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HAGUE AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

Amendments to the Common Regulations

1. At its twenty-eighth (17th ordinary) session, which took place in Geneva from September 22 to October 1, 2009, the Assembly of the Hague Union adopted two sets of amendments to the Common Regulations under the 1999 Act, the 1960 Act and the 1934 Act of the Hague Agreement. The first set of amendments relates to the freeze of the application of the London (1934) Act of the Hague Agreement and will come into effect on January 1, 2010. The second set of amendments relates to the inclusion of Spanish in the language regime of the Hague system and will come into effect on April 1, 2010.

Freeze of the Application of the London (1934) Act of the Hague Agreement

2. As further detailed in Information Notice No. 9/2009, at an Extraordinary Meeting held on September 24, 2009, the Contracting States to the London (1934) Act of the Hague Agreement¹ decided to freeze the application of this Act with effect from January 1, 2010. In taking this decision, the Contracting States intended that no new designation under the 1934 Act may be recorded in the International Register, but that this freeze would be without prejudice to the continuation in force of designations recorded in the International Register before the effective date of the freeze.

3. To clearly reflect the fact that, under this decision, no new designations could be effected under the 1934 Act, the provisions relating to the 1934 Act and the references to that Act contained in other provisions have been deleted from the Common Regulations. This concerns Rules 1, 7, 14, 26, 27, 30, 31 and 34, as well as the Schedule of Fees. One further amendment has been made to subparagraph (a) of paragraph (2) of Rule 14, insofar as it referred implicitly to the filing of deposits under the 1934 Act. Finally, on the occasion of the amendment of subparagraph (1)(xii) of Rule 1, a lacuna was cured in that provision.

¹ The following 15 States are party to the 1934 Act: Benin, Côte d'Ivoire, Egypt, France, Germany, Indonesia, Liechtenstein, Monaco, Morocco, Netherlands (in respect of the Netherlands Antilles), Senegal, Spain, Suriname, Switzerland and Tunisia.

4. As a consequence of the deletion of some of the subparagraphs of paragraph (1) of Rule 1, the remaining subparagraphs have been renumbered. On the other hand, for reasons of simplicity and legal certainty, the rules that follow deleted Rules 30 and 31 have not been renumbered. Finally, instead of reading as “Common Regulations Under the 1999 Act, the 1960 Act and the 1934 Act of the Hague Agreement”, the new name of the Common Regulations reads as “Common Regulations Under the 1999 Act and the 1960 Act of the Hague Agreement”.

5. To clearly reflect the fact that the freeze would be without prejudice to the continuation in force of designations under the 1934 Act previously recorded in the International Register, a new Rule 37(1) containing transitional provisions has been adopted.

6. Subparagraph (1)(a) of Rule 37 contains a number of definition provisions in relation to the 1934 Act, which are for the sole purpose of subparagraph (1)(b). Subparagraph (1)(b) provides that the Common Regulations as in force before the coming into effect of the amendments shall remain applicable to an international application filed before that date and that is still pending on that date, as well as in respect of any Contracting Party designated under the 1934 Act in an international registration resulting from an international application filed before that date.

7. As a result of the above, it will no longer be possible, as from January 1, 2010, to file international deposits under the 1934 Act nor to make new designations governed by that Act. However, the prolongation (renewal) of existing designations under the 1934 Act and the recording of any change affecting such designations will continue to be possible in the International Register up to the maximum duration of protection under the 1934 Act (15 years).

Inclusion of Spanish in the Language Regime of the Hague System

8. At its twenty-eighth session, the Assembly of the Hague Union also decided to adopt a set of amendments to the Common Regulations which relates to the inclusion of Spanish in the language regime of the Hague system.

9. This decision is implemented by an amendment of Rule 6 and the adoption of paragraph (2) of new Rule 37. In order to afford the International Bureau sufficient time to take the steps necessary to include Spanish in the language regime of the Hague system, the relevant amendments will come into effect on April 1, 2010.

10. As a consequence of the amendment to Rule 6, an international application may be filed in English, French or Spanish, at the applicant’s discretion. Furthermore, the recording in the International Register and the publication in the *Bulletin of International Designs* of an international registration and of any data in respect of an international registration will be in English, French and Spanish.

11. Finally, any communication concerning an international application or the international registration resulting therefrom must be

(i) in English, French or Spanish where such communication is addressed to the International Bureau by the applicant or holder or by an Office;

(ii) in the language of the international application where the communication is addressed by the International Bureau to an Office, unless that Office has notified the International Bureau that any such communications are to be in English, in French or in Spanish;

(iii) in the language of the international application where the communication is addressed by the International Bureau to the applicant or holder unless the applicant or holder has expressed the wish that all such communications be in English, be in French or be in Spanish.

Transitional Provision

12. Rule 37(2) however introduces a transitional provision, such that Rule 6 as in force before April 1, 2010, shall continue to apply to any international application filed before that date and to any international registration resulting therefrom. As a consequence, any communication between an applicant and the International Bureau relating either to an international application filed before the date of effect of the amendment or to its resulting international registration, shall take place in either English or French. In addition, the recording in the International Register and the publication in the Bulletin of that recording shall be in English and French.

Annex and Further Information

13. The amended text of the Common Regulations, including the amended text of the Schedule of Fees, is reproduced in the Annex hereto.

14. A more detailed presentation of the amendments referred to above can be found in the Hague Assembly documents H/A/28/1. and H/A/28/3, which are available on WIPO's website, at the following address: http://www.wipo.int/meetings/en/details.jsp?meeting_id=18648.

November 30, 2009

ANNEX

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

[...]

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CHAPTER 1

GENERAL PROVISIONS

Rule 1

Definitions

- (1) [*Abbreviated Expressions*] For the purposes of these Regulations,
- (i) “1999 Act” means the Act signed at Geneva on July 2, 1999, of the Hague Agreement;
 - (ii) “1960 Act” means the Act signed at The Hague on November 28, 1960, of the Hague Agreement;
 - (iii) an expression which is used in these Regulations and is referred to in Article 1 of the 1999 Act has the same meaning as in that Act;
 - (iv) “Administrative Instructions” means the Administrative Instructions referred to in Rule 34;
 - (v) “communication” means any international application or any request, declaration, invitation, notification or information relating to or accompanying an international application or an international registration that is addressed to the Office of a Contracting Party, the International Bureau, the applicant or the holder by means permitted by these Regulations or the Administrative Instructions;
 - (vi) “official form” means a form established by the International Bureau or any form having the same contents and format;
 - (vii) “International Classification” means the Classification established under the Locarno Agreement Establishing an International Classification for Industrial Designs;
 - (viii) “prescribed fee” means the applicable fee set out in the Schedule of Fees;
 - (ix) “Bulletin” means the periodical bulletin in which the International Bureau effects the publications provided for in the 1999 Act, the 1960 Act or these Regulations, whatever the medium used;
 - (x) “Contracting Party designated under the 1999 Act” means a designated Contracting Party in respect of which the 1999 Act is applicable, either as the only common Act to which that designated Contracting Party and the applicant’s Contracting Party are bound, or by virtue of Article 31(1), first sentence, of the 1999 Act;
 - (xi) “Contracting Party designated under the 1960 Act” means a designated Contracting Party in respect of which the 1960 Act is applicable, either as the only common Act to which that designated Contracting Party and the State of origin referred to in Article 2 of the 1960 Act are bound, or by virtue of Article 31(1), second sentence, of the 1999 Act;
 - (xii) “international application governed exclusively by the 1999 Act” means an international application in respect of which all designated Contracting Parties are Contracting Parties designated under the 1999 Act;
 - (xiii) “international application governed exclusively by the 1960 Act” means an international application in respect of which all designated Contracting Parties are Contracting Parties designated under the 1960 Act;
 - (xiv) “international application governed by both the 1999 Act and the 1960 Act” means an international application in respect of which
 - at least one Contracting Party has been designated under the 1999 Act,and
 - at least one Contracting Party has been designated under the 1960 Act;

(2) [Correspondence Between Some Expressions Used in the 1999 Act and the 1960 Act] For the purposes of these Regulations,

(i) reference to “international application” or “international registration” shall be deemed, where appropriate, to include a reference to “international deposit” as referred to in the 1960 Act;

(ii) reference to “applicant” or “holder” shall be deemed, where appropriate, to include a reference to, respectively, “depositor” or “owner” as referred to in the 1960 Act;

(iii) reference to “Contracting Party” shall be deemed, where appropriate, to include a reference to a State party to the 1960 Act;

(iv) reference to “Contracting Party whose Office is an examining Office” shall be deemed, where appropriate, to include a reference to “State having a novelty examination” as defined in Article 2 of the 1960 Act;

(v) reference to “individual designation fee” shall be deemed, where appropriate, to include a reference to the fee mentioned in Article 15(1)2(b) of the 1960 Act.

[...]

Rule 6 *Languages*

(1) [*International Application*] The international application shall be in English, French or Spanish.

(2) [*Recording and Publication*] The recording in the International Register and the publication in the Bulletin of the international registration and of any data to be both recorded and published under these Regulations in respect of that international registration shall be in English, French and Spanish. The recording and publication of the international registration shall indicate the language in which the international application was received by the International Bureau.

(3) [*Communications*] Any communication concerning an international application or an international registration shall be

(i) in English, French or Spanish where such communication is addressed to the International Bureau by the applicant or holder, or by an Office;

(ii) in the language of the international application where the communication is addressed by the International Bureau to an Office, unless that Office has notified the International Bureau that any such communications are to be in English, or in French or in Spanish;

(iii) in the language of the international application where the communication is addressed by the International Bureau to the applicant or holder unless that applicant or holder has expressed the wish that all such communications be in English, or be in French or be in Spanish.

(4) [*Translation*] The translations needed for the recordings and publications under paragraph (2) shall be made by the International Bureau. The applicant may annex to the international application a proposed translation of any text matter contained in the international application. If the proposed translation is not considered by the International Bureau to be correct, it shall be corrected by the International Bureau after having invited the applicant to make, within one month from the invitation, observations on the proposed corrections.

CHAPTER 2

INTERNATIONAL APPLICATIONS
AND INTERNATIONAL REGISTRATIONS

Rule 7

Requirements Concerning the International Application

[...]

(6) [*No Additional Matter*] If the international application contains any matter other than that required or permitted by the 1999 Act, the 1960 Act, these Regulations or the Administrative Instructions, the International Bureau shall delete it *ex officio*. If the international application is accompanied by any document other than those required or permitted, the International Bureau may dispose of the said document.

[...]

Rule 14

Examination by the International Bureau

[...]

(2) [*Irregularities Entailing a Postponement of the Filing Date of the International Application*] Where the international application has, on the date on which it is received by the International Bureau, an irregularity which is prescribed as an irregularity entailing a postponement of the filing date of the international application, the filing date shall be the date on which the correction of such irregularity is received by the International Bureau. The irregularities which are prescribed as entailing a postponement of the filing date of the international application are the following:

- (a) the international application is not in one of the prescribed languages;
- (b) any of the following elements is missing from the international application:
 - (i) an express or implicit indication that international registration under the 1999 Act or the 1960 Act is sought;
 - (ii) indications allowing the identity of the applicant to be established;
 - (iii) indications sufficient to enable the applicant or its representative, if any, to be contacted;
 - (iv) a reproduction, or, in accordance with Article 5(1)(iii) of the 1999 Act, a specimen, of each industrial design that is the subject of the international application;
 - (v) the designation of at least one Contracting Party.

[...]

CHAPTER 6

BULLETIN

Rule 26

Bulletin

[...]

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

CHAPTER 7

FEES

Rule 27

Amounts and Payment of Fees

(1) [*Amounts of Fees*] The amounts of fees due under the 1999 Act, the 1960 Act and these Regulations, other than individual designation fees referred to in Rule 12(1)(a)(iii), shall be specified in the Schedule of Fees which is annexed to these Regulations and forms an integral part thereof.

[...]

CHAPTER 8 [Deleted]

Rule 30 [Deleted]

Rule 31 [Deleted]

[...]

Rule 34
Administrative Instructions

[...]

(4) [*Conflict with the 1999 Act, the 1960 Act or These Regulations*] In the case of conflict between, on the one hand, any provision of the Administrative Instructions and, on the other hand, any provision of the 1999 Act, the 1960 Act or of these Regulations, the latter shall prevail.

[...]

Rule 37
Transitional Provisions

(1) [*Transitional Provision Relating to the 1934 Act*] (a) For the purpose of this provision,

(i) “1934 Act” means the Act signed at London on June 2, 1934, of the Hague Agreement;

(ii) “Contracting Party designated under the 1934 Act” means a Contracting Party recorded as such in the International Register;

(iii) reference to “international application” or “international registration” shall be deemed, where appropriate, to include a reference to “international deposit” as referred to in the 1934 Act.

(b) The Common Regulations Under the 1999 Act, the 1960 Act and the 1934 Act of the Hague Agreement as in force before January 1, 2010, shall remain applicable to an international application filed before that date and that is still pending on that date, as well as in respect of any Contracting Party designated under the 1934 Act in an international registration resulting from an international application filed before that date.

(2) [*Transitional Provision Concerning Languages*] Rule 6 as in force before April 1, 2010, shall continue to apply to any international application filed before that date and to the international registration resulting therefrom.

SCHEDULE OF FEES

(as in force on January 1, 2010)

Swiss francs

I. *International Applications*

[...]

II. [Deleted]

6. [Deleted]

[...]

10. Surcharge (period of grace)

[...]

IV. [Deleted]

11. [Deleted]

12. [Deleted]

[...]

[End of Annex]

*** 50% of the renewal basic fee.