

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

### **Twenty-Seventh Session**

**Geneva, September 18 to 21, 2012**

### **STUDY ON THE POTENTIAL IMPACT OF THE WORK OF THE STANDING COMMITTEE ON THE LAW OF TRADEMARKS, INDUSTRIAL DESIGNS AND GEOGRAPHICAL INDICATIONS (SCT) ON INDUSTRIAL DESIGN LAW AND PRACTICE**

*prepared by the Secretariat*

#### **INTRODUCTION**

1. At the twenty-sixth session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (hereinafter referred to as “the Standing Committee” or “the SCT”), held in Geneva from October 24 to 28, 2011 and February 1 to 3, 2012, the Chair noted “that a number of delegations considered that, [...], a study by the Secretariat with the involvement of the Chief Economist, on the impact of the draft Articles and draft Rules on Industrial Design Law and Practice (documents SCT/26/2 and 3) on developing countries was required. After informal discussion, the SCT agreed to request the Secretariat to prepare an analytical study, in accordance with the terms of reference contained in Annex II [of document SCT/26/8]” (document SCT/26/8, paragraph 8).

2. Following the request of the SCT, the Secretariat, with the involvement of the Chief Economist, has prepared the present Study, which is divided into three parts. Part I, “Study on the Potential Impact of the Work of the SCT on Industrial Design Law and Practice,” analyzes the key findings of two surveys conducted by the Secretariat to gain better understanding of the potential impact on applicants and offices of the proposed changes to industrial design law and practice (see Annex II). This Part was prepared in collaboration with Dr. James Moultrie, Design Management Group, Institute for Manufacturing of Cambridge University.

3. Part II, “Flexibilities for SCT Members in the Draft Articles and Draft Rules on Industrial Design Law and Practice (documents SCT/26/2 and 3)”, analyzes the flexibilities in the draft provisions as presented in those documents, considers certain additional flexibilities, and examines special provisions in WIPO-administered treaties for developing countries and LDCs (see Annex III).
4. Part III, “Statistical Information and Analysis”, offers statistical information, within the scope of available data on design filing trends and comparative filing patterns (see Annex IV).
5. The Terms of Reference of the Study are reproduced in Annex V.
6. The questionnaires used as basis for the Survey conducted by the Secretariat are reproduced in Annex VI.
7. The original language of document SCT/27/4 is English. In accordance with WIPO language policy, other language versions of this document are limited to the Executive Summary.

[Annexes follow]

## EXECUTIVE SUMMARY

### INTRODUCTION

The present Study on the Potential Impact of the Work of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) on Industrial Design Law and Practice was requested by the SCT at its twenty-sixth session. In accordance with the Terms of Reference agreed by the SCT at that session, the Study was prepared by the WIPO Secretariat, with the involvement of the Chief Economist, in the context of the SCT's work on Industrial Design Law and Practice (documents SCT/26/2 and 3) and the commitment of WIPO Member States to the Development Agenda Recommendations, in particular Cluster B relating to Norm-Setting.

The Study is presented in three distinct parts, each of which is reproduced in a separate Annex to document SCT/27/4. The first part (Annex II) presents key findings of an empirical analysis of potential benefits, constraints and costs of the changes to industrial design law and practice proposed by the SCT work (documents SCT/26/2 and 3), from the viewpoint of offices of SCT Members and of applicants and/or users of the design system. This analysis was made on the basis of two surveys conducted by the Secretariat in collaboration with Dr. James Moultrie, Design Management Group, Institute for Manufacturing of Cambridge University – one intended for industrial design registration authorities, in other words, national/regional offices, and one targeted at users of the design registration system. This part of the Study also analyzes the question whether the draft Rules and Articles contained in documents SCT/26/2 and 3 would have any impact on technology transfer and access to knowledge.

The second part (Annex III) offers an analysis of flexibilities for SCT Members in the draft Rules and Articles as presented in documents SCT/26/2 and 3. Part three (Annex IV) finally provides information on industrial design filing trends and patterns by offices, by origin and by class of products (according to the Locarno Classification). Parts two and three of the Study were prepared by the Secretariat on the basis of the relevant literature and available data.

### **SECTION A: SUMMARY OF KEY FINDINGS ON THE POTENTIAL IMPACT OF THE WORK OF THE SCT ON INDUSTRIAL DESIGN LAW AND PRACTICE**

#### A.1 APPROACH

A study was conducted to gain a better understanding of the potential impact on users/applicants and national/regional offices of the changes to industrial design law and practice proposed in the draft Articles and draft Rules contained in documents SCT/26/2 and 3. The objective of the study, as per the applicable Terms of Reference (Annex IV of the present document), was to analyze the potential benefits, constraints and costs for SCT Members of the application of above-mentioned draft Articles and Rules, and the impact, if any, of those draft Article and Rules on a number of factors that can be generally described as incentivizing design activities and access to knowledge.

To address these objectives, two surveys were conducted, one addressed at national and regional offices, and a second targeted at users of the design registration system (either applicants for design registration or their representatives). The proposed changes to the design registration system as currently discussed by the SCT and presented in documents SCT/26/2 and 3 are complex. With a view to designing the questionnaires used for the surveys, the key

features of the proposed changes were established and described in terms understandable to an average designer, manager or industrialist. This resulted in the description of nine changes, together with a more detailed explanation for each change, which were used in both the survey of national/regional offices and the survey of applicants.

The study was initiated in March 2012, with data collection carried out in April and May, 2012. Requests to complete the questionnaires were circulated to the Industrial Property Offices of all 185 Member States of WIPO and to the African Intellectual Property Organization (OAPI), the African Regional Intellectual Property Organization (ARIPO), the Office of Harmonization for the Internal Market (OHIM) and the Benelux Office of Intellectual Property (BOIP), with responses gained from 52 offices from 25 high-income countries and 28 middle- and low-income countries.

The questionnaire targeted at users/applicants was disseminated via WIPO Member States' Offices, which, in turn, were asked to invite applicants in their jurisdictions to complete the survey. In addition, the applicant survey was promoted on WIPO media and to specific user groups known to WIPO. This survey yielded an overall of 143 responses with 79 from applicants/users in middle- and low-income countries and 64 from applicant/users in high-income countries. Due regard given to the specialized nature of the survey and its complexity, a total of 143 responses appears satisfactory, although it remains a relatively small sample.

## A.2 VIEWS OF OFFICES ON IMPLEMENTATION AND IMPACT OF PREVIOUS TREATIES

The office questionnaire sought, among other things, to obtain the view of offices on the implementation and impact of previous treaties, namely the Trademark Law Treaty (TLT), the Singapore Treaty on the Law of Trademarks (STLT), and the Patent Law Treaty (PLT). Offices believe that the implementation of the TLT, STLT and PLT have mostly resulted in benefits to the users of these systems. At worst, the impact has been neutral. The most significant impact has been on simplifying procedures.

Of the three treaties, the PLT was seen to have the most significant positive impact on users, particularly in terms of simplification of procedures.

Different offices utilized different mechanisms to implement treaties, but primary legislation was needed in most cases.

There is a diversity of views on the time needed to implement a treaty, although it appears that the middle and low-income countries took less time to implement past treaties.

In the majority of high-income countries, the PLT and TLT each took over four years to implement. In contrast, in the majority of middle and low-income countries, the treaties took less than two years to implement.

There is a notable difference between high-income countries, on the one hand, and middle and low-income countries, on the other, with respect to the perceived support needed and potential changes needed to implement these treaties.

High-income countries generally had less need for support and the treaties had little impact on office operations. For all countries, the most likely area of impact was on IT and middle and low-income countries needed most support in "legal advice".

### A.3 VIEWS OF OFFICES AND APPLICANTS/USERS ON THE PROPOSED CHANGES

Both the office and the applicant/user questionnaires reviewed the proposed changes to design law and practice, and sought to gain the views of offices and applicants on the impact of such changes, particularly in terms of design activity and commercialization and in terms of ease, time and cost of registering.

Change 1 – Choice of Illustration: Offices not offering this capability saw implications for IT expertise and infrastructure as well as a slight increase in costs. Some offices in middle and low-income countries expect a slight increase in complexity of procedures. Applicants in large and small firms saw this change as having a positive influence on the ease of registering a new design. SMEs in all countries expressed a preference for photographs and CAD files as the means of illustrating a design. Applicants/users in high-income countries expressed a preference for drawings, whilst in middle and low-income countries there was a preference for photographs.

Change 2 – Reduced Number of Copies of Each Illustration: this is a capability already offered in most high-income countries, and many middle and low-income countries. Most offices believe that they have the capability, resources and expertise to implement this change. The majority of offices in middle and low-income countries believe that this would help simplify procedures and reduce costs. Applicants/users from all countries saw positive benefits to cost, time and ease of registration.

Change 3 – Registering a Set of Designs: roughly 75% of all countries already have this capability. For those that do not, the most significant impact would be on IT infrastructure. All offices of high-income countries indicated that costs would be significantly higher, whereas those in middle and low-income countries believed that there might be savings. In all countries, responding offices felt that procedures might be more complex. All applicants/users felt that this would simplify registration. SMEs in high-income countries felt there would be significant cost savings.

Change 4 – Easier to Gain a Secure Filing Date: a small number of offices in high, middle and low-income countries felt that additional IT infrastructure would be needed to implement this change. Offices were broadly neutral on the impact of this change on costs and procedures. SMEs in middle and low-income countries were most positive towards this change in terms of ease, time and cost of registration.

Change 5 – Register a Design Six Months After Disclosure: this capability is offered in most high-income countries. Most countries believe that they have the capability to implement this change, and it would have minimal impact on costs or procedures. Applicants are similarly neutral on the impact of this change on ease, time and costs. They perceive clear benefits in commercializing a design.

Change 6 – Register a Design 12 Months After Disclosure: most offices indicated that they do not have the IT infrastructure or expertise to implement this change. They also suggested that additional administrative capacity and legal expertise would be needed. Applicants reported a very strong commercial benefit to this proposed change. They noted little benefit to either ease, time or cost of registration.

Change 7 – Secrecy for Six Months After Filing: additional IT infrastructure was viewed as important for implementation. Applicants felt that this change might have a mild benefit on commercialization, but that it might make registration slightly costlier, take slightly longer and possibly cost slightly more.

Change 8 – Standardizing Information: all applicants/users felt that this change would have a very positive impact on the ease, cost and time to register. This was especially the case in SMEs in high-income countries. SMEs in middle and low-income countries were still positive, but less so.

Change 9 – Simplifying Procedures for Legally Valid Documents: this capability is offered in most high-income countries, but not in many middle and low-income countries. Many countries believe that they do not have the IT expertise, IT infrastructure or legal expertise to implement this change and that the change would have a neutral impact on costs and procedures in offices. Applicants believe that this change will make it easier, cheaper and quicker to register designs.

In order to implement these proposed changes, offices perceive the need for increased IT expertise and infrastructure, especially in middle and low-income countries. There is some, but less need for increased administration capability and legal expertise.

Applicants/users in all countries judge “registering a set of designs”, “standardized information” and “simpler legal documents” as their top priority changes. “Reduced copies of illustrations” is consistently the least priority change.

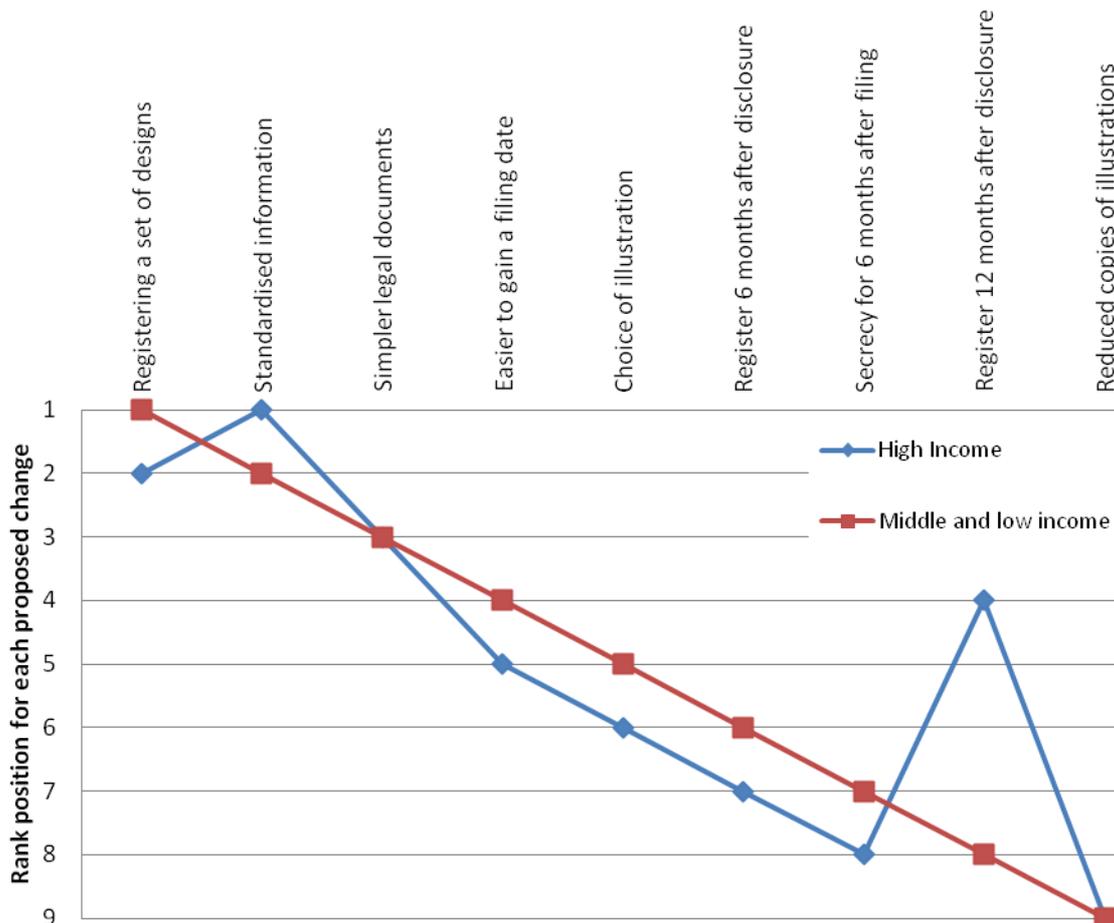


Fig A.3.1: Relative importance of proposed changes – high-income and middle and low-income countries

SMEs in middle and low-income countries have different priorities to firms in other countries. SMEs in those countries consider “easier to gain a filing date” as a high priority change, and “register 12 months after disclosure” as a low priority.

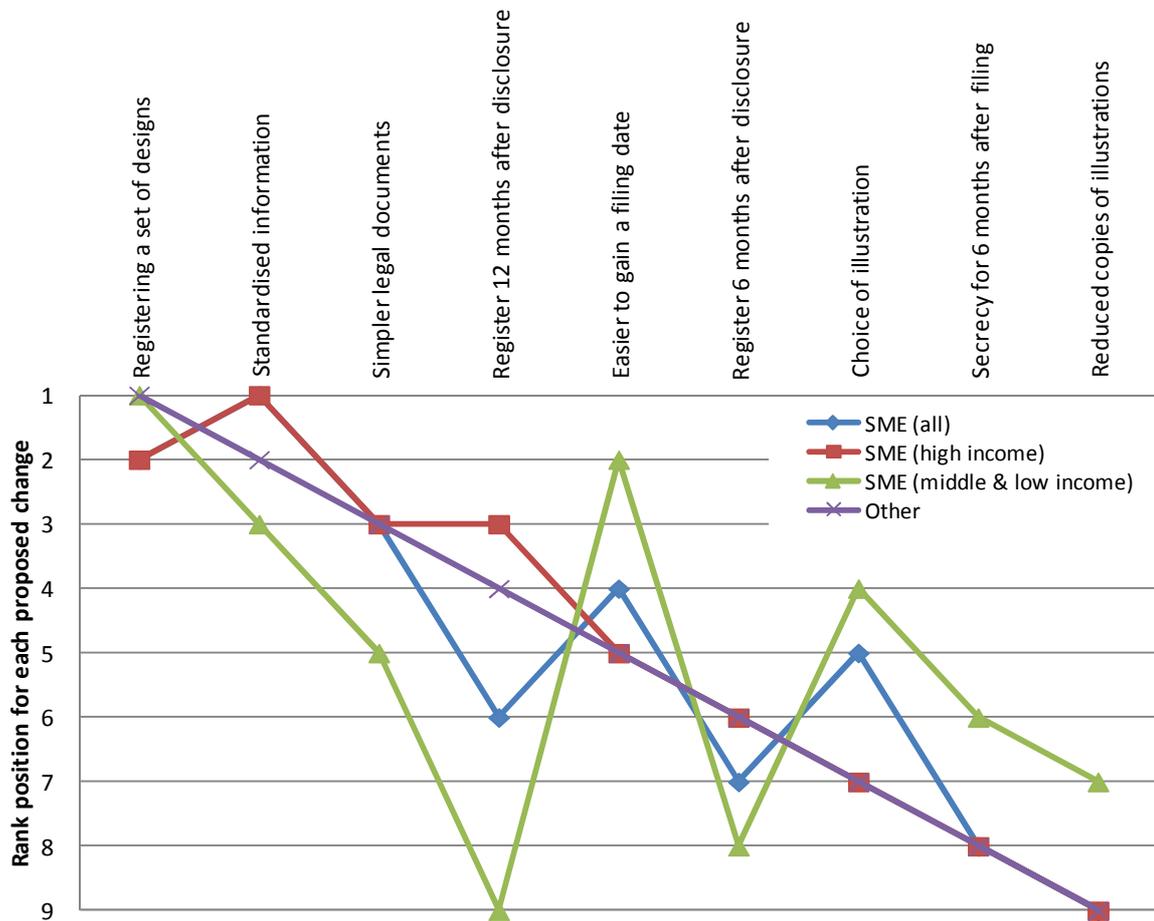


Fig A.3.2: Relative importance of proposed changes – SMEs and other firms

Overall, the results demonstrate that respondents in all countries believe that these changes would result in improvements. There are some notable differences however. In high-income countries, respondents believe the changes will make a greater improvement to costs and time to register than in middle and low-income countries. Conversely, respondents in middle and low-income countries believe that the changes will have a greater impact on profitability. Overall, the most prominent improvements would be the ease of registering and the likelihood of registering overseas.

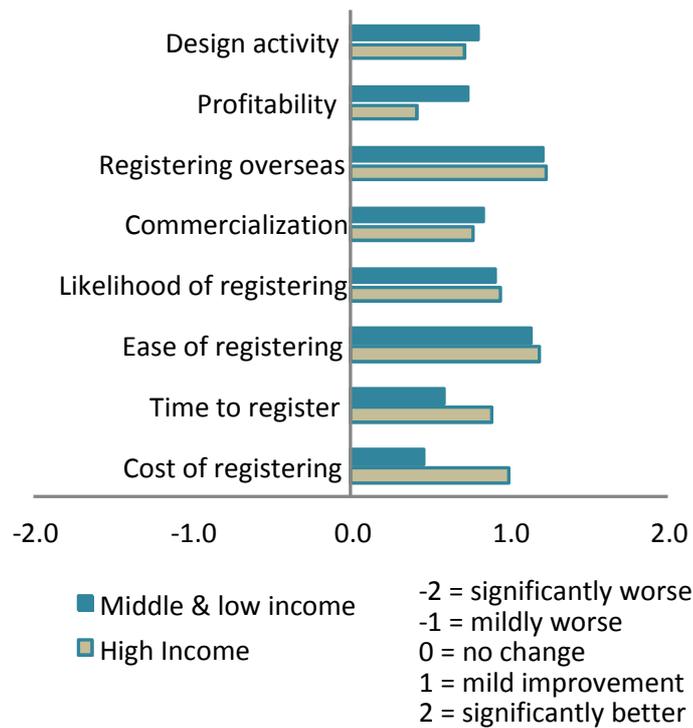


Fig A.3.3: Potential impact of changes – high-income and middle and low-income countries

The offices are generally positive towards the likely impact of these changes on users of the design system. Offices in middle and low-income countries are slightly more positive towards the impact on innovation, use of intellectual property and simplification of procedures. However, they believe that the cost will be mostly neutral, with perhaps small savings.

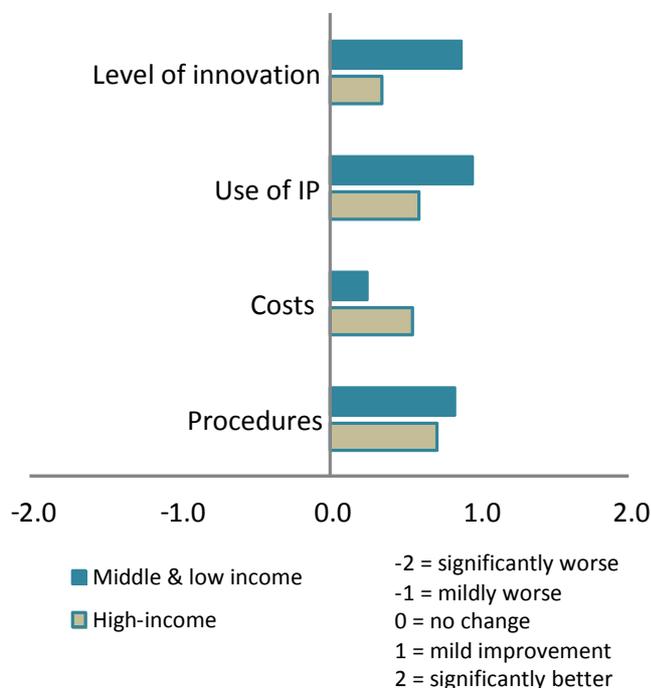


Fig A.3.4: Office's view on the impact of the set of changes for users/applicants

#### A.4 VIEWS OF OFFICES REGARDING IMPLEMENTATION

The office questionnaire included a chapter on the implementation of the changes, aimed at obtaining the views of offices regarding, in particular, the perceived implementation cost for the office, the time to implement the changes, and the required support or assistance.

Offices are optimistic that the proposed changes could be implemented in under four years, and most in under two years. This would be quick in comparison with experiences with previous treaties.

To implement these changes, there is consensus from offices that IT infrastructure and expertise will need to improve.

Change 3 (registering a set of designs) is seen as the most costly change to implement and requiring more complex procedures. But, it is interesting to note that this is also the change which is viewed as the highest priority by most applicants/users.

In middle and low-income countries, there is a need for support in IT, administration, legal expertise and training. In contrast, high-income countries perceive a much lower need for support. Thus, it is clear that offices in high-income countries are better placed to implement these changes with the least impact on existing capabilities, expertise and resources.

## A.5 TECHNOLOGY TRANSFER AND ACCESS TO KNOWLEDGE

An analysis of the potential impact of the draft Article and Rules (documents SCT/26/2 and 3) on technology transfer and access to knowledge could not be addressed by the surveys since it involves third parties not seeking design rights themselves. Moreover, systemic or even anecdotal evidence on the effects of design protection on technology transfer and knowledge access appears to be virtually non-existent and could thus not inform this part of the Study.

Bearing in mind these important limitations, the Study offers some perspectives informed by the nature of design protection and broader insights on what determines technology transfer. In this regard, the study points out that industrial design rights only protect the aesthetic or ornamental aspects on an object – rather than its technical or functional aspects. In addition, the licensing of a design right by itself is unlikely to imply the transfer of manufacturing process technology. Such a transfer may well be linked to a design right license, though there is no empirical evidence on this hypothesis or on the specific role of registration formalities in this context.

### **SECTION B: SUMMARY OF FLEXIBILITIES FOR SCT MEMBERS IN THE DRAFT ARTICLES AND DRAFT RULES ON INDUSTRIAL DESIGN LAW AND PRACTICE (DOCUMENTS SCT/26/2 AND 3)**

With regard to paragraph three of the Terms of Reference, Part II of the Study analyzes the “flexibilities for SCT Members in the draft Articles and draft Rules on Industrial Design Law and Practice (documents SCT/26/2 and 3), deepening the analysis contained in the relevant portions of document SCT/26/4, and examining special provisions for developing countries and LDCs”.

This part of the Study is introduced by a section seeking to define the term “flexibilities” with reference to the pertinent literature, with a view to circumscribing its meaning for the purposes of the study. It is recalled that “flexibilities” is a frequently-used term with regard to the implementation of obligations deriving from international instruments, in particular the Agreement on Trade-Related Aspects of Intellectual Property Rights (“TRIPS Agreement”).

In the TRIPS Agreement, the term “flexibility” is contained in the sixth recital of the Preamble and in Article 66.1. In addition, since the Doha Declaration on the TRIPS Agreement and Public Health (“the Doha Declaration”), adopted in November 2001, the term has been used in connection with certain provisions in the TRIPS Agreements that can be used to support WTO Members’ right to protect public health and promote access to medicines, such as compulsory licenses and provisions concerning the exhaustion of intellectual property rights, whereby each Member is free to establish its own exhaustion regime. Finally, the term “flexibilities” has also been used in a more general way to refer to the different options available to Members of the WTO to transpose TRIPS obligations into their national law. In this connection, it is usually admitted that any international instrument leaves to parties certain “room for manoeuvre” in the implementation and the interpretation of the instrument. It is in this general sense that the term “flexibilities” is used in the study.

The Study goes on to present three types of flexibilities in the possible instrument under consideration. It is recalled that, with the exception, perhaps, of the proposed grace period for filing further to disclosure, the draft provisions are limited to procedural issues dealing mainly with formalities. They do not touch on substantive issues of protection, such as subject matter or conditions and scope of protection, nor do they deal with enforcement. The scope of the flexibilities contained in the draft provisions is therefore not directly comparable to that of the flexibilities in the TRIPS Agreement or in other instruments containing minimum standards of protection.

The first type of flexibilities in the possible instrument concerns those that are available in international public law at the time of accepting an international instrument, such as reservations and declarations. It is shown how some WIPO-administered treaties, in particular those that are similar in nature to the possible instrument under consideration, include this type of flexibilities.

The second type of flexibilities relates to those that are present in the draft provisions, giving different options to Parties to implement the provisions. Among these, there are flexibilities as to the conditions for accepting so-called “multiple applications”, as to the form of communications and as to the representation of the industrial design.

The third type of flexibilities results from concepts that are not defined in the draft provisions, such as the concept of industrial design. This leaves complete freedom to each Party to adopt the definition that is more suitable to its needs and legal traditions.

Finally, this part of the Study examines some of the special clauses, applicable only to developing countries and LDCs, contained in WIPO-administered treaties, notably the Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder, which was adopted by the Singapore Diplomatic Conference with regard to specific needs and concerns of developing countries and LDCs.

## **SECTION C: SUMMARY OF STATISTICAL INFORMATION AND ANALYSIS**

The Study’s statistical part provides information on industrial design filing trends and patterns by office (i.e. the geographical location of applications), origin (i.e. source of applications) and class of products (using the Locarno classification). To enable better comparisons across countries, the chapter also reports data based on design counts – that is, the number of designs contained in applications; these design count data account for some offices operating a system of single designs in applications and others allowing for multiple designs in one application.

The chapter’s key findings include the following:

- Industrial design filings grew in every year from 2000 until 2010, often at double-digit rates. In 2000, around 300,000 applications were filed across the world and by the decade’s end, the number of annual applications had increased to over 720,000. The data show that industrial design filings worldwide saw continued growth notwithstanding the global economic downturn – largely due to strong filing growth in China.
- The State Intellectual Property Office of China (SIPO) has seen the largest increases in design applications, mostly accounted for by Chinese residents. In particular, filings by Chinese residents represented 24% of global resident filings in 2000; by 2010 they represented over 64%. Excluding resident applications filed at SIPO, growth of resident filings worldwide has been modest.
- In all income groups, resident applicants account for the majority of the industrial design applications. For the high-income group, the non-resident share of total applications is 22.3%. The upper middle-income group has the lowest non-resident share (5.5%), but excluding China, this share stands at around 40% (see Table below).
- Across individual offices, the share of non-resident applications varies widely, with smaller offices often – but not always – registering higher non-resident shares.
- The largest class, in terms of number of applications, in 2010, was furnishings (class 6), with over 15,000 applications, followed by packages and containers (class 9) and articles of clothing (class 2).

### Industrial design applications by income group – office data<sup>1</sup>

Income Group	Growth (%)		Share of total		Non-resident	Non-resident	
	2010	2009-10	2006-10	(%), 2006	share (%), 2006	share (%), 2010	
High-income	243,340	5.4	-3.6	52.2	33.9	23.2	22.3
Upper middle-income	453,997	18.2	18.1	43.2	63.2	11.6	5.5
Upper middle-income*	32,724	0.2	0.4	6.0	4.6	43.0	39.5
China	421,273	19.9	20.3	37.3	58.6	6.6	2.9
Lower middle- income	19,521	3.0	-3.1	4.1	2.7	40.2	32.0
Low-income	1,588	-15.9	-11.5	0.5	0.2	32.7	23.3

Note: Missing office data was estimated

\*Excluding SIPO office data

Source: WIPO Statistics Database, March 2012

[Annex II follows]

<sup>1</sup> Annex IV, page 7.

## **STUDY ON THE POTENTIAL IMPACT OF THE WORK OF THE SCT ON INDUSTRIAL DESIGN LAW AND PRACTICE**

### **INTRODUCTION**

This study was conducted to gain better understanding of the potential impact on users/applicants and offices of the proposed changes to industrial design law and practice. The study was run to satisfy the terms of reference (Annex II of document SCT/26/4), to provide an analytical study addressing the following two core elements:

1. The potential benefits, constraints and costs for SCT members, particularly Developing Countries, Least Developed Countries (LDCs) and Countries in Transition, of the application of the draft Articles and draft Rules on Industrial Design Law and Practice (documents SCT/26/2 and 3), with regard to:

- (a) applicants (natural and legal persons, particularly SMEs);
- (b) national and regional Offices' administrative capacity and legal expertise;
- (c) national and regional jurisdictions, as concerns the implementation of legislative changes to their design system;
- (d) developing countries and LDCs' needs for capacity building, investment in infrastructure and technical assistance.

2. The impact, if any, of the draft Articles and draft Rules on Industrial Design Law and Practice (documents SCT/26/2 and 3) on:

- (a) the access to design systems for SMEs;
- (b) fostering creativity, innovation and economic development and efficiency in developing countries;
- (c) technology transfer and access to knowledge.

This study was initiated in March 2012, with data collection carried out in April and May, 2012. Data analysis and reporting was completed in line with the timelines established in the terms of reference.

### **SECTION A: APPROACH TO THE STUDY**

To address these objectives, a two-part survey was conducted. Given the need for data which represents a diverse set of stakeholders across a range of countries, a survey was viewed as the only viable mechanism by which this data might be collected. The first part consisted of a survey of offices in order to address objectives 1)b), 1)c) and 1)d). The second survey was targeted at users of the design rights system (either end users or legal agents) in order to address objectives 1)a) and 2)a). Objective 2)b) was explored in both parts of the survey. Objective 2)c) could not be meaningfully addressed through the survey; but the study offers some perspectives on the matter informed by the nature of design protection and broader insights on what determines technology transfer.

## A.1 PROPOSED CHANGES TO INDUSTRIAL DESIGN LAW AND PRACTICE

The proposed changes to the design system are complex and are described in detail in two documents (draft Articles and draft Rules on Industrial Design Law and Practice – documents SCT/26/2 and 3). Given this complexity, before designing a questionnaire, it was necessary to establish the key features of the proposed changes and describe these in terms that might be understandable to an average designer, manager or industrialist. This simplification sought to preserve the main thrust of the proposed changes without prejudicing the content of any future instrument. This resulted in the following nine changes summarized in table A.1.1. Each change has a short description, followed by a more detailed explanation. This terminology was used in both the survey of offices and the survey of users/applicants.

Change	Proposed change	Explanation
1	Greater choice in how you represent or illustrate a design	With this change, the applicant will be able to choose whether to illustrate or represent the design using either drawings, photographs, other visual media (e.g. CAD) or a combination of media.
2	Reduced number of copies of each illustration required for filing	With this change, the applicant will not have to submit more than three copies of each illustration or representation when filing an application (or just a single copy in the case of e-filing)
3	Registering a set of related designs in a single application	With this proposed change, it will be possible to register several related designs in a single application, rather than register each individual design in a separate application. There will be safeguards in place to ensure that the original filing date is protected in the event that one of the individual designs is not accepted.
4	Easier to gain a secure filing date from which your design is protected	With this proposed change, it will be simpler to gain a secure filing date for the protection of your design. In order to gain a secure filing date, you will only need to provide details on the applicant, an illustration of the design and possibly a fee.
5	Register a design six months after public disclosure	With this change, it will be possible to register a design up to six months after a new design has been publically released.
6	Register a design 12 months after public disclosure	With this change, it will be possible to register a design up to twelve months after a new design has been publically released.
7	Secrecy for six months after filing an application	With this proposed change, it will be possible to keep a design secret for at least six months after filing a new design.
8	Standardising the information needed to submit (or make changes to) a design registration	With this proposed change, the information needed to submit a new application will be standardised internationally.
9	Simplifying the procedures to present legally valid documents in another country	With this proposed change, there will be a simplification to the requirements for creating and signing legal documents.

Table A.1.1: simplified descriptions of the proposed design changes.

## A.2 GROUPING OF RESPONDENTS FOR ANALYSIS

The terms of reference for the study requests analysis of users/offices in developing countries, least developed countries and countries in transition. Since there is no official list of developing countries and countries in transition, the study adopted the World Bank's income-based classification of economies<sup>1</sup>. In particular, countries are grouped under two headings.

- High-income countries: having gross national income per capita of USD12,276 or more (2010 data).
- Middle and low-income countries: these are often described as “developing economies” and have gross national income per capita of less than USD12,275 (2010).

Responses from applicants were also grouped according to the size of firm in order to establish the potential impact of the changes on SMEs. For this analysis, an SME is defined as a firm with less than 250 employees.

Due to the relatively small number of survey responses from LDCs, no separate results for this country groups are reported (see also below).

## A.3 QUESTIONNAIRE DESIGN AND DATA COLLECTION: OFFICES

The questionnaire targeted at the national regional offices sought primarily to establish the potential impact of each of the proposed changes, with the exception of change eight (standardizing the information needed to submit or make changes to a design registration). It was felt that this change in particular would have little direct impact on national regional offices and was therefore omitted. The questionnaire comprised five sections:

- Section 1 – Background Information on the Responding Office: e.g. country, office name, etc...
- Section 2 – Implementation of Previous Treaties: this section captured views on the complexity/time of implementation, impact on users and the impact on the national regional offices of three previous treaties; the TLT (1994), the STLT (2006) and the PLT (2000). Although not directly related to the proposed instrument, no data exists on the complexities of introducing such treaties and this evidence was viewed as an important benchmark in order to calibrate the responses to the proposed changes in design law and practice.
- Section 3 – Views on the Proposed Changes to Design Law: this section sought to establish the potential impact of each of the changes on the national regional office. Impacts include changes required to IT expertise, IT infrastructure, legal expertise, administrative capability, procedures and operating costs. For each proposed change, respondents were also asked to note whether this change is already offered as part of the country's national design system.

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<sup>1</sup> <http://data.worldbank.org/about/country-classifications/country-and-lending-groups>

- Section 4 – Views on the Complete Package of Changes: taking the changes as a whole package, this section sought to rank them in terms of their likely cost to implement and establish the overall impact on costs, administration, IT, procedures. Respondents were also asked to comment on the likely support they would need to implement the changes.
- Section 5 – Comments: an opportunity for respondents to provide any further commentary in support of their answers.

Requests to complete the questionnaire were circulated to the Industrial Property Offices of all 185 Member States of WIPO, by means of a circular letter. Requests were also sent to the following regional Offices of WIPO Member States: the African Intellectual Property Organization (OAPI), the African Regional Intellectual Property Organization (ARIPO), the Office of Harmonization for the Internal Market (OHIM) and the Benelux Office of Intellectual Property (BOIP).

Responses were gained from 52 offices, as detailed in table A.3.1. A further 44 respondents began to complete the questionnaire, but did not complete. It is possible that some of these later re-opened and completed as one of the 52 responses. It is also unsurprising that there are a large number of incomplete responses in a survey of this complexity.

	High-income economies	Middle-income and low-income economies
1	Australia	Algeria
2	Austria	Argentina
3	Belgium	Belarus
4	Canada	Chile
5	Croatia	Costa Rica
6	Denmark	Ecuador
7	Finland	El Salvador
8	France	Georgia
9	Germany	Honduras
10	Greece	Jordan
11	Hungary	Kazakhstan
12	Ireland	Latvia
13	Japan	Lesotho
14	Luxembourg	Lithuania
15	Monaco	Madagascar (Low-income)
16	Netherlands	Mali (Low-income)
17	Norway	Mexico
18	Poland	Morocco
19	Portugal	Nicaragua
20	Republic of Korea	Pakistan
21	Singapore	Peru
22	Spain	Republic of Moldova
23	Sweden	Romania
24	Switzerland	South Africa
25	United States of America	Suriname
26		Thailand
27		Turkey
28		Uruguay

Table A.3.1: summary of respondents from offices

#### A.4 QUESTIONNAIRE DESIGN AND DATA COLLECTION: USERS/APPLICANTS

The questionnaire targeted at users/applicants sought primarily to establish the potential impact of each of the proposed changes in terms of: costs of registering, time to register, ease of registration, and in some specific cases, the impact on commercialization of designs. The questionnaire comprised four sections:

- Section 1 – Background Information on the Respondent: including nationality, industrial sector, size of firm and export activity;
- Section 2 – Views on the Individual Changes: respondents were asked to comment on whether a proposed change is already offered in their national system. If so, then they were asked to move on to the next change, as thus the change would have no impact. If the proposed change is not already offered, respondents were asked to evaluate its likely impact on the costs, time, ease, and likelihood of registration, among others;
- Section 3 – Views on the Complete Package of Changes: respondents were asked to rank the proposed changes in terms of importance before scoring the likely impact on costs, time, ease, likelihood of registering, commercialization, registering overseas, profitability and design activity;
- Section 4 – Comments: an opportunity for respondents to provide any further commentary in support of their answers.

In total, 143 responses were gained, with 79 from applicants/users in middle and low-income countries and 64 from applicants/users in high-income economies. Around 100 potential respondents also opened the survey but only partially completed. These partial or incomplete results are not included in the analysis. Again, this highlights the complexity of the survey. In pursuing responses, emphasis was given to seeking responses from middle and low-income countries.

Of the respondents from high-income countries, around 70% of the companies claimed to export goods and approximately 50% were from SMEs. Fewer respondents in the middle-income group claimed to export (50%) and a larger proportion (66%) worked in SMEs.

	High-income economies	Middle-income and low-income economies
	Australia	Brazil
	Austria	China
	Canada	Colombia
	Croatia	Ethiopia (Low-income)
	Denmark	Georgia
	Finland	Guatemala (Low-income)
	Germany	India
	Hungary	Kazakhstan
	Ireland	Kenya
	Italy	Malaysia
	Japan	Mexico
	Liechtenstein	Morocco
	New Zealand	Peru
	Norway	Philippines
	Sweden	Republic of Moldova
	Switzerland	Russian Federation
	United Kingdom	Serbia
	United States of America	South Africa
		The former Yugoslav Republic of Macedonia
		Turkey
<b>Total number of responses</b>	<b>64</b>	<b>79</b>
<b>Number of responses from SMEs (&lt;250 employees)</b>	<b>37</b>	<b>52</b>
<b>Number of firms exporting</b>	<b>46</b>	<b>40</b>

Table A.4.1: summary of nationality of responses from applicants/users

## A.5 STRATEGIES FOR GAINING RESPONSES

It is acknowledged that both surveys are complex and that this inevitably has an impact on the overall number of respondents. The comparatively large number of partial or incomplete responses provides confirmation that the survey is complex; both in content but also in the challenging nature of the concepts being studied.

Alternative, simpler approaches to creating questions were considered in the hope that a higher response rate might be gained. However, it was felt that in order to satisfy the terms of reference, specific questions on the key proposed changes had to be included, invariably leading to a certain level of complexity.

Of greatest concern was the number of responses to the applicant/user survey, as although the survey is complex, it was felt that the national regional offices were well placed to understand the questions and provide reliable answers. To mitigate the likelihood of low response rates, IP Offices of WIPO Member States were asked, through a circular letter, to invite applicants in their jurisdictions to complete the survey. It was hoped that these applicants would have current knowledge of the design rights system in their country. In addition, to promote the widest possible circulation, the applicant survey was promoted on WIPO media (including web site, newsletters and social media) and specific user groups known to WIPO were also targeted for responses.

Given the specialized nature of the survey and the complexity of the survey instrument, a total of 143 responses seem satisfactory. In addition, as discussed in the subsequent sections, the survey responses are relatively homogenous across different countries and accord with intuition. Therefore, it is likely that the overall direction of the results would have been similar if the number of responses had been substantially larger. However, a total of 143 responses worldwide remains a relatively small sample; in particular, the sample is too small to permit meaningful breakdowns by different sub-groups of countries or even by individual countries. In addition, caution is warranted in interpreting some of the survey results relying on a relatively small number of responses, as detailed in the graphs and text that follow.

## SECTION B: RESPONSES FROM OFFICES: IMPLEMENTATION OF PREVIOUS TREATIES

Before analyzing responses to the proposed changes to design law, we first sought to establish a baseline by compiling views on the implementation and impact of previous treaties: the TLT, the STLT and the PLT.

In high-income countries, around one in five countries have implemented all three treaties, with the TLT being the most commonly implemented. The response is similar from middle and low-income countries, although there are significantly fewer who have implemented the STLT and PLT. In the middle and low-income countries, over half had not implemented any of the treaties, in contrast with around a quarter in the high-income countries.

Have you implemented the treaty?			High-income economies	Middle and low-income economies
Trademark law treaty	Singapore trademark treaty	Patent law treaty		
Y	Y	Y	4	5
Y	Y	N	2	0
Y	N	Y	3	1
Y	N	N	4	6
N	Y	Y	2	0
N	Y	N	1	0
N	N	Y	2	0
N	N	N	7	16
<b>Totals</b>			<b>25</b>	<b>28</b>

Table B.1: Implementation of previous treaties #1

The TLT is the most widely adopted in slightly over 50% of the responding high-income countries and slightly lower than 50% of the low-income.

		Implemented	Not implemented
Trademark Law Treaty	High-income	14	11
	Middle and low-income	12	15
	<b>All</b>	<b>26</b>	<b>26</b>
Singapore Treaty	High-income	9	16
	Middle and low-income	5	22
	<b>All</b>	<b>14</b>	<b>38</b>
Patent Law Treaty	High-income	11	13
	Middle and low-income	6	22
	<b>All</b>	<b>17</b>	<b>35</b>

Table B.2: Implementation of previous treaties #2

There appears to be little overall consensus on the time it takes to implement a new treaty, with responses ranging roughly equally from 0-12 months to >4 years. Interestingly, it appears that the middle and low-income countries took less time to implement past treaties than the high-income ones. This difference is especially marked for both the TLT and the PLT.

		0-12 Months	1-2 years	2-4 years	>4 years	<i>Not answered</i>
Trademark Law Treaty	High-income	2	2	4	6	11
	Middle and low-income	5	3	3	0	16
	<b>All</b>	<b>7</b>	<b>5</b>	<b>7</b>	<b>6</b>	<b>27</b>
Singapore Treaty	High-income	5	0	2	1	17
	Middle and low-income	3	1	1	0	22
	<b>All</b>	<b>8</b>	<b>1</b>	<b>3</b>	<b>1</b>	<b>39</b>
Patent Law Treaty	High-income	1	1	1	6	16
	Middle and low-income	3	1	0	2	21
	<b>All</b>	<b>4</b>	<b>2</b>	<b>1</b>	<b>8</b>	<b>37</b>

Table B.3: Time to implement previous treaties

There is little difference between high-income countries and middle and low-income countries in relation to the mechanisms that are required to be used for implementation of a new treaty. In all cases, it is most likely that in order to fully implement a treaty, primary legislation will be needed.

		Office instruction	Executive order	Primary legislation
Trademark Law Treaty	High-income	2	5	10
	Middle and low-income	3	4	6
	<b>All</b>	<b>5</b>	<b>9</b>	<b>16</b>
Singapore Treaty	High-income	3	2	5
	Middle and low-income	1	2	3
	<b>All</b>	<b>4</b>	<b>4</b>	<b>8</b>
Patent Law Treaty	High-income	3	5	8
	Middle and low-income	1	3	4
	<b>All</b>	<b>4</b>	<b>8</b>	<b>12</b>
<b>ALL TREATIES, ALL COUNTRIES</b>		<b>13</b>	<b>22</b>	<b>36</b>

Table B.4: Mechanisms needed to implement previous treaties

Mechanisms to implement ALL treaties			High-income countries	Middle and low-income countries	ALL
Primary Legislation	Executive Order	Office Instruction			
Y	-	-	14	7	21
Y	Y	-	2	4	6
Y	-	Y	2	2	4
Y	Y	Y	5	0	5
-	Y	Y	1	0	6
-	Y	-	4	4	8
-	-	Y	0	2	2

Table B.5: Mechanisms needed to implement ALL previous treaties

## B.1 IMPACT ON USERS OF PREVIOUS TREATIES

Respondents were asked to rank the impact of the TLT, the STLT and the PLT *on users* in terms of procedures, costs, use of intellectual property overseas, and their level of innovation/creativity. For each element, respondents scored on a one to five scale, where one indicated significant improvement, three was no change and five indicated significant detriment to users. The perception of offices on how the TLT, STLT and PLT have affected users is necessarily subjective; but since offices continuously observe how the design system is used, it was felt that their perspectives were still interesting.

In figures B.1.1 and B.1.2, we can see that in general, the offices believe that previous treaties have had a slightly positive, tending to neutral impact on users. The area of most significant impact is on the simplification of procedures and reduction of costs. With only an occasional exception, no respondents believed that previous treaties had had a detrimental impact on users. Although the number of responses is small, offices in middle and low-income economies indicate a subtly greater impact on users than in high-income countries for both innovation and procedures.

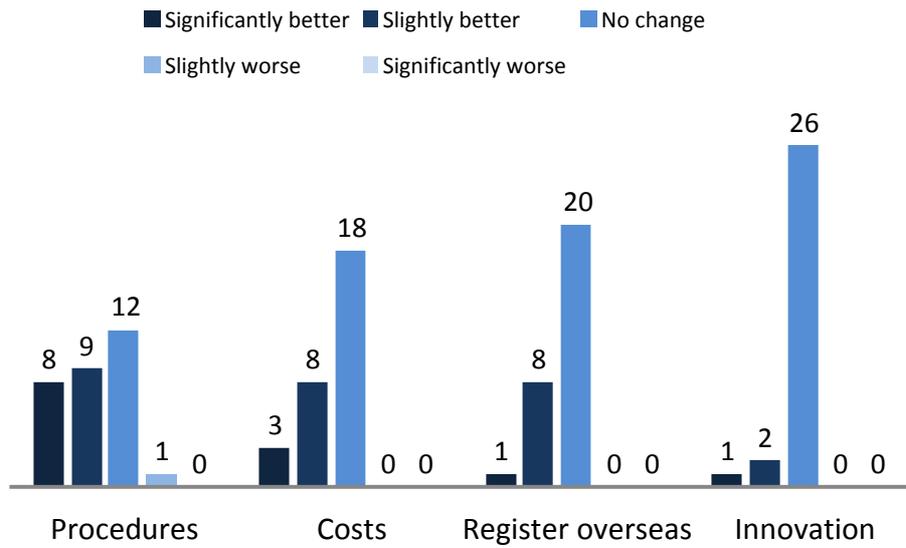


Fig B.1.1: Impact on users of ALL treaties – high-income countries

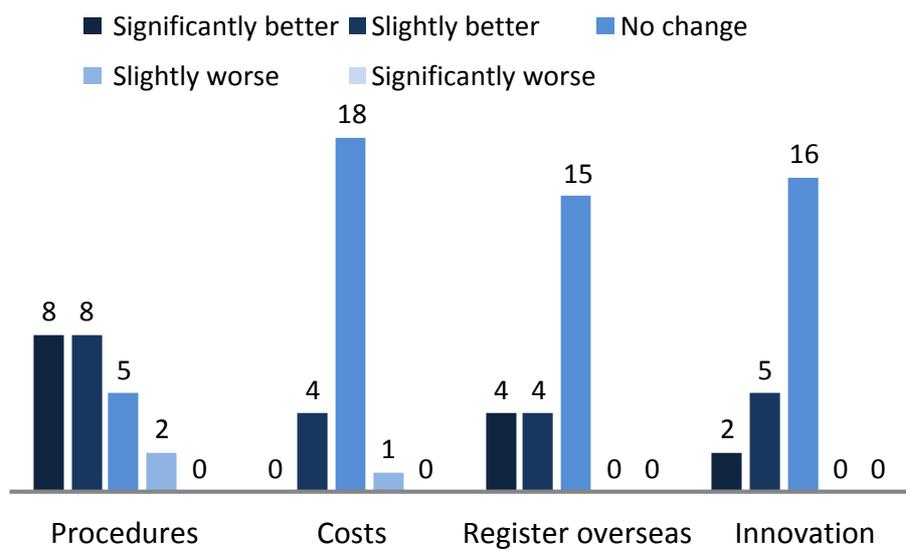


Fig B.1.2: Impact on users of ALL treaties – middle and low-income countries

The PLT has had perhaps the most significant impact on users, in terms of both procedures and costs.

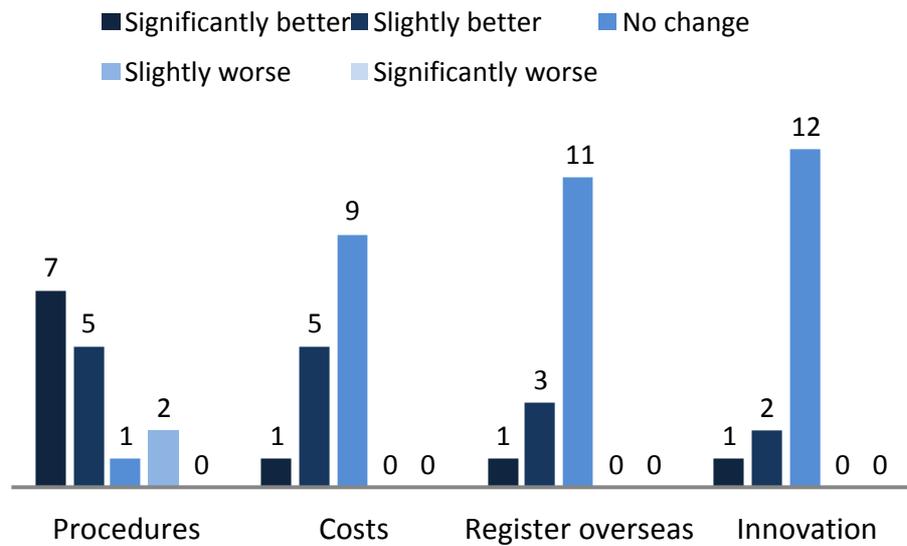


Fig B.1.3: Impact on users of PLT – all responding countries

## B.2 IMPACT OF PREVIOUS TREATIES ON THE OFFICES

In general, respondents believe that the three previous treaties have had a mostly neutral but tending slightly towards positive *impact on their offices*. Again, the differences between high-income and middle and low-income countries are subtle. One noteworthy distinction is the slightly higher expectation of usage of intellectual property as a result of the treaties in the middle and low-income countries.

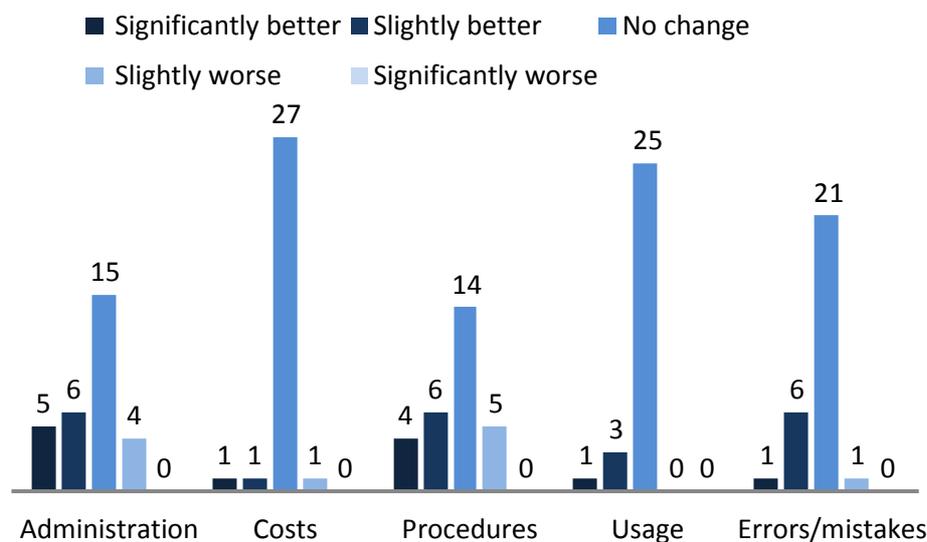


Fig B.2.1: Impact on offices of ALL treaties – high-income countries

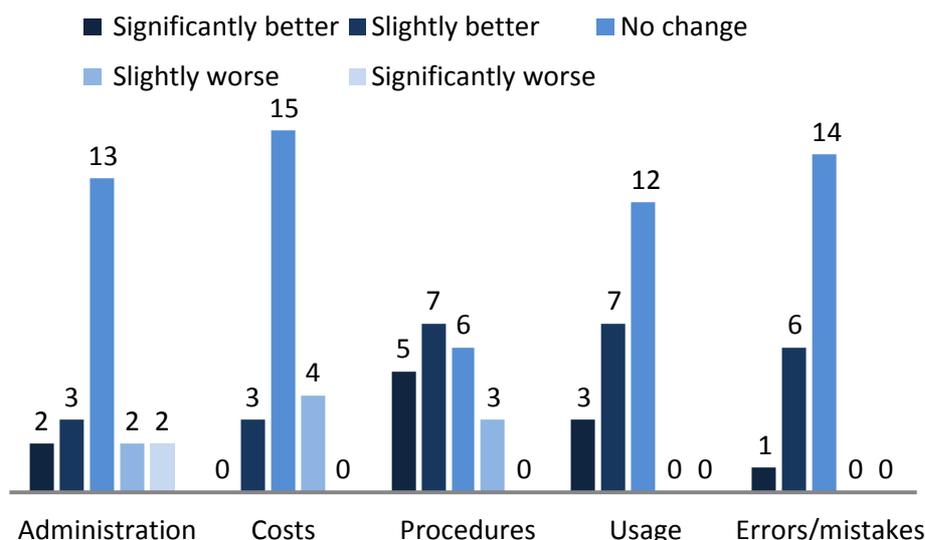


Fig B.2.2: Impact on offices of ALL treaties – middle and low-income countries

### B.3 CHANGES NEEDED TO IMPLEMENT PREVIOUS TREATIES ON THE OFFICES

Respondents were asked whether any changes in the office were needed to implement and run each treaty. Changes included: IT expertise, IT infrastructure, administrative capabilities, legal expertise and number of staff. This was simply scored as either “less”, “more” or “no change”.

In the high-income countries, the overall response is that previous treaties require little or no change, with the exception of IT expertise and infrastructure. In contrast, respondents in middle and low-income countries experienced a need for greater change, especially in their legal expertise and their administrative capabilities.

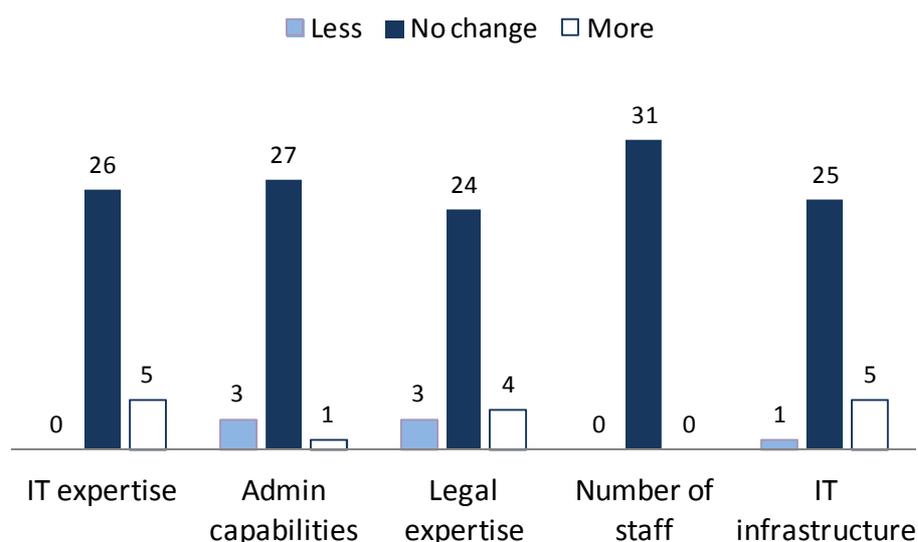


Fig B.3.1: Changes needed to implement ALL treaties – high-income countries

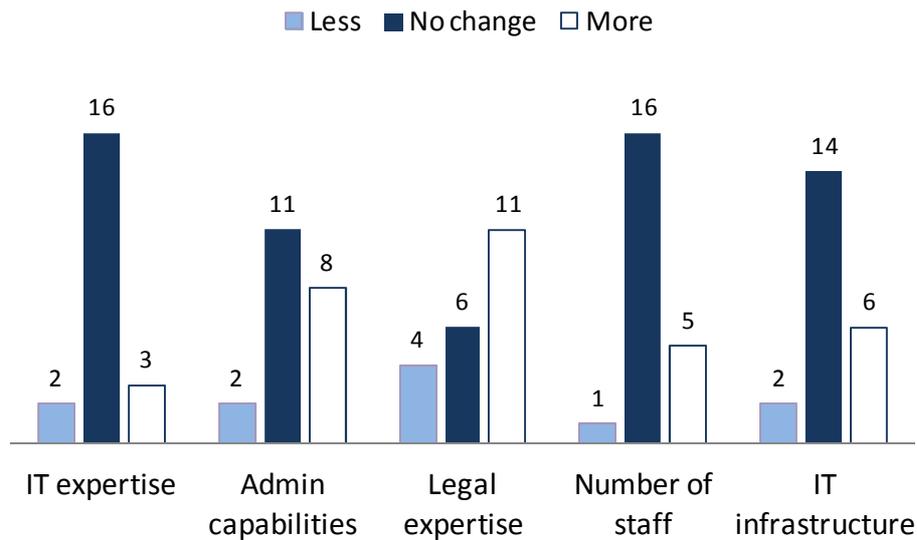


Fig B.3.2: Changes needed to implement ALL treaties – middle and low-income countries

#### B.4 SUPPORT NEEDED TO IMPLEMENT PREVIOUS TREATIES ON THE OFFICES

Recognizing the requirement for changes in legal expertise, the middle and low-income countries also indicated that legal advice was important in order that new treaties could be implemented. In contrast, the high-income countries sought little support in order to implement the three treaties.

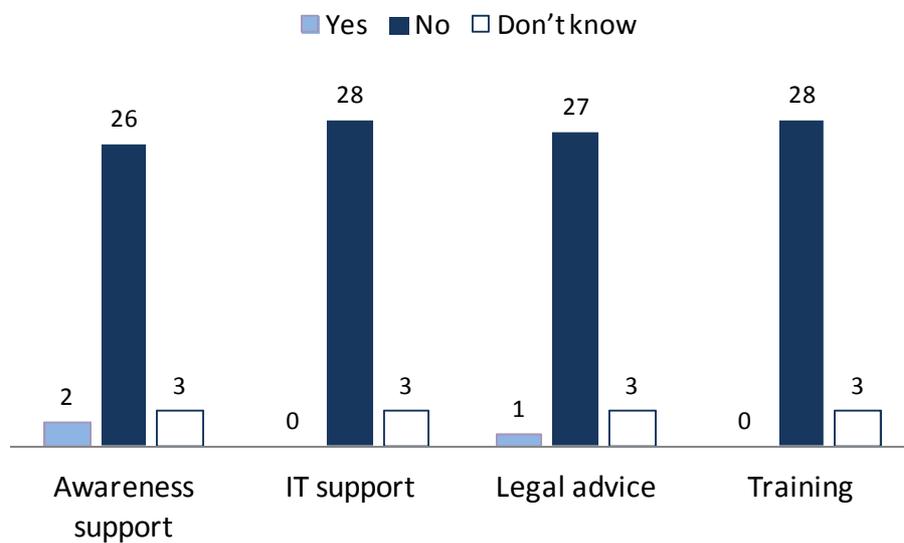


Fig B.4.1: Support needed to implement ALL treaties – high-income countries

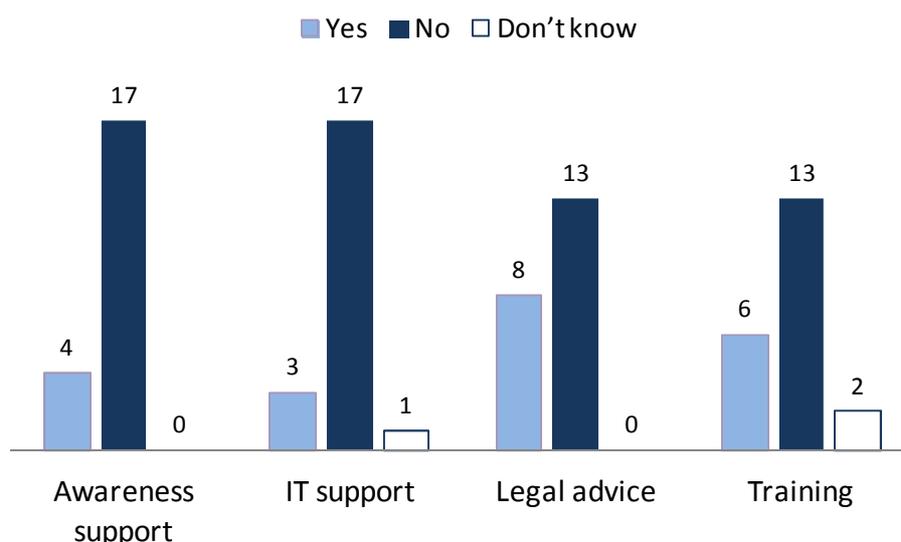


Fig B.4.2: Support needed to implement ALL treaties – middle and low-income countries

## B.5 VIEWS FROM OFFICES ON IMPLEMENTATION AND IMPACT OF PREVIOUS TREATIES

- Offices believe that the implementation of the TLT, the STLT and the PLT have mostly resulted in benefits to the users of these systems. At worst, the impact has been neutral. The most significant impact has been on simplifying procedures.
- Of the three treaties, the PLT had the most significant positive impact on users, particularly in terms of simplification of procedures.
- Different offices utilized different mechanisms to implement treaties, but primary legislation was needed in most cases.
- There is a diversity of views on the time needed to implement a treaty, although it appears that the middle and low-income countries took less time to implement past treaties.
- In the majority of high-income countries, the PLT and the TLT each took over four years to implement. In contrast, in the majority of middle and low-income countries, the treaties took less than two years to implement.
- There is a notable difference between high-income countries and middle and low-income countries with respect to the perceived support needed and potential changes needed to implement these treaties.
- High-income countries generally had less need for support and the treaties had little impact on office operations. For all countries, the most likely area of impact was on IT and middle and low-income countries needed most support in “legal advice”.

## SECTION C: RESPONSES FROM OFFICES AND APPLICANTS ON THE PROPOSED CHANGES

In this section, each of the proposed changes to design law and practice will be reviewed in turn. For each proposed change, responses from the national/regional office and from individual applicants will be compared.

In both surveys, as a qualifying question, the respondent was first asked whether the proposed change is already offered in the national design registration system. If the answer was “yes” then respondents were asked to progress to the next section of the questionnaire.

In the case of the national office, if the answer was “yes”, then it can be assumed that the proposed change will have no impact on the national office. If the specific change was not already offered, then the respondent was asked whether the national office believes it has the IT skills, IT infrastructure, legal expertise and administrative capacity needed to implement the proposed change (yes or no). Finally, the respondent was asked to rank whether the change will have an impact on costs and procedures, using a five-point scale (significantly worse to significantly better).

In the case of the applicant, if the proposed change was not already offered or the applicant was not sure whether it was offered, then the applicant was asked to score the likely effect of the change on cost, time and ease of registration, using a five-point scale (significantly worse to significantly better).

### C.1 CHANGE 1: GREATER CHOICE IN HOW THE APPLICANT REPRESENTS OR ILLUSTRATES A DESIGN

Greater choice in how you represent or illustrate a design

With this change, the applicant will be able to choose whether to illustrate or represent the design using either drawings, photographs, other visual media (e.g. CAD) or a combination of media.

This proposed change is already implemented in over 70% of both the high-income and middle and low-income countries that responded.

	Already Implemented	Not currently implemented	Total
High-income	18	7	25
Middle and low-income	22	6	28
<b>Total</b>	<b>40</b>	<b>13</b>	<b>53</b>

Table C.1.1: Office view on change 1 (choice in illustrating a design)

#### C.1.1 Office View of the Impact of Change 1

Of those countries which *do not* offer this capability, there are implications for IT expertise, administrative capability and legal expertise in all countries. One respondent noted: “this will have cost attached, especially with the inclusion of CAD files”. A second said “changes would be required to the IT systems to accept more formats such changes would be part of [a] plan to implement improvements to e-commerce functionality”. Both high and middle and low-income countries believed that additional IT infrastructure would be necessary.

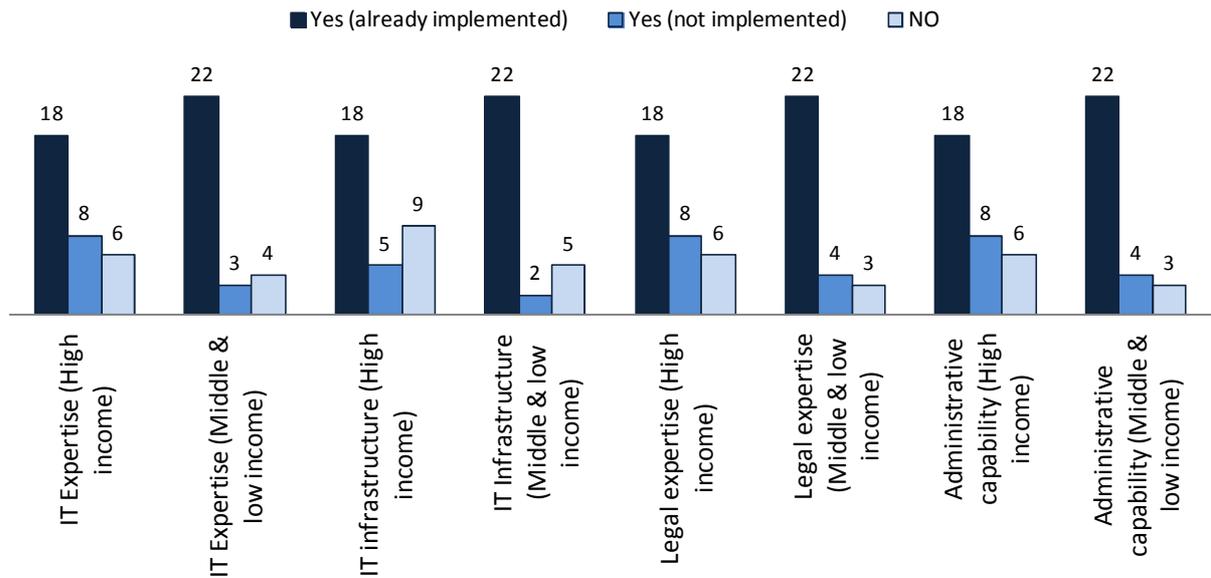


Fig C.1.1.1: Implementing change 1 (IT, Admin, Legal) – high-income and middle and low-income countries

Respondents from all countries believed that this change would result in a slight increase in costs, and those from high income also expect a slight decrease in complexity of procedures. Similarly, respondents from middle and low-income countries expect a slightly negative impact on procedures.

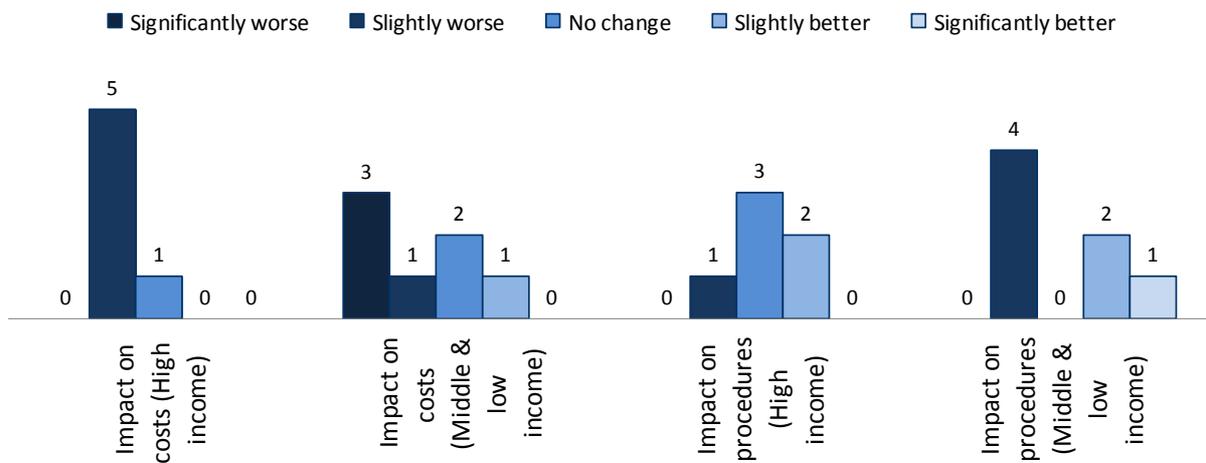


Fig C.1.1.2: Office view of the Impact of change 1 (Costs, Procedures) – high-income and middle and low-income

C.1.2 Applicant View of the Impact of Change 1

	Applicant/user believes this is already offered	Applicant/user believes this is NOT already offered	Applicant/user does not know	Total
High-income	35	18	10	63
Middle and low-income	52	18	9	79
<b>Total</b>	<b>87</b>	<b>36</b>	<b>19</b>	<b>142</b>

Table C.1.2.1: Applicants view on whether change 1 is currently offered in their national design system

Applicants across all countries believed that this change would have a positive impact on the ease and time of registering, with little overall change in the costs. There is a similar pattern for SMEs and other firms (graph not shown), with no marked distinction between the two.

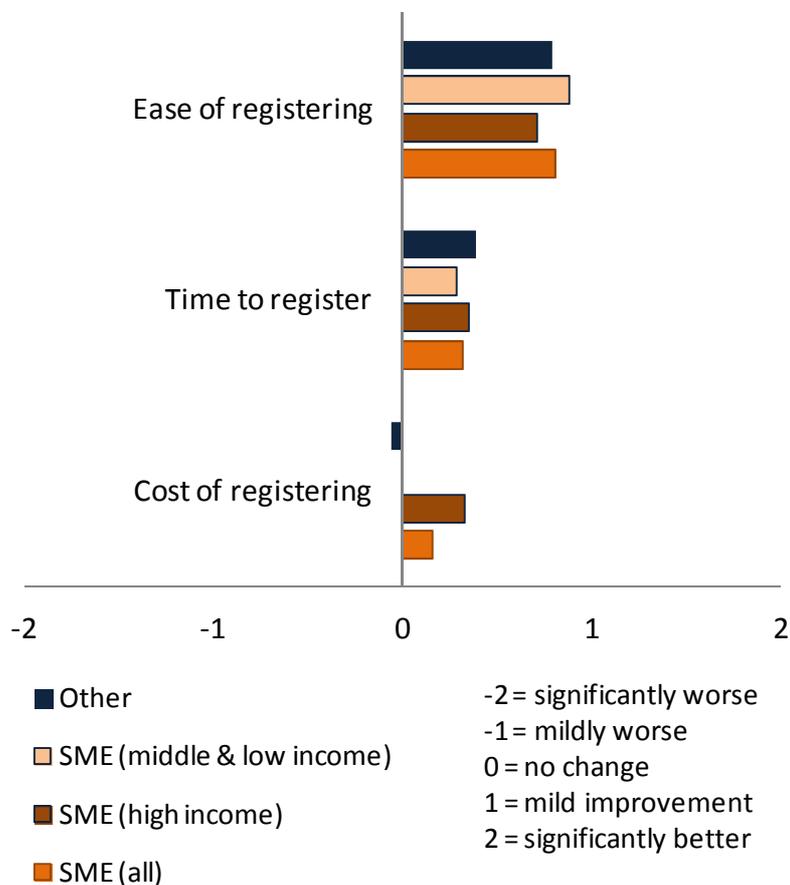


Fig C.1.2.2: Applicant view of the Impact of change 1

For this specific change, applicants/users were also asked about the media which they would prefer to use when registering a design. Here we see a marked difference between high-income and middle and low-income countries. In the high-income countries, the preference is towards drawings and CAD files. In middle and low-income, there is a preference towards photographs and CAD files, or potentially a combination of both.

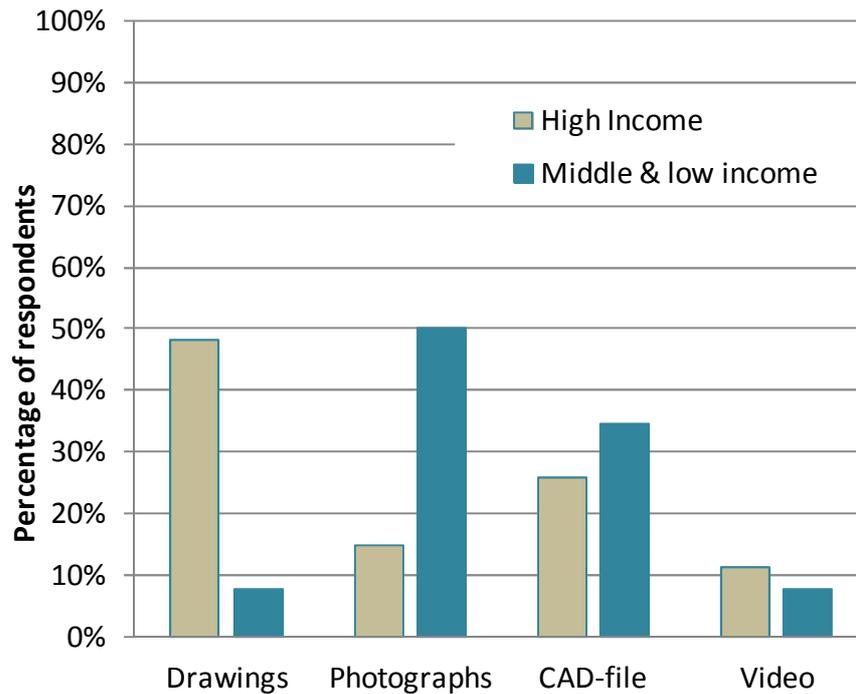


Fig C.1.2.3: Preferred choice of media for representing a design – high-income and middle and low-income countries

There is also a distinction that can be made between the SME respondents (from all countries) and other firms. There is a decided preference for using photographs from SMEs, whilst the other firms (larger and unknown size) prefer drawings.

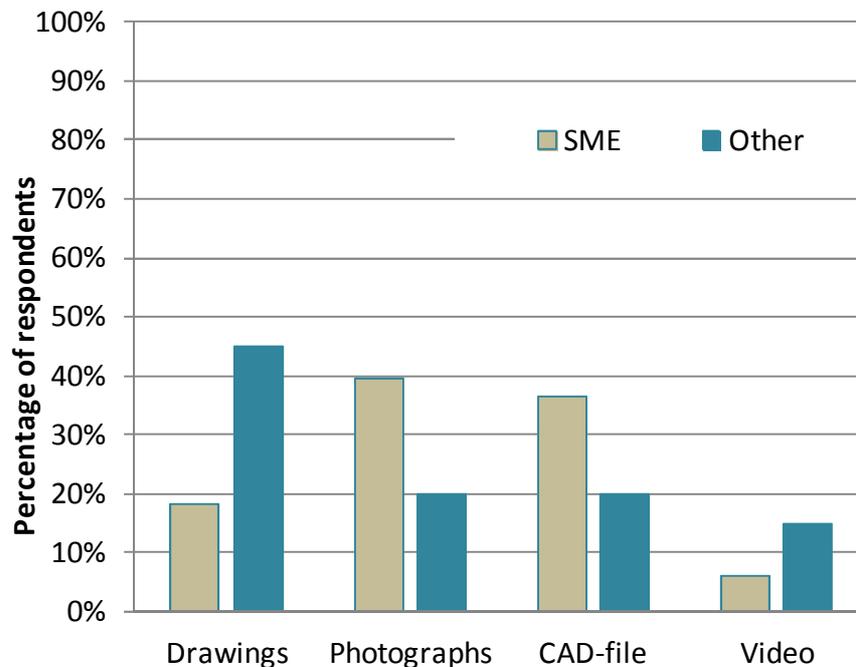


Fig C.1.2.4: Preferred choice of media for representing a design – SME vs. other firms

## C.2 CHANGE 2: REDUCED NUMBERS OF COPIES OF EACH ILLUSTRATION REQUIRED FOR FILING

Reduced number of copies of each illustration required for filing

With this change, the applicant will not have to submit more than three copies of each illustration or representation when filing an application (or just a single copy in the case of e-filing)

Of the 50 countries responding, only nine do not already provide this capability as part of their national design law; almost all high-income countries have previously implemented this. Thus, this proposed change will have an impact on a small number of countries.

	Already Implemented	Not currently implemented	Total
High-income	22	3	25
Middle and low-income	19	6	25
<b>Total</b>	<b>41</b>	<b>9</b>	<b>50</b>

Table C.2.1: implementation of change 2 (choice in illustrating a design)

### C.2.1 Office View of the Impact of Change 2

Of the countries which *do not* offer this capability, most believe that they possess the administrative capacity to implement this change. Likewise, most also believe that they have the required legal expertise. Some countries believed that they do not have sufficient IT expertise or infrastructure, although the numbers are small.

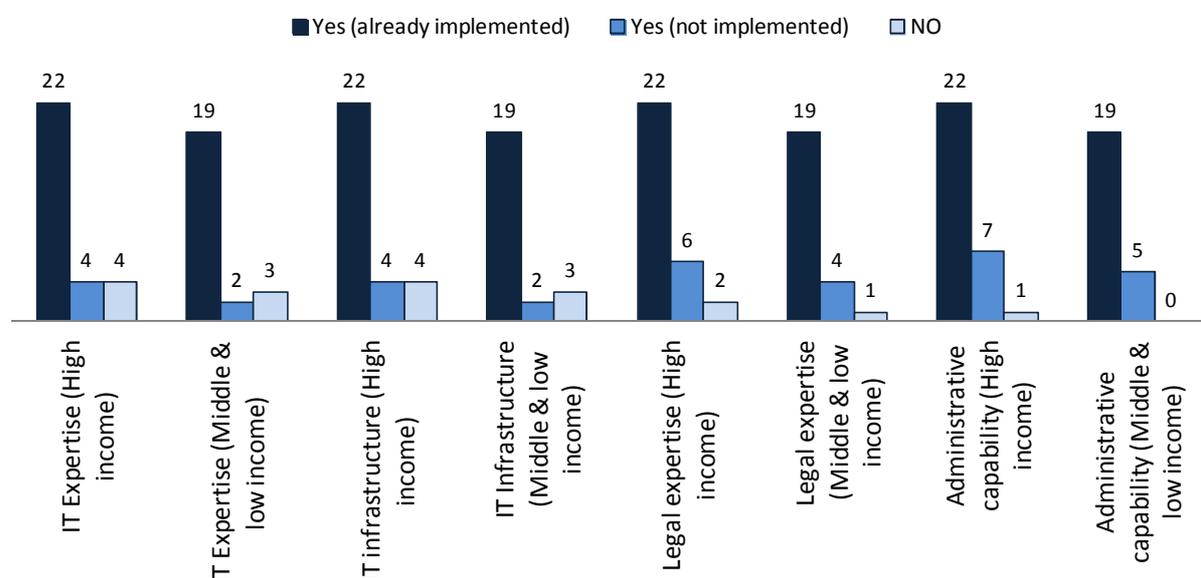


Fig C.2.1.1: Implementing change 2 (IT, Admin, Legal) – high-income and middle and low-income countries

Respondents from middle and low-income countries believe that this change will result in an overall improvement to procedures, and a slight improvement on costs. In contrast, the high-income countries are more neutral.

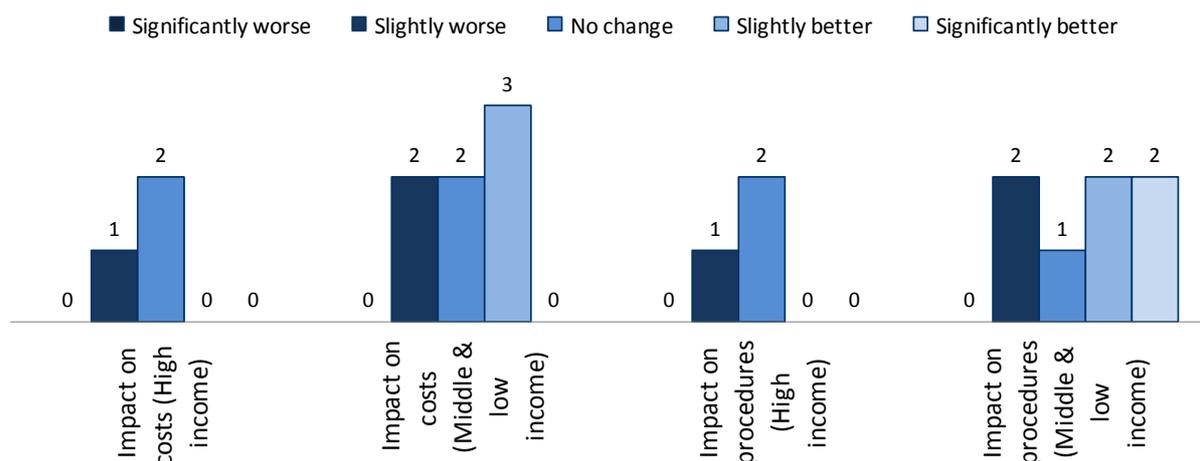


Fig C.2.1.2: Office view of the Impact of change 2 (Costs, Procedures) – high-income and middle and low-income countries

### C.2.2 Applicant view of the impact of change 2

	Applicant/user believes this is already offered	Applicant/user believes this is NOT already offered	Applicant/user does not know	Total
High-income	47	11	5	63
Middle and low-income	48	21	9	78
<b>Total</b>	<b>95</b>	<b>32</b>	<b>14</b>	<b>141</b>

Table C.2.2.1: Applicants view on whether change 2 is currently offered in their national design system

Applicants from all countries saw this change as having positive impact on the ease, time and cost of registering. Indeed, there was only one respondent who thought the change would result in it taking “significantly longer” and two respondents who thought it would make it “slightly more expensive”. All of the rest viewed this change as either neutral or positive.

There is a slightly more positive response towards this proposed change from large firms in comparison with SMEs, especially SMEs in high-income countries.

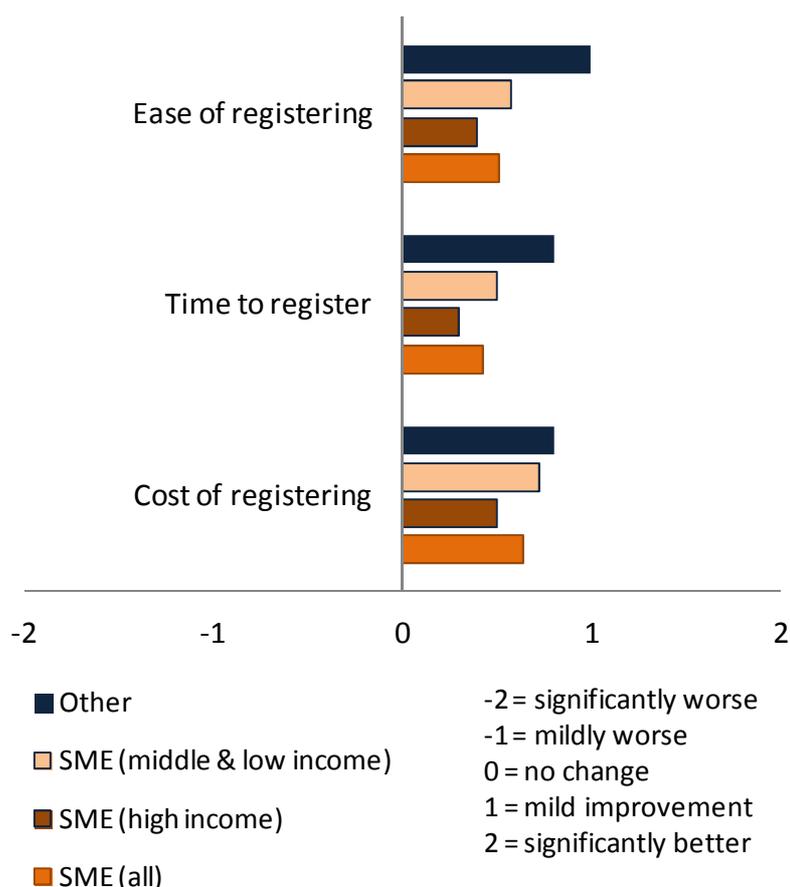


Fig C.2.2.2: Applicant view of the Impact of change 2

### C.3 CHANGE 3: REGISTERING A SET OF RELATED DESIGNS IN A SINGLE APPLICATION

Registering a set of related designs in a single application

With this proposed change, it will be possible to register several related designs in a single application, rather than register each individual design in a separate application. There will be safeguards in place to ensure that the original filing date is protected in the event that one of the individual designs is not accepted.

Of the 50 countries, 37 have previously implemented this change, with a roughly equal split between the high-income countries and the middle and low-income countries.

	Already Implemented	Not currently implemented	Total
High-income	19	6	25
Middle and low-income	18	7	25
<b>Total</b>	<b>37</b>	<b>13</b>	<b>50</b>

Table C.3.1: implementation of change 3 (choice in illustrating a design)

### C.3.1 Office View of the Impact of Change 3

For this proposed change, the most significant impact will be on IT infrastructure (in all countries). For example, eight high-income countries noted that they do not currently have sufficient IT infrastructure. Legal expertise and administrative capability was less of a concern, with only two middle and low-income countries indicating that they do not have sufficient administrative capability.

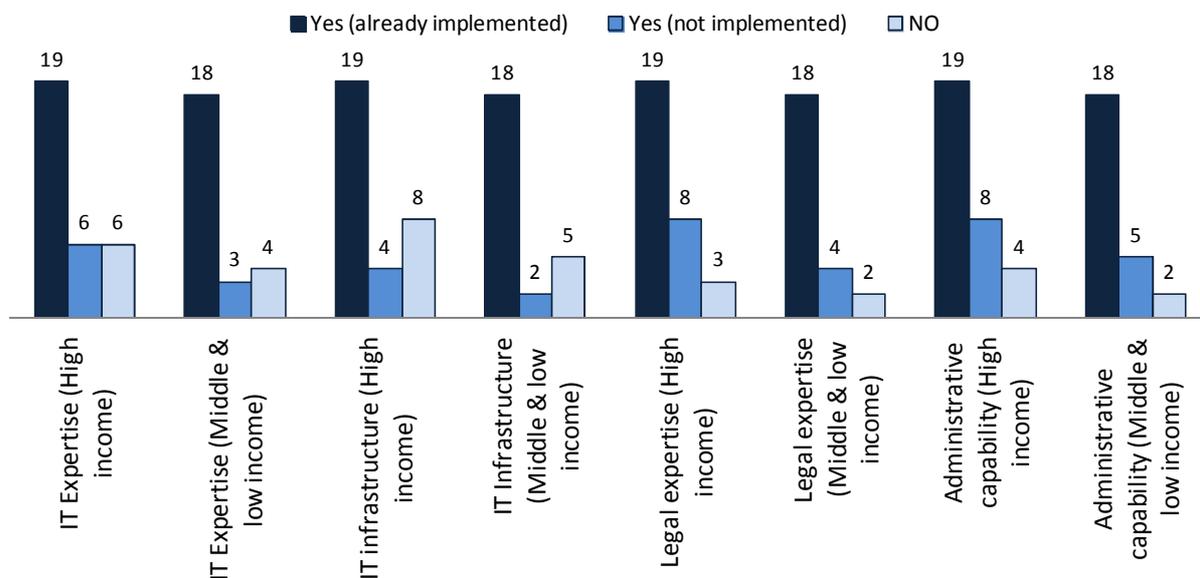


Fig C.3.1.1: Implementing change 3 (IT, Admin, Legal) – high-income and middle and low-income countries

Almost all high-income countries which do not currently have this capability noted that this change would result in significantly higher costs, and a slightly more complicated procedures. In contrast views from middle and low-income countries were less unified, with some indicating that there would be significant savings.

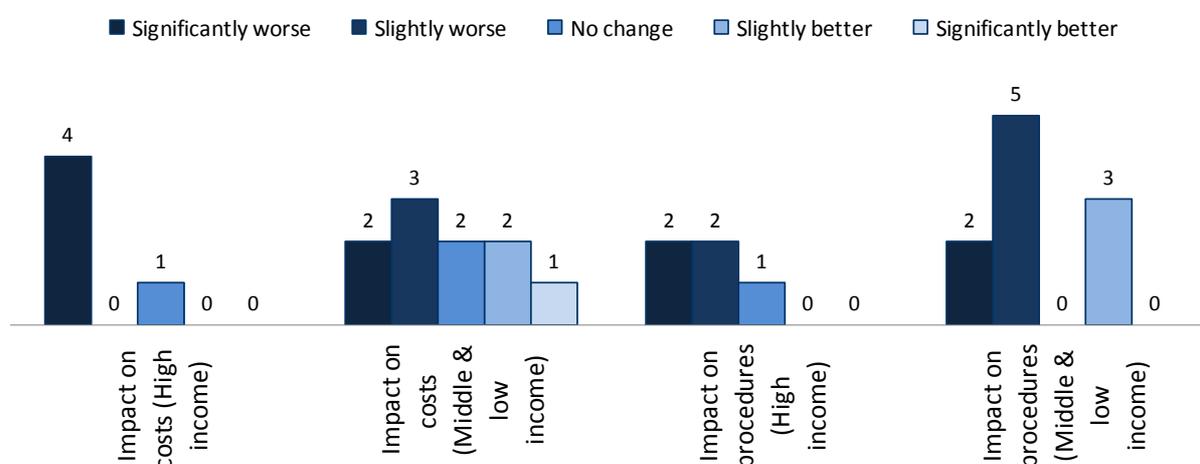


Fig C.3.1.2: Office view of the Impact of change 3 (Costs, Procedures) – high-income and middle and low-income countries

### C.3.2 Applicant/User View of the Impact of Change 3

Amongst applicants and users, many believe that this change is already offered in their national design system. A greater proportion from the middle and low-income countries believe that this is not currently offered.

	Applicant/user believes this is already offered	Applicant/user believes this is NOT already offered	Applicant/user does not know	Total
High-income	35	21	5	61
Middle and low-income	42	30	5	77
<b>Total</b>	<b>77</b>	<b>51</b>	<b>10</b>	<b>138</b>

Table C.3.2.1: Applicants view on whether change 3 is currently offered in their national design system

Applicants/users from all countries believe that this change will make it easier, cheaper and quicker to register designs. SMEs in high-income countries are more certain that there will be reduced costs than SMEs in middle and low-income countries. Similarly, SMEs in middle and low-income countries believe that there will be a mostly neutral impact on the time to register.

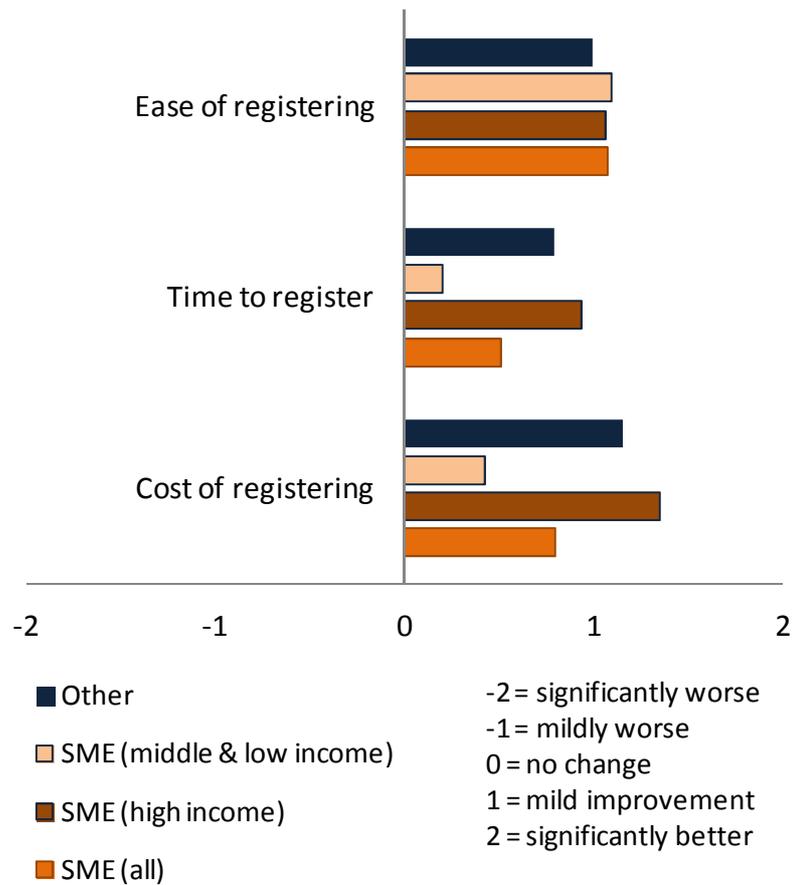


Fig C.3.2.2: Applicant view of the Impact of change 3

Interestingly however, for the majority of the changes, the distribution of responses follows a mostly “normal” distribution. In this case however, we can see that there are a substantial number of respondents who feel that the effects of this change would be “significantly” better, and thus the averaged view shown above is potentially misleading on its own. This is especially the case for “cost of registering”, for which respondents believe it will make a significant improvement.

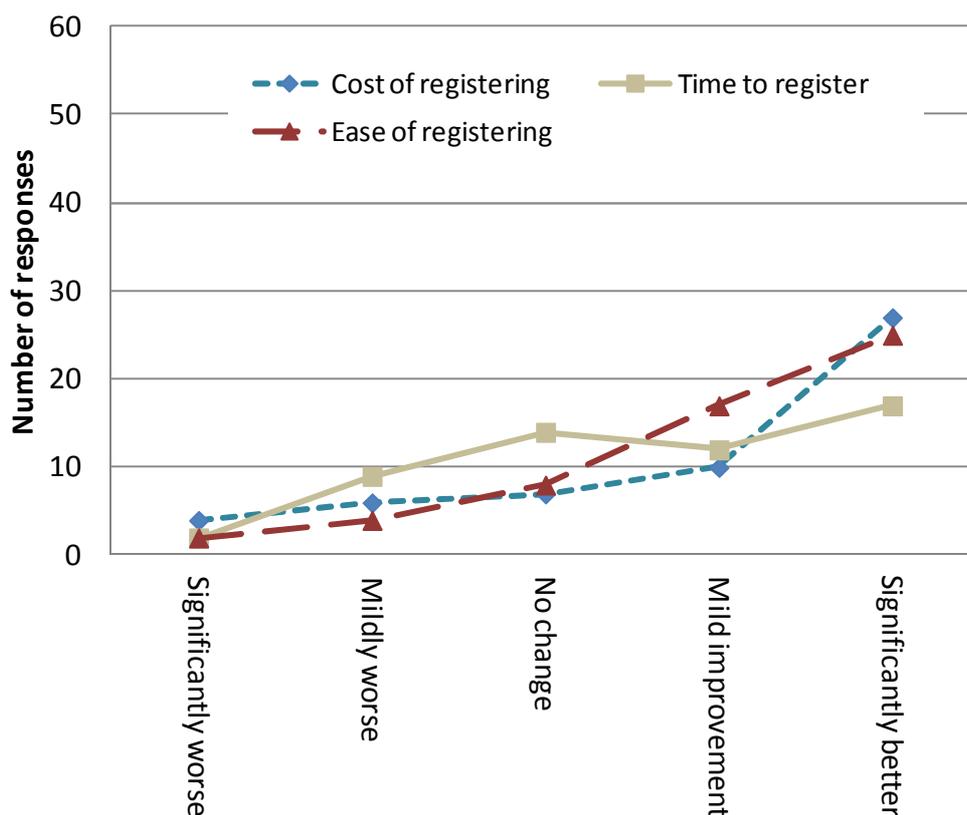


Fig C.3.2.3: Applicant view of the Impact of change 3 – all countries

#### C.4 CHANGE 4: EASIER TO GAIN A SECURE FILING DATE

Easier to gain a secure filing date from which your design is protected

With this proposed change, it will be simpler to gain a secure filing date for the protection of your design. In order to gain a secure filing date, you will only need to provide details on the applicant, an illustration of the design and possibly a fee.

Of the 50 countries, 36 have previously implemented this change, again with a roughly equal split between the high-income countries and the middle and low-income countries.

	Already Implemented	Not currently implemented	Total
High-income	17	7	24
Middle and low-income	19	6	25
<b>Total</b>	<b>36</b>	<b>13</b>	<b>49</b>

Table C.4.1: implementation of change 4 (choice in illustrating a design)

### C.4.1 Office View of the Impact of Change 4

Most countries believe that they have the necessary infrastructure, capability and expertise to implement this change. A small number of countries believed that they would need additional IT infrastructure or expertise.

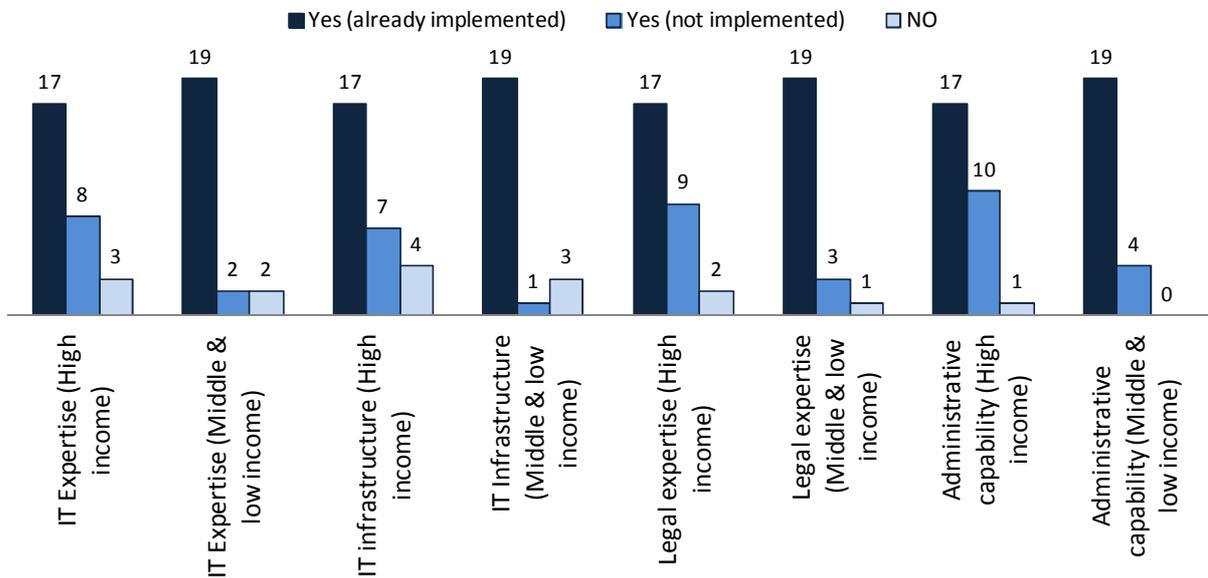


Fig C.4.1.1: Implementing change 4 (IT, Admin, Legal) – high-income and middle and low-income countries

For those countries not currently offering this capability, views are broadly neutral on the potential impact, with little strong opinion on whether this will reduce/increase costs or reduce/increase complexity of procedures.

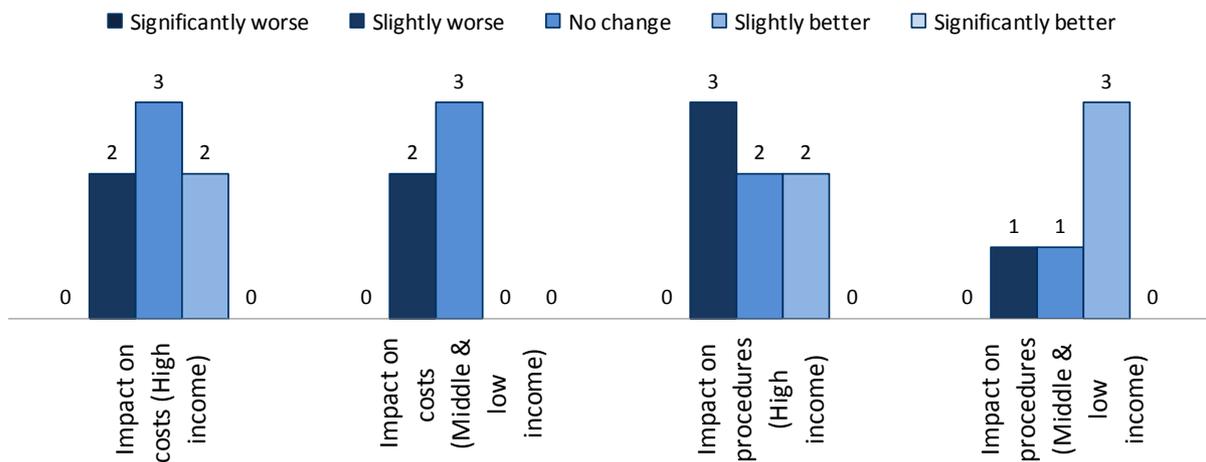


Fig C.4.1.2: Office view of the Impact of change 4 (Costs, Procedures) – high-income and middle and low-income countries

C.4.2 Applicant/User View of the Impact of change 4

	Applicant/user believes this is already offered	Applicant/user believes this is NOT already offered	Applicant/user does not know	Total
High-income	39	14	9	62
Middle and low-income	51	18	7	76
<b>Total</b>	<b>90</b>	<b>32</b>	<b>16</b>	<b>138</b>

Table C.4.2.1: Applicants view on whether change 4 is currently offered in their national design system

There is a clear difference in opinion regarding the benefits of this change to applicants/users in high-income compared with middle and low-income countries. Respondents in the middle and low-income countries believe that this change will reduce costs, reduce time and make it substantially simpler to register a design. In contrast, there is a much more neutral response from high-income nation respondents.

There is also a very marked difference in opinion between SMEs in middle and low-income countries compared with those in high-income countries. The former are most positive about the impact of this change on ease and time to register.

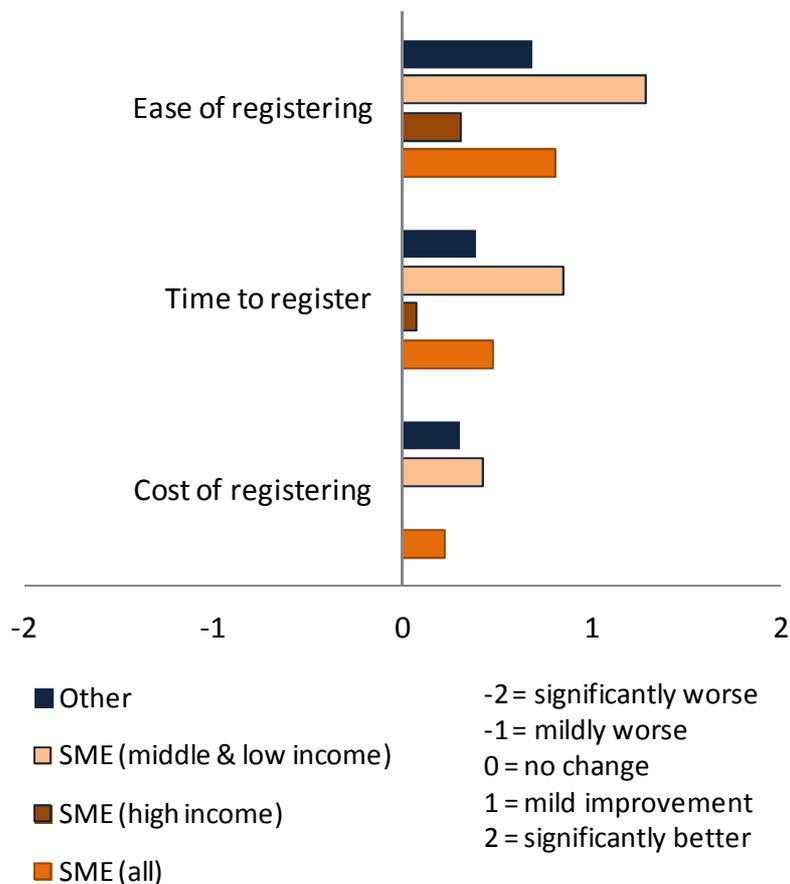


Fig C.4.2.2: Applicant view of the Impact of change 4

## C.5 CHANGE 5: REGISTER A DESIGN SIX MONTHS AFTER PUBLIC DISCLOSURE

Register a design 6 months after public disclosure

With this change, it will be possible to register a design up to six months after a new design has been publically released.

This capability is already offered in most of the high-income countries and in around half of middle and low-income countries.

	Already Implemented	Not currently implemented	Total
High-income	21	3	24
Middle and low-income	17	8	25
<b>Total</b>	<b>38</b>	<b>11</b>	<b>49</b>

Table C.5.1: Implementation of change 5 (choice in illustrating a design)

### C.5.1 Office View of the Impact of Change 5

Of the countries that do not currently have this capability, the majority believe that they have the capability to implement this change. There is little notable difference between the high-income and middle and low-income countries.

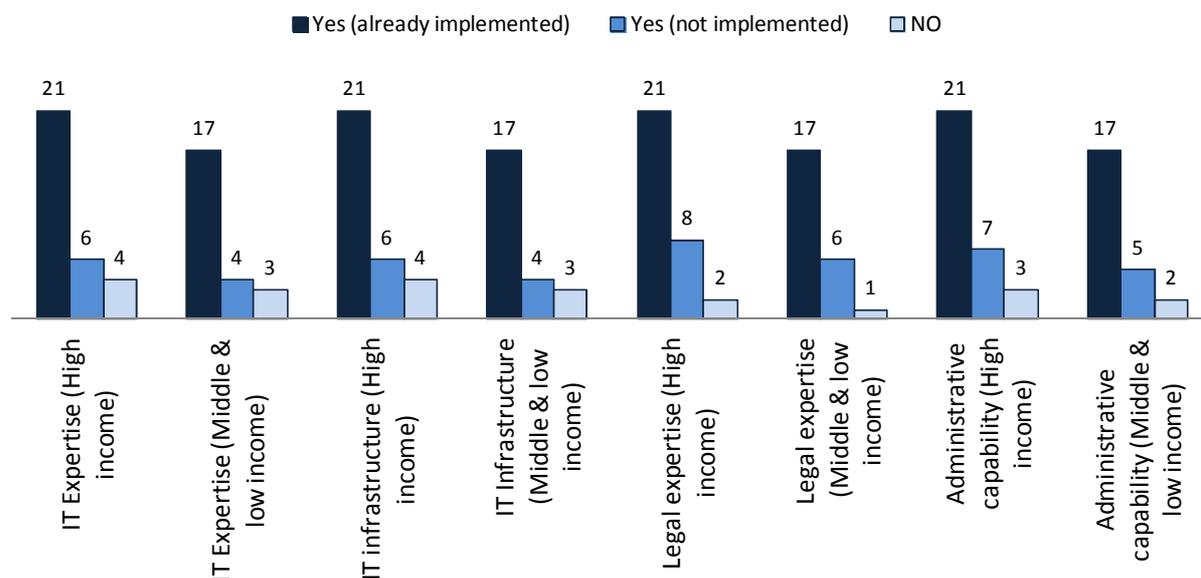


Fig C.5.1.1: Implementation of change 5 (IT, Admin, Legal) – high-income and middle and low-income countries

For those countries who do not have this capability, it is generally believed that the impact would be mostly neutral on costs and procedures.

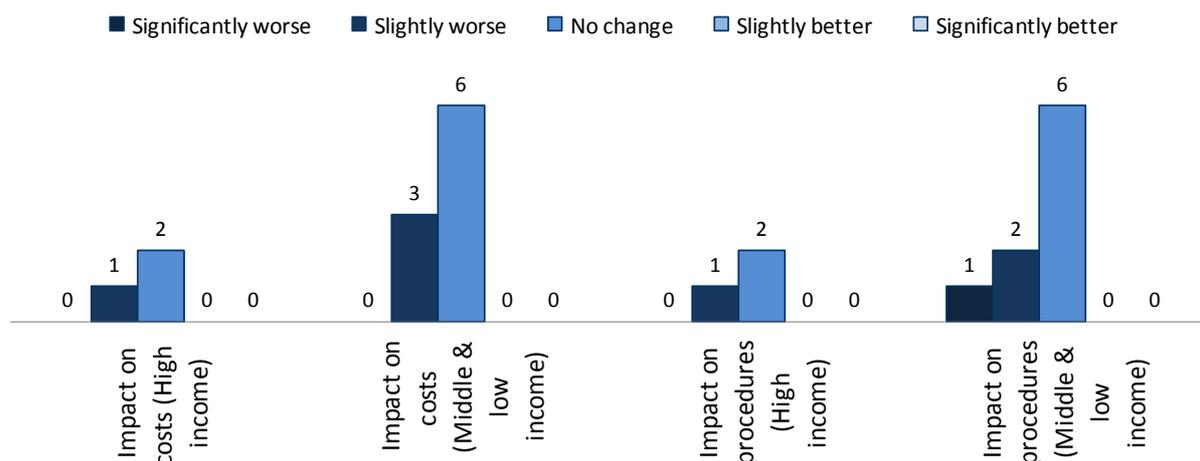


Fig C.5.1.2: Office view of the Impact of change 5 (Costs, Procedures) – high-income and middle and low-income countries

### C.5.2 Applicant/User View of the Impact of Change 5

	Applicant/user believes this is already offered	Applicant/user believes this is NOT already offered	Applicant/user does not know	Total
High-income	51	6	5	62
Middle and low-income	52	19	4	75
<b>Total</b>	<b>103</b>	<b>25</b>	<b>9</b>	<b>137</b>

Table C.5.2.1: Applicants view on whether change 5 is currently offered in their national design system

For this particular change, applicants/users were also asked to score whether there might be an impact on commercialization as a result. For this proposed change, the most significant benefit for all firms will be in aiding commercialization and the most positive response is from “other” companies (in all countries). Interestingly, SMEs in high-income countries believe it might take very slightly longer to register a design.

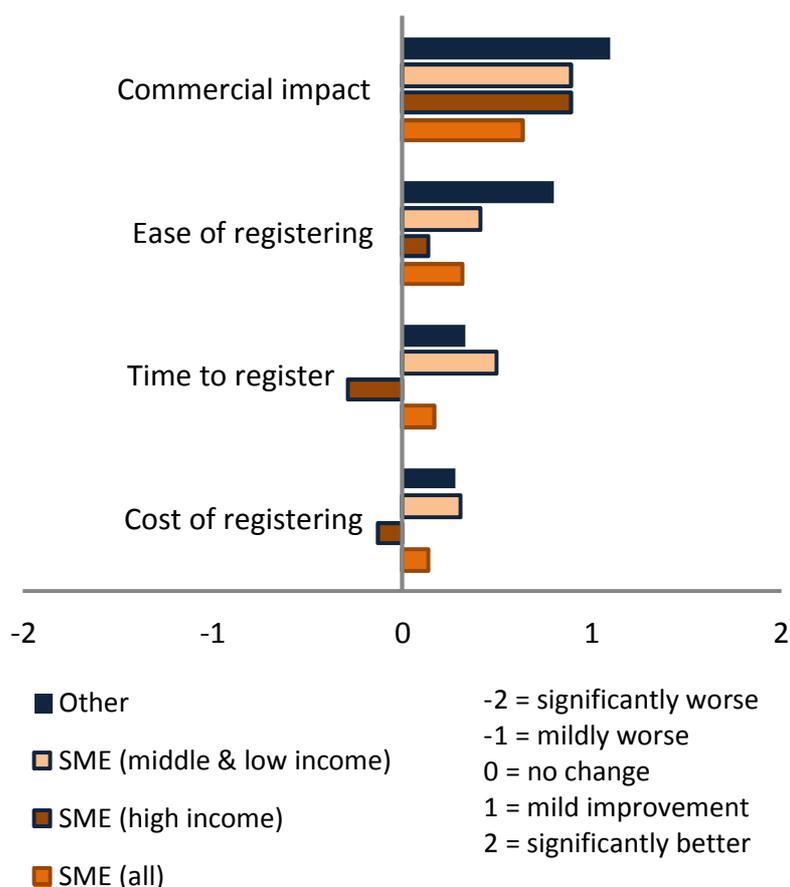


Fig C.5.2.2: Applicant view of the Impact of change 5

## C.6 CHANGE 6: REGISTER A DESIGN 12 MONTHS AFTER PUBLIC DISCLOSURE

Register a design 12 months after public disclosure      With this change, it will be possible to register a design up to twelve months after a new design has been publically released.

This capability is not offered in just under 50% of the middle and low-income countries and around 25% of high-income countries responding.

	Already Implemented	Not currently implemented	Total
High-income	18	6	24
Middle and low-income	14	11	25
<b>Total</b>	<b>32</b>	<b>17</b>	<b>49</b>

Table C.6.1: implementation of change 6 (choice in illustrating a design)

C.6.1 Office View of the Impact of Change 6

In middle and low-income countries, most offices believe that they do not have sufficient IT expertise or infrastructure to implement this change. Around 50% of the high-income countries who do not have this capability would also need to invest in IT expertise and infrastructure.

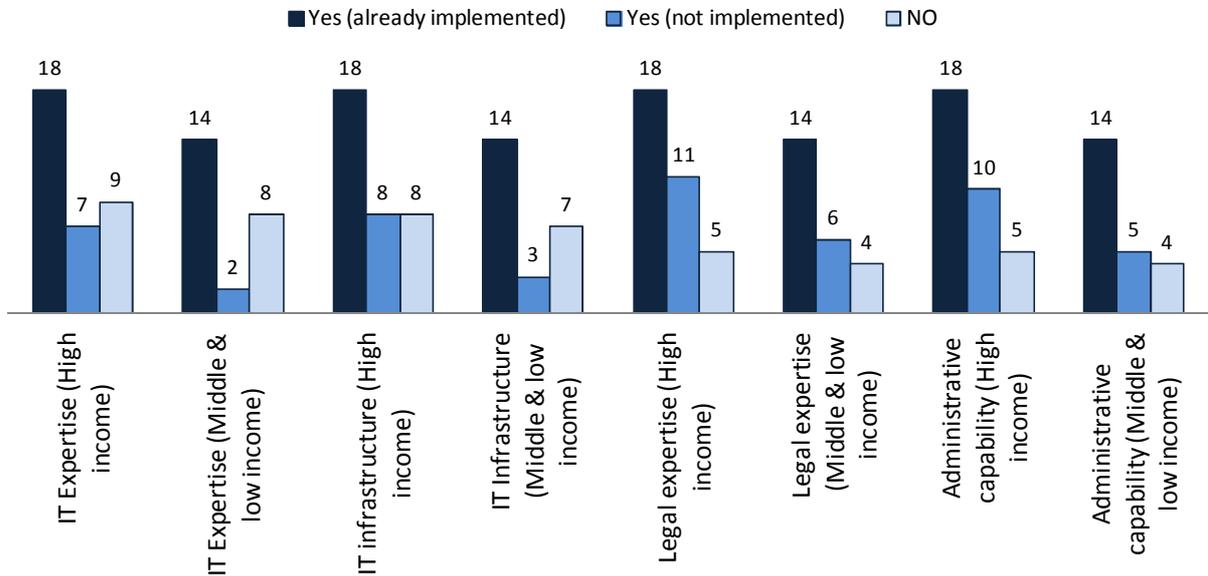


Fig C.6.1.1: Implementation of change 6 (IT, Admin, Legal)

Most countries believe that this change would have a mildly negative impact on costs and procedures. There is little substantive difference in view between high-income countries and middle and low-income countries.

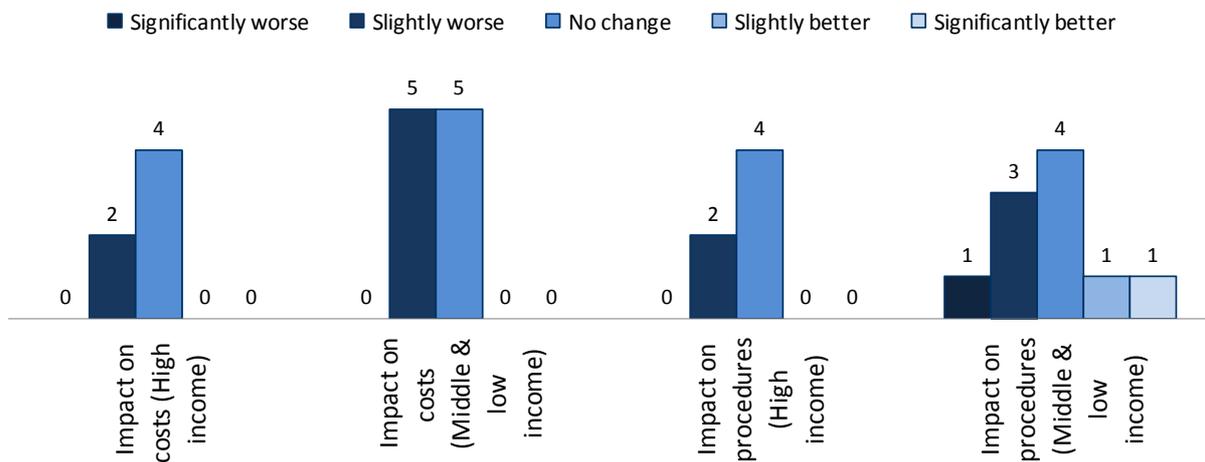


Fig C.6.1.2: Office view of the Impact of change 6 (Costs, Procedures) – high-income and middle and low-income countries

C.6.2 Applicant/User View of the Impact of Change 6

	Applicant/user believes this is already offered	Applicant/user believes this is NOT already offered	Applicant/user does not know	Total
High-income	40	14	8	62
Middle and low-income	15	43	14	72
<b>Total</b>	<b>55</b>	<b>58</b>	<b>22</b>	<b>135</b>

Table C.6.2.1: Applicants view on whether change 6 is currently offered in their national design system

As with change 5, the most significant impact would be a positive improvement on commercialization. Views on the impact of this change on time and cost are mostly neutral, and very slightly positive towards ease of registering.

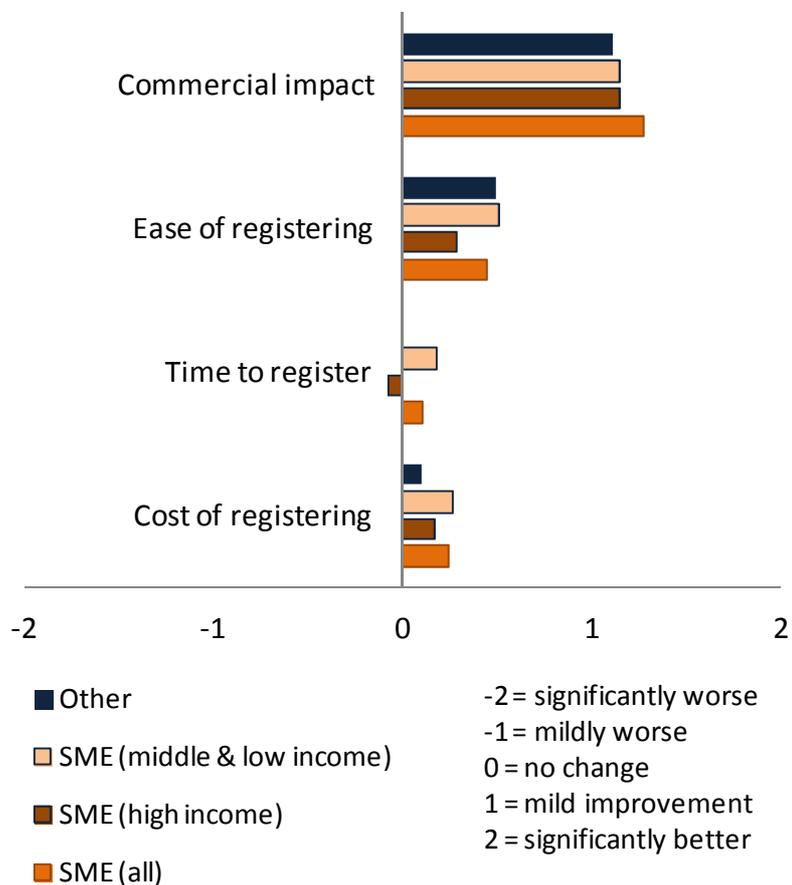


Fig C.6.2.2: Applicant view of the Impact of change 6 – high-income and middle and low-income countries

The pattern of responses towards commercialisation differs in comparison with ease, time and cost. The latter three follow a mostly normal distribution. However, there is a marked difference in viewpoint towards commercialisation, where the majority believe that this change would present a significant improvement.

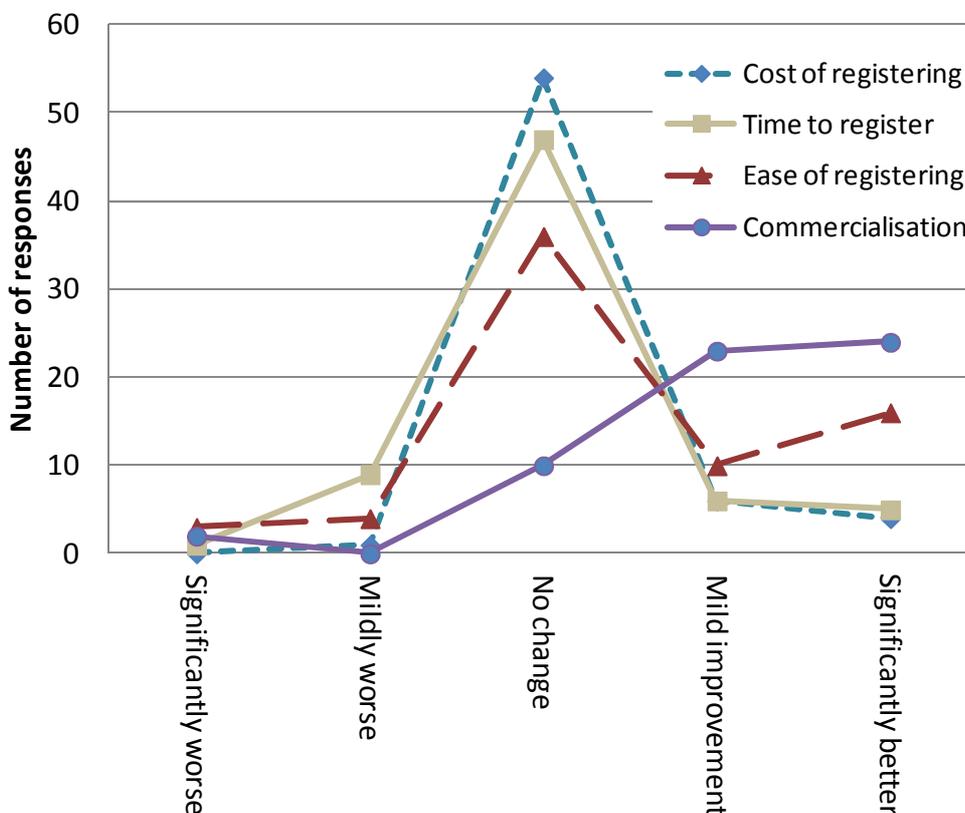


Fig C.6.2.3: Applicant view of the Impact of change 6 – all countries

## C.7 CHANGE 7: SECRECY FOR SIX MONTHS AFTER FILING AN APPLICATION

Secrecy for six months after filing an application

With this proposed change, it will be possible to keep a design secret for at least six months after filing a new design.

Around 20% of high-income countries do not have this capability and approximately 35% do not from middle and low-income countries.

	Already Implemented	Not currently implemented	Total
High-income	19	5	24
Middle and low-income	16	9	25
<b>Total</b>	<b>35</b>	<b>14</b>	<b>49</b>

Table C.7.1: implementation of change 7 (choice in illustrating a design)

### C.7.1 Office View of the Impact of Change 7

Views on the implementation of this proposed change are similar to previous changes. IT infrastructure remains the major area where responding countries feel they do not necessarily have current capability.

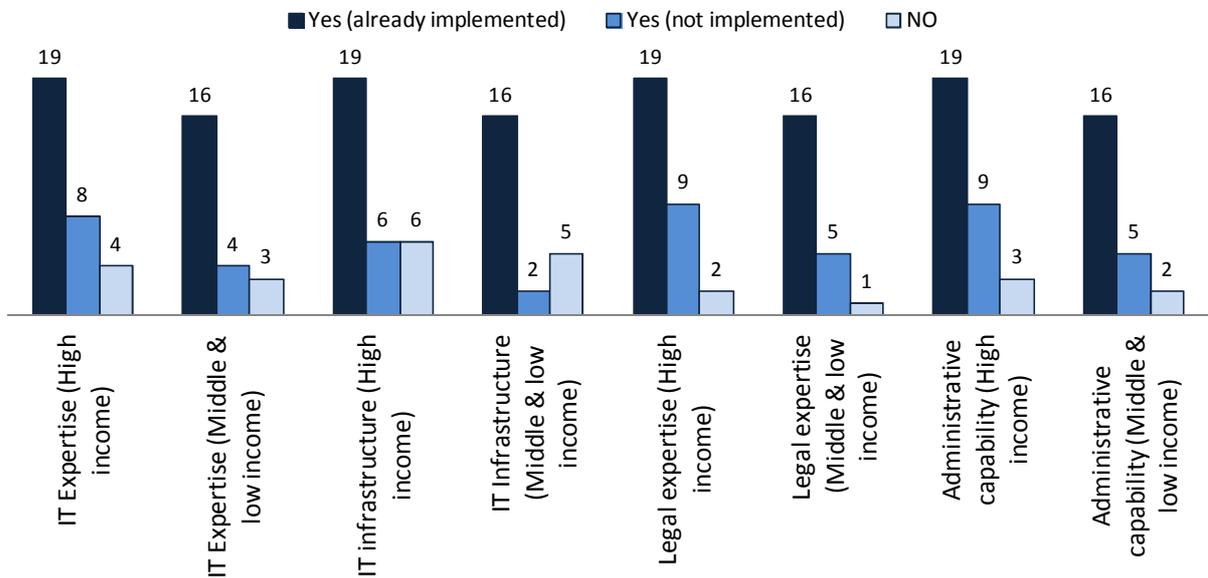


Fig C.7.1.1: Implementation of change 7 (IT, Admin, Legal) – high-income and middle and low-income countries

Middle and low-income countries are divided in their view on whether this change might have a positive or negative impact on procedures. Two offices indicated that this might result in a significant improvement, whilst one office believed the opposite. Most respondents were neutral towards costs and procedures. Respondents in middle and low-income countries believed that this change might result in slightly increased costs to the office.

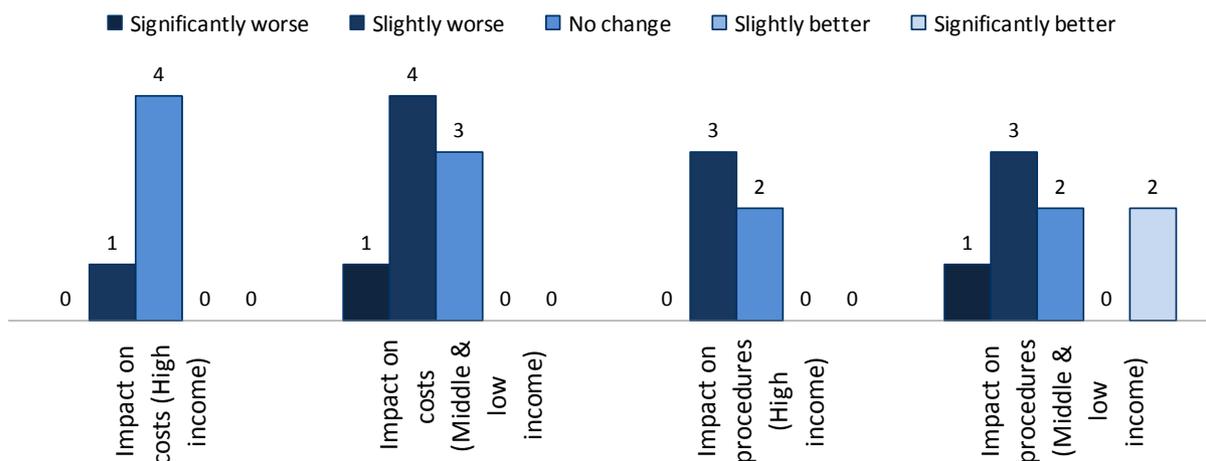


Fig C.7.1.2: Office view of the Impact of change 7 (Costs, Procedures) – high-income and middle and low-income countries

C.7.2 Applicant/User View of the Impact of Change 7

	Applicant/user believes this is already offered	Applicant/user believes this is NOT already offered	Applicant/user does not know	Total
High-income	46	6	9	61
Middle and low-income	40	23	7	70
<b>Total</b>	<b>86</b>	<b>29</b>	<b>16</b>	<b>131</b>

Table C.7.2.1: Applicants view on whether change 7 is currently offered in their national design system

Responses towards this change are interesting and not simple to interpret. All firms, including SMEs in middle/low-income countries were in agreement that this change would have a positive impact on commercialization. SMEs in high-income countries believed that there would be a slightly negative impact on ease of registering and time to register. Likewise the “other” (mainly large) firms believed that this might result in increased costs or more time to register. Thus, there appears to be a balance between improved commercial gain and increased application cost/complexity.

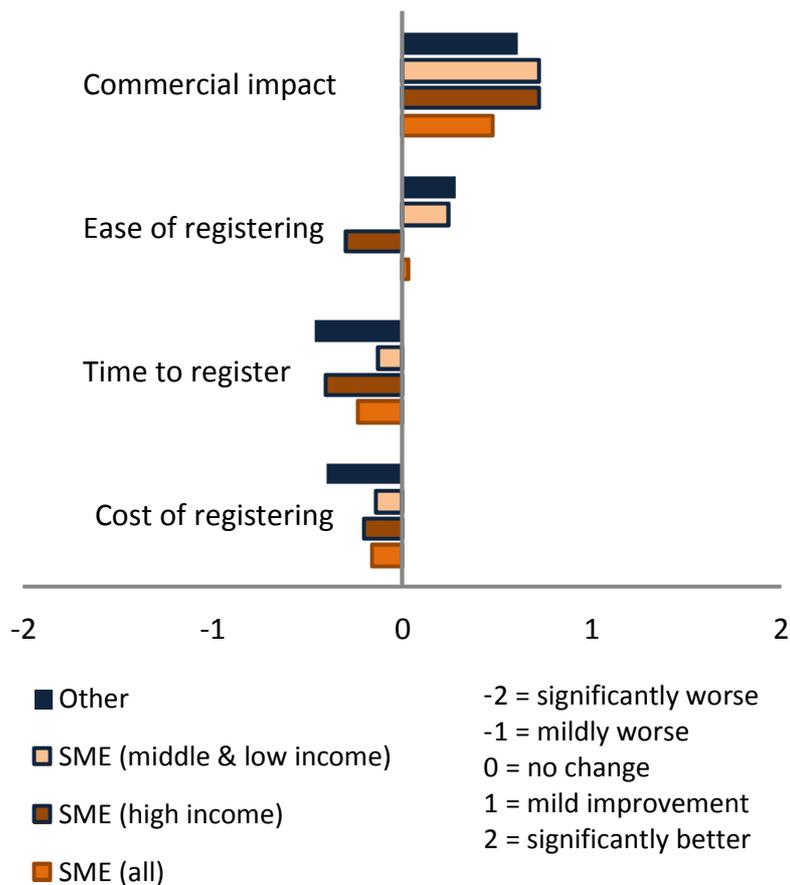


Fig C.7.2.2: Applicant view of the Impact of change 7 – high-income and middle and low-income countries

## C.8 CHANGE 8: STANDARDIZING INFORMATION

Standardizing the information needed to submit (or make changes to) a design registration	With this proposed change, the information needed to submit a new application will be standardised internationally.
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As this proposed change is outside of the remit of any one individual nation, then individual offices were not asked to comment. Instead, opinion was only sought from applicants/users. Indeed, this form of standardisation is less likely to be important within a nation, and to have greater impact for exporters.

### C.8.1 Applicant/User View of the Impact of Change 8

There is a marked difference in the perceptions of respondents from high-income countries and middle and low-income countries regarding whether this capability is currently offered. Only 14% of respondents from high-income countries believed this was not a current capability, in contrast to 42% from middle and low-income countries. Interestingly, respondents from all countries were positive in their answers, with no-one claiming not to know.

	<b>Applicant/user believes this is already offered</b>	<b>Applicant/user believes this is NOT already offered</b>	<b>Applicant/user does not know</b>	<b>Total</b>
High-income	52	9	0	61
Middle and low-income	41	30	0	71
<b>Total</b>	<b>93</b>	<b>39</b>	<b>0</b>	<b>132</b>

Table C.8.1.1: Applicants view on whether change 8 is currently offered in their national design system

Applicants/users from all countries believe that this change will make it easier, cheaper and quicker to register designs. However, the applicants/users with the strongest feelings were those from SMEs in high-income countries. It may be that these firms are more likely to export and thus to file overseas, where non-standardisation is then an issue. SMEs in middle and low-income countries are less positive, but it may be that they are less likely to export.

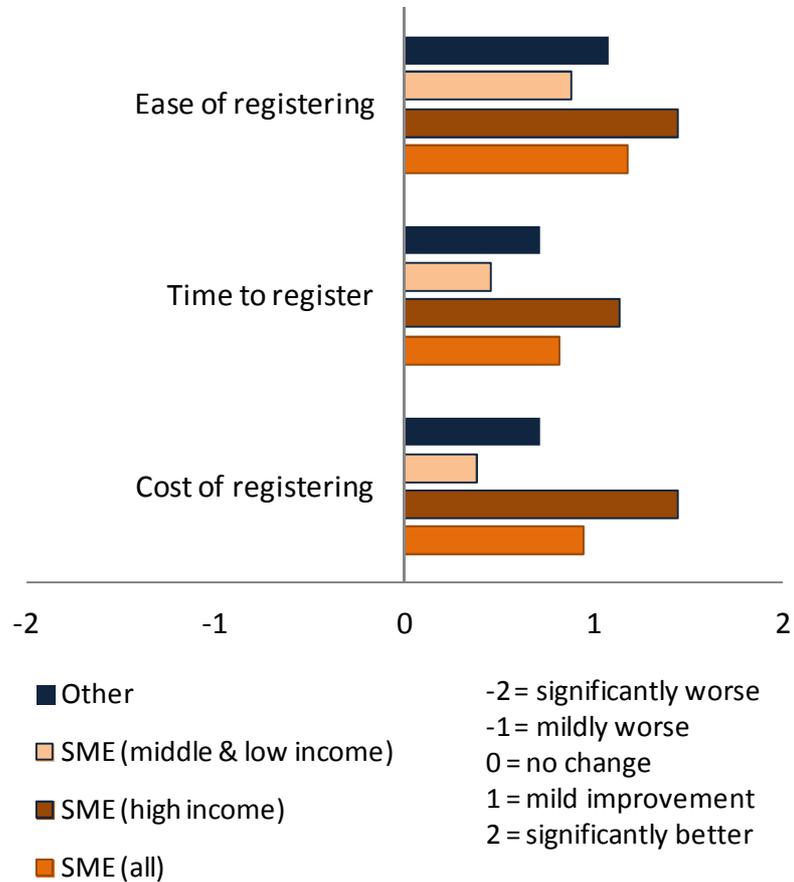


Fig C.8.1.2: Applicant view of the Impact of change 8 – high-income and middle and low-income countries

The pattern of responses is again interesting, with a very strong skew towards significant improvement, especially for both cost and ease of registration.

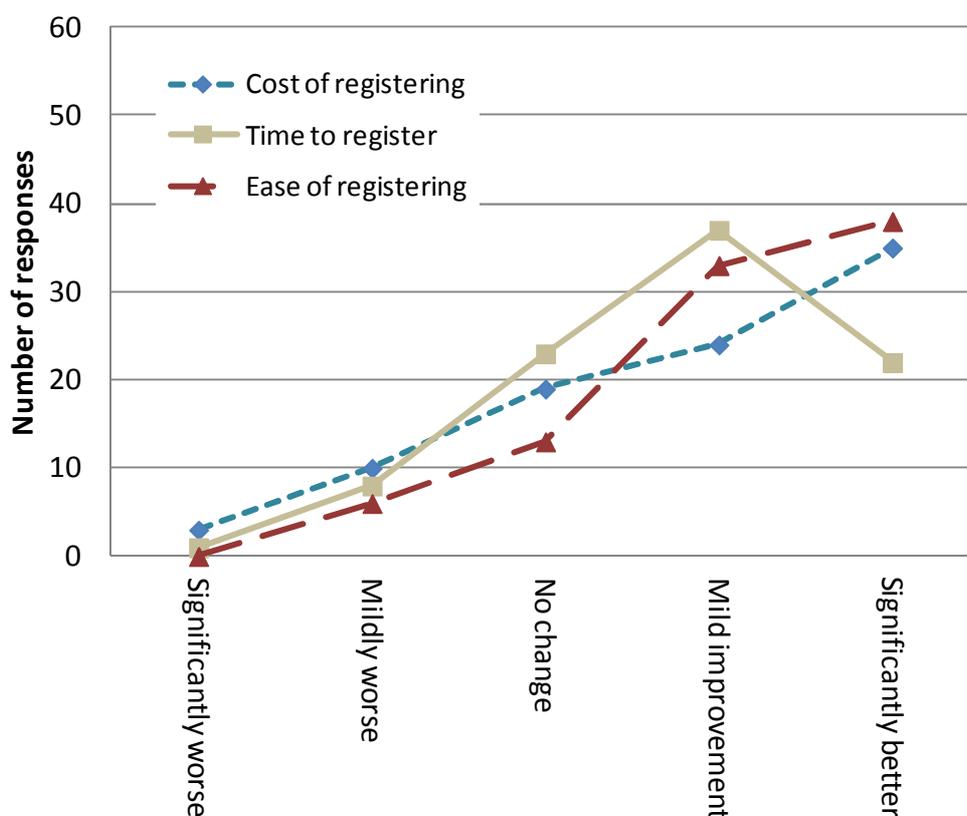


Fig C.8.1.3: Applicant view of the Impact of change 8 – all countries

## C.9 CHANGE 9: SIMPLIFYING PROCEDURES FOR LEGALLY VALID DOCUMENTS

Simplifying the procedures to present legally valid documents in another country

With this proposed change, there will be a simplification to the requirements for creating and signing legal documents.

There is a very significant difference in opinion between the high-income and middle and low-income countries. In the former, this is a capability that is offered in most countries. However, in middle and low-income countries, there is a greater likelihood that this capability is not offered.

	Already Implemented	Not currently implemented	Total
High-income	19	4	23
Middle and low-income	11	14	25
<b>Total</b>	<b>30</b>	<b>18</b>	<b>48</b>

Table C.9.1: implementation of change 2 (choice in illustrating a design)

### C.9.1 Office View of the Impact of Change 9

For those countries that do not offer this capability, roughly 50% do not currently have IT expertise, IT infrastructure or legal expertise needed to implement this change. All countries indicate that they do not have sufficient administrative capability to implement this change.

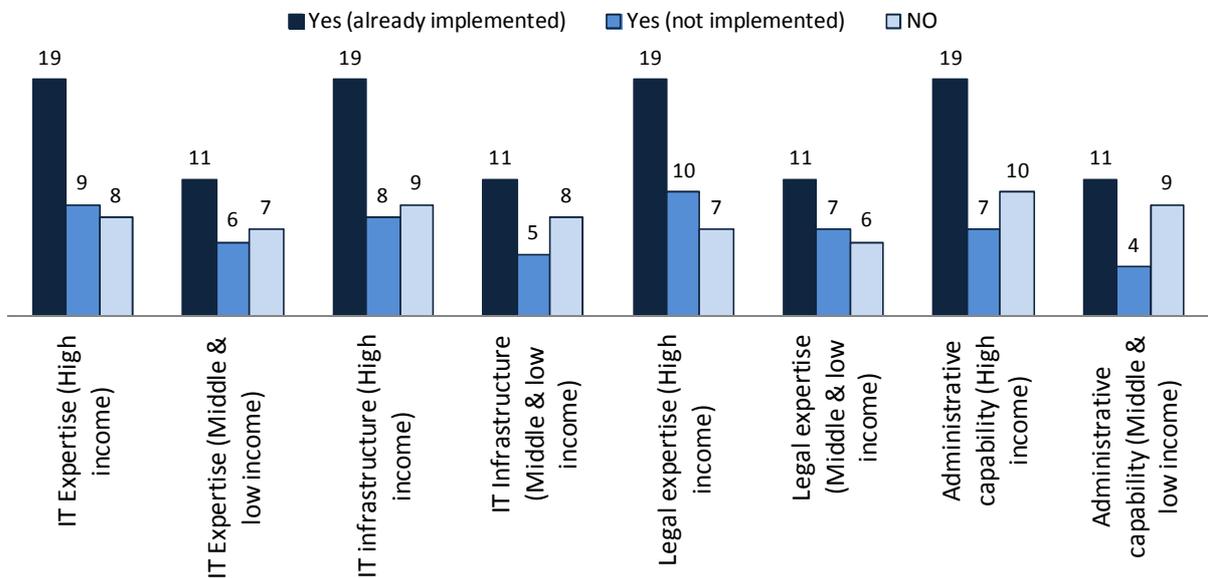


Fig C.9.1.1: Implementation of change 9 (IT, Admin, Legal) – high-income and middle and low-income countries

Most countries believe that this change would have a neutral impact on costs and procedures in offices. Interestingly, in middle and low-income countries, five respondents believe it would make procedures slightly more complicated, in comparison with seven claiming it would make procedures slightly simpler.

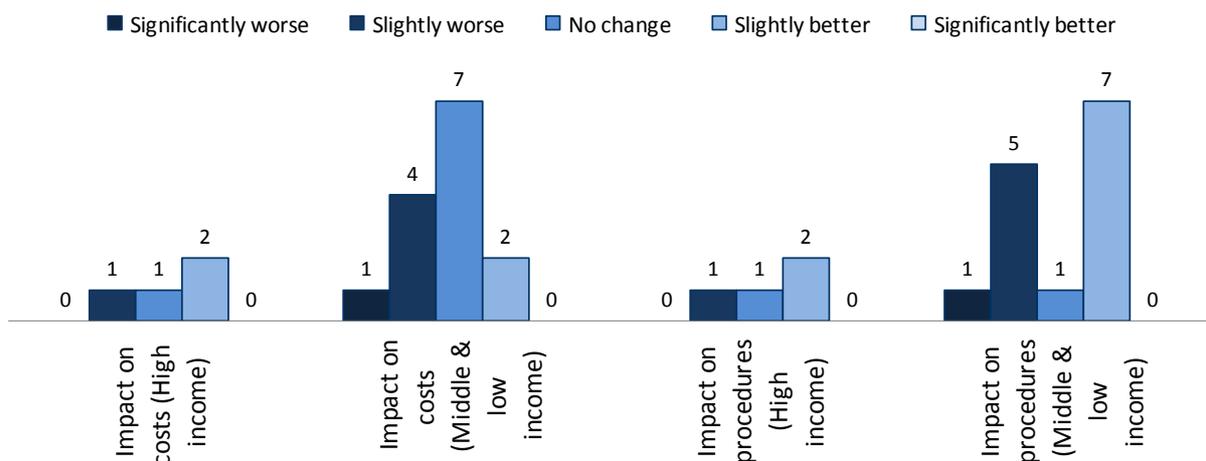


Fig C.9.1.2: Office view of the Impact of change 9 (Costs, Procedures) – high-income and middle and low-income countries

C.9.2 Applicant/User View of the Impact of Change 9

	Applicant/user believes this is already offered	Applicant/user believes this is NOT already offered	Applicant/user does not know	Total
High-income	35	21	5	61
Middle and low-income	42	30	5	77
<b>Total</b>	<b>77</b>	<b>51</b>	<b>10</b>	<b>138</b>

Table C.9.2.1: Applicants view on whether change 9 is currently offered in their national design system

Applicants/users from all countries believe that this change will make it easier, cheaper and quicker to register designs. As with proposed change number 8, SMEs in high-income countries are most positive.

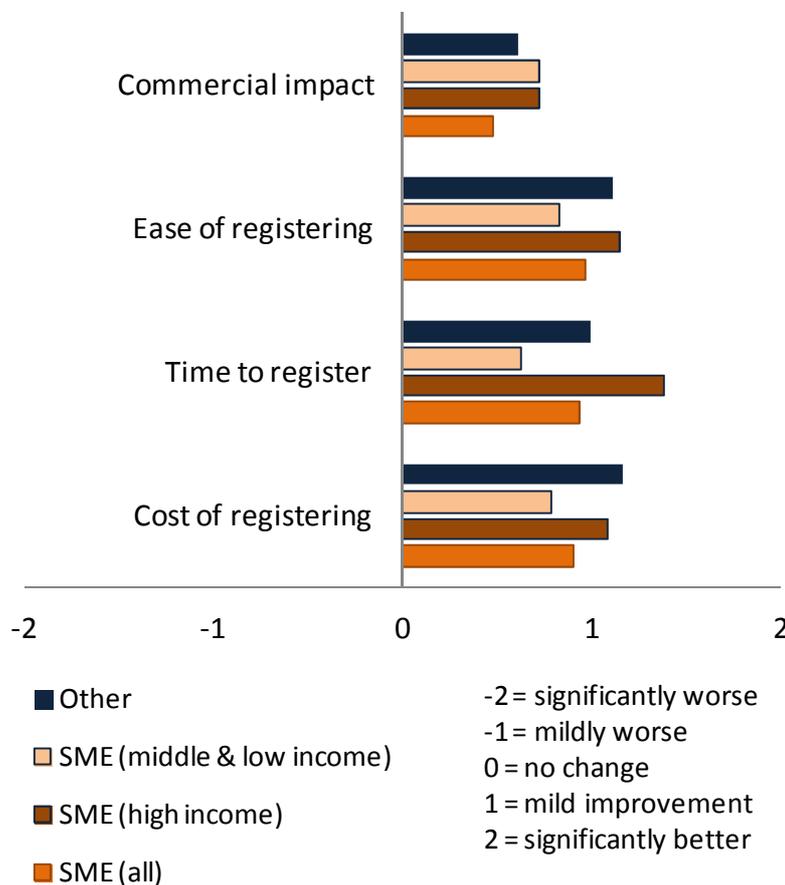


Fig C.9.2.2: Applicant view of the Impact of change 9 – high-income and middle and low-income countries

**SECTION D: VIEWS ON THE SET OF PROPOSED CHANGES**

In this section, the views from applicants/users towards the complete set of changes are presented and compared against the views of the offices. This includes a summary of their perceived “relative importance”, as well as a summary of the overall impact of the set of changes.

## D.1 RELATIVE IMPORTANCE OF PROPOSED CHANGES TO APPLICANTS/USERS

The chart below shows the relative importance of the proposed changes to applicants/users in both high-income countries and middle and low-income countries. There is surprising consistency, with one notable difference. To applicants in high-income countries, being able to register a design 12 months after disclosure is the 4<sup>th</sup> most important change. In contrast, this is only 8<sup>th</sup> most important in middle and low-income countries.

The two changes which are consistently viewed as most important are: to be able to register a set of designs; and standardization of information. The least important change in all countries is the “reduced number of copies” needed for registration.

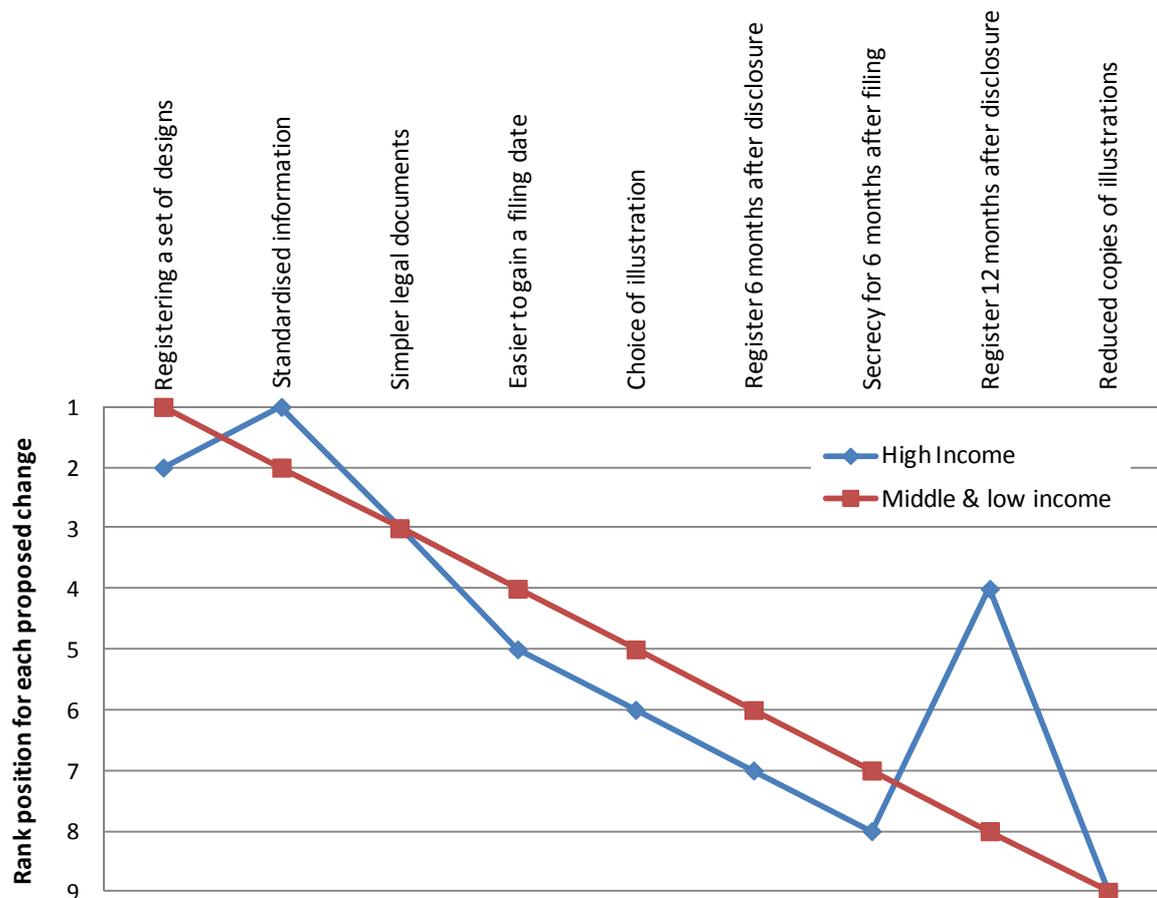


Fig D.1.1: Relative importance of proposed changes – high-income and middle and low-income countries

Fig D.1.2 shows the relative priority of the changes for different sizes of firm, including all SMEs, SMEs in high-income countries, SMEs in middle and low-income countries and “others” (large firms and unknowns). The graph has been sorted to show the relative priority for “others” as a linear progression from most important (set of designs) to least important (number of copies). Interestingly, there is broad agreement in importance for all groups, except SMEs in middle and low-income countries. It is this group of respondents that lowers the overall importance of “register 12 months after disclosure” in figure D.1.2. Similarly, this group slightly raises the importance of “easier to gain a filing date” in figure D.1.2. Registering six months after public disclosure is also viewed as less important in SMEs and especially those in middle and low-income countries.

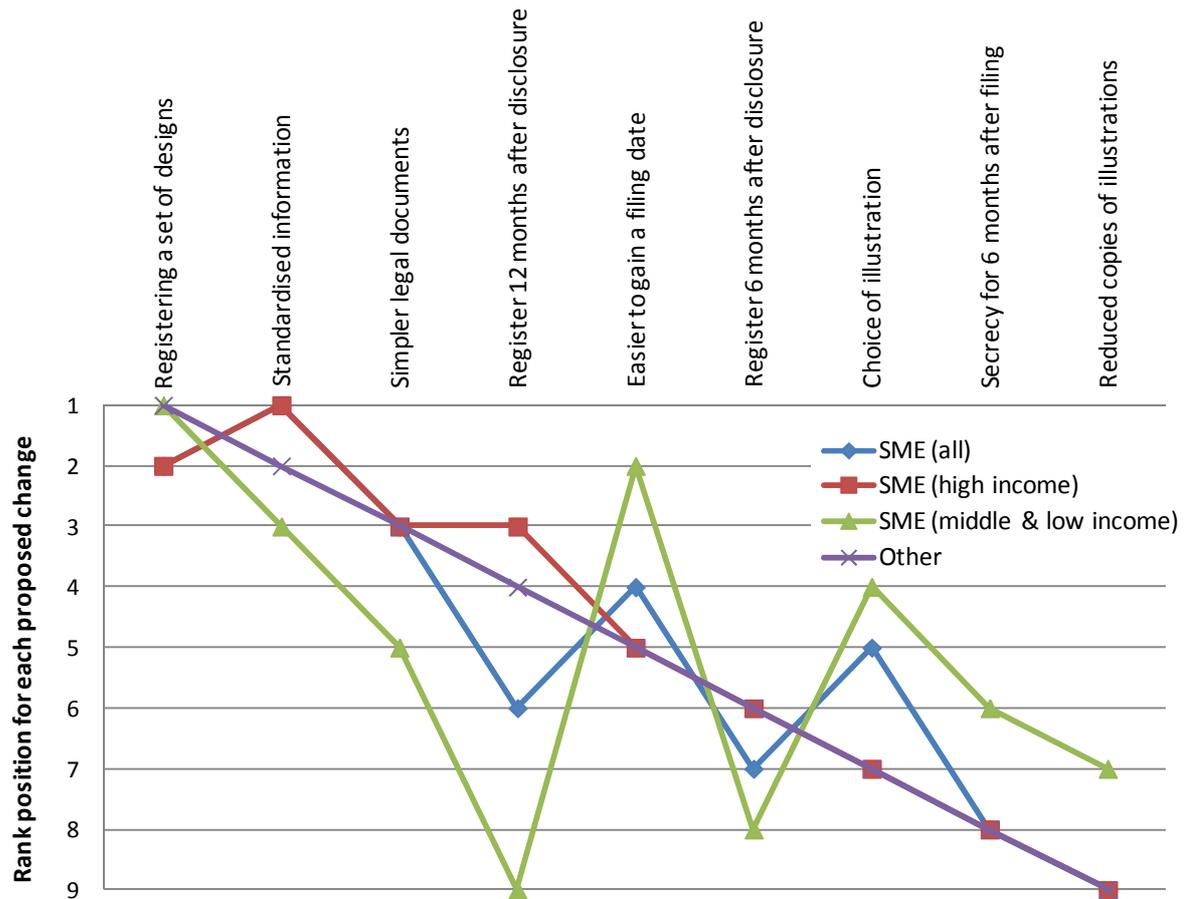


Fig D.1.2: Relative importance of proposed changes – SMEs and other firms

## D.2 APPLICANT/USER'S VIEWS ON THE POTENTIAL IMPACT OF ALL CHANGES

Respondents were asked to score the potential impact of the set of changes on: the cost of registering a design, ease, time, likelihood of registering, commercialization, registering overseas, profitability and also the level of design activity. They scored on a one to five scale (significantly worse – significant improvement).

Overall, the results demonstrate that respondents in all countries believe that these changes would result in improvements.

There are some notable differences however. In high-income countries, respondents believe the changes will make a greater improvement to costs and time to register than in middle and low-income countries. Conversely, respondents in middle and low-income countries believe that the changes will have a greater impact on profitability.

Overall, the most prominent improvements would be the ease of registering and the likelihood of registering overseas.

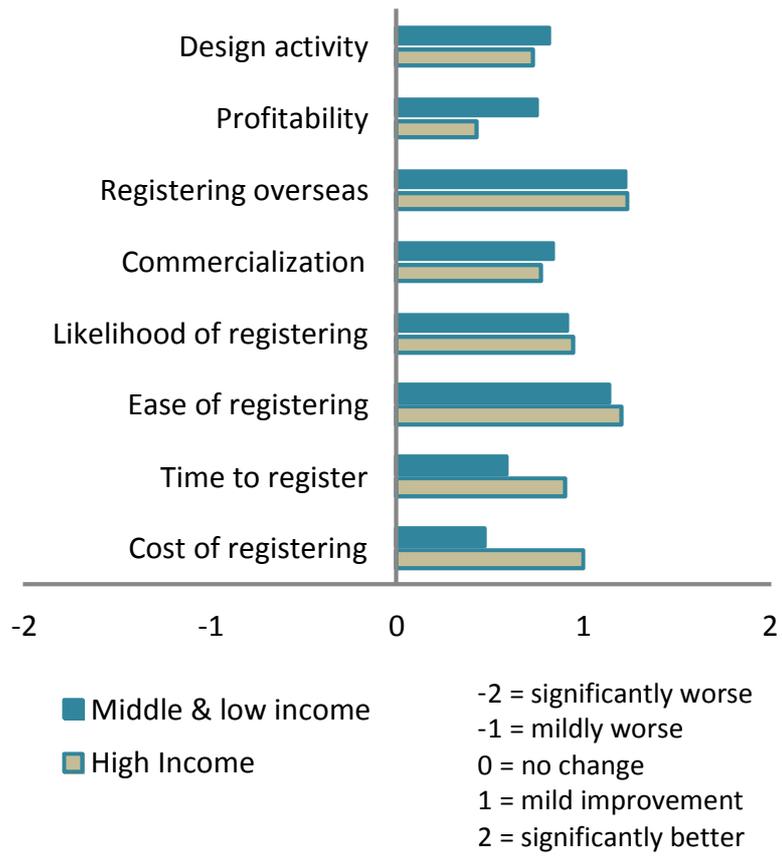


Fig D.2.1: Potential impact of changes – high-income and middle and low-income countries

Looking at the same data, but this time comparing responses amongst company types (SME and other), there are also some interesting patterns. Whilst believing that the changes will make improvements, respondents in SMEs in middle and low-income countries are generally a little less effusive in their responses. This is especially the case for time to register and cost of registering. SMEs in high-income countries are generally the most positive towards the set of proposed changes.

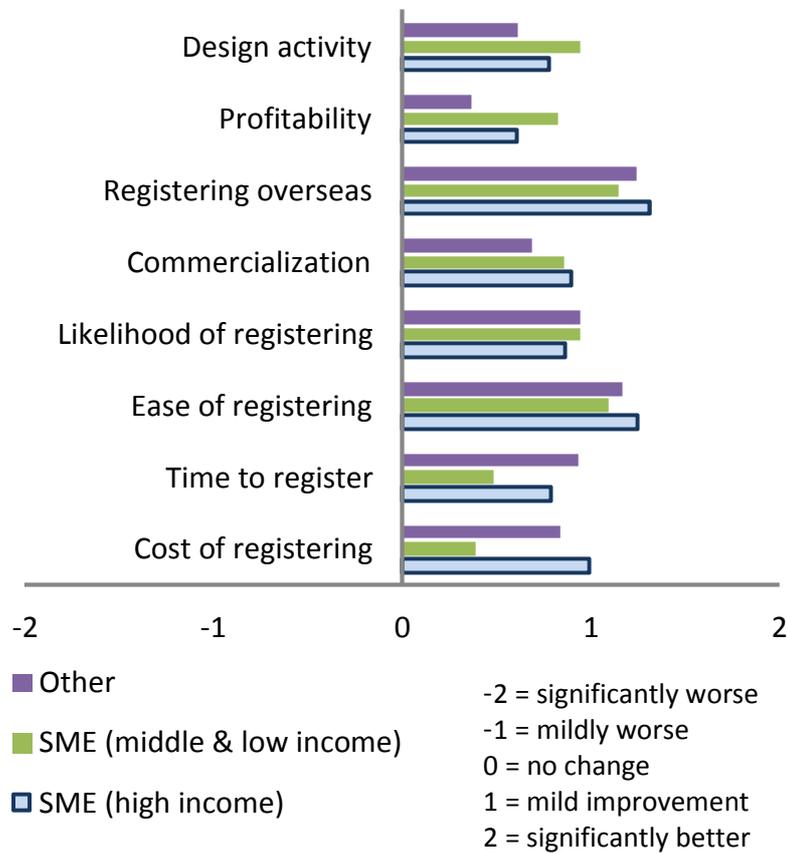


Fig D.2.2: Potential impact of changes – SMEs and other respondents

### D.3 OFFICE VIEWS ON THE POTENTIAL IMPACT OF THE CHANGES

The offices are generally positive towards the likely impact of these changes on users of the design system. Offices in middle and low-income countries are slightly more positive towards the impact on innovation, use of intellectual property and simplification of procedures. However, they believe that the cost will be mostly neutral, with perhaps small savings.

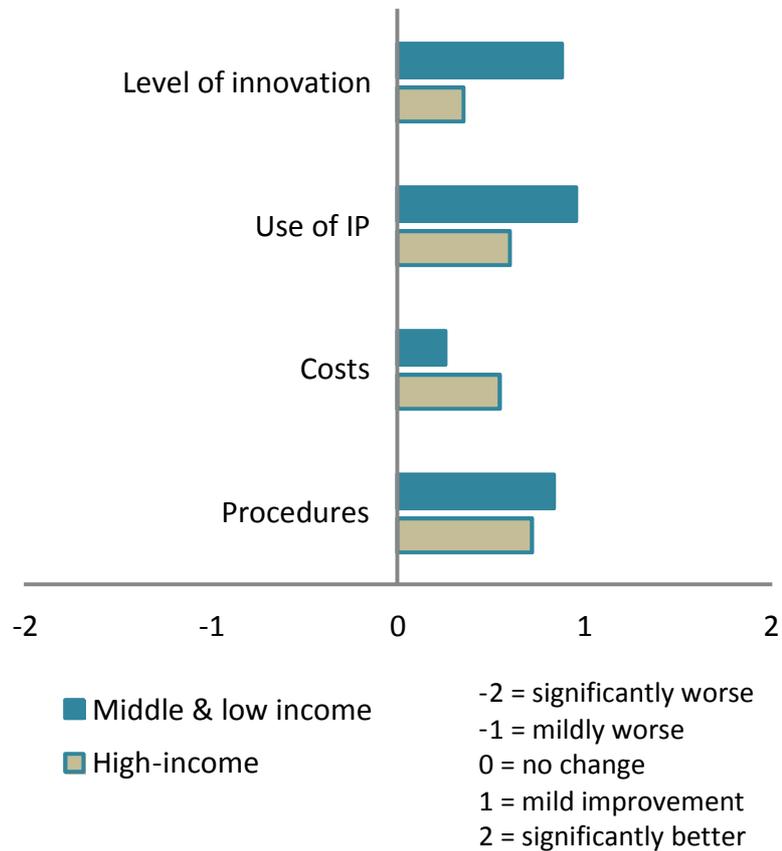


Fig D.3.1: Office's view on the impact of the set of changes for users/applicants

The offices are mostly relatively neutral towards the likely impact of the changes on the national office. It is not broadly felt that there will be a significant impact in terms of cost. In the middle and low-income countries, it is felt that the changes would have a slight beneficial impact on errors, usage of design rights, procedures and administration.

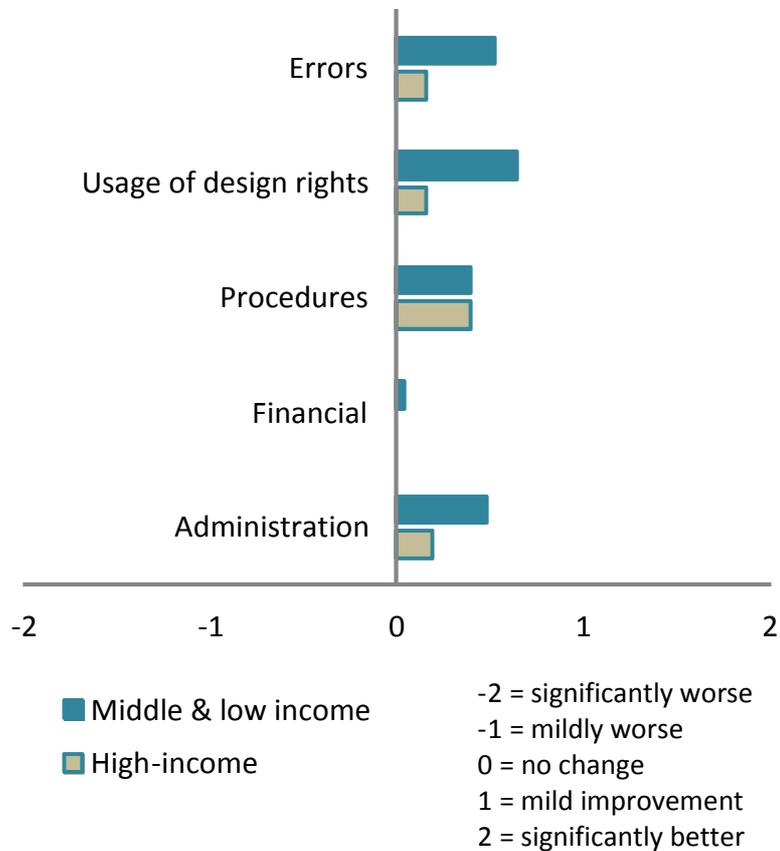


Fig D.3.2: Office's view on the impact of the set of changes for their national office

#### D.4 VIEWS OF OFFICES AND APPLICANTS/USERS ON THE PROPOSED CHANGES

- Change 1 – Choice of Illustration: applicants in large and small firms saw this change as having a positive influence on the ease of registering a new design. Offices not offering this capability saw implications for IT expertise and infrastructure as well as a slight increase in costs. Some offices in middle and low-income countries expect a positive impact on complexity of procedures. SMEs in all countries expressed a preference for photographs and CAD files as the means of illustrating a design. Applicants/users in high-income countries expressed a preference for drawings, whilst in middle and low-income countries, there was a preference for photographs.
- Change 2 – Reduced Number of Copies of Each Illustration: this is a capability already offered in most high-income countries, and many middle and low-income countries. Most offices believe that they have the capability, resources and expertise to implement this change. The majority of offices in middle and low-income countries believe that this would help simplify procedures and reduce costs. Applicants/users from all countries saw positive benefits to cost, time and ease of registration.

- Change 3 – Registering a Set of Designs: roughly 75% of all countries already have this capability. For those that do not, the most significant impact would be on IT infrastructure. All offices in high-income countries indicated that costs would be significantly higher, whereas those in middle and low-income countries believed that there might be savings. In all countries, responding offices felt that procedures might be more complex. All applicants/users felt that this would simplify registration. SMEs in high-income countries felt there would be significant cost savings.
- Change 4 – Easier to Gain a Secure Filing Date: a small number of offices in high, middle and low-income countries felt that additional IT infrastructure would be needed to implement this change. Offices were broadly neutral on the impact of this change on costs and procedures. SMEs in middle and low-income countries were most positive towards this change in terms of ease, time and cost of registration.
- Change 5 – Register a Design Six Months After Disclosure: this capability is offered in most high-income countries. Most countries believe that they have the capability to implement this change, and it would have minimal impact on costs or procedures. Applicants are similarly neutral on the impact of this change on ease, time and costs. But, they perceive clear benefits in commercializing a design.
- Change 6 – Register a Design 12 Months After Disclosure: most offices indicated that they do not have the IT infrastructure or expertise to implement this change. They also suggested that additional administrative capacity and legal expertise would be needed. Applicants reported a very strong commercial benefit to this proposed change. They noted little benefit to either ease, time or cost of registration.
- Change 7 – Secrecy for Six months After Filing: additional IT infrastructure was viewed as important for implementation. Applicants felt that this change might have a mild benefit on commercialization, but that it might make registration slightly costlier, take slightly longer and possibly cost slightly more.
- Change 8 – Standardizing Information: all applicants/users felt that this change would have a very positive impact on the ease, cost and time to register. This was especially the case in SMEs in high-income countries. SMEs in middle and low-income countries were still positive, but less so.
- Change 9 – Simplifying Procedures for Legally Valid Documents: this capability is offered in most high-income countries, but not in many middle and low-income countries. Many countries believe that they do not have the IT expertise, IT infrastructure or legal expertise to implement this change and that the change would have a neutral impact on costs and procedures in offices. Applicants believe that this change will make it easier, cheaper and quicker to register designs.
- In order to implement these proposed changes, offices perceive the need for increased IT expertise and infrastructure, especially in middle and low-income countries. There is some, but less need for increased administration capability and legal expertise.
- Applicants/users in all countries judge “registering a set of designs”, “standardized information” and “simpler legal documents” as their top priority changes. “Reduced copies of illustrations” is consistently the least priority change.
- SMEs in middle and low-income countries have different priorities to firms in other countries. SMEs in middle and low-income countries consider “easier to gain a filing date” as a high priority change, and “register 12 months after disclosure” as a low priority.

- Applicants in high-income countries generally feel that the set of changes will have a stronger impact than those in middle and low-income countries. Interestingly, the most significant benefit in the views of applicants will be on “registering overseas” and “ease of registration”.
- Offices in all countries believe that the set of changes will have positive benefits to applicants/users. In high-income countries, it is believed that the changes will improve the level of innovation and usage of intellectual property. In middle and low-income countries, it is believed that the benefits to users will be reduced costs and simplification of procedures.

## SECTION E: OFFICE VIEWS ON IMPLEMENTATION

### E.1 PERCEIVED COSTS OF IMPLEMENTATION

Taking the data from each section, it is possible to compare the perceived costs of each of the individual change. Fig E.1.1 shows that for high-income countries, change (3 registering a set of designs) followed by change 1 (greater choice in how a design is illustrated) are both perceived as the most costly to implement. In middle and low-income countries, change 1 would also increase costs, followed by change 7 (secrecy for 6 months after filing). For the remaining changes, the consensus is that the change might incur a slight increase in costs.

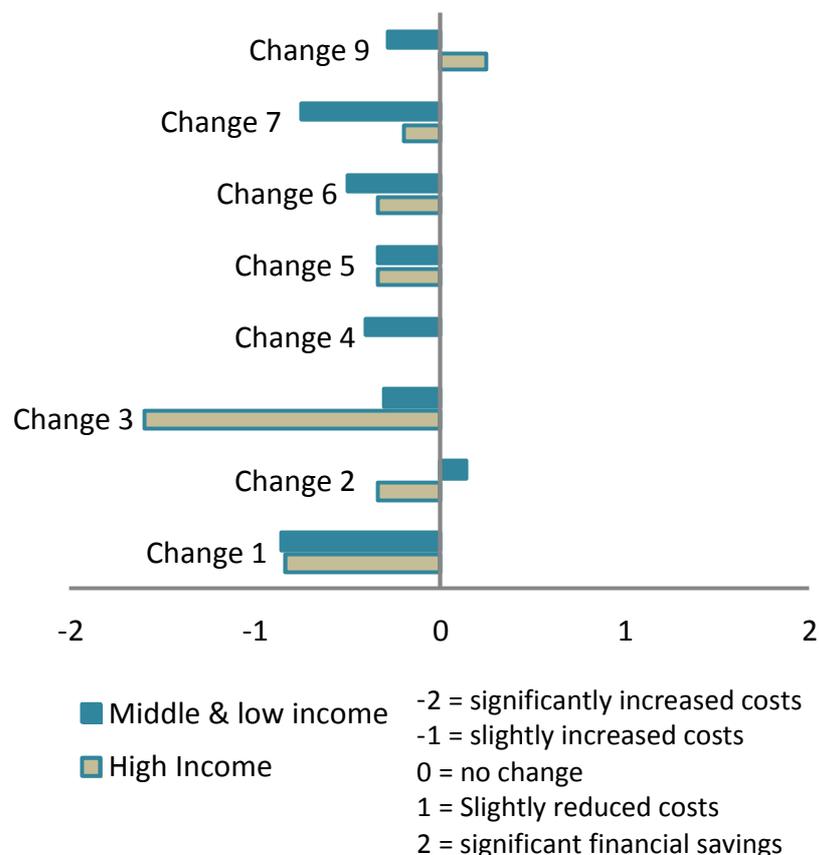


Fig E.1.1: Perceived cost implications of each change

Respondents were also asked to “rank” the changes in terms of the “most costly to implement”. In fig E.1.2, we can see that for the middle and low-income countries, there is consistency with the graph above; changes 1 and 7 are perceived as most costly, change 2 is perceived as the least costly. For the high-income countries, the picture is less consistent. Here, changes 5, 7 and 9 are perceived to be the most costly, and changes 2, 6 and 4 the least.

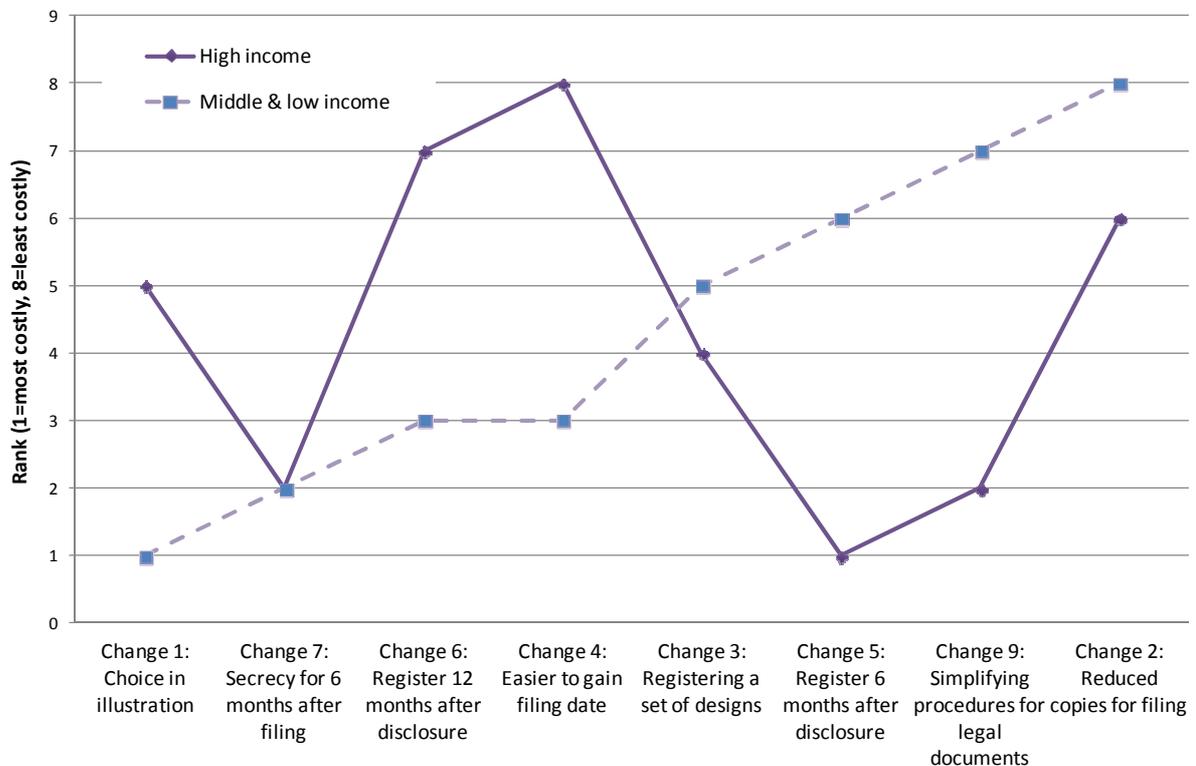


Fig E.1.2: Changes ‘ranked’ for cost implications (1 = most costly, 8 = least costly)

## E.2 PERCEIVED PROCEDURAL IMPLICATIONS OF CHANGES

It is also possible to summarize the perceived impact on procedures of the changes based on responses to individual changes.

In middle and low-income countries, changes 2 (reduced number of copies of illustrations) and 4 (easier to gain a secure filing date) are both perceived as reducing procedural complexity. In contrast, change 3 (registering a set of designs) will make procedures more complex.

Responses from high-income countries are similar, especially regarding changes 2 and 4. High-income countries perceive change 3 (registering a set of designs) as making procedures significantly more complex.

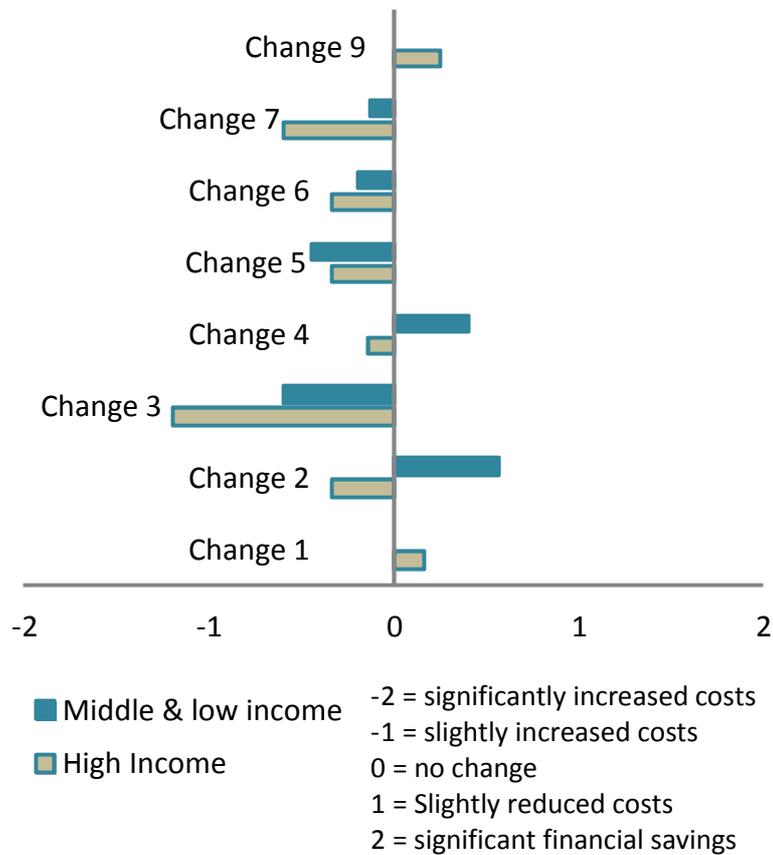


Fig E.2.1: Perceived implications on procedures for each of the changes

### E.3 TIME AND CHANGES TO CAPABILITIES TO IMPLEMENT

The offices are generally optimistic that the set of changes could be implemented in under four years. It is useful to contrast this with the time taken to implement previous treaties. In the majority of cases, it was over four years, although the middle and low-income countries took less time to implement past treaties than their higher-income counterparts.

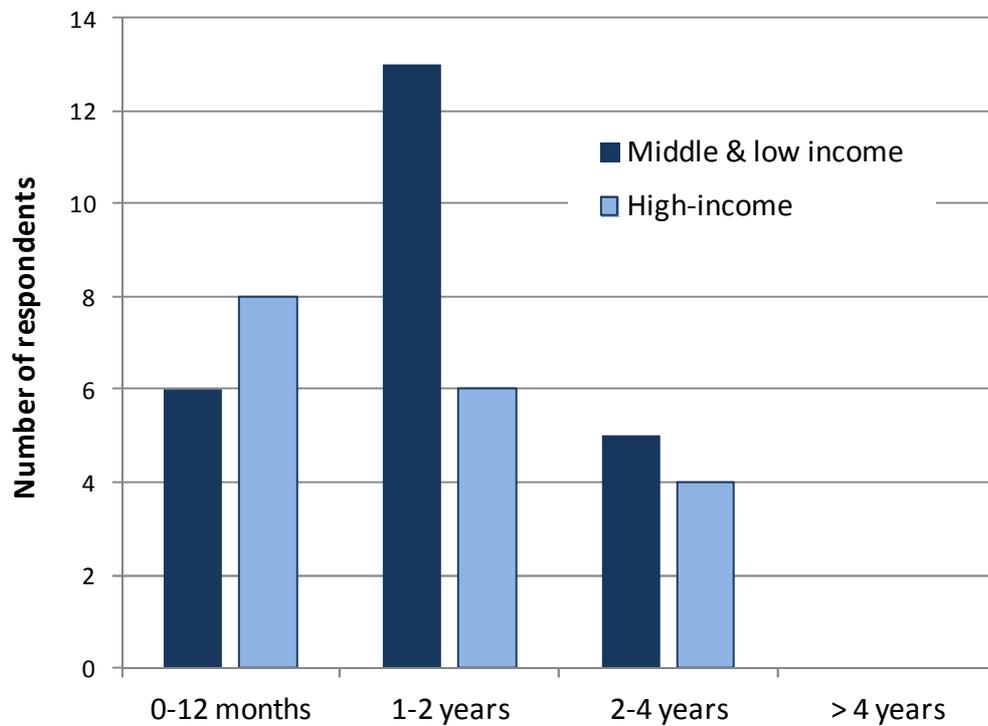


Fig E.3.1: National office views on time to implement

The offices believe that more IT expertise and infrastructure will be needed in order to implement the changes. This is consistent with the results from each of the individual changes. But, the responses from high-income countries and middle and low-income countries vary greatly. It is evident that the high-income countries are better placed to implement the set of changes with minimal impact on the offices.

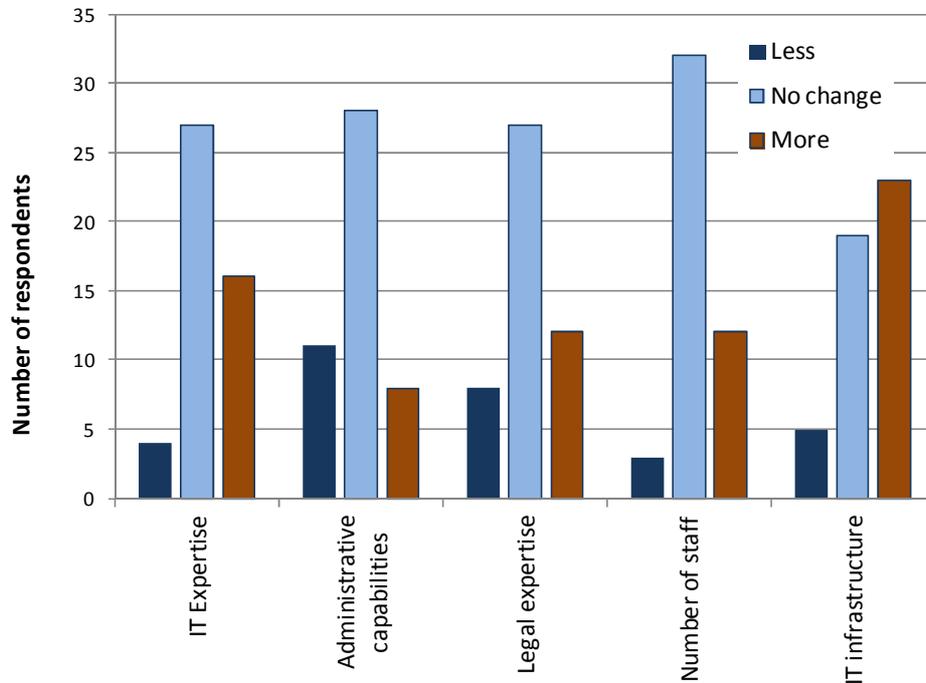


Fig E.3.2: Office views on changes needed in the offices to implement – ALL countries

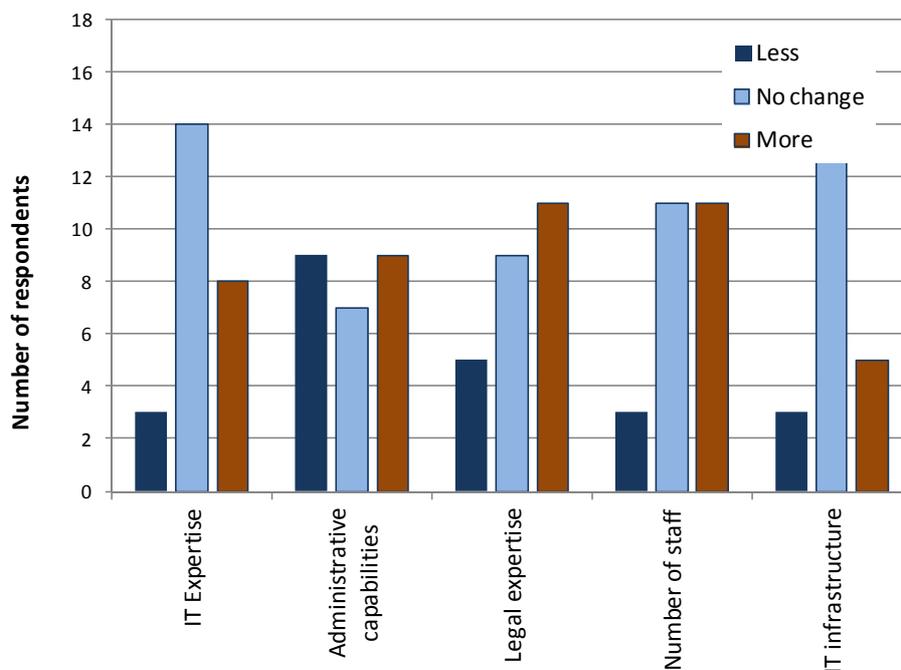


Fig E.3.3: Office views on changes needed in the offices to implement – Middle and low-income countries

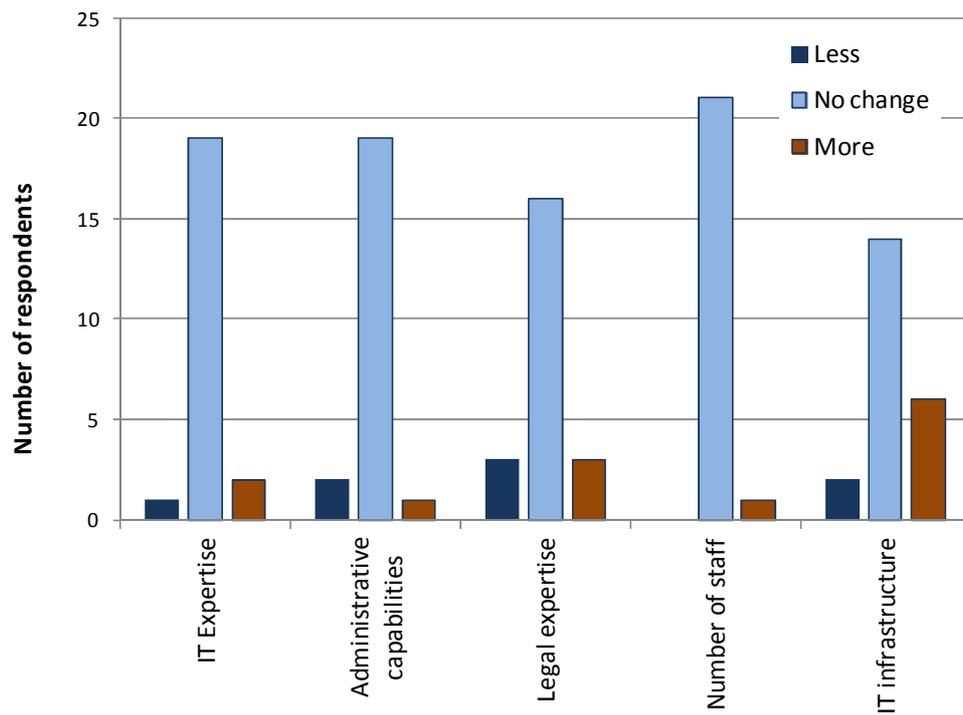


Fig E.3.4: Office views on changes needed in the offices to implement – High-income countries

Consistent with the finding that IT infrastructure and expertise are key issues for implementation, it is in these areas that offices are most keen on support. Again though there is a significant difference between high-income countries and middle and low-income countries.

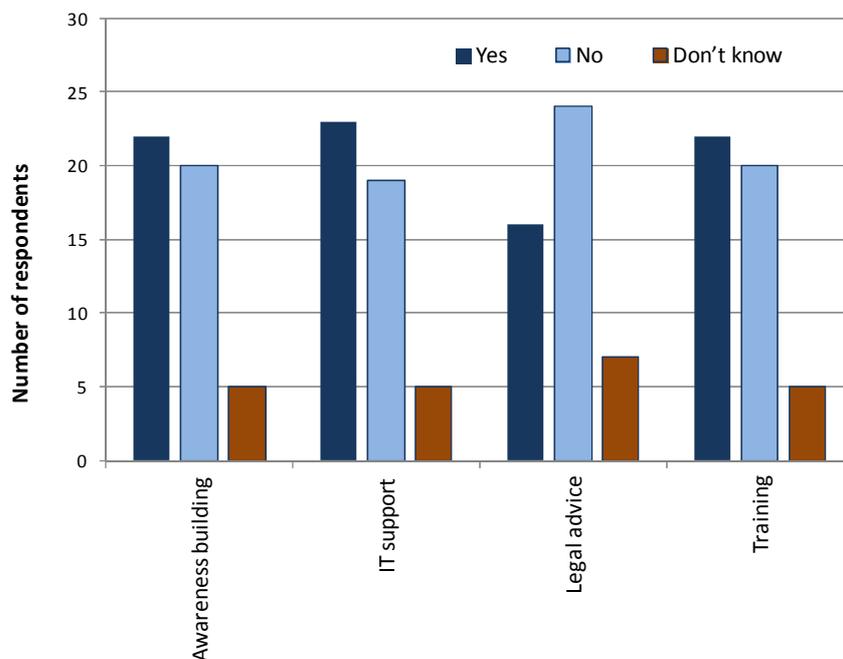


Fig E.3.5: Support needed to implement changes – all countries

In the middle and low-income countries, there is a widespread demand for support in all areas in order to facilitate the implementation of the proposed changes.

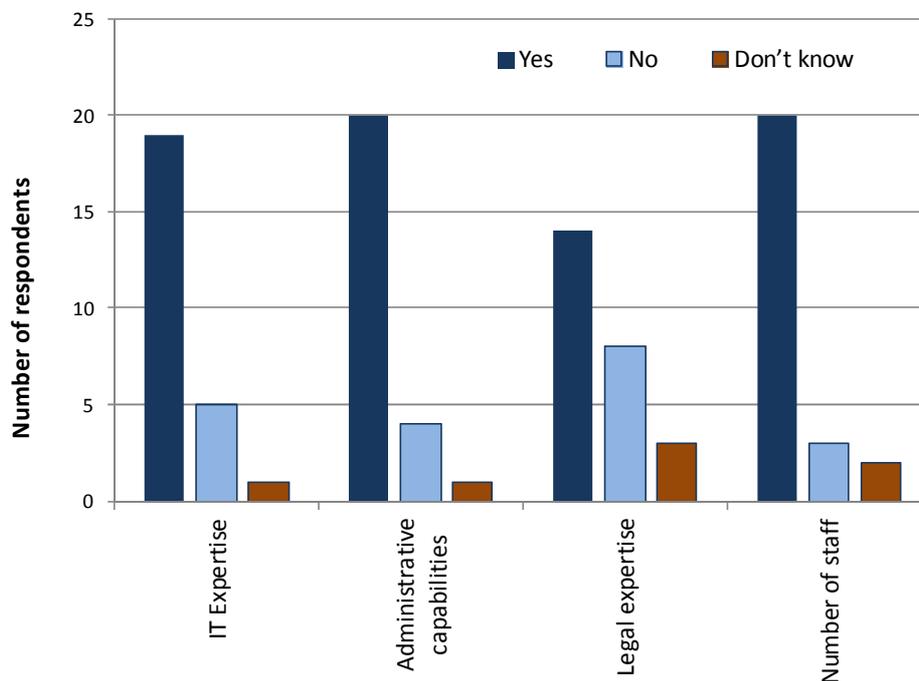


Fig E.3.6: Support needed to implement changes – middle and low-income

In contrast, in the high-income countries, there is little demand for support, with most countries claiming to be self sufficient.

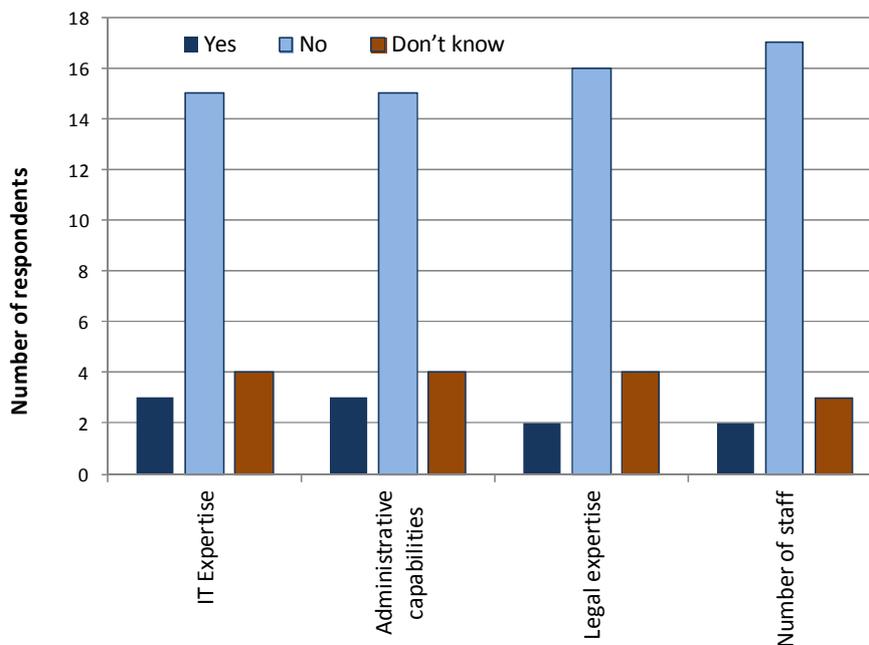


Fig E.3.7: Support needed to implement changes – High-income

#### E.4 VIEWS OF OFFICES REGARDING IMPLEMENTATION

- Offices are optimistic that a design law treaty could be implemented in under four years, and most in under two years. This would be quick in comparison with experiences with previous treaties.
- To implement these changes, there is consensus from offices that IT infrastructure and expertise will need to improve.
- Change 3 (registering a set of designs) is seen as the most costly change to implement and requiring more complex procedures. But, it is interesting to note that this is also the change which is viewed as the highest priority by most applicants/users.
- In middle and low-income countries, there is a need for support in IT, administration, legal expertise and training. In contrast, high-income countries perceive a much lower need for support. Thus, it is clear that offices in high-income countries are better placed to implement these changes with the least impact on existing capabilities, expertise and resources.

#### SECTION F: TECHNOLOGY TRANSFER AND ACCESS TO KNOWLEDGE

Paragraph 2 of the Terms of Reference for this study asks what impact, if any, the draft Articles and draft Rules on Industrial Design Law and Practice would have on technology transfer and access to knowledge.

This question could not be meaningfully addressed in the survey of design right applicants, as matters of technology transfer and knowledge access involve third parties not filing for design rights themselves<sup>2</sup>. In addition, there does not appear to be any systemic or even anecdotal evidence on the effects of design protection *per se* on technology transfer and knowledge access that could usefully inform what the impact of simplified and harmonized design registration formalities might be<sup>3</sup>.

In light of these constraints, this study can only offer two perspectives informed by the nature of design protection and broader insights on what determines technology transfer.

First, as a legal matter, industrial design rights only protect the aesthetic or ornamental aspects of an object. Purely technical and functional aspects and the process of manufacturing an object are outside the scope of industrial design protection. In addition, protection typically does not extend to designs dictated solely by technical or functional considerations<sup>4</sup> – for example, the design of an electrical terminal to be installed in a washing machine<sup>5</sup>, or the design of a

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<sup>2</sup> While one could have included questions about licensing behavior in the survey of applicants, it would have further increased the length of an already complex survey instrument and responses would, at best, have offered only a partial and one-sided perspective on the matter.

<sup>3</sup> A search of the legal and economic literatures for the terms design rights, technology transfer, and knowledge access did not lead to any study addressing the subject matter. More generally, the recent Hargreaves review of IP policy in the United Kingdom concluded that research on the relationship between design rights, and innovation and growth, is still at its infancy (see The Hargreaves Review - Digital Opportunity: A Review of Intellectual Property and Growth, June 2011, available at <http://www.ipo.gov.uk/ipreview-finalreport.pdf>).

<sup>4</sup> See Article 25.1 of the TRIPS Agreement which states, in particular, that “*Members may provide that such protection shall not extend to designs dictated essentially by technical or functional considerations*”.

<sup>5</sup> *AMP v Utilux* [1972] R.P.C. 103

shredder for use in recycling plants<sup>6</sup>. Of course, the design of objects often has technical or functional motivations and to the extent that the design for an object is new, involves an inventive step, and is capable of industrial applications – as defined in national laws – it may qualify for utility patent protection. But any infringement claim under design law would be limited to the aesthetic or ornamental aspects of the object and could not cover its technical or functional characteristics<sup>7</sup>.

While there is no unique definition of the term *technology*, most definitions seem to emphasize technical and manufacturing characteristics, rather than aesthetic or ornamental elements<sup>8</sup>. From this view, the link between design rights protection *per se* and technology transfer is not obvious. *Knowledge* is a broader concept than technology; from dictionary definitions, it is not clear whether a newly designed object, as a creative output, could be considered as a form of knowledge<sup>9</sup>. From an economic viewpoint, a new design arguably falls within the class of so-called “knowledge goods”, the defining feature of which is that they are nonrival in nature<sup>10</sup>. Indeed, this characteristic gives rise to design rights protection in the first place – to prevent free-riding on the creative efforts of designers.

From this view, to the extent that simplifying and harmonizing design registration formalities leads to more application and registration activity – as suggested by the results of the applicant survey – there may indeed be an effect on knowledge access. However, as with other types of IP, this effect needs to be weighed against the social benefit of exclusive rights in incentivizing design activity. In addition, it is important to again emphasize that the knowledge good in question is limited to the aesthetic elements of a design. While it is difficult to assess the contribution of different knowledge goods to social and economic development, it is worth noting that concerns about knowledge access do not appear to have focused on creative designs<sup>11</sup>.

Evidence on the nature and determinants of technology transfer provides a second perspective on the possible role of design rights. Studies have shown that successful technology transfer often requires the transfer of both codified and non-codified or tacit knowledge. The latter may require the active involvement of the technology holder in the transfer process, taking the form of training activities or the provision of technical advice<sup>12</sup>.

Designs, by nature, are easily observable. However, the process of manufacturing them may not be and may similarly rely on tacit – possibly even secret – technology and associated

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<sup>6</sup> *Lindner Recyclintech GmbH (R 690/2007-3)* [2010] 1E.C.D.R 1 OHIM (Trade Marks and Designs)

<sup>7</sup> For a detailed description of the functionality doctrines in EU and US design law, see Uma Suthersanen (2010), *Design Law: European Union and United States of America*, (Sweet & Maxwell).

<sup>8</sup> For example, the Oxford English Dictionary defines technology, among others, as “[...] The branch of knowledge dealing with the mechanical arts and applied sciences; the study of this. [...] The application of such knowledge for practical purposes, esp. in industry, manufacturing, etc.; the sphere of activity concerned with this; the mechanical arts and applied sciences collectively”.

<sup>9</sup> The Oxford English Dictionary defines knowledge, among others, as “[...] The fact or condition of knowing something. [...] The fact of knowing or being acquainted with a thing, person, etc.; acquaintance; familiarity gained by experience”.

<sup>10</sup> Nonrival goods are goods that can be simultaneously consumed or used by many entities. For the seminal article applying the concept of public goods to information and knowledge, see Kenneth Arrow, (1962), *Economic Welfare and the Allocation of Resources for Invention*. In Richard R. Nelson (editor), *The Rate and Direction of Inventive Activity: Economic and Social Factors*, (pp. 609-626), Princeton, NJ: Princeton University Press.

<sup>11</sup> See, for example, Gaëlle Krikorian and Amy Kapczynski, (2010), *Access to Knowledge in the Age of Intellectual Property*, (Zone Books, New York). Questions of design rights hardly feature in this extensive discussion of access to knowledge and its relationship to the IP system.

<sup>12</sup> See Ashish Arora, (2009). “Intellectual Property Rights and the International Transfer of Technology: Setting out an Agenda for Empirical Research in Developing Countries.” In *The Economics of Intellectual Property*, (WIPO, Geneva).

knowledge. The licensing of a design right would by itself not imply transferring the underlying process technology. However, a design license may well facilitate such a technology transfer agreement<sup>13</sup>. Indeed, it may be in the licensor's interest to transfer the process technology, so that the licensee produces the design at the same quality as the design right holder. No empirical evidence is available to support this hypothesis. In addition, even if there were such facilitation role, it would not be clear if and how the simplification and harmonization of design registration formalities would matter.

[Annex III follows]

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<sup>13</sup> Some evidence exists that patent licenses can play such a facilitating role. See Arora (2009), cited in the previous footnote.

## **FLEXIBILITIES FOR SCT MEMBERS IN THE DRAFT ARTICLES AND DRAFT RULES ON INDUSTRIAL DESIGN LAW AND PRACTICE (DOCUMENTS SCT/26/2 AND 3)**

### **INTRODUCTION**

Paragraph three of the Terms of Reference requests an analysis of “flexibilities for SCT Members in the draft Articles and draft Rules on Industrial Design Law and Practice (documents SCT/26/2 and 3), deepening the analysis contained in the relevant portions of document SCT/26/4, and examining special provisions for developing countries and Least Developed Countries (LDCs)” (see Annex II to document SCT/26/8).

It is recalled that document SCT/26/4 presented information “on how the Development Agenda Recommendations, in particular Cluster B, were mainstreamed with regard to the work of the SCT on industrial design law and practice”. The document analyzed, in particular, how the draft Articles and Rules took into account the flexibilities related to industrial designs in international intellectual property agreements (see Chapter V of document SCT/26/4)<sup>1</sup>. The document further identified flexibilities inherent in the draft Articles and Rules (see point (c) of Chapter VI of document SCT/26/4)<sup>2</sup>.

With regard to the terms of reference mentioned in paragraph 1 above, the Secretariat has prepared the following analysis of flexibilities for SCT Members in the draft Articles and draft Rules. The information is presented in three parts. Part I, “The Concept of Flexibilities,” seeks, with reference to the pertinent literature, to define that term, with a view to circumscribing its meaning for the purposes of the present study. Part II, “Analysis of the Flexibilities in the Draft Provisions”, builds on the analysis made in document SCT/26/4, and considers certain additional flexibilities that might be introduced. Part III, “Special Provisions for Developing Countries and LDCs”, examines some of the special clauses in WIPO-administered treaties, applicable only to developing countries and LDCs.

### **SECTION A: THE CONCEPT OF “FLEXIBILITIES”**

“Flexibilities” is a frequently-used term with regard to the implementation of obligations deriving from international instruments, in particular the Agreement on Trade-Related Aspects of Intellectual Property Rights (“TRIPS Agreement”)<sup>3</sup>.

There is no single definition of the term “flexibilities”. Focus is sometimes put on the exceptions and limitations allowed by the TRIPS Agreement. Emphasis is also placed on the possible interpretation, by WTO Members, of the TRIPS Agreement provisions, when considering the available option for transposing those provisions into national law. The permitted options that

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<sup>1</sup> Recommendation 17 of the 45 Recommendations Under the WIPO Development Agenda reads as follows: “In its activities, including norm-setting, WIPO should take into account flexibilities in international intellectual property agreements, especially those which are of interest to developing countries and LDCs.”

<sup>2</sup> Recommendation 22, second paragraph, of the 45 Recommendations Under the WIPO Development Agenda reads as follows: “The WIPO Secretariat, without prejudice to the outcome of Member States considerations, should address in its working documents for norm-setting activities, as appropriate and as directed by Member States, issues such as : [...] (d) potential flexibilities, exceptions and limitations for Member States [...]”.

<sup>3</sup> WIPO Committee on Development and Intellectual Property (CDIP), Fifth Session, *Patent Related Flexibilities in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels*, document CDIP/5/4 REV. (Geneva, WIPO Secretariat, 26 to 30 April 2010), para 22; H. Yamane, *Interpreting TRIPS – Globalisation of Intellectual Property Rights and Access to Medicines*, Oxford, UK and Portland, Oregon, Hart Publishing, 2011, p. 246.

may be used in the implementation of the provisions of the Agreement when designing national IP regimes are also highlighted<sup>4</sup>.

As such, the term “flexibility” is contained in the sixth recital of the Preamble of the TRIPS Agreement, which recognizes the need of LDCs for flexibility in the implementation of the Agreement<sup>5</sup>. The term “flexibility” is further used in Article 66.1 of the TRIPS Agreement, which refers to the transition period allowed for LDCs to apply the provisions of the Agreement.

Since the Doha Declaration on the TRIPS Agreement and Public Health (“the Doha Declaration”), adopted in November 2001, the term “flexibilities” has been used in connection with certain provisions in the TRIPS Agreement. The Doha Declaration affirms expressly that “the Agreement can and should be interpreted and implemented in a manner supportive of WTO Members’ right to protect public health and, in particular, to promote access to medicines for all”. The declaration goes on to mention specific provisions that can be used to support WTO Members’ right to protect public health and promote access to medicines, such as compulsory licenses and provisions concerning the exhaustion of intellectual property rights, whereby each Member is free to establish its own exhaustion regime.

The term “flexibilities” has also been used in a more general way to refer to the different options available to Members of the WTO to transpose TRIPS obligations into their national law<sup>6</sup>. Members can use the option that best suits their economic, social and cultural needs<sup>7</sup>. The selected option can be put in place through mechanisms such as exceptions or limitations to rights conferred (e.g., limited exceptions to the protection of industrial designs as contemplated in Article 26.2 of the TRIPS Agreement); the selection of the method to implement TRIPS obligations (e.g., the choice between industrial design law or copyright law to secure protection for textile designs); or the interpretation given to terms that are not defined in the treaty (e.g., the interpretation of what constitutes an industrial design).

In its general meaning, the term “flexibilities” implies that (i) there are options granted by the treaty in the implementation process, (ii) there is a national legislative process of implementation, (iii) the option chosen is determined by national interests and (iv) is, at the same time, compatible with the provisions and principles of the treaty<sup>8</sup>.

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<sup>4</sup> See A. Taubman, *A Practical Guide to Working with TRIPS*, Oxford, Oxford University Press, 2011, p. 43; C. Geiger, “Exploring the flexibilities of the TRIPS Agreement’s provisions on limitations and exceptions”, in A. Kur and V. Mizaras, *The Structure of Intellectual Property Law - Can One Size Fit All?*, Cheltenham, UK, Northampton, MA, USA, Edward Elgar, 2011, p. 287; G. Duffield, “Knowledge diplomacy and the new intellectual property fundamentalism”, in J. Malbon and C. Lawson, *Interpreting and Implementing the TRIPS Agreement - Is it Fair?*, Cheltenham, UK, Northampton, MA, USA, Edward Elgar, 2008, p. 31; Ng-Loy Wee Loon, “Exploring flexibilities within the global IP standards”, *I.P.Q.* 2009, 2, p. 162-184; C. Deere, *The Implementation Game – The TRIPS Agreement and the Global Politics of Intellectual Property Reform in Developing Countries*, Oxford, Oxford University Press, 2009, p. 68; P. Roffe, C. Spennemann and J. von Braun, “Intellectual property rights in free trade agreements: moving beyond TRIPS minimum standards”, in C. M. Correa, *Research Handbook on the Protection of Intellectual Property under WTO Rules - Intellectual Property in WTO*, Vol. I, Cheltenham, UK, Northampton, MA, USA, Edward Elgar, 2010, p. 269; H. Yamane, *op. cit.*, p. 246; P.-T. Stoll, J. Busche, K. Arend, *WTO – Trade-Related Aspects of Intellectual Property Rights*, Vol. 7, Leiden, Boston, Martinus Nijhof Publishers, 2009, p. 680-681.

<sup>5</sup> T. Cottier and C. Germann, in Cottier/Véron *Concise International and European IP Law*, The Hague, Kluwer Law International, 2008, p. 9.

<sup>6</sup> WIPO Committee on Development and Intellectual Property (CDIP), Fifth Session, *Patent Related Flexibilities in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels*, *op. cit.*, para 34.

<sup>7</sup> Ng-Loy Wee Loon, *op.cit.*

<sup>8</sup> WIPO Committee on Development and Intellectual Property (CDIP), Fifth Session, *Patent Related Flexibilities in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels*, *op. cit.*, para 34.

It is in this general sense that the term “flexibilities” can be used in connection with international instruments other than the TRIPS Agreement. It is usually admitted that any international instrument leaves to parties certain “room for manoeuvre” in the implementation process and the interpretation of the instrument<sup>9</sup>. The term “flexibilities” can be used to refer to the specific provisions and mechanisms in an international instrument, giving parties some leeway to transpose their obligations under the instrument into national or regional law, so as to enable them to accommodate their national or regional interests and realities and to comply, at the same time, with the provisions and principles of the instrument<sup>10</sup>.

## **SECTION B: ANALYSIS OF THE FLEXIBILITIES IN THE DRAFT PROVISIONS**

When examining the flexibilities in the draft provisions, it is important to bear in mind the nature and scope of such provisions. The legal instrument that could encompass the provisions under consideration would be a stand-alone instrument. Maybe with the exception of the proposed grace period for filing further to disclosure, the provisions are limited to procedural issues dealing mainly with formalities. They do not touch on substantive issues of protection, such as subject matter or conditions and scope of protection, nor do they deal with enforcement. The scope of the flexibilities contained in the draft provisions is therefore not directly comparable to that of the flexibilities in the TRIPS Agreement or in other instruments containing minimum standards of protection.

With regard to the TRIPS Agreement, one author<sup>11</sup> distinguishes between four types of general “flexibilities”, namely:

- (a) Flexibilities as to the method of implementing TRIPS obligations;
- (b) Flexibilities as to substantive standards of protection;
- (c) Flexibilities as to mechanisms of enforcement;
- (d) Flexibilities as to areas not covered by the TRIPS Agreement.

Taking into account the limited nature of the instrument that could result from the current work of the SCT concerning industrial design law and practice (hereinafter, “the instrument”), only the first and fourth types of flexibilities would be applicable to that instrument. Because the draft provisions do not provide for substantive standards of protection, they do not, by definition, provide for flexibilities concerning measures that limit the rights conferred by an industrial design. Furthermore, considering that the draft provisions are not concerned with enforcement, they cannot contain flexibilities related to mechanisms of enforcement.

The following paragraphs examine the most salient flexibilities that would be available. They have been divided into three groups, namely as to the acceptance of the instrument, as to the implementation of the provisions and, finally, flexibilities resulting from areas not covered by the provisions.

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<sup>9</sup> WIPO Committee on Development and Intellectual Property (CDIP), Fifth Session, *Patent Related Flexibilities in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels*, op.cit., para 22; H. Yamane, op. cit., p. 246.

<sup>10</sup> WIPO Committee on Development and Intellectual Property (CDIP), Fifth Session, *Patent Related Flexibilities in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels*, op. cit., para 34; N. Pires de Carvalho, *The TRIPS Regime of Trademarks and Designs*, The Hague, Kluwer Law International, 1<sup>st</sup> edition, 2006, p. 29, para 1.76; N. Pires de Carvalho, *The TRIPS Regime of Patent Rights*, The Hague, Wolters Kluwer, 3<sup>rd</sup> edition, 2010., p. 62.

<sup>11</sup> N. Pires de Carvalho, *The TRIPS Regime of Trademarks and Designs*, op.cit., p. 20-30, para 1.77.

## B.1 FLEXIBILITIES AS TO THE ACCEPTANCE OF THE INSTRUMENT

Contrary to the TRIPS Agreement, the instrument would not be part of an overall package, but would be a stand-alone instrument. Parties would therefore decide when they ratify or access the instrument, presumably at a time at which the relevant parameters will enable them to implement the agreement.

Nevertheless, there are several flexibilities that could be provided for in relation with the acceptance of the instrument, in the form of reservations and declarations.

### B.1.1 Flexibility to Accept the Instrument with Reservations<sup>12</sup>

The instrument could provide for reservations. A number of WIPO-administered treaties provide for reservations, including the Trademark Law Treaty (“TLT”), the Patent Law Treaty (“PLT”) and the Singapore Treaty on the Law of Trademarks (“STLT”).

Two types of reservations could be contemplated, namely reservations whereby a Contracting Party would exclude the acceptance of specific clauses of the instrument and reservations amounting to interpretative statements, whereby a Contracting Party would accept specific clauses, but within a given framework or with a given sense (reservations purporting to modify the legal effect of certain provisions)<sup>13</sup>.

In WIPO-administered treaties, examples of the first type of reservations can be found in Article 21(1) of the TLT (whereby certain provisions of the Treaty shall not apply to associated marks, defensive marks or derivative marks); in Article 23(1) of the PLT (whereby a specific provision of the treaty shall not apply to a requirement relating to unity of invention applicable under the Patent Cooperation Treaty to an international application); and in Article 29(1) (Special Kinds of Marks), (2) (Multiple-class Registration), (3) (Substantive Examination on the Occasion of Renewal) and (4) (Certain Rights of the Licensee) of the STLT. For instance, under Article 29(3) of the STLT, a reservation can be made by a Contracting Party, with a view to allowing its Office to carry out a substantive examination of a registration covering services, on the occasion of the first renewal of such registration.

An example of a reservation of an interpretative nature can be found in Article 8(2) of the Brussels Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite, of May 21, 1974, whereby any Contracting State may declare that, for its purposes, the words “where the originating organization is a national of another Contracting State” appearing in Article 2(1) shall be considered as if they were replaced by the words “where the signal is emitted from the territory of another Contracting State”.

Another example is Article 2 of the Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder, which provides that “when adopting the Treaty, the Diplomatic Conference agreed that the words “procedure before the Office” in Article 1(viii) would not cover judicial procedures under Contracting Parties’ legislation.

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<sup>12</sup> Pursuant to Article 2.1(d) of the Vienna Convention on the Law of Treaties, of 23 May 1969, “ ‘reservation’ means a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State”.

<sup>13</sup> See Manuel Díez de Velasco, *Instituciones de Derecho Internacional Público*, Madrid, Editorial Tecnos, 1997, p. 139.

### B.1.2 Flexibility to Accept the Instrument with Declarations that Have Effect During a Transition Period

Some WIPO-administered treaties provide for the possibility of making declarations that have effect during a limited period of time, specified in the treaty<sup>14</sup>. The effect of this type of declaration is that the Contracting Party excludes the acceptance of certain clauses of the treaty during a limited period of time. At the expiry of that period, the declaration loses its effect and the Contracting Party becomes bound by the clause concerned by the declaration.

The declarations amount, in practice, to reservations with a limited duration. Their aim is to provide Contracting Parties with a transition period to adapt their legislation to the treaty. A Contracting Party may withdraw the declaration at any time before the expiry of the transition period. If the declaration is not withdrawn before, it automatically ceases to have effect at the end of the transition period.

Such declarations can be made subject to certain conditions. For example, their application may be linked to Contracting Parties whose domestic law would, at the time of joining the treaty, be contrary, without the declarations, to the relevant provisions of the treaty. Moreover, any such declaration can be made only at the time of ratification of, or accession to, the Treaty.

Article 22 of the TLT, entitled “Transitional Provisions”, provides for six declarations that could be made by States or intergovernmental organizations when joining the Treaty. The article provides for two transition periods during which any of the declarations can be made and have effect. The first, a period of eight years from the date of entry into force of the Treaty, was applicable to developing countries<sup>15</sup>. The second, a period of six years from the date of entry into force of the Treaty, was applicable to developed countries<sup>16</sup>. The Treaty entered into force on August 1, 1996. Declarations made after that date ceased to have effect on August 1, 2004, at the latest. As from August 1, 2004, no declaration can be made by a State or intergovernmental organization joining the Treaty.

## B.2 FLEXIBILITIES AS TO THE IMPLEMENTATION OF THE PROVISIONS IN THE INSTRUMENT

Several draft Articles and draft Rules contain the verb “may” and, in particular, indicate that “a Party may require”, “a Party may allow”, “a Party may choose”, “a Party may provide” or “a Party may exclude”<sup>17</sup>. This wording offers various possibilities and allows Parties to opt for the elements to be implemented into their respective law. The following paragraphs describe a number of further flexibilities in the implementation of the provisions in the possible instrument.

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<sup>14</sup> Examples are found in Article 22 of the TLT.

<sup>15</sup> One developing country made declarations under Article 22, namely the Democratic Socialist Republic of Sri Lanka.

<sup>16</sup> Two developed countries made declarations under Article 22, namely Japan and Spain.

<sup>17</sup> See notably draft Articles 3(1)(a), 4(1)(a), 4(2)(a) (in option 1) and 4(2) (in option 2), 7(1), 9(2)(a) (in option 1), 9(1) (in option 2), 9(2) (in option 2), 10(1), 10(2)(a), 10(2)(b), 10(3), 10(4), 10(5)(a), 11(1)(b), 11(2), 12(1), 12(4), 13(1) (in option 2), 13(3), 13(4), 18(1)(b), 18(2)(a), 18(2)(b), 18(2)(c), 18(2)(d), 18(3), 18(7), 19(1)(b), 19(1)(c), 20(1)(b), 20(1)(c), 20(1)(d), 20(2)(a) and 20(6). See also, in particular, draft Rules 2(1), 4(3), 7(1)(a), 7(1)(b), 7(2)(a), 7(2)(b), 7(3), 7(4), 7(6), 10(1)(a), 10(1)(b), 10(3), 11(1), 12(1)(a), 12(1)(b), 12(2)(a), 12(2)(c), 12(3)(a), 12(4), 13(1), 13(2), 14 and 15.

### B.2.1 Flexibility as to the Conditions for Accepting So-Called “Multiple Applications”

Article 3(3) provides that an application may include two or more industrial designs. These applications are sometimes called “multiple applications”. The same article provides, however, that acceptance of so-called multiple applications by an Office is subject to such conditions as may be prescribed under the applicable law<sup>18</sup>. The conditions for accepting multiple applications are not defined. Therefore, while the possibility to file multiple design applications is given to applicants, each Party would have flexibility to determine the conditions under which such multiple applications would be treated and, eventually, accepted.

It is recalled that multiple applications entail the need for Offices that carry out substantive examination to undertake searches for each industrial design included in the application. In this regard, a major concern for those Offices lies in the ability to adequately recover search and examination costs. Due to the flexibility given to Parties to decide upon the conditions under which their Office would accept multiple applications, a Party may choose the condition that best responds to its needs and constraints in terms of search and examination. For example, a Party could prescribe that it accepts multiple applications only where all the designs in the application apply to, or are constituted by, products which belong to the same class of the Locarno Classification, or only where all the designs in the application conform to the requirement of unity of design or unity of invention, or when the products to which the design is applied belong to a set or are intended for the same purpose.

### B.2.2 Flexibility as to the System for Maintaining an Industrial Design Unpublished

Article 9(1) provides that “a Party shall allow an applicant to maintain an industrial design unpublished for a period of time”. However, the article does not provide for a specific system for maintaining an industrial design unpublished, but rather gives the option to each Party. Under Article 9(2), “a Party may require that, for the purposes of maintaining the industrial design unpublished under paragraph (1), the applicant make a request to the Office”. At the option of a Party, the request could be for deferment of publication or for a secret design.

Maintaining the industrial design unpublished by means of a request by the applicant would be one way to comply with Article 9(1). A Party may comply with this Article through other means, for example, through a system based on allowing applicants to delay the payment of the registration or publication fees (which would, *de facto*, result in delaying publication of the industrial design), or any other system that would result in maintaining the industrial design unpublished for a period of time. It would be for each Party to choose the option that best suits its needs and corresponds to its practice.

Dealing with a request for maintaining an industrial design unpublished entails an administrative burden for Offices. The publication of industrial designs for which deferment of publication or secrecy has been requested does not follow a sequential order. Instead, the publication takes place at a later stage, once the applicant requests it or the deferment period expires. Arranging for publication at a later stage, out of a sequential order, adds to the workload of an Office. A Party whose Office would not have the administrative capacity to maintain an industrial design unpublished upon request could rather opt for a system of delayed payment. Under such a system, it would be exclusively for the applicant to monitor the publication by paying the fees at an earlier or later stage of the procedure. The Office would not have any additional administrative burden.

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<sup>18</sup> Article 3(3) of the draft Articles reads: “Subject to such conditions as may be prescribed under the applicable law, an application may include two or more industrial designs”.

### B.2.3 Flexibility as to the Period for Maintaining an Industrial Design Unpublished

Article 9(1) does not provide for any uniform period of time during which a Party is required to maintain an industrial design unpublished. Rather, it provides for a minimum period, prescribed in the Regulations, and leaves it to each Party to determine the maximum period during which an industrial design can be kept unpublished in its territory. Thus, a Party would have the flexibility to opt for a short or a long period of “secrecy” of the industrial design, based on the interests of its national industry or other policy considerations.

### B.2.4 Flexibility to Require the Appointment of a Representative or an Address for Service or Address for Correspondence

Under Article 4(2), a Party may require the appointment of a representative for procedures before the Office. Under Article 4(3), a Party may require, instead of the appointment of a representative, that an address for service or an address for correspondence in the territory of the Party be indicated. Thus, a Party would be able to choose between the most stringent option of requiring a representative, the less stringent option of requiring an address for service or an address for correspondence, or the liberal option of not requiring any representation or address in its territory for the purpose of procedures before the Office.

The choice of option will presumably depend on issues such as language, the degree of complexity of the procedures and their administrative or financial impact on Offices. For instance, in order to avoid the cost for its Office of sending paper communications abroad, a Party may require the appointment of a representative or the indication of an address in its territory.

### B.2.5 Flexibility as to the Form of Communications

Under Article 10(1), concerning communications, a Party may choose to accept Communications on paper, in electronic form, or in any other form. For instance, Parties would have flexibility not to accept communications in electronic form until they are ready and willing to do so.

### B.2.6 Flexibility as to the Form of Representation of the Industrial Design

Under Rule 3(1) of the draft Regulations, an Office would have to accept photographs and graphic reproductions as forms of representation of an industrial design. An Office would also have to accept “other visual representations admitted by the Office”. The terms “admitted by the Office” give flexibility to Offices as regards the other acceptable forms of representation, for example videos.

## **B.3 FLEXIBILITIES RESULTING FROM AREAS NOT COVERED BY THE PROVISIONS**

There are a number of issues that are not dealt with in the draft provisions. There are also many concepts that are not defined, which leaves complete freedom to each Party to adopt the definition that is more suitable to its needs and legal traditions. Moreover, some draft Articles and draft Rules contain concepts that are expressed in general terms, such as “sufficiently clear

representation”, “reasonable time limit” or “reasonably doubt(s)”, which require further interpretation by the Parties<sup>19</sup>. These expressions contribute to flexibility of the draft provisions. The following paragraphs refer, more particularly, to some of the flexibilities resulting from areas not covered by the draft provisions.

### B.3.1 Flexibility as to the Definition of Industrial Design

The draft Articles and Regulations do not contain any definition of industrial design. It follows that Parties would be left free to decide what matter can or cannot be protected as an industrial design under their applicable law. For example, Parties could decide that get-up and trade dress, texture or material, or graphical user interfaces, cannot be protected as an industrial design.

### B.3.2 Flexibility as to the Articles or Products Embodying an Industrial Design

The draft provisions do not contain any obligation or prohibition concerning the products in which an industrial design can be embodied. Taking into account their individual needs and specific policies, Parties can exclude certain articles from design protection, for example parts of a product. Parties will also remain free to expressly provide for the protection of designs embodied in particular products, for example handicrafts. This possibility can be usefully availed of by countries wishing to foster local handicrafts.

### B.3.3 Flexibility as to the System of Protection for Industrial Designs

The draft provisions relate to industrial design formalities. They accommodate the requirements of so-called registration systems and of systems that protect designs through design patent legislation. Each Party would therefore be able to continue to apply its system of protection for industrial designs.

## **SECTION C: SPECIAL PROVISIONS FOR DEVELOPING COUNTRIES AND LDCS**

Some WIPO-administered treaties include, or are supplemented by, special clauses for developing countries and LDCs. That is the case of the Paris Act (1971) of the Berne Convention for the Protection of Literary and Artistic Works, which includes an appendix with special provisions concerning developing countries<sup>20</sup>. It is also the case of the STLT, which includes a Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder (“the Resolution”).

The Resolution was adopted “with a view to facilitating the implementation of the Treaty in developing countries and LDCs”. It was proposed by a number of countries that were concerned that the digital divide between developed and developing countries would limit the capacity for developing countries and LDCs to benefit from the provisions of the treaty.

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<sup>19</sup> See notably draft Articles 5(1)(iii), 10(2)(b), 10(5)(c), 12(6), 13(5), 14(5), 18(7), 19(5) and 20(4). See also, in particular, draft Rule 4(3).

<sup>20</sup> The special provisions in the Appendix allow developing countries to make certain reservations, for example in respect of the reduction of the term of protection concerning the exclusive right of translation.

In paragraph seven of the Resolution, the Diplomatic Conference acknowledges the special situation and needs of LDCs. In that context, the Resolution requests additional technical assistance from the WIPO and the Contracting Parties for developing countries and LDCs. Such assistance comprises “technological, legal and other forms of support to strengthen the institutional capacity of those countries to implement the Treaty and enable those countries to take full advantage of the provisions of the Treaty”. For example, the Resolution mentions “assistance in establishing the legal framework for the implementation of the Treaty, information, education and awareness-raising as regards the impact of acceding to the Treaty, assistance in revising national administrative practices and procedures, and assistance in building up the necessary manpower and facilities of the IP Office”.

The Resolution also provides for the monitoring and evaluation, by the Singapore Treaty Assembly, of the “progress of the assistance related to implementation efforts and the benefits resulting from such implementation”.

#### **SECTION D: SUMMARY**

This part of the study is introduced by an overview of various usages of the term “flexibilities” in connection with international treaties, in particular the TRIPS Agreement, suggesting that the term does not have a single meaning. For the purposes of the present study, the term “flexibilities” is used in its more general meaning and refers to the provisions and mechanisms in an international instrument, which give parties some leeway to transpose their obligations under the instrument into national or regional law.

This part of the study goes on to describe three types of flexibilities in the possible instrument under consideration. The first concerns flexibilities that are available in international public law at the time of accepting an international instrument, such as reservations and declarations. It is shown how some WIPO-administered treaties, in particular those that are similar in nature to the possible instrument under consideration, include this type of flexibilities.

The second type of flexibilities relates to those that are present in the draft provisions and give different options to Parties to implement the provisions. This chapter builds on the analysis made in document SCT/26/4.

Finally, this part of the study examines the Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder, which was adopted by the Singapore Diplomatic Conference with regard to specific needs and concerns of developing countries and LDCs.

[Annex IV follows]

## STATISTICAL INFORMATION AND ANALYSIS

### INTRODUCTION

The Terms of Reference for this study asked for statistical information, within the scope of available data, on design right filing trends and comparative filing patterns. In particular, the study should include three levels of detailed information, namely, (a) general observed trends in protection of industrial designs, (b) statistical analysis on the demand for protection of industrial designs, and (c) statistical analysis on the origin, destination and class of products of industrial designs (Annex II, STC/26/8).

This part of the study seeks to respond to the TOR's demand by presenting a wide range of statistical indicators. In particular, it provides information on the demand for industrial design protection by office (i.e. the geographical location of applications), origin (i.e. source of applications) and class of products (using the Locarno classification).

The discussion is divided into five sections:

- Section A presents the global aggregate trend of industrial design applications. Resident and non-resident applications, as well as applications by class are presented in order to understand the driving force behind the overall trend in industrial designs;
- Section B presents indicators based on national and regional IP offices to provide an overview of the geographical location of demand for industrial designs;
- Section C provides analysis of data by origin to provide information on the source of demand for industrial designs;
- Section D presents industrial design data by office and origin to highlight the flow of applications between source and destination countries;
- Section E presents industrial design application data by origin and class, showing which origins are generating applications in which Locarno classes.

The statistical analysis focuses on industrial design applications only and does not include registrations. Application data are most often used to measure the level of intellectual property (IP) activity. Furthermore, statistics for industrial designs registrations tend to mirror those for applications. This is due to the fact that the registration of an industrial design in many offices involves only a formality examination.

Unfortunately, the analysis could not compile any statistics specific to small and medium-sized enterprises (SMEs). WIPO's statistics questionnaire sent to IP offices worldwide does not ask for a breakdown of IP activity according to the size of (company) applicants. Indeed, it would be difficult for most offices to generate such statistics, as applicants generally do not reveal their size when filing an IP right. Some offices extend fee discounts to SMEs and the take up of such discounts may give an indication of the extent to which SMEs use the IP system. However, such data would invariably need to be compiled from the operational databases of offices, which is a resource-intensive and time-consuming task. In addition, the definition of what constitutes an SME invariably differs from country to country, precluding direct comparisons across offices.

## DATA METHODOLOGY

The data used in this report are taken from the WIPO Statistics Database as well as data on international registrations from the Hague system. The WIPO Statistics Database is primarily based on WIPO's Annual IP Survey. This survey is an annual questionnaire sent to national and regional IP offices around the world. In cases where an office does not provide data, but the data are published on their websites or in annual reports, these data, where possible, are used.

World totals for applications and income group totals are WIPO estimates. Linear extrapolation and average adjacent data points are used to estimate missing data. Data are available from the majority of the larger offices; only a small share of the world total is estimated. For the world totals, 104 offices provided data, while statistics for another 26 offices were estimated.

There are three main types of data available for this report: applications, applications by class, and the number of designs contained in applications (design counts). Not all offices provide application data broken down by class or by design count. Applications by class are based on direct application data from 47 offices, as well as international application data filed via the Hague system from 57 offices, combining for an aggregate of 81 offices. Design count data are available, through the same method, from 82 offices.

When an office did not provide design count data, its respective application count data were used to approximate its design count totals. For the offices where these approximations were done, design counts may be under represented. If the office utilizes a multiple design per application process then the total design count will be biased downwards. For offices that use a single design application system, the application count total and design count total will be identical. Due to this and the large variation in the number of offices reporting design count data over time, design count was only used to present 2010 totals for offices and origins. Application count data were used for time trends and breakdowns of application flows between origins and their destination office.

Income groups presented are based on the World Bank income classification. Income groups are defined by the level of gross national income per capita. The groups are: low-income (USD 1,005 or less); lower middle-income (USD 1,006 to USD 3,975); upper-middle-income (USD 3,976 to USD 12,275); and high-income (USD 12,276 or more). In a number of indicators low-income, lower middle-income and upper middle-income are merged and presented simply as middle and low-income.

## SECTION A: GLOBAL TREND

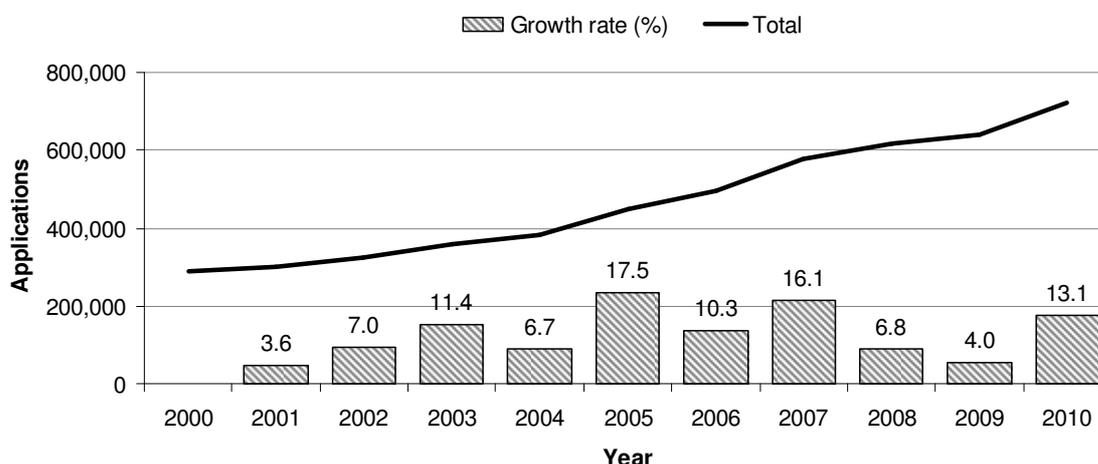
### A.1 TREND IN TOTAL INDUSTRIAL DESIGN APPLICATIONS

Industrial design filings grew in every year from 2000 until 2010, often at double-digit rates. In 2000, roughly 300,000 applications were filed. By the decade's end, the number of applications filed in a single year had increased to over 720,000.

Figure A.1.1 presents the trend of applications since 2000 until 2010. The graph refers to applications filed directly at national and regional IP offices, as well as design countries made through the Hague system. Industrial design applications began the decade with positive growth. They experienced especially fast growth between 2003 and 2007, with 2005 seeing yearly applications grow from 380,000 to over 450,000 – a growth rate of 17.5%. With the onset of the economic downturn in 2008, the growth rate in the number of industrial design

applications began to slow, but there was still 6.8% growth in applications. In 2009, filing growth fell to 4.0%, followed by double-digit growth in 2010. The data show that the demand for industrial designs remained robust during the recession, which is mostly due to strong growth in China (see A.2).

**Figure A.1.1 Trend in Total Industrial Design Applications, 2000-2010**



Note: The world total is a WIPO estimate covering around 130 offices. This estimate includes direct applications and designations received via international registrations through the Hague system.  
Source: WIPO Statistics Database, March 2012

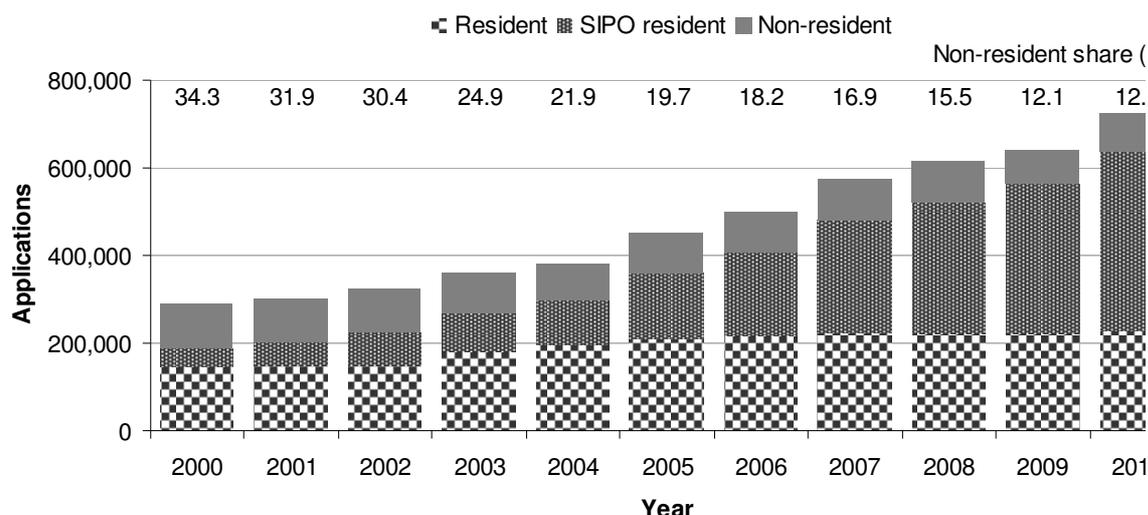
## A.2 RESIDENT AND NON-RESIDENT INDUSTRIAL DESIGN APPLICATIONS

Industrial design applications of national and regional IP offices can be broken down by resident and non-resident applications. A resident application is an application made by an individual or organization residing in the country/region for which the IP office has jurisdiction. For example, when an applicant who resides in the United States of America (US) files an application at the United States Patent and Trademark Office (USPTO), this application is considered a resident application. A non-resident filing, likewise, is an industrial design application filed by an applicant of a given country/region at an IP office of another country or region. An application filed at the USPTO by an applicant whose legal residence is in Canada, is considered a non-resident application<sup>1</sup>.

Figure A.2.1 provides the global trend of industrial designs by resident and non-resident applications for the period 2000-2010. Grey segments depict non-resident applications for all countries. Total resident applications are broken down by resident applications filed at the State Intellectual Property Office of China (SIPO) and resident applications filed at all other offices. SIPO has seen rapid growth in industrial design applications from residents of China. In 2000, these filings represented 24% of global resident filings; by 2010 they represented over 64%. Excluding resident applications filed at SIPO, growth of resident filings worldwide has been fairly modest. From 2005 until 2010 these filings had an annualized growth rate of 1.7%, and in 2008 resident filings actually declined by 1.8%. Also, the share of non-resident filings in total filings doubled if one excludes SIPO - from the 12.0% seen in the figure, to 24.6% in 2010.

<sup>1</sup> It should be noted that the residency criterion is applied irrespective of the ultimate beneficial ownership of the applicant. For example, applications filed by IBM Switzerland are allocated to Switzerland rather than the US.

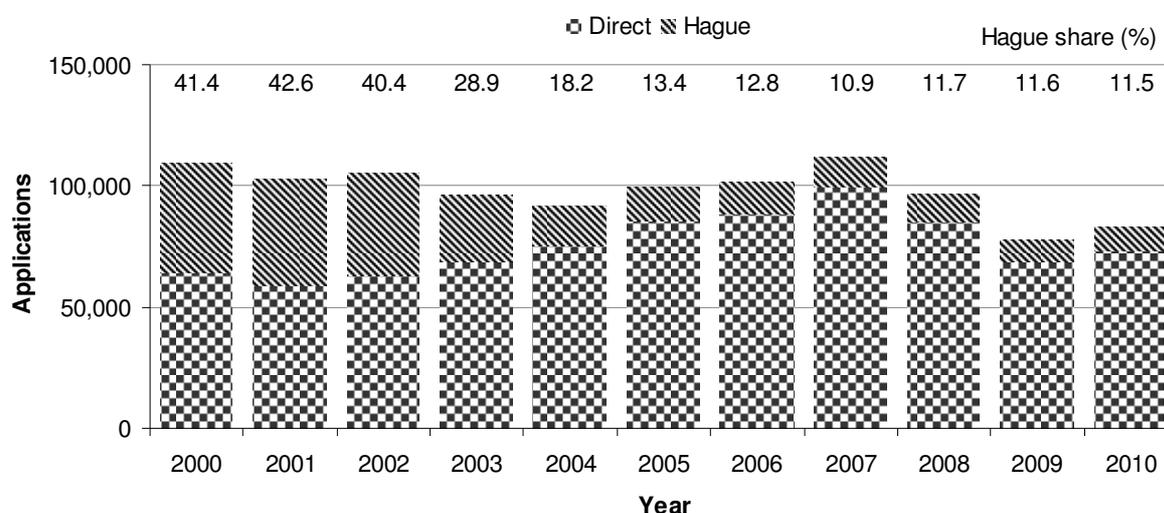
**Figure A.2.1 Resident and Non-Resident Trend, 2000-2010**



Source: WIPO Statistics Database, March 2012

Figure A.2.2 shows non-resident applications by filing route, that is, directly at the national IP offices or by filing an international registration via the Hague system, between 2000 and 2010.

**Figure A.2.2 Non-Resident Applications by Filing Route, 2000-2010**



Note: The Hague share of non-resident applications is impacted by the fact that not all national IP offices are members of the Hague system, for example the USPTO. Also with the inclusion of OHIM in 2008 to the Hague system, an applicant filing through the Hague system only had to designate one office, OHIM, rather than multiple European offices.  
Source: WIPO Statistics Database, March 2012

The overall trend of non-resident applications is slightly negative from 2000 to 2010. The figure shows the adverse effect of the economic downturn in 2008 and 2009, with non-resident filings declining by 1.9% and 18.7%, respectively. The number of applications made via the Hague system has followed a downward trend, with the share of Hague filings on total filings dropping from a peak of 42.6% in 2001 to just 11.5% by the end of the decade. One of the primary reasons for this drop is the creation of the Office for Harmonization in the Internal Market (OHIM), in 2003. Applicants primarily focused on the European market tended to switch from using the Hague system to using OHIM, to file at multiple IP offices in Europe. The creation of

OHIM is also the reason for the drop in total non-resident applications in 2003 and 2004, since residents of Europe no longer had to file a non-resident application at various national IP offices, but could instead file a single resident application at OHIM.

Overall, from the above figures, we get the following picture of the general global trend. The total number of industrial design applications grew considerably between 2000 and 2010. However, if applications filed at SIPO are excluded, we observe a modest growth in applications between 2000 and 2007, followed by a decline in both resident and non-resident applications, which coincide with the global economic downturn.

### A.3 APPLICATIONS BY CLASS

Table A.3.1 presents global industrial design applications by class, in 2010. Class refers to the 32 classes for industrial designs according to the Locarno Agreement. The largest class, in terms of number of applications, in 2010, was furnishings (class 6), with over 15,000 applications, followed by packages and containers (class 9) and articles of clothing (class 2). The combined share of the three top classes is around 27% and the share has remained stable over the past three years. Furnishing has been the largest class, in terms of application counts, since at least 2008.

**Table A.3.1: Applications by Class, 2010**

Class number	Class name	Number of applications	Class share of total (%)	Annual Growth (%): 2009-10
6	Furnishing	15,359	10.0	27.8
9	Packages and containers for the transport or handling of goods	14,127	9.2	52.2
2	Articles of clothing and haberdashery	12,121	7.9	14.1
25	Building units and construction elements	8,902	5.8	69.8
23	Fluid distribution equipment, sanitary, heating, ventilation and air-conditioning equipment, solid fuel	8,880	5.8	24.8
7	Household goods, not elsewhere specified	8,794	5.7	27.6
12	Means of transport or hoisting	8,532	5.6	62.9
8	Tools and hardware	8,266	5.4	69.6
14	Recording, communication or information retrieval equipment	8,223	5.4	37.3
26	Lighting apparatus	7,850	5.1	38.0
32	Graphic symbols and logos, surface patterns, ornamentation	6,243	4.1	41.0
11	Articles of adornment	5,647	3.7	8.8
21	Games, toys, tents and sports goods	5,159	3.4	29.0
19	Stationery and office equipment, artists' and teaching materials	4,564	3.0	30.1
10	Clocks and watches and other measuring instruments, checking and signalling instruments	4,376	2.9	-9.9
15	Machines, not elsewhere specified	3,872	2.5	66.6
3	Travel goods, cases, parasols and personal belongings, not elsewhere specified	3,281	2.1	25.2
13	Equipment for production, distribution or transformation of electricity	3,209	2.1	59.6
24	Medical and laboratory equipment	2,718	1.8	22.9
28	Pharmaceutical and cosmetic products, toilet articles and apparatus	2,229	1.5	50.4
20	Sales and advertising equipment, signs	2,207	1.4	25.9
5	Textile piecegoods, artificial and natural sheet material	1,359	0.9	3.1
16	Photographic, cinematographic and optical apparatus	1,205	0.8	21.1
1	Foodstuffs	1,173	0.8	5.2
4	Brushware	923	0.6	46.3
30	Articles for the care and handling of animals	857	0.6	38.2
31	Machines and appliances for preparing food or drink, not elsewhere specified	733	0.5	28.4
22	Arms, pyrotechnic articles, articles for hunting, fishing and pest killing	506	0.3	20.2
27	Tobacco and smokers' supplies	393	0.3	36.0
18	Printing and office machinery	343	0.2	-6.8
29	Devices and equipment against fire hazards, for accident prevention and for rescue	333	0.2	66.5
17	Musical instruments	200	0.1	57.5
0	Unknown	910	0.6	-14.4

Note: These numbers are based on direct filing data from 47 offices – which include, for example, OHIM of the European Union (EU) and the offices of Australia, Canada, France and New Zealand – and on Hague designation data from 57 offices, resulting in an aggregate total of 81 offices

Source: WIPO Statistics Database, March 2012

In terms of growth, the majority of classes witnessed strong declines between 2008 and 2009. However, as can be seen in the table, they have subsequently rebounded. All of the classes, except three classes, recorded growth in application between 2009 and 2010. For example, the volume of applications for class 25 (building units and construction elements) and class 8 (tools and hardware) in 2010 is around 70% higher than their 2009 volume.

Class 32 (graphic symbols et al.) saw considerable growth following the introduction of this class in 2009.

## **SECTION B: INDUSTRIAL DESIGN APPLICATIONS BY OFFICE**

This section presents industrial design statistics organized by national and regional IP offices. The number of applications received by an IP office reflects the demand for protection in that given jurisdiction. By comparing application count data between offices, we can get a rough idea regarding the relative volume of demand per office, as well as the change in demand over time.

### **B.1 INDUSTRIAL DESIGN APPLICATIONS BY INCOME GROUP**

Table B.1.1 presents industrial design applications broken down by IP offices' respective income groups. As can be seen, the majority of applications are filed in upper middle-income economies – around 63.2% of all applications in 2010. The upper middle-income group was separated further to highlight the prominent role played by the IP office of China in that group. In particular, applications received by SIPO account for over 92% of all the applications received by upper middle-income offices. The share of upper middle-income economies increased from 43.2% in 2006 to 63.2% in 2010. In contrast, the share of high-income group declined from 52.2% to 33.9% over the same period. The lower middle-income and the low-income groups accounts for less than 3% of all applications and their combined share has declined between 2006 and 2010.

All income groups, except the upper middle-income group, saw decline in applications between 2006 and 2010. Applications received by offices of low-income economies declined by 11.5% a year, while high-income and lower middle-income economies each saw around 3% average annual declines during the 2006-10 period. For the high-income group, both resident and non-resident applications declined. Conversely, for middle and low-income offices, the negative decline was driven by a large fall in non-resident applications, while resident applications have remained stable or declined at a lower rate. This can be seen in the drop witnessed in the share of non-resident applications between 2006 and 2010.

The most recent data for high and lower middle-income offices show a recovery of filings, but the volume of applications received by those two groups remains below their 2006 volume.

In all income groups, resident applicants account for the majority of the industrial design applications. For the high-income group, the non-resident share of total applications is 22.3%. The upper middle-income group has the lowest non-resident share (5.5%), but excluding China, its share is around 40%.

The distribution of resident versus non-resident applications for industrial designs differs markedly from that for patents. In particular, for all income groups, the non-residents share of industrial design applications is smaller than the non-resident share of patent applications. In addition, for low and lower middle-income countries, non-residents account for a minority of industrial design applications whereas they account for a majority of patent applications (Figure B.1).

**Table B.1.1 Industrial Design Applications by Income Group – Office Data**

Income Group	Growth (%)		Growth (%), 2006-10	Share of total (%), 2006	Share of total (%), 2010	Non-resident	Non-resident
	2010	2009-10				share (%), 2006	share (%), 2010
High-income	243,340	5.4	-3.6	52.2	33.9	23.2	22.3
Upper middle-income	453,997	18.2	18.1	43.2	63.2	11.6	5.5
Upper middle-income*	32,724	0.2	0.4	6.0	4.6	43.0	39.5
China	421,273	19.9	20.3	37.3	58.6	6.6	2.9
Lower middle- income	19,521	3.0	-3.1	4.1	2.7	40.2	32.0
Low-income	1,588	-15.9	-11.5	0.5	0.2	32.7	23.3

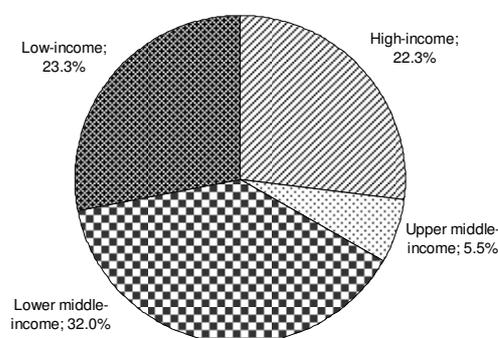
Note: Missing office data was estimated

\*Excluding SIPO office data

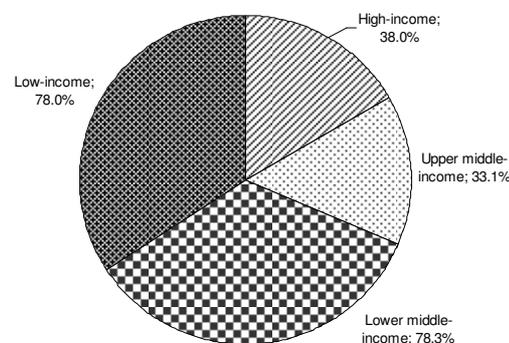
Source: WIPO Statistics Database, March 2012

**Figure B.1 Comparison of Non-Resident Share for Industrial Design and Patent Applications by Income Group, 2010**

**Industrial Designs**



**Patents**



Note: Country coverage for each income group for industrial design and patent data are not identical. The resulting bias is likely to be limited, however, as all the large offices accounting for the majority of the applications are all included.

Source: WIPO Statistics Database, March 2012

**B.2 APPLICATION DESIGN COUNTS BY OFFICE**

When comparing statistics between offices it is important to account for administrative procedures that may affect the number of applications, yet not properly show the level of demand at a given IP office. A prime issue is that some offices utilize a single design system, where each application can only contain one design, whereas other offices use a multiple design system, with multiple designs per application. As a result, whenever possible, design count data are presented by aggregating the number of designs an office receives, rather than the number of applications.

Table B.2.1 presents the design counts for all available national and regional IP offices. The table reports the number of designs contained in applications broken down by resident and non-resident filings, along with the 2006-10 annualized growth rate and the share of offices in total designs filed worldwide. China, with 421,273 applications, received by far the largest number of applications in 2010, most of which are filed by resident applicants. Non-resident applicants account for only 2.9% of the total. Of all the reported offices, SIPO has the second lowest non-resident share, after Portugal. Nevertheless, the actual number of non-resident designs filed in China is similar to that of the US - just above 12,000.

Table B.2.1 Number of Designs Contained in Application by Office

Office	2010	2006	Growth rate (%): 2006-10	Share of total		Non-resident: 2010	Non-resident share (%): 2010
				(%): 2010	Resident: 2010		
Albania (1)	760	..	..	0.1	21	739	97.2
Armenia (1)	664	33	111.8	0.1	25	639	96.2
Australia	5'863	6'856	-3.8	0.7	2'828	3'035	51.8
Belarus	630	..	..	0.1	488	142	22.5
Bosnia and Herzegovina (1)	922	59	98.8	0.1	22	900	97.6
Bulgaria (1)	557	..	..	0.1	520	37	6.6
China	421'273	201'322	20.3	50.8	409'124	12'149	2.9
China, Hong Kong SAR	4'245	..	..	0.5	1'859	2'386	56.2
China, Macao SAR	73	68	1.8	0	1	72	98.6
Colombia	400	..	..	0	120	280	70
Costa Rica	67	..	..	0	10	57	85.1
Croatia (1)	2'971	..	..	0.4	734	2'237	75.3
Czech Republic	1'460	1'222	4.5	0.2	1'427	33	2.3
Denmark (1)	369	369	0	0	245	124	33.6
Finland (1)	325	..	..	0	249	76	23.4
France (1)	18'225	74'812	-29.7	2.2	16'385	1'840	10.1
Georgia (1)	1'190	1'277	-1.7	0.1	186	1'004	84.4
Germany (1)	48'671	..	..	5.9	37'802	10'869	22.3
Greece (1)	1'941	2'064	-1.5	0.2	1'526	415	21.4
Guatemala	226	..	..	0	5	221	97.8
Iceland (1)	340	127	27.9	0	85	255	75
Ireland	124	..	..	0	110	14	11.3
Italy* (1)	28'579	..	..	3.4	26'927	1'652	5.8
Japan	31'756	36'724	-3.6	3.8	28'083	3'673	11.6
Jordan	104	..	..	0	42	62	59.6
Latvia (1)	227	..	..	0	133	94	41.4
Lithuania (1)	457	32	94.4	0.1	29	428	93.7
Monaco (1)	1'773	..	..	0.2	54	1'719	97
Mongolia (1)	1'023	887	3.6	0.1	304	719	70.3
Montenegro (1)	1'005	..	..	0.1	12	993	98.8
Morocco (1)	6'021	..	..	0.7	4'083	1'938	32.2
New Zealand	1'298	1'879	-8.8	0.2	449	849	65.4
OHIM (1)	85'354	69'710	5.2	10.3	64'501	20'853	24.4
Peru	377	238	12.2	0	124	253	67.1
Portugal	1'600	544	31	0.2	1'565	35	2.2
Republic of Korea	59'204	52'879	2.9	7.1	55'369	3'835	6.5
Republic of Moldova (1)	1'301	1'115	3.9	0.2	512	789	60.6
Romania (1)	1'361	2'777	-16.3	0.2	1'302	59	4.3
Russian Federation	5'617	308	106.7	0.7	2'880	2'737	48.7
Serbia (1)	847	..	..	0.1	111	736	86.9
Singapore (1)	3'836	..	..	0.5	551	3'285	85.6
Slovakia	589	104	54.3	0.1	544	45	7.6
Spain (1)	15'285	13'491	3.2	1.8	14'716	569	3.7
Sweden	808	..	..	0.1	734	74	9.2
The former Yugoslav Republic of Macedonia (1)	1'357	..	..	0.2	127	1'230	90.6
Tajikistan	5	11	-17.9	0	0	5	100
Turkey (1)	31'776	30'840	0.8	3.8	26'432	5'344	16.8
Ukraine (1)	5'732	3'953	9.7	0.7	2'949	2'783	48.6
United States of America	29'059	25'515	3.3	3.5	16'706	12'353	42.5
Uzbekistan	268	70	39.9	0	250	18	6.7
Viet Nam	1'964	..	..	0.2	1'346	618	31.5

Note: \* 2009 data. OHIM (Office for Harmonization in the Internal Market).

(1): member of the Hague system

Source: WIPO Statistics Database, March 2012

OHIM received the second highest number of design filings in 2010, with 85,354 designs contained in applications. This represents a 9.7% increase over 2009. Its non-resident share (24.4%) is similar to that of the global non-resident share seen in section A.2, when SIPO statistics were excluded. Due to the ability of gaining protection throughout the EU via a single application, OHIM's non-resident share is above that of most high volume European offices. As can be seen, France, Italy, and Spain both had low shares of non-resident filings. By contrast, Germany, with 22.3%, has a relatively high share of non-resident designs contained in application. Greece also had a high non-resident share, with 21.4%. Similarly, the US had a non-resident share of 42.5%.

In middle and low-income offices, the share of non-resident applications varies widely, with smaller offices often seeing larger non-resident shares. For example, the IP office of Turkey only received 16.8% of its applications from non-residents, whereas over 90% of the applications received by the IP office of the former Yugoslav Republic of Macedonia came from non-residents.

Applications of industrial designs appear to be relatively concentrated, with the top five offices accounting for around 78% of the total in 2010 and only 10 offices having a share of total applications greater than 1%, eight of which were high-income offices and the others (China and Turkey) were upper middle-income. This is similar to the distribution for patents. For example, in 2010, the top five offices accounted for around 78% of all patent applications and around 12 offices had a share of total applications greater than 1%.

## SECTION C: INDUSTRIAL DESIGN APPLICATIONS BY ORIGIN

This section presents industrial design data by country of origin. Applications are attributed to a given country based on the residence status of the first named applicant on an application. Statistics based on origin can highlight the output of industrial designs for a given origin, how many applications are filed abroad and how these have changed over time.

### C.1 INDUSTRIAL DESIGN APPLICATIONS BY INCOME GROUP

Table C.1.1 presents industrial design applications by origin and by income group. The vast majority of applications are from China and the high-income countries – roughly 95%. All income groups reached their yearly application peak in either 2006 or 2007. The economic downturn seemed to have a stronger effect on high-income countries than on middle-income countries. Although most middle-income origins saw declines in 2008, they rebounded quickly in 2009.

**Table C.1.1 Industrial Design Applications by Income Group – Origin Data**

Income Group	Growth (%)		Share of total		Abroad share		
	2010	2009-10	2006-10	(%), 2006	(%), 2010	(%), 2006	(%), 2010
High-income	257,909	5.2	-3.6	57.1	36.5	27.5	26.8
Upper middle-income	434,267	19.5	19.9	40.2	61.4	1.6	1.1
Upper middle-income*	22,401	3.0	1.9	4.0	3.2	8.5	9.9
China	411,866	20.5	21.4	36.2	58.3	0.8	0.7
Lower middle- income	13,270	1.6	1.0	2.4	1.9	2.9	4.3
Low-income	1,355	-1.6	-6.1	0.3	0.2	0.1	1.3

Note: Missing origin data was estimated. Applications made at regional IP offices where the first listed applicant resided from a member state of that office, were classified as a resident application. \* excluding China.

Source: WIPO Statistics Database, March 2012

High-income origins filed just over a quarter of their applications abroad (last column). This share is slightly down as compared to the 27.5% filed in 2006. This is similar to what was seen in table B.1.1: with the onset of the downturn, applicants appeared to have a higher propensity to reduce applications abroad rather than applications at their home office. Middle and low-income countries (except China), in comparison, have increased their number of applications abroad, although their overseas share is significantly lower than that of high-income origins. For middle-income origins, the share of applications abroad could increase further, as they are still below their 2007 peak, while resident applications have already recovered to above their 2007 level.

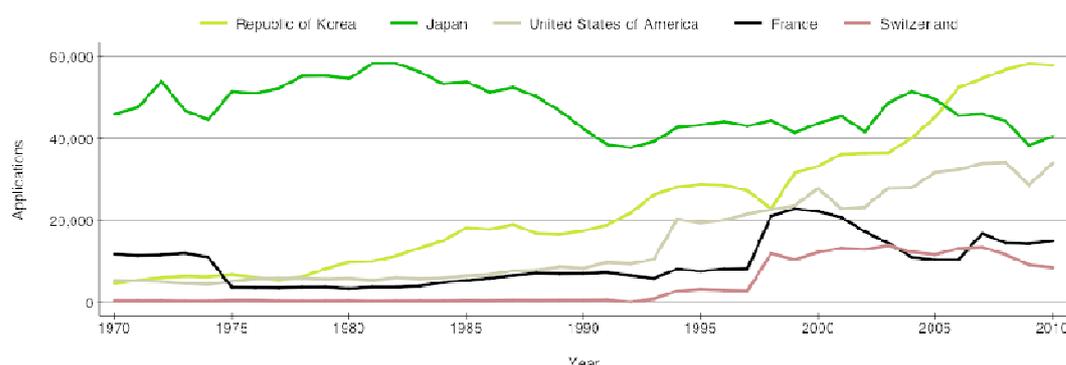
## C.2 TREND IN INDUSTRIAL DESIGN APPLICATIONS AT SELECTED ORIGINS

Figures C.2.1 and C.2.2 present the trend in industrial design applications by selected origins, from 1970 until 2010. These figures can provide insight into how yearly applications have evolved over time in various countries of origin and, in particular, point to periods of high and low growth.

The selected top origins show various periods of rapid growth over the 30 years. Japan historically has a large number of applications, but saw a large decline in the late 1980s, from which they have not fully recovered. Conversely, the Republic of Korea has witnessed steady growth since 1970, achieving the highest growth rates in the 1980s and early 1990s. The one strong decline for the Republic of Korea was in the late 1990s, likely associated with the Asian financial crisis; at its worst, in 1998, applications dropped by 16.3%. It is interesting to note that in 2009, after the financial crisis of 2008, the number of US applications dropped by 16.1%.

Switzerland and France's trend is similar to that of many European countries. Applications began witnessing growth in the mid-1990. Then, with the creation of OHIM, the number of applications filed by residents of these origins declined – likely explained by applicants having to file a single application as opposed to many, as discussed earlier<sup>2</sup>.

**Figure C.2.1 Trend in Applications for Selected Top Origins, 1970-2010**



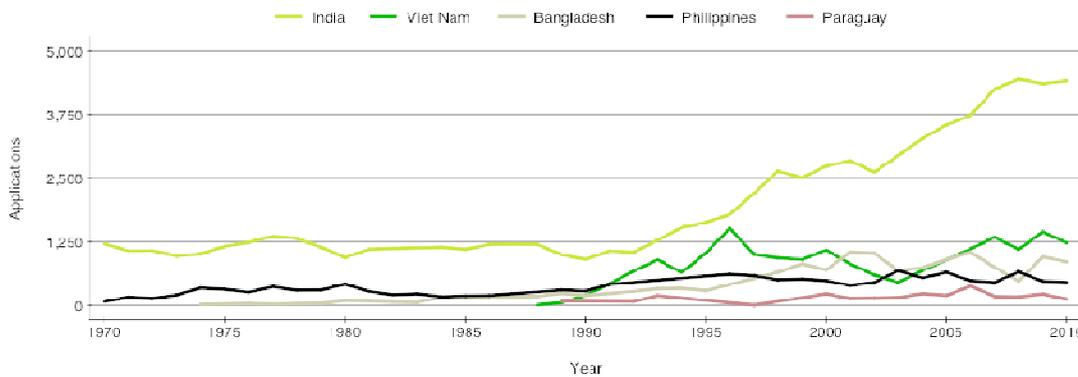
Source: WIPO Statistics Database, March 2012

For middle and low-income origins (figure C.2.2), the long-term trend has been positive, but for a large number of origins that growth is not as persistent as seen in some of the higher income origins. India is an exception, as seen in figure C.2.2. India has had strong growth in industrial

<sup>2</sup> The spike in 1998 is due to applications filed via the Hague system, as this is the earliest year Hague data are available. All Hague member states will have a similar jump in applications.

design applications, starting in 1991. From that point until 2010, India has grown from 903 applications in 1990, to over 4,400 in 2010.

**Figure C.2.2 Trend in applications by selected middle/low-income origins, 1970-2010**



Source: WIPO Statistics Database, March 2012

Viet Nam and Bangladesh highlight a trend that is more common among other middle and low-income origins. Both origins experience relatively strong growth during the 1990s. However, this growth was rather volatile, with strong growth years being followed by large declines. As a result, Bangladesh has fewer applications in 2010 than it did in 2001. Viet Nam's applications stagnated from the late 1990s to 2003. Nevertheless, the recent positive trend has returned Viet Nam to application numbers last seen in 1996.

### C.3 EQUIVALENT APPLICATION DESIGN COUNTS BY ORIGIN

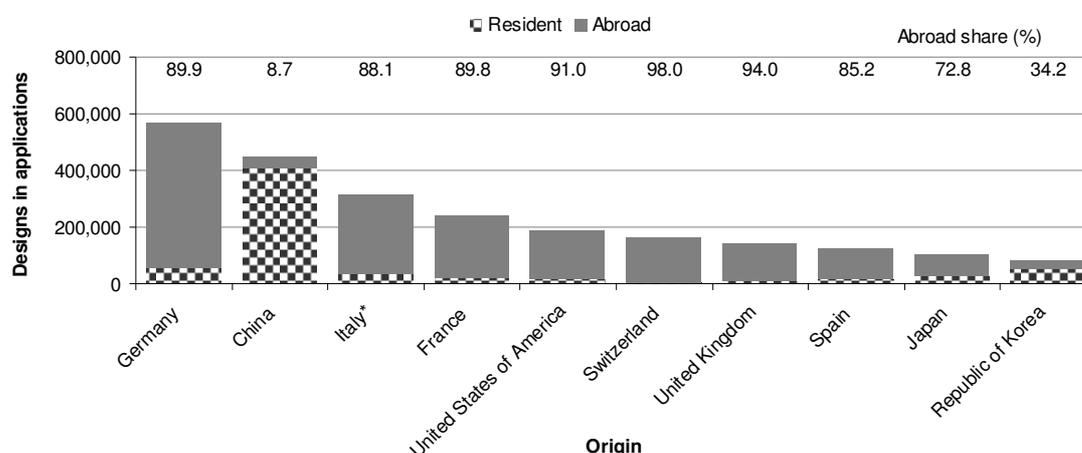
As in section B.2, to abstract from administrative effects due to single design versus multiple design applications, the data presented below are based on the aggregate number of designs contained in applications by country of origin.

In addition, regional offices that provide industrial design protection in multiple jurisdictions also need to be taken into account. For example, with the rise of OHIM in 2003, European applicants don't need to file multiple applications in order to gain protection in a number of European countries, but rather only one application at OHIM. For this reason, application data on its own show drops after 2003 for most EU Members. To take this into account, the data have been adjusted in the following way. If an applicant files at a regional office, that single application is counted multiple times – once for each EU member. If the applicant is from an EU member, then the application is counted once as a resident and N-1 times as abroad (where N is the number of EU members). For example, a single application at OHIM, which has effect in 27 countries, from a resident of France, would count as 1 resident application and 26 applications abroad. By contrast, a single application to OHIM from a resident of Canada would be counted as 27 filings abroad. These numbers are referred to as equivalent applications and when combined with design count statistics, as equivalent design counts.

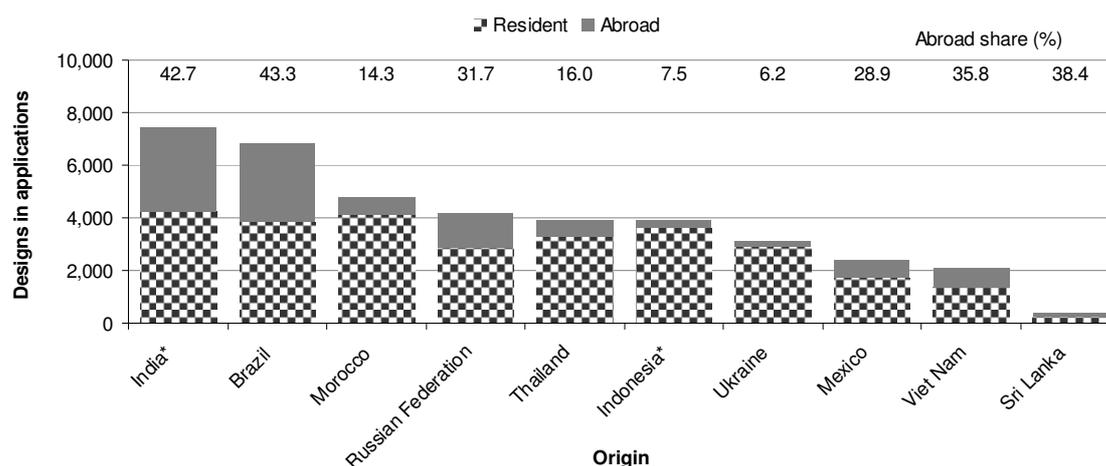
Figure C.3.1 presents the equivalent application design counts in 2010, for the top ten countries of origin and selected middle and low-income origins. Germany had the largest number of equivalent designs contained in applications (566,961), representing a 9.6% increase over the preceding year. With only 8.7% of their equivalent designs filed abroad, China was second with just over 448,000 applications. China's growth rate of 21.9% was among the fastest of the top offices. The other large increase came from the US and the UK, at 27.6% and 24.3% respectively. The Republic of Korea, which in figure C.2.1 had one of the highest application

counts, falls back in the ranking when using equivalent design counts. Similarly to China, residents of the Republic of Korea do not file abroad at the same rate as other high volume origins (its share of filings abroad stands at 34.2%).

**Figure C.3.1 Equivalent Application Design Counts, 2010**  
Top ten origins



Selected middle and low-income



Note: Missing design count data was substituted with application data  
Source: WIPO Statistics Database, March 2012

The gap between high-income origins and middle/low-income origins becomes greater when we analyze equivalent design counts. Residents of India only applied for the equivalent of 7,444 design rights, while Brazilians filed just over 6,800. Table C.1.1 highlighted the fact that middle and low-income residents tend to only file at their national IP office. As a result, middle and low-income resident application counts were not as different from those seen even in high-income origins, in table C.1.1. For example, UK residents filed 8,493 resident applications in 2010, which compared to India's 4,267 applications is roughly double. Yet, once design applications abroad are included, the difference between the UK and India jumps to roughly 20 times. This is primarily caused by the multiplier effect of OHIM, where a single application at OHIM covers all 27 EU members.

As can be seen in the graph, there is some variation in the share of filings abroad for middle and low-income origins. For example, 43.3% of all Brazilian design applications were filed abroad, while for Ukrainians this share only stands at 6.2%. The utilization of the Hague system for middle and low-income origins is diverse. For example almost all of Serbia's applications

abroad were via the Hague system, but none of Lithuania's were and only 1.4% of Latvia's. The varying degree of Hague system utilization partly reflects that not all countries are members of the Hague system, and the choice of foreign destination is primarily driven by market size and regional location (see table D.1.2).

## **SECTION D: INDUSTRIAL DESIGN APPLICATIONS BY OFFICE AND ORIGIN**

Section D focuses on the flow of industrial design applications across countries. The following tables will provide further insight into applications abroad from a given origin. As the focus is on the flow of applications between countries rather than on a direct comparison across countries, the number of designs contained in applications was used rather than equivalent design count.

### **D.1 APPLICATION DESIGN COUNTS BY OFFICE AND ORIGIN**

Table D.1.1 shows the application design counts for the top 15 offices and top 10 countries of origin. As was already seen in figure B.2.1, the majority of origins file most of their applications with their domestic IP office. For Chinese applicants, which show one of the lowest shares of filings abroad among all origins, OHIM and the US were the top destination countries, accounting for 48% and 26% of China's filings abroad, respectively. Applicants domiciled in Germany filed most of their applications abroad at OHIM, accounting for over 20% of all applications received by that office. OHIM was the most important destination for all of the European countries shown, as well as for the US and Turkey. SIPO received the largest number of non-resident applications (31.4%) from Japan, followed by the US (19.5%) and the Republic of Korea (11.2%).

For the first time since its creation, OHIM received more applications in 2010 than the USPTO from residents of Japan. However, Japan was still the largest country of origin for non-resident applications at the USPTO. Applications from the US comprised 20% of all the applications received by the IP office of Australia, and the US represented the largest country of origin in Japan, the second largest in the Republic of Korea, and the largest non-European origin at OHIM. Swiss residents filed more applications at OHIM than at their own IP office. Residents of Switzerland also accounted for 5% of applications filed at Turkey's IP office and roughly 16% of applications filed in Ukraine.

In the table shown, the two largest increases in applications filed came from Germany to Switzerland and Spain to Switzerland. As compared to 2010, applicants from Spain and Germany in 2009 only filed 11 and 101 designs in Switzerland, respectively. Both of these numbers are significantly lower compared to 2003. The IP office of Germany saw a large increase in filings in 2010 from most of the origins shown including the US. In fact, the US filed more applications in Germany in 2010 than it had since at least the year 2000, pre-dating the creation of OHIM.

**Table D.1.1 Application Design Counts by Office and Origin, 2010**

Office	Origin											
	CN	DE	KR	IT	JP	US	FR	TR	CH	ES	Unknown	Others
China	409,124	1,214	1,362	400	3,811	2,364	437	27	357	137	114	1,926
OHIM	1,393	19,346	940	10,533	2,407	5,780	8,005	427	5,414	4,089	1,317	25,703
Republic of Korea	67	222	55,369	98	1,528	1,078	97	2	109	10	161	463
Germany	95	37,802	20	2,679	59	316	74	51	790	83	113	6,589
Turkey*	13	429	25	133	106	160	630	26,432	1,592	156	11	2,089
Japan	111	334	449	128	28,083	1,084	189	0	277	21	335	745
United States of America	757	1,162	1,018	553	2,300	16,706	654	15	273	137	1,484	4,000
Italy*	0	22	9	26,927	1	4	69	0	196	3	3	1,345
France	0	69	23	0	3	54	16,385	21	114	26	0	1,530
Spain	0	16	15	1	1	5	39	0	11	14,716	1	480
Switzerland	0	826	0	12	40	75	724	3	3,318	152	0	3,610
India*	0	0	0	0	0	0	0	0	0	0	1,825	4,267
Morocco	1	29	0	1	2	4	657	1	777	16	0	4,533
Australia	89	151	46	64	278	1,226	70	0	106	4	32	3,797
Ukraine	1	121	2	6	15	65	202	31	905	134	28	4,222

Note: \*2009 data. Origin codes: CN (China), DE (Germany), KR (Republic of Korea), IT (Italy), JP (Japan), US (United States of America), FR (France), TR (Turkey), CH (Switzerland) and ES (Spain).

Source: WIPO Statistics Database, March 2012

Table D.1.2 presents the largest increases and decreases by office and origin pair between 2009 and 2010. Designs contained in applications from Switzerland destined for the IP office of Bosnia and Herzegovina increased the most, from 14 designs in 2009 to 314 designs contained in 88 applications. This was followed by German applicants applying at the IP office of Ukraine, increasing from 13 designs to 121; however, this is still well below the peak of 677 designs in 2005. It is interesting to note that of the top ten increases, nine involve IP offices of middle- and low-income countries.

As mentioned earlier, European countries of origin that have been hit particularly hard by the current economic difficulties generally saw declines in the number of designs contained in applications. As shown in the table, all ten countries of origin that exhibited declines were European. The largest decline was for Slovakia's filing with OHIM, declining from 225 designs in 2009 to 115 in 2010. A similar fall occurred between Switzerland and France. Austrians filing in Germany saw the highest decline by volume, falling from over 6,800 applications in 2009 to 4,550 in 2010. Greece had the largest resident decline by number of designs contained in applications, declining by roughly 30%.

**Table D.1.2 Application Design Counts by Office and Origin Pair, 2010**

Growth				Decline			
Origin	Office	Designs, Growth (%):		Origin	Office	Designs, Growth (%):	
		2010	2009-10			2010	2009-10
Switzerland	Bosnia and Herzegovina	394	2714.3	Portugal	OHIM	857	-27.5
Germany	Ukraine	121	830.8	Latvia	Latvia	133	-28.5
India	OHIM	115	505.3	Greece	Greece	1526	-29.7
Cyprus	Russian Federation	102	436.8	Austria	Germany	4550	-33.2
Spain	Ukraine	134	436.0	France	Singapore	375	-35.8
Germany	Singapore	125	380.8	Serbia	Serbia	111	-35.8
Uzbekistan	Uzbekistan	250	354.5	France	Egypt	192	-36.8
Spain	Turkey*	156	345.7	Luxembourg	OHIM	161	-37.8
Slovakia	Slovakia	544	260.3	Switzerland	France	114	-44.4
Georgia	Georgia	186	226.3	Slovakia	OHIM	115	-48.9

Note: \* 2009 data. Only office origin pairs with greater than 100 designs contained in applications were included in the table.  
Source: WIPO Statistics Database, March 2012

## D.2 APPLICATIONS BY OFFICE AND ORIGIN, MIDDLE- AND LOW-INCOME ORIGINS

As mentioned earlier, middle- and low-income origins primarily file with their domestic IP office (see table C.1.1). As a result, isolating the following table to a single year would not have provided an adequate view of the flow of applications from middle- and low-income origins to various IP offices around the world. Therefore, Table D.2.1 presents all applications filed abroad between 2000 and 2010, broken down by selected middle- and low-income origins and their top IP office of destination.

The top offices of destination are somewhat different than they would have been if all origins had been included. For example, Ukraine is the fourth highest destination office, fueled mainly by applications from Russia. Conversely, Russia itself is also high on the list for the same reason. Bulgaria and the Republic of Moldova are large applicants at the Romanian IP office, explaining why that office ranks so high as a destination office. China was the main middle-income country of origin for OHIM, the US, Australia, Canada, Japan and Mexico. China's largest countries of origin were two other Asian countries, Malaysia and India.

OHIM was by far the largest destination office for middle- and low-income origins. Despite existing for only seven of the ten years covered in the table, OHIM received over 11,700 applications, which is almost double that of the US office, the next highest office. Combined, these two offices accounted for 41% of all filings abroad from middle- and low-income origins.

**Table D.2.1 Counts of Design Applications Abroad by Office and Middle/Low-Income Origins, 2000-2010**

Office	Origin											Total
	CN	BG	BR	RU	IN	MY	MA	UA	MX	MD	Others	
OHIM	5,262	640	809	179	383	199	10	36	61	26	4,127	11,732
United States of America	4,370	17	429	75	278	182	2	4	260	1	1,046	6,664
Germany	173	554	24	330	0	69	94	62	1	29	732	2,068
Ukraine	47	105	0	474	48	0	10	n.a.	0	214	728	1,626
China	n.a.	10	205	63	209	253	1	2	76	1	614	1,434
Russian Federation	83	31	27	n.a.	11	6	0	463	1	14	555	1,191
Italy*	6	150	6	224	9	0	94	61	1	26	446	1,023
Australia	422	11	143	7	41	117	0	0	3	0	238	982
China, Hong Kong SAR	790	0	64	4	8	22	0	0	0	0	75	963
Japan	578	6	77	13	49	29	0	0	9	0	136	897
France	45	145	17	7	32	0	139	56	0	26	402	869
Canada	480	8	63	13	47	8	0	0	34	0	142	795
Romania	9	169	3	5	3	1	0	12	0	141	427	770
Switzerland	9	134	19	4	3	3	71	56	0	3	395	697
Mexico	241	4	205	4	40	2	0	0	n.a.	0	148	644

Note: \*2009 data. Origin code: CN (China), BG (Bulgaria), RU (Russian Federation), IN (India), MY (Malaysia), MA (Morocco), UA (Ukraine), MX (Mexico) and MD (Republic of Moldova). n.a.: not applicable  
Source: WIPO Statistics Database, March 2012

## SECTION E: APPLICATIONS BY CLASS

Section E presents application count data broken down by Locarno Classes in 2010. It provides insight into the type and number of designs coming from different countries of origin and how these have changed since 2008. Although class data are only available as application counts, as opposed to the preferred equivalent design counts, focus is placed on the level of applications between classes in each origin rather than total applications between origins.

## E.1 APPLICATIONS BY CLASS, SELECTED HIGH-INCOME ECONOMIES

Table E.1.1 presents the class breakdown for selected high-income offices and their respective annualized growth rates for the period of 2008 to 2010. For Germany and Italy, Class 6, Furnishings, had the largest number of applications. These two origins combined accounted for about 32% of the world total of this class (see table A.3.1). Australia's largest class was 25, building units and construction elements, which had an annualized growth rate of 94.3% for the same period. The largest class for the US was Class 9 while for Japan it was Class 12, both classes relating to the transportation sector. Switzerland's largest class was 10, clocks and watches and other measurement instruments, notwithstanding a decline of 31.5% from 2008 to 2010. Switzerland's 2,005 applications in this class represented almost half of the world total in 2010.

Growth rates varied widely between classes and countries of origin. Italy, Germany, Switzerland and the US saw fast growth in Class 32, graphic symbols et al., increasing from the single-digits in 2008 to 371 by 2010. This reflects the introduction of this class in 2008. In contrast, Australia and Japan had very low application numbers in this class. For Class 11, articles of adornment, Switzerland, Italy and Germany saw declines whereas Australia, Japan and the US experienced marked growth.

**Table E.1.1 Application Counts by Class and High-Income Origin, 2010**

Classification	AU		CH		DE		IT		JP		US	
	2010	Growth 08-10 (%)										
1 Foodstuffs	6	-26.1	45	-47.8	117	16.6	47	-28.1	10	0.0	208	50.4
2 Articles of clothing and haberdashery	605	16.3	1,137	1.3	1,379	17.6	1,570	2.8	91	-28.9	753	-17.6
3 Travel goods, cases, parasols and personal belongings, not elsewhere specified	62	-2.3	61	-16.3	404	-5.1	350	6.3	20	-61.5	170	-16.7
4 Brushware	12	-10.6	7	-26.6	176	9.0	15	58.1	13	-40.9	339	41.6
5 Textile piecegoods, artificial and natural sheet material	23	44.6	0	0.0	119	-39.7	137	26.2	7	-95.9	92	35.6
6 Furnishing	406	32.3	268	3.1	2,841	10.6	2,081	-1.7	105	-49.0	421	3.8
7 Household goods, not elsewhere specified	316	22.4	740	59.5	1,537	-3.8	704	-13.6	50	-53.7	847	56.0
8 Tools and hardware	548	26.2	95	-23.2	1,207	7.0	511	-1.7	196	-19.0	1,064	52.1
9 Packages and containers for the transport or handling of goods	640	75.4	585	-1.7	1,226	3.8	597	23.1	214	-29.6	1,837	13.8
10 Clocks and watches and other measuring instruments, checking and signalling instruments	88	68.5	2,005	-31.5	365	-19.2	134	-20.1	121	-51.2	205	10.8
11 Articles of adornment	349	114.3	543	-12.8	798	-6.7	477	-11.4	30	7.1	132	48.3
12 Means of transport or hoisting	414	62.4	188	43.7	1,145	1.5	362	2.6	1,002	-53.4	770	15.9
13 Equipment for production, distribution or transformation of electricity	191	8.6	129	154.0	547	-10.9	185	17.1	314	-7.6	389	18.3
14 Recording, communication or information retrieval equipment	47	-12.2	61	-4.6	797	-16.4	370	72.7	852	-46.5	1,606	-9.3
15 Machines, not elsewhere specified	85	-15.5	85	-12.5	720	-4.2	179	13.1	184	-48.9	362	1.3
16 Photographic, cinematographic and optical apparatus	5	-38.0	40	-5.7	70	-7.0	70	-6.5	248	-19.5	130	16.4
17 Musical instruments	2	-42.3	4	-46.5	38	-26.3	25	104.1	10	-80.8	7	18.3
18 Printing and office machinery	1	-29.3	6	144.9	23	-62.7	2	-36.8	91	-40.1	33	-1.5
19 Stationery and office equipment, artists' and teaching materials	77	33.8	291	35.7	553	-21.2	162	24.2	82	-72.8	334	4.1
20 Sales and advertising equipment, signs	89	66.8	108	-20.5	260	15.2	86	-34.1	10	-61.5	165	26.0
21 Games, toys, tents and sports goods	128	24.9	59	-25.7	753	5.4	226	8.8	99	-71.2	513	26.4
22 Arms, pyrotechnic articles, articles for hunting, fishing and pest killing	27	-19.8	0	0.0	40	34.8	6	-26.1	27	-15.6	48	-16.0
23 Fluid distribution equipment, sanitary, heating, ventilation and air-conditioning equipment, solid fuel	506	23.6	134	-31.9	1,587	-13.8	708	-6.7	284	-50.0	994	59.9
24 Medical and laboratory equipment	62	-32.0	127	-4.8	565	20.2	56	-1.7	213	-48.0	548	16.0
25 Building units and construction elements	1,661	94.3	29	-31.1	775	0.3	523	-15.2	68	126.7	140	17.7
26 Lighting apparatus	145	35.5	125	68.5	1,115	0.7	723	6.6	357	-50.4	448	18.5
27 Tobacco and smokers' supplies	6	144.9	40	0.0	88	13.8	4	0.0	0	0.0	4	-50.0
28 Pharmaceutical and cosmetic products, toilet articles and apparatus	12	-10.6	78	73.2	202	-15.2	40	2.6	48	-65.7	363	30.5
29 Devices and equipment against fire hazards, for accident prevention and for rescue	15	-58.7	0	0.0	18	112.1	18	89.7	2	-66.7	124	73.9
30 Articles for the care and handling of animals	16	-24.4	10	0.0	260	55.9	2	-18.4	3	0.0	63	0.8
31 Machines and appliances for preparing food or drink, not elsewhere specified	15	93.6	46	-11.7	157	17.4	137	78.5	5	-68.8	50	13.2
32 Graphic symbols and logos, surface patterns, ornamentation	1	0.0	253	1024.7	542	35.5	592	444.1	9	125.0	371	761.4
0 Unknown	0	0.0	7	18.3	32	100.0	12	144.9	19	137.5	53	320.3

Note: These numbers are based on direct filing data from 47 offices – which include, for example, OHIM of the European Union (EU) and the offices of Australia, Canada, France and New Zealand – and on Hague designation data from 57 offices, resulting in an aggregate total of 81 offices. Origin codes: AU (Australia), CH (Switzerland), DE (Germany), IT (Italy), JP (Japan), US (United States of America).

Source: WIPO Statistics Database, March 2012

## E. 2 APPLICATION BY CLASS, SELECTED MIDDLE/LOW-INCOME ECONOMIES

Table E.2.1 presents application counts by class for selected middle- and low-income origins for 2010. The distribution of classes is more concentrated when compared to that of high-income origins. For example, 57% of applications from Uzbekistan were distributed amongst just three classes, while for Mexico, 51% were distributed amongst five classes. Class 9 was consistently among the largest class in terms of application counts for all of the selected origins, and was the highest for the Republic of Moldova. Mongolia's largest class, despite declining by an annualized rate of 34%, was class 3 (travel goods, cases, etc.). Class 19 (stationary and office equipment), was the largest class for Ukraine. For Mexico, it was class 2 (articles of clothing). For Uzbekistan, class 1 (foodstuffs) and for Thailand, class 7 (household goods).

Similar to high-income origins in table E.1.1, Classes 9 (packages and containers for the transport) and 6 (furnishing) had relatively higher application counts in all of the selected origins. However, unlike the high-income origins, class 23 (fluid distribution equipment, sanitary, heating, etc.) showed only large numbers of applications for Mexico, Thailand and Ukraine. Class 2 saw a large number of applications for all origins except for the Republic of Moldova.

**Table E.2.1 Application Counts by Class and Middle or Low-Income Origin, 2010**

Classification	MD		MG		MX		TH		UA		UZ	
	2010	Growth 08-10 (%)										
1 Foodstuffs	13	61.2	0	0	11	25.4	9	0.0	52	100.0	33	306.2
2 Articles of clothing and haberdashery	0	0.0	33	-34.1	209	49.9	72	500.0	88	1.2	8	6.9
3 Travel goods, cases, parasols and personal belongings, not elsewhere specified	0	0.0	58	5.6	21	27.1	86	827.4	3	-52.0	0	0.0
4 Brushware	0	0.0	0	0.0	3	-13.4	17	0.0	1	0.0	0	0.0
5 Textile piecegoods, artificial and natural sheet material	0	0.0	0	0.0	38	-29.7	35	0.0	62	48.8	2	0.0
6 Furnishing	11	-4.3	31	18.7	72	2.2	352	739.0	61	-45.2	3	-13.4
7 Household goods, not elsewhere specified	7	0.0	5	-8.7	50	38.7	396	603.6	45	58.1	10	29.1
8 Tools and hardware	1	0.0	0	0.0	39	155.0	184	683.2	49	-9.6	1	0.0
9 Packages and containers for the transport or handling of goods	49	25.7	28	52.8	124	18.0	390	1296.4	262	-14.2	24	41.4
10 Clocks and watches and other measuring instruments, checking and signalling instruments	1	-29.3	0	0.0	23	44.6	29	0.0	24	-3.9	3	0.0
11 Articles of adornment	5	29.1	6	-51.0	38	14.5	145	0.0	115	-0.4	7	0.0
12 Means of transport or hoisting	3	73.2	9	112.1	60	93.6	373	510.7	47	-15.6	5	-15.5
13 Equipment for production, distribution or transformation of electricity	0	0.0	0	0.0	12	30.9	83	811.0	27	16.2	1	0.0
14 Recording, communication or information retrieval equipment	0	0.0	0	0.0	22	30.1	107	0.0	17	0.0	0	0.0
15 Machines, not elsewhere specified	0	0.0	4	-42.3	50	308.2	79	0.0	31	-37.8	2	41.4
16 Photographic, cinematographic and optical apparatus	0	0.0	0	0.0	4	0.0	9	0.0	0	0.0	1	0.0
17 Musical instruments	0	0.0	8	182.8	0	0.0	2	0.0	0	0.0	0	0.0
18 Printing and office machinery	0	0.0	0	0.0	0	0.0	4	0.0	3	-34.5	0	0.0
19 Stationery and office equipment, artists' and teaching materials	17	-2.8	38	85.9	27	34.2	81	800.0	265	-18.1	2	-18.4
20 Sales and advertising equipment, signs	4	100.0	1	-29.3	62	35.0	26	0.0	29	-33.2	4	0.0
21 Games, toys, tents and sports goods	1	-29.3	1	-29.3	52	11.3	96	0.0	41	50.9	1	0.0
22 Arms, pyrotechnic articles, articles for hunting, fishing and pest killing	0	0.0	0	0.0	1	0.0	6	0.0	2	0.0	0	0.0
23 Fluid distribution equipment, sanitary, heating, ventilation and air-conditioning equipment, solid fuel	1	-50.0	0	0.0	77	-21.5	230	0.0	45	-26.4	0	0.0
24 Medical and laboratory equipment	3	73.2	0	0.0	12	73.2	59	443.1	6	-45.2	1	0.0
25 Building units and construction elements	7	-16.3	4	-33.3	124	31.2	287	1594.1	61	-45.3	16	182.8
26 Lighting apparatus	1	0.0	5	11.8	28	87.1	94	0.0	5	-45.8	1	0.0
27 Tobacco and smokers' supplies	0	0.0	0	0.0	1	0.0	1	0.0	0	0.0	2	0.0
28 Pharmaceutical and cosmetic products, toilet articles and apparatus	0	0.0	7	164.6	9	0.0	31	0.0	13	36.3	0	0.0
29 Devices and equipment against fire hazards, for accident prevention and for rescue	0	0.0	0	0.0	3	0.0	15	0.0	5	0.0	1	0.0
30 Articles for the care and handling of animals	0	0.0	0	0.0	5	0.0	9	0.0	3	0.0	0	0.0
31 Machines and appliances for preparing food or drink, not elsewhere specified	0	0.0	0	0.0	2	0.0	0	0.0	0	0.0	0	0.0
32 Graphic symbols and logos, surface patterns, ornamentation	7	0.0	41	0.0	1	-29.3	0	0.0	42	358.3	0	0.0
0 Unknown	3	73.2	0	0.0	13	0.0	18	0.0	9	13.4	0	0.0

Note: These numbers are based on direct filing data from 47 offices – which include, for example, OHIM of the European Union (EU) and the offices of Australia, Canada, France and New Zealand – and on Hague designation data from 57 offices, resulting in an aggregate total of 81 offices. Origin codes: MD (Republic of Moldova), MG (Madagascar), MX (Mexico), TH (Thailand), UA (Ukraine), UZ (Uzbekistan).

Source: WIPO Statistics Database, March 2012

## ANNEX

Statistical Table: Industrial Design Applications by Office and Origin, 2010

Name	Applications by office				Equivalent applications by origin			
	Total	Resident	Non-resident	Non-resident share (%)	Total	Abroad	Abroad share (%)	Design Count
Afghanistan	..	..	..	..	6	6	100.0	6
African Intellectual Property Organization	81	0	81	100.0	..	..	..	..
Albania	183	6	177	96.7	6	0	0.0	21
Algeria	230	176	54	23.5	176	0	0.0	176
Andorra	..	..	..	..	4	4	100.0	17
Antigua and Barbuda	..	..	..	..	31	31	100.0	31
Argentina	..	0	0	..	94	94	100.0	94
Armenia	172	18	154	89.5	74	56	75.7	305
Aruba	..	..	..	..	135	135	100.0	135
Australia	5,863	2,828	3,035	51.8	12,584	9,756	77.5	12,647
Austria	982	694	288	29.3	56,257	53,525	95.1	61,378
Azerbaijan	2	0	2	100.0	2	2	100.0	4
Bahamas	..	..	..	..	463	463	100.0	492
Bangladesh	896	853	43	4.8	854	1	0.1	854
Barbados	..	..	..	..	364	364	100.0	364
Belarus	480	372	108	22.5	442	70	15.8	578
Belgium	..	..	..	..	32,650	31,196	95.5	33,720
Belize	99	0	99	100.0	7	7	100.0	7
Benelux (1)	1,305	1,164	141	10.8	4	2	50.0	11
Benin	9	0	9	100.0	..	..	..	..
Bermuda	..	..	..	..	83	83	100.0	83
Bosnia and Herzegovina	243	16	227	93.4	125	109	87.2	134
Botswana	29	0	29	100.0	..	..	..	..
Brazil	5,501	3,863	1,638	29.8	6,781	2,918	43.0	6,809
Brunei Darussalam	..	..	..	..	87	87	100.0	87
Bulgaria	226	203	23	10.2	4,424	4,068	92.0	5,591
Burkina Faso	4	4	0	0.0	4	0	0.0	4
Canada	5,142	851	4,291	83.5	16,417	15,566	94.8	16,291
Chile	493	41	452	91.7	66	25	37.9	66
China	421,273	409,124	12,149	2.9	447,330	38,206	8.5	448,226
China, Hong Kong SAR	2,525	1,133	1,392	55.1	19,996	18,863	94.3	22,305
China, Macao SAR	73	1	72	98.6	1	0	0.0	1
Colombia	400	120	280	70.0	145	25	17.2	145
Cook Islands	..	..	..	..	2	2	100.0	2
Costa Rica	67	10	57	85.1	40	30	75.0	40
Côte d'Ivoire	14	0	14	100.0	..	..	..	..
Croatia	780	280	500	64.1	524	244	46.6	1,081
Cyprus	..	..	..	..	1,151	1,113	96.7	1,216
Czech Republic	457	443	14	3.1	16,166	15,145	93.7	17,562
D.P.R. of Korea	69	0	69	100.0	4	4	100.0	4
Denmark	210	162	48	22.9	30,639	29,366	95.8	32,777
Dominica	..	..	..	..	1	1	100.0	1
Dominican Republic	..	0	0	..	60	60	100.0	87
Ecuador	162	52	110	67.9	54	2	3.7	54
Egypt	287	0	287	100.0	709	709	100.0	736
El Salvador	..	..	..	..	216	216	100.0	216
Estonia	94	71	23	24.5	1,645	1,516	92.2	1,679
Fiji	..	..	..	..	2	2	100.0	2
Finland	187	159	28	15.0	19,182	18,333	95.6	20,109
France	4,891	4,619	272	5.6	204,040	192,157	94.2	239,458
Gabon	11	0	11	100.0	..	..	..	..
Georgia	243	31	212	87.2	64	33	51.6	218
Germany	6,285	5,562	723	11.5	507,359	483,393	95.3	566,961
Ghana	22	1	21	95.5	25	24	96.0	71
Greece	269	210	59	21.9	3,532	3,200	90.6	4,019

Name	Applications by office				Equivalent applications by origin			
	Total	Resident	Non-resident	Non-resident share (%)	Total	Abroad share		Design Count
						Abroad	(%)	
Guatemala	45	2	43	95.6	6	4	66.7	9
Hungary	227	185	42	18.5	5,312	4,939	93.0	5,513
Iceland	138	46	92	66.7	535	489	91.4	979
India*	6,092	4,267	1,825	30.0	6,572	2,305	35.1	7,444
Indonesia*	4,220	3,601	619	14.7	3,891	290	7.5	3,891
Iran (Islamic Republic of)	..	..	..	..	34	34	100.0	34
Iraq	..	..	..	..	1	1	100.0	1
Ireland	54	45	9	16.7	7,417	7,101	95.7	7,648
Israel	1,617	1,200	417	25.8	5,885	4,685	79.6	5,943
Italy*	1,370	1,231	139	10.1	281,238	269,704	95.9	316,037
Jamaica	..	..	..	..	13	13	100.0	..
Japan	31,756	28,083	3,673	11.6	102,117	74,034	72.5	103,401
Jordan	84	42	42	50.0	72	30	41.7	72
Kazakhstan	252	156	96	38.1	159	3	1.9	157
Kenya	76	69	7	9.2	69	0	0.0	69
Kyrgyzstan	149	13	136	91.3	14	1	7.1	14
Latvia	87	66	21	24.1	2,169	2,027	93.5	2,551
Lebanon	..	..	..	..	138	138	100.0	236
Liberia	..	..	..	..	54	54	100.0	54
Liechtenstein	305	5	300	98.4	4,270	4,265	99.9	6,665
Lithuania	73	20	53	72.6	965	910	94.3	1,001
Luxembourg	..	..	..	..	5,462	5,246	96.0	4,605
Madagascar	286	279	7	2.4	279	0	0.0	279
Malaysia	..	..	..	..	1,029	1,029	100.0	1,049
Mali	8	0	8	100.0	..	..	..	..
Malta	4	4	0	0.0	113	105	92.9	113
Mauritius	..	0	0	..	57	57	100.0	57
Mexico	3,540	1,691	1,849	52.2	2,316	625	27.0	2,379
Monaco	379	25	354	93.4	218	193	88.5	284
Mongolia	260	93	167	64.2	93	0	0.0	304
Montenegro	266	2	264	99.2	2	0	0.0	12
Morocco	1,415	986	429	30.3	1,167	181	15.5	4,766
Namibia	34	0	34	100.0	..	..	..	..
Netherlands	..	..	..	..	63,897	60,835	95.2	68,302
Netherlands Antilles	10	0	10	100.0	..	..	..	..
New Zealand	1,298	449	849	65.4	3,381	2,932	86.7	3,392
Niger	5	0	5	100.0	..	..	..	..
Norway	955	286	669	70.1	5,401	5,115	94.7	6,090
OHIM (1)	76,865	59,393	17,472	22.7	4,673	4,196	89.8	28,342
Oman	171	0	171	100.0	..	..	..	..
Pakistan	..	..	..	..	1	1	100.0	1
Panama	70	0	70	100.0	282	282	100.0	343
Paraguay	271	121	150	55.4	121	0	0.0	121
Peru	377	124	253	67.1	127	3	2.4	127
Philippines	845	435	410	48.5	451	16	3.5	451
Poland	1,755	1,723	32	1.8	65,656	61,574	93.8	72,172
Portugal	402	393	9	2.2	23,871	22,609	94.7	24,745
Qatar	..	..	..	..	..	..	..	..
Republic of Korea	57,187	53,601	3,586	6.3	82,357	28,756	34.9	84,194
Republic of Moldova	288	98	190	66.0	206	108	52.4	643
Romania	487	458	29	6.0	3,823	3,241	84.8	4,820
Russian Federation	3,997	1,981	2,016	50.4	3,181	1,200	37.7	4,215
Samoa	..	..	..	..	11	11	100.0	11
San Marino	..	..	..	..	380	380	100.0	380
Sao Tome and Principe	16	0	16	100.0	..	..	..	..

Name	Applications by office				Equivalent applications by origin			
	Total	Resident	Non-resident	Non-resident share (%)	Total	Abroad	Abroad share (%)	Design Count
Saudi Arabia	..	..	..	..	3	3	100.0	3
Senegal	12	0	12	100.0	..	..	..	..
Serbia	329	82	247	75.1	279	197	70.6	356
Seychelles	..	..	..	..	92	92	100.0	92
Sierra Leone	..	..	..	..	81	81	100.0	243
Singapore	1'926	543	1'383	71.8	6'793	6'250	92.0	7'262
Slovakia	93	76	17	18.3	3'031	2'846	93.9	3'669
Slovenia	176	104	72	40.9	4'238	3'986	94.1	4'488
South Africa	..	..	..	..	1'034	1'034	100.0	1'088
Spain	1'826	1'645	181	9.9	108'414	102'837	94.9	126'654
Sri Lanka	284	233	51	18.0	378	145	38.4	378
Suriname	15	0	15	100.0	..	..	..	..
Swaziland	..	..	..	..	1	1	100.0	1
Sweden	585	549	36	6.2	41'322	39'301	95.1	43'312
Switzerland	2'515	1'164	1'351	53.7	79'922	78'758	98.5	165'940
Syrian Arab Republic	54	0	54	100.0	1	1	100.0	1
The former Yugoslav Republic of Macedonia	371	35	336	90.6	39	4	10.3	135
Tajikistan	5	0	5	100.0	..	..	..	..
Thailand	3'614	3'276	338	9.4	3'882	606	15.6	3'901
Tunisia	20	0	20	100.0	127	127	100.0	134
Turkey*	7'288	5'949	1'339	18.4	14'299	8'350	58.4	38'456
Ukraine	2'196	1'443	753	34.3	1'579	136	8.6	3'144
United Arab Emirates	..	..	..	..	36	36	100.0	90
United Kingdom	3'604	3'441	163	4.5	140'670	132'229	94.0	142'281
United States of America	29'059	16'706	12'353	42.5	178'929	162'223	90.7	185'425
Unknown	..	..	..	..	40'754	40'754	100.0	42'493
Uruguay	108	27	81	75.0	54	27	50.0	54
Uzbekistan	133	120	13	9.8	120	0	0.0	250
Venezuela	..	..	..	..	2	2	100.0	2
Viet Nam	1'717	1'206	511	29.8	1'647	441	26.8	2'098
Yemen	62	51	11	17.7	51	0	0.0	51
Zimbabwe	..	..	..	..	1	1	100.0	1*

2009 data

(1) Applications by origin could not be attributed to a specific member country of the Benelux office for Intellectual Property or of the Office of Harmonization in the Internal Market of the EU.

.. Not available

[Annex V follows]

## **TERMS OF REFERENCE FOR A STUDY BY THE WIPO SECRETARIAT ON THE POTENTIAL IMPACT OF THE WORK OF THE SCT ON INDUSTRIAL DESIGN LAW AND PRACTICE**

In the context of the SCT's work on Industrial Design Law and Practice (documents SCT/26/2 and 26/3) and the commitment of WIPO Member States to the Development Agenda Recommendations, in particular Cluster B relating to Norm-Setting, the Secretariat with the involvement of the Chief Economist is requested to prepare an analytical study on:

1. The potential benefits, constraints and costs for SCT members, particularly Developing Countries, Least Developed Countries (LDCs) and Countries in Transition, of the application of the draft Articles and draft Rules on Industrial Design Law and Practice (documents SCT/26/2 and 3), with regard to:

- applicants (natural and legal persons, particularly SMEs);
- national and regional Offices' administrative capacity and legal expertise;
- national and regional jurisdictions, as concerns the implementation of legislative changes to their design system;
- Developing Countries and LDCs' needs for capacity building, investment in infrastructure and technical assistance.

2. The impact, if any, of the draft Articles and draft Rules on Industrial Design Law and Practice (documents SCT/26/2 and 3) on:

- the access to design systems for SMEs;
- fostering creativity, innovation and economic development and efficiency in Developing Countries;
- technology transfer and access to knowledge.

3. Flexibilities for SCT members in the draft Articles and draft Rules on Industrial Design Law and Practice (documents SCT/26/2 and 3), deepening the analysis contained in the relevant portions of document SCT/26/4, and examining special provisions for developing countries and LDCs.

### **STATISTICAL INFORMATION/ANALYSIS**

The study will offer statistical information, within the scope of available data, about the designs system, with particular reference to access by SMEs from developing countries, and should include three levels of detailed information, in order to provide factual information on the current trends relating to protection of industrial designs.

- Level 1: general observed trends in protection of industrial designs;
- Level 2: statistical analysis on the demand for protection of industrial designs;

- Level 3: statistical analysis on the origin, destination and class of protection of industrial designs.

The study should reflect recent periods of data display.

### **TIME FRAME**

The study should aim to be published two months prior to the next session of the SCT, with a view to helping informed discussions on the work of the SCT on industrial designs.

[Annex VI follows]

# Proposed changes to design registration

## Applicant questionnaire

Members of The World Intellectual Property Organisation are considering a number of changes to the **process of registering a design**. We are seeking the views from users on the potential benefits and costs of these proposed changes.

This questionnaire is aimed at **users** of the registration process. If you are an agent, please respond to the questionnaire with a representative client in mind.

### Section 1: Background information

**1. About You and your company:** With this question, we wish to collect basic information about you and your company to enable us to compare views from different respondents. We understand if you would rather not include financial data, but would like to reassure you that all data will be treated confidentially.

1.1	Your name
1.2	Country
1.3	Job Title
1.4	Company Name
1.5	Company's main products/services
1.6	Industry <i>DROP DOWN LIST</i>
1.8	Company turnover in the last financial year (In local currency)
1.9	Do you export your goods or services? Yes <input type="checkbox"/> No <input type="checkbox"/>
1.10	Number of employees

## Section 2: Proposed changes

In this section, we will describe each of the proposed changes to the design registration system. We are seeking to understand the impact that these changes might have on the cost, time, and complexity of registering a design. Please use your best judgement, and indicate if you do not know what the impact of the proposed change might be.

**2.1 Greater choice in how you represent or illustrate a design:** With this change, the applicant will be able to choose whether to illustrate or represent the design using either drawings, photographs, other visual media (e.g. CAD) or a combination of different types of media.

2.1.1	Is this capability already offered by your national design registration system?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	DON'T KNOW <input type="checkbox"/>	IF YES, go to 2.2		
2.1.2	Will this change have an effect on the cost of registering a design?	Cost significantly more <input type="checkbox"/>	Cost a little more <input type="checkbox"/>	Cost about the same <input type="checkbox"/>	Cost a little less <input type="checkbox"/>	Cost significantly less <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.1.3	Will this change have an effect on the time it takes to register a design?	Take significantly longer <input type="checkbox"/>	Take a little longer <input type="checkbox"/>	The same amount of time <input type="checkbox"/>	A little quicker <input type="checkbox"/>	Significantly quicker <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.1.4	Will this change make it easier to register a design?	It will be significantly more difficult <input type="checkbox"/>	It will be a little more difficult <input type="checkbox"/>	It will be about the same <input type="checkbox"/>	It will be a little easier <input type="checkbox"/>	It will be significantly easier <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.1.5	Which of the following types of media would you find most effective in representing or illustrating a design? (tick as many as appropriate)	Drawings <input type="checkbox"/>	Photographs <input type="checkbox"/>	CAD file <input type="checkbox"/>	Video <input type="checkbox"/>	Other (please specify):	

**2.2 Reduced number of copies of each illustration required for filing:** With this change, the applicant will not have to submit more than three copies of each illustration or representation when filing an application (or just a single copy in the case of e-filing).

2.2.1	Is this capability already offered by your national design registration system?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	DON'T KNOW <input type="checkbox"/>	IF YES, go to 2.3		
2.2.2	Will this change have an effect on the cost of registering a design?	Cost significantly more <input type="checkbox"/>	Cost a little more <input type="checkbox"/>	Cost about the same <input type="checkbox"/>	Cost a little less <input type="checkbox"/>	Cost significantly less <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.2.3	Will this change have an effect on the time it takes to register a design?	Take significantly longer <input type="checkbox"/>	Take a little longer <input type="checkbox"/>	The same amount of time <input type="checkbox"/>	A little quicker <input type="checkbox"/>	Significantly quicker <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.2.4	Will this change make it easier to register a design?	It will be significantly more difficult <input type="checkbox"/>	It will be a little more difficult <input type="checkbox"/>	It will be about the same <input type="checkbox"/>	It will be a little easier <input type="checkbox"/>	It will be significantly easier <input type="checkbox"/>	Don't know <input type="checkbox"/>

**2.3 Registering a set of related designs in a single application:** With this proposed change, it will be possible to register several related designs in a single application, rather than register each individual design in a separate application. There will be safeguards in place to ensure that the original filing date is protected in the event that one of the individual designs is not accepted.

*For example, if your company has designed a new car, then designs for the dashboard, the wheels, the controls, the outside shape, and the seats (etc.) can be submitted in a single application. Similarly, if you design table-ware, then you could submit designs for the plates, cups, saucers, bowls and cutlery in a single application.*

2.3.1	Is this capability already offered by your national design registration system?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	DON'T KNOW <input type="checkbox"/>	<b>IF YES, go to 2.4</b>		
2.3.2	Will this change have an effect on the cost of registering a design?	Cost significantly more <input type="checkbox"/>	Cost a little more <input type="checkbox"/>	Cost about the same <input type="checkbox"/>	Cost a little less <input type="checkbox"/>	Cost significantly less <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.3.3	Will this change have an effect on the time it takes to register a design?	Take significantly longer <input type="checkbox"/>	Take a little longer <input type="checkbox"/>	The same amount of time <input type="checkbox"/>	A little quicker <input type="checkbox"/>	Significantly quicker <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.3.4	Will this change make it easier to register a design?	It will be significantly more difficult <input type="checkbox"/>	It will be a little more difficult <input type="checkbox"/>	It will be about the same <input type="checkbox"/>	It will be a little easier <input type="checkbox"/>	It will be significantly easier <input type="checkbox"/>	Don't know <input type="checkbox"/>

**2.4 Easier to gain a secure filing date from which your design is protected:** With this proposed change, it will be simpler to gain a secure filing date for the protection of your design. In order to gain a secure filing date, you will only need to provide details on the applicant, a representation of the design and possibly a fee.

2.4.1	Is this capability already offered by your national design registration system?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	DON'T KNOW <input type="checkbox"/>	<b>IF YES, go to 2.5</b>		
2.4.2	Will this change have an effect on the cost of registering a design?	Cost significantly more <input type="checkbox"/>	Cost a little more <input type="checkbox"/>	Cost about the same <input type="checkbox"/>	Cost a little less <input type="checkbox"/>	Cost significantly less <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.4.3	Will this change have an effect on the time it takes to register a design?	Take significantly longer <input type="checkbox"/>	Take a little longer <input type="checkbox"/>	The same amount of time <input type="checkbox"/>	A little quicker <input type="checkbox"/>	Significantly quicker <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.4.4	Will this change make it easier to register a design?	It will be significantly more difficult <input type="checkbox"/>	It will be a little more difficult <input type="checkbox"/>	It will be about the same <input type="checkbox"/>	It will be a little easier <input type="checkbox"/>	It will be significantly easier <input type="checkbox"/>	Don't know <input type="checkbox"/>

**2.5 Register a design 6 months after public disclosure:** With this change, it will be possible to register a design up to **six** months after a new design has been publically released.

*For example, if you launch a product to the market and only later realise that you should protect the design, then you can do so, providing it is within six months from the original release to the market.*

2.5.1	Is this capability already offered by your national design registration system?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	DON'T KNOW <input type="checkbox"/>	<b>IF YES, go to 2.6</b>		
2.5.2	Will this change have an effect on the cost of registering a design?	Cost significantly more <input type="checkbox"/>	Cost a little more <input type="checkbox"/>	Cost about the same <input type="checkbox"/>	Cost a little less <input type="checkbox"/>	Cost significantly less <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.5.3	Will this change have an effect on the time it takes to register a design?	Take significantly longer <input type="checkbox"/>	Take a little longer <input type="checkbox"/>	The same amount of time <input type="checkbox"/>	A little quicker <input type="checkbox"/>	Significantly quicker <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.5.4	Will this change make it easier to register a design?	It will be significantly more difficult <input type="checkbox"/>	It will be a little more difficult <input type="checkbox"/>	It will be about the same <input type="checkbox"/>	It will be a little easier <input type="checkbox"/>	It will be significantly easier <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.5.5	Will this change facilitate or support commercialization of your design?	Significantly reduce ability to commercialize <input type="checkbox"/>	Moderately reduce ability to commercialize <input type="checkbox"/>	It will be about the same <input type="checkbox"/>	Moderately improve ability to commercialize <input type="checkbox"/>	Significantly improve ability to commercialize <input type="checkbox"/>	Don't know <input type="checkbox"/>

**2.6 Register a design 12 months after public disclosure:** With this change, it will be possible to register a design up to **twelve** months after a new design has been publically released.

*For example, if you launch a product to the market and only later realise that you should protect the design, then you can do so, providing it is within twelve months from the original release to the market.*

2.6.1	Is this capability already offered by your national design registration system?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	DON'T KNOW <input type="checkbox"/>	<b>IF YES, go to 2.7</b>		
2.6.2	Will this change have an effect on the cost of registering a design?	Cost significantly more <input type="checkbox"/>	Cost a little more <input type="checkbox"/>	Cost about the same <input type="checkbox"/>	Cost a little less <input type="checkbox"/>	Cost significantly less <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.6.3	Will this change have an effect on the time it takes to register a design?	Take significantly longer <input type="checkbox"/>	Take a little longer <input type="checkbox"/>	The same amount of time <input type="checkbox"/>	A little quicker <input type="checkbox"/>	Significantly quicker <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.6.4	Will this change make it easier to register a design?	It will be significantly more difficult <input type="checkbox"/>	It will be a little more difficult <input type="checkbox"/>	It will be about the same <input type="checkbox"/>	It will be a little easier <input type="checkbox"/>	It will be significantly easier <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.6.5	Will this change facilitate or support commercialization of your design?	Significantly reduce ability to commercialize <input type="checkbox"/>	Moderately reduce ability to commercialize <input type="checkbox"/>	It will be about the same <input type="checkbox"/>	Moderately improve ability to commercialize <input type="checkbox"/>	Significantly improve ability to commercialize <input type="checkbox"/>	Don't know <input type="checkbox"/>

**2.7 Secrecy for 6 months after filing an application:** With this proposed change, it will be possible to keep a design secret for at least six months after filing a new design.

*For example, if you wish to ensure a design is protected, but not release it to the market, then you can delay the publication of the design for at least six months after filing the design registration. You will thus make sure that it will not be revealed before a public launch.*

2.7.1	Is this capability already offered by your national design registration system?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	DON'T KNOW <input type="checkbox"/>	<b>IF YES, go to 2.8</b>		
2.7.2	Will this change have an effect on the cost of registering a design?	Cost significantly more <input type="checkbox"/>	Cost a little more <input type="checkbox"/>	Cost about the same <input type="checkbox"/>	Cost a little less <input type="checkbox"/>	Cost significantly less <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.7.3	Will this change have an effect on the time it takes to register a design?	Take significantly longer <input type="checkbox"/>	Take a little longer <input type="checkbox"/>	The same amount of time <input type="checkbox"/>	A little quicker <input type="checkbox"/>	Significantly quicker <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.7.4	Will this change make it easier to register a design?	It will be significantly more difficult <input type="checkbox"/>	It will be a little more difficult <input type="checkbox"/>	It will be about the same <input type="checkbox"/>	It will be a little easier <input type="checkbox"/>	It will be significantly easier <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.7.5	Will this change facilitate or support commercialization of your design?	Significantly reduce ability to commercialize <input type="checkbox"/>	Moderately reduce ability to commercialize <input type="checkbox"/>	It will be about the same <input type="checkbox"/>	Moderately improve ability to commercialize <input type="checkbox"/>	Significantly improve ability to commercialize <input type="checkbox"/>	Don't know <input type="checkbox"/>

**2.8 Standardising the information needed to submit (or make changes to) a design registration:** With this proposed change, the information needed to submit a new application will be standardised internationally.

*For example, if you submit an application in your home country, and later wish to protect the design in another country, then the information provided initially (such as the drawings or photographs illustrating the design) will be acceptable in another country.*

2.8.1	Have you previously had experience of registering a design abroad?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	<b>IF NO, go to 2.9</b>			
2.8.2	Will this change have an effect on the cost of registering a design?	Cost significantly more <input type="checkbox"/>	Cost a little more <input type="checkbox"/>	Cost about the same <input type="checkbox"/>	Cost a little less <input type="checkbox"/>	Cost significantly less <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.8.3	Will this change have an effect on the time it takes to register a design?	Take significantly longer <input type="checkbox"/>	Take a little longer <input type="checkbox"/>	The same amount of time <input type="checkbox"/>	A little quicker <input type="checkbox"/>	Significantly quicker <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.8.4	Will this change make it easier to register a design?	It will be significantly more difficult <input type="checkbox"/>	It will be a little more difficult <input type="checkbox"/>	It will be about the same <input type="checkbox"/>	It will be a little easier <input type="checkbox"/>	It will be significantly easier <input type="checkbox"/>	Don't know <input type="checkbox"/>

**2.9 Simplifying the procedures to present legally valid documents:** With this proposed change, there will be a simplification to the requirements for signing and presenting legal documents.

*In particular, some countries require the legalisation of documents, including the authentication of signatures and translations. With this proposed change, such legalisation and authentication will, in general, no longer be required.*

2.9.1	Is this capability already offered by your national design registration system?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	DON'T KNOW <input type="checkbox"/>	<b>IF YES, go to section 3</b>		
2.9.2	Will this change have an effect on the cost of registering a design?	Cost significantly more <input type="checkbox"/>	Cost a little more <input type="checkbox"/>	Cost about the same <input type="checkbox"/>	Cost a little less <input type="checkbox"/>	Cost significantly less <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.9.3	Will this change have an effect on the time it takes to register a design?	Take significantly longer <input type="checkbox"/>	Take a little longer <input type="checkbox"/>	The same amount of time <input type="checkbox"/>	A little quicker <input type="checkbox"/>	Significantly quicker <input type="checkbox"/>	Don't know <input type="checkbox"/>
2.9.4	Will this change make it easier to register a design?	It will be significantly more difficult <input type="checkbox"/>	It will be a little more difficult <input type="checkbox"/>	It will be about the same <input type="checkbox"/>	It will be a little easier <input type="checkbox"/>	It will be significantly easier <input type="checkbox"/>	Don't know <input type="checkbox"/>

## Section 3: Views on the complete package of changes

In this section, we wish to capture your views on the complete set of proposed changes. Again, please use your best judgement.

### 3.1 Relative importance of the proposed changes: Could you please rank the proposed changes in order of importance to you or your business?

*If you believe that change (3), "Registering a set of related designs in a single application" is the **most** important, then please score it '1'.*

*If you believe that change (3), "Registering a set of related designs in a single application s" is the **least** important, then please score it "9".*

*If you believe that changes (3) and (4) are equally the most important, then please score them both "1", and score the next most important change "3".*

*If the change would not affect your business, then please state "N/A" in the box.*

Change	Proposed change	Explanation	RANK (1-9)
1	<b>Greater choice in how you represent or illustrate a design</b>	With this change, the applicant will be able to choose whether to illustrate or represent the design using either drawings, photographs, other visual media (e.g. CAD) or a combination of media.	
2	<b>Reduced number of copies of each illustration required for filing</b>	With this change, the applicant will not have to submit more than three copies of each illustration or representation when filing an application (or just a single copy in the case of e-filing)	
3	<b>Registering a set of related designs in a single application</b>	With this proposed change, it will be possible to register several related designs in a single application, rather than register each individual design in a separate application. There will be safeguards in place to ensure that the original filing date is protected in the event that one of the individual designs is not accepted.	
4	<b>Easier to gain a secure filing date from which your design is protected</b>	With this proposed change, it will be simpler to gain a secure filing date for the protection of your design. In order to gain a secure filing date, you will only need to provide details on the applicant, an illustration of the design and possibly a fee.	
5	<b>Register a design 6 months after public disclosure</b>	With this change, it will be possible to register a design up to six months after a new design has been publically released.	
6	<b>Register a design 12 months after public disclosure</b>	With this change, it will be possible to register a design up to twelve months after a new design has been publically released.	
7	<b>Secrecy for 6 months after filing an application</b>	With this proposed change, it will be possible to keep a design secret for at least six months after filing a new design.	
8	<b>Standardising the information needed to submit (or make changes to) a design registration</b>	With this proposed change, the information needed to submit a new application will be standardised internationally.	
9	<b>Simplifying the procedures to present legally valid documents in another country</b>	With this proposed change, there will be a simplification to the requirements for creating and signing legal documents.	

**3.2 Potential impact of the changes:** For all of the proposed changes, could you please indicate whether they will have an effect on each of the following issues:

3.2.1	Will these changes have an effect on the cost of registering a design?	Cost significantly more <input type="checkbox"/>	Cost a little more <input type="checkbox"/>	Cost about the same <input type="checkbox"/>	Cost a little less <input type="checkbox"/>	Cost significantly less <input type="checkbox"/>	Don't know <input type="checkbox"/>
3.2.2	Will these changes have an effect on the time it takes to register a design?	Take significantly longer <input type="checkbox"/>	Take a little longer <input type="checkbox"/>	The same amount of time <input type="checkbox"/>	A little quicker <input type="checkbox"/>	Significantly quicker <input type="checkbox"/>	Don't know <input type="checkbox"/>
3.2.3	Will these changes make it easier to register a design?	It will be significantly more difficult <input type="checkbox"/>	It will be a little more difficult <input type="checkbox"/>	It will be about the same <input type="checkbox"/>	It will be a little easier <input type="checkbox"/>	It will be significantly easier <input type="checkbox"/>	Don't know <input type="checkbox"/>
3.2.4	Will these changes influence the likelihood of you registering a design in the future?	Significantly less likely <input type="checkbox"/>	A little less likely <input type="checkbox"/>	It will be about the same <input type="checkbox"/>	A little more likely <input type="checkbox"/>	Significantly more likely <input type="checkbox"/>	Don't know <input type="checkbox"/>
3.2.5	Will these changes facilitate or support commercialization of your design?	Significantly reduce ability to commercialize <input type="checkbox"/>	Moderately reduce ability to commercialize <input type="checkbox"/>	It will be about the same <input type="checkbox"/>	Moderately improve ability to commercialize <input type="checkbox"/>	Significantly improve ability to commercialize <input type="checkbox"/>	Don't know <input type="checkbox"/>
3.2.6	Will these changes, if they were applied in all countries, influence you in filing a design registration overseas?	Significantly less likely <input type="checkbox"/>	A little less likely <input type="checkbox"/>	It will be about the same <input type="checkbox"/>	A little more likely <input type="checkbox"/>	Significantly more likely <input type="checkbox"/>	Don't know <input type="checkbox"/>
3.2.7	Will these changes influence the profitability of your business?	Significantly less profitable <input type="checkbox"/>	A little less profitable <input type="checkbox"/>	It will be about the same <input type="checkbox"/>	A little more profitable <input type="checkbox"/>	Significantly more profitable <input type="checkbox"/>	Don't know <input type="checkbox"/>
3.2.8	Will these changes influence your level of design activity?	Significantly less activity <input type="checkbox"/>	A little less activity <input type="checkbox"/>	It will be about the same <input type="checkbox"/>	A little more activity <input type="checkbox"/>	Significantly more activity <input type="checkbox"/>	Don't know <input type="checkbox"/>

## Section 4: Your comments

4.1 Please make any further comments that you wish about the proposed changes:

\_\_\_\_\_

4.2 Would you be willing to talk to the project sponsors about this work? Yes  No

4.1.1 Email \_\_\_\_\_

4.1.2. Telephone \_\_\_\_\_

## Thank you

Thank you for completing the questionnaire. If you have any questions about this questionnaire please contact **The World Intellectual Property Organization** at [sct.forum@wipo.int](mailto:sct.forum@wipo.int) or Facsimile N° +41 22 338 8745

# Proposed Changes to Design Registration

## Office Questionnaire

Members of the World Intellectual Property Organization are considering a number of changes to the *process of registering a design*.

This questionnaire is aimed at **offices** administering the industrial design registration process. The person(s) completing this questionnaire are doing so on behalf of their IP office and should be familiar with both the legal and managerial aspects of the design system.

### Section 1: Background information

#### 2. About You and your office:

1.1	Your name
1.2	Job Title
1.3	Office name
1.4	Country
1.5	email
1.6	Telephone (international)

## Section 2: Implementation of previous treaties

With these questions, we wish to understand the impact of introducing similar treaties. These include the Trademark Law Treaty (1994), the Singapore Treaty on the Law of Trademarks (2006) and the Patent Law Treaty (2000).

2.1 Have you implemented the TRADEMARK LAW TREATY (1994)?		NO <input type="checkbox"/>	YES <input type="checkbox"/>	If NO, go to question 2.2 If YES, please continue				
2.1.1	What was required to implement this treaty? (select more than one if needed)	Revised or new 'office instructions' <input type="checkbox"/>						
		An executive order (e.g. ministerial approval) <input type="checkbox"/>						
		Primary legislation <input type="checkbox"/>						
		Other (Please describe):						
2.1.2	How long did this treaty take to implement?	0-12 months <input type="checkbox"/>	1-2 years <input type="checkbox"/>	2-4 years <input type="checkbox"/>	>4 years <input type="checkbox"/>			
2.1.3	To the best of your knowledge, what impact has this treaty had on the <b>users</b> of the system? (select '3' if there has been no impact)	Simplified procedures	1	2	3	4	5	More complicated procedures
		Reduced costs	1	2	3	4	5	Increased costs
		Greater use of intellectual property overseas	1	2	3	4	5	Less use of intellectual property overseas
		Increased level of innovation or creativity	1	2	3	4	5	Reduced level of creativity or innovation
		Other (please specify)						
2.1.4	What <b>impact</b> has this treaty had on the <b>national office</b> ? (select '3' if there has been no effect)	Reduced administration	1	2	3	4	5	Increased administration
		Significant financial savings	1	2	3	4	5	Significantly increased in costs
		Simplified procedures	1	2	3	4	5	More complicated procedures
		Increased usage of trademarks	1	2	3	4	5	Reduced usage of trademarks
		Fewer errors/mistakes	1	2	3	4	5	More errors/mistakes
		Other (please specify)						
2.1.5	To implement and run this treaty, did this require a <b>change</b> in any of the areas listed?				Less	More	No change	
		A change in IT expertise <input type="checkbox"/>						
		A change in administrative capabilities <input type="checkbox"/>						
		A change in legal expertise <input type="checkbox"/>						
		A change in the number of staff <input type="checkbox"/>						
A change to IT infrastructure <input type="checkbox"/>								
2.1.6	Did you receive any technical assistance to implement this treaty				Yes	No	Don't know	
		Awareness building <input type="checkbox"/>						
		IT support <input type="checkbox"/>						
		Legal advice <input type="checkbox"/>						
		Training <input type="checkbox"/>						
Other (Please describe):								

2.2 Have you implemented the SINGAPORE TREATY ON THE LAW OF TRADEMARKS (2006)?		NO <input type="checkbox"/>	YES <input type="checkbox"/>	If NO, go to question 2.3 If YES, please continue				
2.2.1	What was required to implement this treaty? (select more than one if needed)	Revised or new 'office instructions' <input type="checkbox"/>						
		An executive order (e.g. ministerial approval) <input type="checkbox"/>						
		Primary legislation <input type="checkbox"/>						
		Other (Please describe):						
2.2.2	How long did this treaty take to implement?	0-12 months <input type="checkbox"/>	1-2 years <input type="checkbox"/>	2-4 years <input type="checkbox"/>	>4 years <input type="checkbox"/>			
2.2.3	To the best of your knowledge, what impact has this treaty had on the <b>users</b> of the system? (select '3' if there has been no impact)	Simplified procedures	1	2	3	4	5	More complicated procedures
		Reduced costs	1	2	3	4	5	Increased costs
		Greater use of intellectual property overseas	1	2	3	4	5	Less use of intellectual property overseas
		Increased level of innovation or creativity	1	2	3	4	5	Reduced level of creativity or innovation
		Other (please specify)						
2.2.4	What <b>impact</b> has this treaty had on the <b>national office</b> ? (select '3' if there has been no effect)	Reduced administration	1	2	3	4	5	Increased administration
		Significant financial savings	1	2	3	4	5	Significantly increased in costs
		Simplified procedures	1	2	3	4	5	More complicated procedures
		Increased usage trademarks	1	2	3	4	5	Reduced usage of trademarks
		Fewer errors/mistakes	1	2	3	4	5	More errors/mistakes
		Other (please specify)						
2.2.5	To implement and run this treaty, did this require a <b>change</b> in any of the areas listed?				Less	More	No change	
		A change in IT expertise			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		A change in administrative capabilities			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		A change in legal expertise			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		A change in the number of staff			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		A change to IT infrastructure			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2.2.6	Did you receive any technical assistance to implement this treaty				Yes	No	Don't know	
		Awareness building			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		IT support			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		Legal advice			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		Training			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		Other (Please describe):						

<b>2.3 Have you implemented the PATENT LAW TREATY (2000)?</b>		<b>NO <input type="checkbox"/> YES <input type="checkbox"/></b>		<b>If NO, go to section 3 If YES, please continue</b>					
2.3.1	What was required to implement this treaty? (select more than one if needed)	Revised or new 'office instructions' <input type="checkbox"/>							
		An executive order (e.g. ministerial approval) <input type="checkbox"/>							
		Primary legislation <input type="checkbox"/>							
		Other (Please describe):							
2.3.2	How long did this treaty take to implement?	0-12 months <input type="checkbox"/>	1-2 years <input type="checkbox"/>	2-4 years <input type="checkbox"/>	>4 years <input type="checkbox"/>				
2.3.3	To the best of your knowledge, what impact has this treaty had on the <b>users</b> of the system? (select '3' if there has been no impact)	Simplified procedures	1	2	3	4	5	More complicated procedures	
		Reduced costs	1	2	3	4	5	Increased costs	
		Greater use of intellectual property overseas	1	2	3	4	5	Less use of intellectual property overseas	
		Increased level of innovation or creativity	1	2	3	4	5	Reduced level of creativity or innovation	
		Other (please specify)							
2.3.4	What <b>impact</b> has this treaty had on the <b>national office</b> ? (select more than one if needed)	Reduced administration	1	2	3	4	5	Increased administration	
		Significant financial savings	1	2	3	4	5	Significantly increased in costs	
		Simplified procedures	1	2	3	4	5	More complicated procedures	
		Increased usage of patents	1	2	3	4	5	Reduced usage of patents	
		Fewer errors/mistakes	1	2	3	4	5	More errors/mistakes	
		Other (please specify)							
2.3.5	To implement and run this treaty, did this require a <b>change</b> in any of the areas listed?			Less			More	No change	
		A change in IT expertise		<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
		A change in administrative capabilities		<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
		A change in legal expertise		<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
		A change in the number of staff		<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
A change to IT infrastructure		<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>			
2.3.6	Did you receive any technical assistance to implement this treaty			Yes			No	Don't know	
		Awareness building		<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
		IT support		<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
		Legal advice		<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
		Training		<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
Other (Please describe):									

### Section 3: Views on individual changes to the design system

In this section, we will describe each of the proposed changes to the design registration system. We are seeking to understand the potential impact that these changes might have. Please use your best judgement, and indicate if you do not know what the impact of the proposed change might be.

**Change 1: Greater choice in how the applicant represents or illustrates a design:** With this change, the applicant will be able to choose whether to illustrate or represent the design using either drawings, photographs, other visual media (e.g. CAD) or a combination of different types of media.

3.1	Is this capability already offered in your national registration system?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	If YES, go to question 3.2 If NO, please continue			
3.1.1	Does your office have the IT expertise needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.1.2	Does your office have the IT infrastructure needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.1.3	Does your office have the legal expertise needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.1.4	Does your office have the administrative capacity required to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.1.5	If implemented, what effect would this change have on long term operating costs?	Significantly higher costs <input type="checkbox"/>	A little higher costs <input type="checkbox"/>	No change <input type="checkbox"/>	Small savings <input type="checkbox"/>	Significant savings <input type="checkbox"/>	
3.1.6	If implemented, what effect would this change have on the long term rationalisation or simplification of procedures	Significantly more complex <input type="checkbox"/>	A little more complex <input type="checkbox"/>	No change <input type="checkbox"/>	A little simpler <input type="checkbox"/>	Significantly simpler <input type="checkbox"/>	

**2.10 Change 2: Reduced number of copies of each illustration required for filing:** With this change, the applicant will not have to submit more than three copies of each illustration or representation when filing an application (or just a single copy in the case of e-filing)

3.2	Is this capability already offered in your national registration system?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	If YES, go to question 3.3 If NO, please continue			
3.2.1	Does your office have the IT expertise needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.2.2	Does your office have the IT infrastructure needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.2.3	Does your office have the legal expertise needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.2.4	Does your office have the administrative capacity required to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.2.5	If implemented, what effect would this change have on long term operating costs?	Significantly higher costs <input type="checkbox"/>	A little higher costs <input type="checkbox"/>	No change <input type="checkbox"/>	Small savings <input type="checkbox"/>	Significant savings <input type="checkbox"/>	
3.2.6	If implemented, what effect would this change have on the long term rationalisation or simplification of procedures	Significantly more complex <input type="checkbox"/>	A little more complex <input type="checkbox"/>	No change <input type="checkbox"/>	A little simpler <input type="checkbox"/>	Significantly simpler <input type="checkbox"/>	

**Change 3: Registering a set of related designs in a single application:** With this proposed change, it will be possible to register several related designs in a single application, rather than register each individual design in a separate application. There will be safeguards in place to ensure that the original filing date is protected in the event that one of the individual designs is not accepted.

*For example, if a company has designed a new car, then designs for the dashboard, the wheels, the controls, the outside shape, and the seats (etc.) can be submitted in a single application. Similarly, if a company designs table-ware, then they can submit designs for the plates, cups, saucers, bowls and cutlery in a single application.*

3.3	Is this capability already offered in your national registration system?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	If YES, go to question 3.4 If NO, please continue			
3.3.1	Does your office have the IT expertise needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.3.2	Does your office have the IT infrastructure needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.3.3	Does your office have the legal expertise needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.3.4	Does your office have the administrative capacity required to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.3.5	If implemented, what effect would this change have on long term operating costs?	Significantly higher costs <input type="checkbox"/>	A little higher costs <input type="checkbox"/>	No change <input type="checkbox"/>	Small savings <input type="checkbox"/>	Significant savings <input type="checkbox"/>	
3.3.6	If implemented, what effect would this change have on the long term rationalisation or simplification of procedures	Significantly more complex <input type="checkbox"/>	A little more complex <input type="checkbox"/>	No change <input type="checkbox"/>	A little simpler <input type="checkbox"/>	Significantly simpler <input type="checkbox"/>	

**Change 4: Easier to gain a secure filing date from which a design is protected:** With this proposed change, it will be simpler to gain a secure filing date for the protection of a design. In order to gain a secure filing date, the application will only need to provide details on the applicant, an illustration of the design and possibly a fee.

3.4	Is this capability already offered in your national registration system?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	If YES, go to question 3.5 If NO, please continue			
3.4.1	Does your office have the IT expertise needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.4.2	Does your office have the IT infrastructure needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.4.3	Does your office have the legal expertise needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.4.4	Does your office have the administrative capacity required to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.4.5	If implemented, what effect would this change have on long term operating costs?	Significantly higher costs <input type="checkbox"/>	A little higher costs <input type="checkbox"/>	No change <input type="checkbox"/>	Small savings <input type="checkbox"/>	Significant savings <input type="checkbox"/>	
3.4.6	If implemented, what effect would this change have on the long term rationalisation or simplification of procedures	Significantly more complex <input type="checkbox"/>	A little more complex <input type="checkbox"/>	No change <input type="checkbox"/>	A little simpler <input type="checkbox"/>	Significantly simpler <input type="checkbox"/>	

**Change 5: Register a design 6 months after public disclosure:** With this change, it will be possible to register a design up to six months after a new design has been publically released.

*For example, if an applicant launches a product to the market and only later realises the benefit of protecting the design, then the applicant can do so, providing it is within six months from the original release to the market.*

<b>3.5 Is this capability already offered in your national registration system?</b>		<b>NO</b> <input type="checkbox"/>	<b>YES</b> <input type="checkbox"/>	<b>If YES, go to question 3.6</b>			
				<b>If NO, please continue</b>			
3.5.1	Does your office have the IT expertise needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.5.2	Does your office have the IT infrastructure needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.5.3	Does your office have the legal expertise needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.5.4	Does your office have the administrative capacity required to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.5.5	If implemented, what effect would this change have on long term operating costs?	Significantly higher costs <input type="checkbox"/>	A little higher costs <input type="checkbox"/>	No change <input type="checkbox"/>	Small savings <input type="checkbox"/>	Significant savings <input type="checkbox"/>	
3.5.6	If implemented, what effect would this change have on the long term rationalisation or simplification of procedures	Significantly more complex <input type="checkbox"/>	A little more complex <input type="checkbox"/>	No change <input type="checkbox"/>	A little simpler <input type="checkbox"/>	Significantly simpler <input type="checkbox"/>	

**Change 6: Register a design 12 months after public disclosure:** With this change, it will be possible to register a design up to twelve months after a new design has been publically released.

*For example, if an applicant launches a product to the market and only later realises the benefit of protecting the design, then the applicant can do so, providing it is within twelve months from the original release to the market.*

<b>3.6 Is this capability already offered in your national registration system?</b>		<b>NO</b> <input type="checkbox"/>	<b>YES</b> <input type="checkbox"/>	<b>If YES, go to question 3.7</b>			
				<b>If NO, please continue</b>			
3.6.1	Does your office have the IT expertise needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.6.2	Does your office have the IT infrastructure needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.6.3	Does your office have the legal expertise needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.6.4	Does your office have the administrative capacity required to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:			
3.6.5	If implemented, what effect would this change have on long term operating costs?	Significantly higher costs <input type="checkbox"/>	A little higher costs <input type="checkbox"/>	No change <input type="checkbox"/>	Small savings <input type="checkbox"/>	Significant savings <input type="checkbox"/>	
3.6.6	If implemented, what effect would this change have on the long term rationalisation or simplification of procedures	Significantly more complex <input type="checkbox"/>	A little more complex <input type="checkbox"/>	No change <input type="checkbox"/>	A little simpler <input type="checkbox"/>	Significantly simpler <input type="checkbox"/>	

**Change 7: Secrecy for 6 months after filing an application:** With this proposed change, it will be possible to keep a design secret for at least six months after filing a new design.

*For example, if an applicant wishes to ensure a design is protected, but not release it to the market, then the applicant can delay the publication of the design for at least six months after filing the design registration. The applicant will thus make sure that the design will not be revealed before a public launch.*

<b>3.7 Is this capability already offered in your national registration system?</b>		<b>NO</b> <input type="checkbox"/>	<b>YES</b> <input type="checkbox"/>	<b>If YES, go to question 3.8</b>		
				<b>If NO, please continue</b>		
3.7.1	Does your office have the IT expertise needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:		
3.7.2	Does your office have the IT infrastructure needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:		
3.7.3	Does your office have the legal expertise needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:		
3.7.4	Does your office have the administrative capacity required to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:		
3.7.5	If implemented, what effect would this change have on long term operating costs?	Significantly higher costs <input type="checkbox"/>	A little higher costs <input type="checkbox"/>	No change <input type="checkbox"/>	Small savings <input type="checkbox"/>	Significant savings <input type="checkbox"/>
3.7.6	If implemented, what effect would this change have on the long term rationalisation or simplification of procedures	Significantly more complex <input type="checkbox"/>	A little more complex <input type="checkbox"/>	No change <input type="checkbox"/>	A little simpler <input type="checkbox"/>	Significantly simpler <input type="checkbox"/>

**Change 8: Simplifying the procedures to present legally valid documents:** With this proposed change, there will be a simplification to the requirements for creating and signing legal documents.

*In particular, some countries require the legalisation of documents, including the authentication of signatures and translations. With this proposed change, such legalisation and authentication will, in general, no longer be required.*

<b>3.8 Is this capability already offered in your national registration system?</b>		<b>NO</b> <input type="checkbox"/>	<b>YES</b> <input type="checkbox"/>	<b>If YES, go to section 4</b>		
				<b>If NO, please continue</b>		
3.8.1	Does your office have the IT expertise needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:		
3.8.2	Does your office have the IT infrastructure needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:		
3.8.3	Does your office have the legal expertise needed to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:		
3.8.4	Does your office have the administrative capacity required to implement this change?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	Please explain if necessary:		
3.8.5	If implemented, what effect would this change have on long term operating costs?	Significantly higher costs <input type="checkbox"/>	A little higher costs <input type="checkbox"/>	No change <input type="checkbox"/>	Small savings <input type="checkbox"/>	Significant savings <input type="checkbox"/>
3.8.6	If implemented, what effect would this change have on the long term rationalisation or simplification of procedures	Significantly more complex <input type="checkbox"/>	A little more complex <input type="checkbox"/>	No change <input type="checkbox"/>	A little simpler <input type="checkbox"/>	Significantly simpler <input type="checkbox"/>

## Section 4: Views on the complete package of changes

In this section, we wish to capture your views on the complete set of proposed changes. Again, please answer using your best judgement.

**4.1 Relative cost to implement the proposed changes:** Could you please rank the proposed change from the most costly to implement, through to the least costly to implement?

*If you believe that change (3), "Registering a range of designs" is the **most** costly to implement, then please score it '1'.*

*If you believe that change (3), "Representing a range of designs" is the **least** costly to implement, then please score it 8".*

*If you believe that changes (3) and (4) are equally the most costly to implement, then please score them both "1", and score the next most costly change "3".*

*If a change is not applicable to your country, then please state "NA".*

Change	Proposed change	Explanation	Relative cost to implement (1-9)
1	<b>Greater choice in how you represent or illustrate a design</b>	With this change, the applicant will be able to choose whether to illustrate or represent the design using either drawings, photographs, other visual media (e.g. CAD) or a combination of media.	
2	<b>Reduced number of copies of each illustration required for filing</b>	With this change, the applicant will not have to submit more than three copies of each illustration or representation when filing an application (or just a single copy in the case of e-filing)	
3	<b>Registering a set of related designs in a single application</b>	With this proposed change, it will be possible to register several related designs in a single application, rather than register each individual design in a separate application. There will be safeguards in place to ensure that the original filing date is protected in the event that one of the individual designs is not accepted.	
4	<b>Easier to gain a secure filing date from which your design is protected</b>	With this proposed change, it will be simpler to gain a secure filing date for the protection of your design. In order to gain a secure filing date, you will only need to provide details on the applicant, an illustration of the design and possibly a fee.	
5	<b>Register a design 6 months after public disclosure</b>	With this change, it will be possible to register a design up to six months after a new design has been publically released.	
6	<b>Register a design 12 months after public disclosure</b>	With this change, it will be possible to register a design up to twelve months after a new design has been publically released.	
7	<b>Secrecy for 6 months after filing an application</b>	With this proposed change, it will be possible to keep a design secret for at least six months after filing a new design.	
8	<b>Simplifying the procedures to present legally valid documents in another country</b>	With this proposed change, there will be a simplification to the requirements for creating and signing legal documents.	

**4.2 Potential impact of the changes:** If you implemented these changes, could you please comment on the potential impact to your office and to your users?

4.2.1	What impact might these changes have on the <b>users</b> of the system? (select '3' if you feel there will be no impact)	Simplified procedures	1	2	3	4	5	More complicated procedures	
		Reduced costs	1	2	3	4	5	Increased costs	
		Greater use of intellectual property overseas	1	2	3	4	5	Less use of intellectual property overseas	
		Increased level of innovation or creativity	1	2	3	4	5	Reduced level of creativity or innovation	
		Other (please specify)							
4.2.2	What <b>impact</b> might these changes have on the <b>national office</b> ? (select '3' if you feel there will be no impact)	Reduced administration	1	2	3	4	5	Increased administration	
		Significant financial savings	1	2	3	4	5	Significantly increased in costs	
		Simplified procedures	1	2	3	4	5	More complicated procedures	
		Increased usage of design rights	1	2	3	4	5	Reduced usage of design rights	
		Fewer errors/mistakes	1	2	3	4	5	More errors/mistakes	
		Other (please specify)							
4.2.3	How long do you believe it would take to implement the proposed changes in your country?	0-12 months	<input type="checkbox"/>	1-2 years	<input type="checkbox"/>	2-4 years	<input type="checkbox"/>	>4 years	<input type="checkbox"/>
4.2.4	To implement and run these changes, would your national office need a change in any of the following areas:			Less		More		No change	
		A change in IT expertise	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		
		A change in administrative capabilities	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		
		A change in legal expertise	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		
		A change in the number of staff	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		
		A change to IT infrastructure	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		
4.2.5	To implement and run this treaty, would you require support or assistance in any of the following areas:			Yes		No		Don't know	
		Awareness building	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		
		IT support	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		
		Legal advice	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		
		Training	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		
		Other (Please describe):							

## Section 5: Your comments

5.1 Please make any further comments that you wish about the proposed changes:

\_\_\_\_\_

5.2 Would you be willing to talk to the project sponsors about this work? Yes  No

5.1.1 Email \_\_\_\_\_

5.1.2 Telephone \_\_\_\_\_

## Thank you

Thank you for completing the questionnaire. If you have any questions about this questionnaire please contact **The World Intellectual Property Organization** at [sct.forum@wipo.int](mailto:sct.forum@wipo.int) or Facsimile N° +41 22 338 8745

[End of Annexes and of document]