to be filed by electronic means of transmittal shall consider any such communication signed if a graphic or other representation of a signature accepted by that Contracting Party under paragraph (4) appears on the communication as received.*

(7) *[Original of a Communication on Paper Filed by Electronic Means of Transmittal] A Contracting Party that provides for communications on paper to be filed by electronic means of transmittal may require that the original of any such communication be filed with the Office:*

- (i) accompanied by a letter identifying that earlier transmission; and*

(ii) *within a time limit which shall be at least [one month] [15 days] from the date on which the Office received the communication by electronic means of transmittal.*

(8) *[Authentication of Communications in Electronic Form] A Contracting Party that permits the filing of communications in electronic form may require that any such communication be authenticated through a system of electronic authentication, as prescribed by that Contracting Party.*

(9) *[Date of Receipt] A Contracting Party shall be free to determine the circumstances in which the receipt of a document or the payment of a fee shall be deemed to constitute receipt by or payment to the Office in cases in which the document was actually received by or payment was actually made to:*

- (i) a branch or sub-office of the Office;*
- (ii) a national Office on behalf of the Office of the Contracting Party, where the Contracting Party is an intergovernmental organization;*
- (iii) an official postal service;*
- (iv) a delivery service, or an agency, specified by the Contracting Party;*
- (v) an address other than the nominated address(es) of the Office.*

(10) *[Electronic Filing] Subject to paragraph (9), where a Contracting Party provides for the filing of a communication in electronic form or by electronic means of transmittal and the communication is so filed, the date on which the Office of that Contracting Party receives the communication in such form, or by such means, shall constitute the date of receipt of the communication.*

(11) *[Indications Under Article 10(7)] (a) A Contracting Party may require that any communication:*

- (i) indicate the name and address of the applicant, holder or other interested person;*
- (ii) indicate the number of the application or registration to which it relates;*
- (iii) contain, where the applicant, holder or other interested person is registered with the Office, the number or other indication under which he/she is so registered.*

(b) A Contracting Party may require that any communication by a representative for the purposes of a procedure before the Office contain:

- (i) the name and address of the representative;*
- (ii) a reference to the power of attorney on the basis of which the representative acts;*
- (iii) where the representative is registered with the Office, the number or other indication under which he/she is registered.*

Rule 8
Identification of an Application Without Its Application Number

(1) *[Manner of Identification]* Where it is required that an application be identified by its application number, but such a number has not yet been issued or is not known to the applicant or its representative, the application shall be considered identified if the following is supplied:

(i) *the provisional application number, if any, given by the Office; or*

(ii) *a copy of the application; or*

(iii) *a representation of the industrial design, accompanied by an indication of the date on which, to the best knowledge of the applicant or the representative, the application was received by the Office, along with any identification number given to the application by the applicant or the representative.*

(2) *[Prohibition of Other Requirements]* No Contracting Party may demand that requirements other than those referred to in paragraph (1) be complied with in order for an application to be identified where its application number has not yet been issued or is not known to the applicant or its representative.

Rule 9
Details Concerning Renewal

For the purposes of Article 11(2), the period during which any request for renewal may be presented, and any renewal fee may be paid, shall commence at least six months before the date on which the renewal is due and shall end, at the earliest, six months after that date. If the request for renewal is presented, or the fee is paid, after the date on which the renewal is due, the acceptance of the request for renewal and the payment of the fee may be subject to the payment of a surcharge.

Rule 10
Details Concerning Relief in Respect of Time Limits

(1) *[Requirements Under Article 12(1)]* (a) A Contracting Party may require that a request referred to in Article 12(1):

(i) *be signed by the applicant or holder;*

(ii) *contain an indication to the effect that an extension of a time limit is requested, and an identification of the time limit in question.*

(b) *Where a request for an extension of a time limit is filed after the expiration of the time limit, the Contracting Party may require that all of the requirements for the action in respect of which the time limit applied, be complied with at the same time as the request is filed.*

(2) *[Period and Time Limit Under Article 12(1)]* (a) *The period of extension of a time limit referred to in Article 12(1) shall be not less than two months from the date of the expiration of the un-extended time limit.*

(b) *The time limit referred to in Article 12(1)(ii) shall expire not earlier than two months from the date of the expiration of the un-extended time limit.*

(3) *[Requirements Under Article 12(2)(i)] A Contracting Party may require that a request referred to in Article 12(2)(i):*

(i) *be signed by the applicant or holder;*

(ii) *contain an indication to the effect that relief in respect of non-compliance with a time limit is requested, and an identification of the time limit in question.*

(4) *[Time Limit for Filing a Request Under Article 12(2)(ii)] The time limit referred to in Article 12(2)(ii) shall expire not earlier than two months after a notification by the Office that the applicant or holder did not comply with the time limit fixed by the Office.*

(5) *[Exceptions Under Article 12(3)] No Contracting Party shall be required under Article 12(1) or (2) to grant:*

(i) *a second, or any subsequent, relief in respect of a time limit for which relief has already been granted under Article 12(1) or (2);*

(ii) *relief for filing a request for a relief measure under Article 12(1) or (2) or a request for reinstatement under Article 13(1);*

(iii) *relief in respect of a time limit for the payment of a renewal fee;*

(iv) *relief in respect of a time limit for an action before a board of appeal, or other review body, constituted in the framework of the Office;*

(v) *relief in respect of a time limit for an action in inter partes proceedings;*

(vi) *relief in respect of a time limit referred to in Article 14(1) or (2).*

Rule 11

Details Concerning Reinstatement of Rights After a Finding by the Office of Due Care or Unintentionality Under Article 13

(1) *[Requirements Under Article 13(1)(i)] A Contracting Party may require that a request referred to in Article 13(1)(i) be signed by the applicant or holder.*

(2) *[Time Limit Under Article 13(1)(ii)] The time limit for making a request, and for complying with the requirements, under Article 13(1)(ii), shall be the earlier to expire of the following:*

(i) *not less than two months from the date of the removal of the cause of failure to comply with the time limit for the action in question;*

(ii) *not less than 12 months from the date of expiration of the time limit for the action in question, or, where a request relates to non-payment of a renewal fee, not less than 12 months from the date of expiration of the period of grace provided under Article 5bis of the Paris Convention.*

(3) *[Exceptions Under Article 13(2)] The exceptions referred to in Article 13(2) are failure to comply with a time limit:*

(i) *for making a request for relief under Article 12 (1) or (2) or a request for reinstatement under Article 13(1);*

(ii) *for an action before a board of appeal, or other review body, constituted in the framework of the Office;*

- (iii) for an action in inter partes proceedings;
- (iv) for filing a declaration which, under the law of the Contracting Party, may establish a new filing date for a pending application;
- (v) referred to in Article 14(1) or (2).

Rule 12

Details Concerning Correction or Addition of Priority Claim and Restoration of Priority Right Under Article 14

(1) *[Requirements Under Article 14(1)(i)]* A Contracting Party may require that a request referred to in Article 14(1)(i) be signed by the applicant.

(2) *[Time Limit Under Article 14(1)(ii)]* The time limit referred to in Article 14(1)(ii) shall not be less than six months from the priority date or, where the correction or addition would cause a change in the priority date, six months from the priority date as so changed, whichever six-month period expires first, provided that the request may be submitted until the expiration of two months from the filing date.

[(3) [Exception] No Contracting Party shall be obliged to provide for the correction or addition of a priority claim under Article 14(1), where the request referred to in Article 14(1)(i) is received after the substantive examination of the application has been completed.]⁵

(4) *[Time Limits Under Article 14(2)]* The time limits referred to in Article 14(2), introductory part, and Article 14(2)(ii) shall expire not less than one month from the date on which the priority period expired.

(5) *[Requirements Under Article 14(2)(i)]* A Contracting Party may require that a request referred to in 14(2)(i):

- (i) be signed by the applicant; and
- (ii) be accompanied, where the application did not claim the priority of the earlier application, by the priority claim.

Rule 13

Details Concerning the Requirements Concerning the Request for Recording of a License or a Security Interest or for Amendment or Cancellation of the Recording of a License or a Security Interest

(1) *[Content of Request] (a)* A Contracting Party may require that the request for the recording of a license under Article 15(1) or (6) contain some, or all, of the following indications or elements:

- (i) the name and address of the holder;
- (ii) where the holder has a representative, the name and address of that representative;

⁵ Proposal made at the SCT/S3 by the Delegation of Japan. Proposal supported by the Delegations of Canada, Nigeria, Republic of Korea, United Kingdom and the United States of America.

(iii) *where the holder has an address for service or an address for correspondence, such address;*

(iv) *the name and address of the licensee;*

(v) *where the licensee has a representative, the name and address of that representative;*

(vi) *where the licensee has an address for service or an address for correspondence, such address;*

(vii) *where the licensee is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;*

(viii) *the name of a State of which the licensee is a national, if he/she is the national of any State, the name of a State in which the licensee has his/her domicile, if any, and the name of a State in which the licensee has a real and effective industrial or commercial establishment, if any;*

(ix) *the registration number of the industrial design which is the subject of the license;*

(x) *where the license is not granted in respect of all the industrial designs contained in a registration, the industrial design number(s) for which the license is granted;*

(xi) *whether the license is an exclusive license, a non-exclusive license or a sole license;*

(xii) *where applicable, that the license concerns only a part of the territory covered by the registration, together with an explicit indication of that part of the territory;*

(xiii) *the duration of the license.*

(b) *A Contracting Party may require that the request for amendment or cancellation of the recording of a license under Article 16(1) contain some or all of the following indications or elements:*

(i) *the indications specified in items (i) to (ix) of subparagraph (a);*

(ii) *the nature and scope of the amendment to be recorded or an indication that cancellation is to be recorded.*

(2) *[Supporting Documents for Recording of a License] (a) Where the license is a freely concluded agreement, a Contracting Party may require that the request for the recording of a license be accompanied [at the option of the requesting party], by one of the following:*

(i) *a copy of the agreement, which copy may be required to be certified [at the option of the requesting party], by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office, as being in conformity with the original agreement;*

(ii) *an extract of the agreement consisting of those portions of that agreement which indicate the parties, as well as the rights licensed and their extent, which extract may be required to be certified, at the option of the requesting party, by a notary public or any other competent authority or, where permitted under the applicable law, by a representative having the right to practice before the Office, as being a true extract of the agreement.*

(b) A Contracting Party may require that any co-holder who is not a party to the license agreement give its express consent to the license in a document signed by such co-holder.

(c) Where the license is not a freely concluded agreement, for example, it results from operation of law or a court decision, a Contracting Party may require that the request be accompanied by a copy of a document evidencing the license. A Contracting Party may also require that the copy be certified as being in conformity with the original document, at the option of the requesting party, by the authority which issued the document or by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office.

(3) [Supporting Documents for Amendment of Recording of a License] (a) A Contracting Party may require that the request for amendment of the recording of a license be accompanied, at the option of the requesting party, by one of the following:

(i) documents substantiating the requested amendment of the recording of the license; or

(ii) an uncertified statement of amendment of license, signed by both the holder and the licensee.

(b) A Contracting Party may require that any co-holder who is not a party to the license contract give express consent to the amendment of the license in a document signed by such co-holder.

(4) [Supporting Documents for Cancellation of Recording of a License] A Contracting Party may require that the request for cancellation of the recording of a license be accompanied, at the option of the requesting party, by one of the following:

(i) documents substantiating the requested cancellation of the recording of the license; or

(ii) an uncertified statement of cancellation of license, signed by both the holder and the licensee.

(5) [Security Interests] Paragraphs (1) to (4) shall apply, mutatis mutandis, to requests for the recording, amendment of the recording and cancellation of the recording, of a security interest.

Rule 14

Details Concerning the Request for Recording of a Change in Ownership

(1) [Content of Request] A Contracting Party may require that the request for the recording of a change in ownership under Article 19 contain some, or all, of the following indications:

(i) an indication to the effect that a recording of a change in ownership is requested;

(ii) the number of the registration concerned by the change;

(iii) the name and address of the holder;

(iv) the name and address of the new owner;

(v) the date of the change in ownership;

(vi) *where the new owner is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;*

(vii) *the name of a State of which the new owner is a national if he/she is the national of any State, the name of a State in which the new owner has his/her domicile, if any, and the name of a State in which the new owner has a real and effective industrial or commercial establishment, if any;*

(viii) *where the holder has a representative, the name and address of that representative;*

(ix) *where the new owner has a representative, the name and address of that representative;*

(x) *where the new owner is required to have an address for service or an address for correspondence, such address;*

(xi) *the basis for the change requested.*

(2) *[Requirements Concerning Supporting Documents for Recording of a Change in Ownership Resulting From a Contract] A Contracting Party may require that the request for the recording of a change in ownership resulting from a contract be accompanied, at the option of the requesting party, by one of the following:*

(i) *a copy of the contract, which may be required to be certified by a notary public or any other competent public authority, as being in conformity with the original contract;*

(ii) *an extract of the contract showing the change in ownership, which may be required to be certified by a notary public or any other competent public authority, as being a true extract of the contract;*

(iii) *an uncertified certificate of transfer signed by both the holder and the new owner;*

(iv) *an uncertified transfer document signed by both the holder and the new owner.*

Rule 15

Details Concerning the Request for Recording of a Change in Name or Address

A Contracting Party may require that the request for the recording of a change in name and/or address under Article 20 contain some, or all, of the following indications:

(i) *the name and address of the holder;*

(ii) *where the holder has a representative, the name and address of that representative;*

(iii) *where the holder has an address for service, such address.*

Rule 16
Details Concerning the Request for Correction of a Mistake

A Contracting Party may require that the request for correction of a mistake under Article 21 contain some, or all, of the following indications:

- (i) an indication to the effect that a correction of mistake is requested;*
- (ii) the number of the application or registration concerned;*
- (iii) the mistake to be corrected;*
- (iv) the correction to be made;*
- (v) the name and address of the requesting party.*

[Rule 17
Model International Forms

The International Bureau shall publish the Model International Forms established by the Assembly under Article 24(2)(ii).]

OTHER PROVISIONS THAT ARE THE SUBJECT OF A PROPOSAL

Rule 2(1)

[Option A

a disclosure of the origin or source of traditional cultural expressions, traditional knowledge or biological/genetic resources utilized or incorporated in the industrial design;

Option B¹

an indication of any prior application or registration, or of other information², of which the applicant is aware, that is relevant to the eligibility for registration of the industrial design]³ [...]

Rule 2(3)

[(3) [Partial Design] A Contracting Party shall permit the application to be directed to a design embodied in a part of an article or product.]⁴

Rule 12(3)

[(3) [Exception] No Contracting Party shall be obliged to provide for the correction or addition of a priority claim under Article 14(1), where the request referred to in Article 14(1)(i) is received after the substantive examination of the application has been completed.]⁵

[End of Annex II and of document]

¹ The text under Option B, along with the corresponding footnote, was proposed, with respect to Article 3(1)(a)(ix) by Ambassador Socorro Flores Liera (Mexico) to the fifty-first (24th ordinary) session of the WIPO General Assembly, held in Geneva from September 30 to October 9, 2019.

² Other information could include, among other things, information relating to traditional knowledge and traditional cultural expressions.

³ Proposal made at the SCT/S3 by the Delegation of the United States of America. Proposal supported by the Delegation of the United Kingdom. Proposal not supported by the Delegations of Algeria, Ghana, on behalf of the African Group, India, Iran (Islamic Republic of), Nigeria, Uganda and Venezuela (Bolivarian Republic of), on behalf of GRULAC.

⁴ Proposal made at the SCT/S3 by the Delegation of the United States of America. Proposal supported by the Delegation of Canada, Japan, Republic of Korea, Switzerland and the United Kingdom. Proposal not supported by the Delegations of China, Colombia, Ecuador, Ghana, on behalf of the African Group, Iran (Islamic Republic of), Nigeria, Peru, Russian Federation and Zambia

⁵ Proposal made at the SCT/S3 by the Delegation of Japan. Proposal supported by the Delegations of Canada, Nigeria, Republic of Korea, United Kingdom and the United States of America.